

MEMORANDUM OF AGREEMENT
AMONG THE SURFACE TRANSPORTATION BOARD,
THE GEORGIA STATE HISTORIC PRESERVATION OFFICER, AND ATHENS
TRANSPORTATION PARTNERS, LLC
REGARDING
DOCKET NO. AB 1332X
THE ABANDONMENT OF 6.5 MILES OF THE MACON-ATHENS RAILROAD FROM
THE OCONEE RIVER TRESTLE BRIDGE TO F-MP 105.3
IN ATHENS, CLARK COUNTY, GEORGIA
HP-230522-001

WHEREAS, on May 13, 2024, Athens Transportation Partners, LLC (ATP), a limited liability company affiliate of the University of Georgia (UGA) Real Estate Foundation, filed a notice of exemption with the Surface Transportation Board (Board) under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 for ATP to abandon an approximately 6.5 mile rail line segment of the Macon-Athens Railroad (MACN) between milepost F-MP 98.8 on the northern side of the Oconee River trestle bridge in Athens-Clarke County and milepost F-MP 105.3 near East Broad Street in the city of Athens (the Line); and

WHEREAS, abandonment of the Line constitutes an Undertaking under Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108, and as defined in 36 C.F.R. § 800.3(a) (the Undertaking); and

WHEREAS, unless otherwise defined in this Memorandum of Agreement (MOA), all terms are used in accordance with those set forth in 36 C.F.R. § 800.16; and

WHEREAS, the Director of the Board's Office of Environmental Analysis (OEA) has been delegated the authority (49 C.F.R. § 1105.2) to sign, on behalf of the Board, memoranda of agreement entered into pursuant to 36 C.F.R. § 800.6(e) regarding historic preservation matters; and

WHEREAS, in rail line abandonment proceedings before the Board, the railroad right-of-way constitutes the Area of Potential Effects (APE), defined at 36 C.F.R. § 800.16(d). The APE for both the archaeological and historic resources involved in this abandonment consists of the Line's right-of-way which ranges in width from 75 to 100 feet; and

WHEREAS, OEA has determined that the proposed abandonment would have an adverse effect on MACN, which is eligible for listing in the National Register of Historic Places (National Register) at a state level of significance under Criteria A and C for its contributions to the transportation and engineering history of the State of Georgia, and has consulted with the Georgia State Historic Preservation Office (SHPO), pursuant to 36 C.F.R. § 800.5(a); and

WHEREAS, OEA issued a Draft Environmental Assessment (Draft EA) for public review and comment on May 17, 2024 that evaluated the potential environmental impacts of the proposed abandonment and included consideration of potential effects on historic resources

listed in or eligible for listing in the National Register, pursuant to 36 C.F.R. § 800.8(a). OEA included federal, state, and local agencies and four federally recognized tribes that may have ancestral connections to the area in the Draft EA's distribution list and requested comments. The four federally recognized Tribes include: Alabama-Quassarte Tribal Town, Cherokee Nation, Coushatta Tribe of Louisiana, and the Muscogee (Creek) Nation; and

WHEREAS, OEA received one comment on the Draft EA from the Northeast Georgia Regional Commission (NGRC) stating that the adjacent Oconee Hill cemetery is recognized in the *Northeast Georgia Resource Management Plan for Regionally Important Resources* (2018) for being regionally significant to the natural environment or as a cultural resource. NGRC also stated that abandonment of the Line would not adversely affect the identified resource because the future conversion of the right-of-way to a multi-modal connectivity corridor is consistent with the Northeast Georgia Green Infrastructure Network; and

WHEREAS, OEA issued a Final Environmental Assessment (Final EA) on June 7, 2024 that responded to NGRC's comment and recommended that the Board impose a condition on any decision granting abandonment authority barring ATP from consummating the abandonment until the Section 106 process is complete; and

WHEREAS, in a decision served on June 11, 2024, the Board authorized the proposed abandonment and imposed a condition requiring ATP to retain its interest in and take no further steps to alter the historic integrity of all historic properties within the project right-of-way (the APE) that are eligible for listing or are listed on the National Register until the Section 106 process of the NHPA has been completed and the Board has removed this condition; and

WHEREAS, after issuance of the Board's June 11 2024 decision, the Cherokee Nation (Nation) submitted comments stating that there would likely be no impacts to cultural resources, but requested that the Board (through OEA): 1) consult with appropriate Historic Preservation Offices, and 2) notify the Nation if items of cultural significance were discovered during any abandonment-related salvage; and

WHEREAS, this MOA was developed in consultation with ATP and SHPO pursuant to 36 C.F.R. § 800.6 to address historic resources located within the APE of the Line. Both are signatories to this MOA; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), OEA has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination, and the ACHP has chosen not to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

WHEREAS, all documentation related to the proposed abandonment including ATP's Environmental & Historic Report, the Draft EA, the Final EA, all comments received, and the Board's decision is available on the Board's website (www.stb.gov) for public review; and

WHEREAS, pursuant to 36 C.F.R. § 800.6, the Board has consulted with SHPO and ATP regarding ways to avoid, minimize, or mitigate potential effects to historic resources as a result of the proposed abandonment and OEA, SHPO, and ATP have all agreed upon the measures described below under "Stipulations."

NOW, THEREFORE, OEA, SHPO, and ATP, (each a "signatory," and, together, the "signatories") agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effects of the Undertaking on historic properties.

STIPULATIONS

OEA, with the assistance of ATP, shall ensure that the following measures are carried out:

I. MITIGATION

ATP shall retain a historic preservation/cultural resource contractor(s) of its choice (Contractor) with personnel that meet one or more of the appropriate standards in the applicable disciplines (History, Archeology, Architectural History, Historic Architecture) as outlined in the *Secretary of the Interior's Professional Qualifications Standards* (SOI PQS) (48 Fed. Reg. 44716, 44738 (Sept. 29, 1983)) to complete the measures described below. Prior to the expiration of this MOA, ATP shall ensure, and provide written notice to OEA, that the following recordation, documentation, and interpretation has been completed by the Contractor.

A. Photographic Documentation

Prior to the start of any abandonment-related salvage activities, ATP shall prepare a Photographic Permanent Archival Record (PAR) pursuant to the *Guidelines for Establishing a Photographic Permanent Archival Record* that will supplement the *Georgia Railroads, 1833-2015: Historic Context and Statewide Survey* published by the Georgia Department of Transportation in November 2018. The PAR shall document the historic resources within the APE and the historic context of the Line. ATP shall prepare the PAR and provide a draft copy to OEA for review and comment. Once approved by OEA, ATP shall provide a draft copy of the PAR to the SHPO for review and comment prior to finalizing. After the PAR has been finalized, an archival copy shall be provided to OEA, the SHPO, and to the UGA Library.

B. Interpretive Signage

ATP shall arrange for the development and installation of one (1) interpretive sign regarding the MACN to be installed at the northern endpoint of the proposed abandonment. The purpose of the sign is to educate the public and to provide historic context regarding the MACN in the areas of transportation and commerce and late nineteenth century engineering and architecture. The interpretive sign shall include, at a minimum, a narrative and images (historic photographs, maps, engineering drawings, etc.) of the MACN. The interpretive sign shall be developed utilizing primary and secondary sources and images. The sign shall measure 24-inch (in.) by 36-in. and shall be installed as a double post cantilevered pedestal. A draft of the interpretive sign, including proposed images and citations, shall be submitted to OEA for review and comment. Once approved, OEA will submit the draft to SHPO for review and comment, and ATP shall respond to SHPO comments. Once the draft sign has been approved by SHPO, ATP shall produce and install the interpretive sign at the

above-noted location. Once installed, photographic documentation of the sign shall be provided to OEA and SHPO.

II. DURATION

This MOA will expire three (3) years from the date of its execution or upon completion of all its terms (and approval by OEA and SHPO), whichever occurs earlier. Prior to such time, OEA may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation V. below.

III. POST-REVIEW DISCOVERIES

If the Board authorizes the proposed abandonment, and OEA subsequently determines that the Undertaking would affect a previously unidentified property that may be eligible for inclusion in the National Register, and/or if unanticipated effects on known historic properties are found, OEA will consult with SHPO, ATP, and appropriate federally-recognized Tribes, to determine if additional impacts have or may occur.

If the unanticipated discovery of human burials (including burial features with no identifiable human remains) occurs during post-review salvage activities related to the proposed abandonment or other activities covered under this MOA (such as the installation of signage), ATP shall immediately stop all work and ground disturbing activities within a 100-meter diameter of the burial, and shall notify OEA, the medical examiner, SHPO, and the Office of the State Archaeologist, within the same business day (8-hours).

If the unanticipated discovery is determined to be Native American, OEA, in consultation with SHPO, will notify all concerned Tribal Historic Preservation Officers (THPOs) (within 48 hrs. of the discovery and determination), including the Nation's THPO, and initiate formal government-to-government consultation, as appropriate. No photography of the human remains, burials or funerary objects will be permitted. ATP, in consultation with SHPO, shall implement a discovery plan in accordance with applicable state and federal laws (36 C.F.R. Part 800.13; 43 C.F.R. Part 10, Subpart B; Official Code of Georgia (OCGA) 36-72; OCGA 44-12-260, OCGA 31-21-6), if necessary. ATP shall not resume work until the requirements of 36 C.F.R. § 800.13(b)(3) have been met and written authorization has been received from the State Archaeologist and SHPO to proceed.

IV. MONITORING AND REPORTING

ATP, following the execution of this MOA until it expires or is terminated, shall provide semi-annual reports to OEA on the progress and implementation of the terms of this MOA. In addition, ATP shall provide all parties to this MOA an annual 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 regarding ATP's efforts to carry out the terms of this MOA.

V. AMENDMENTS

This MOA may be amended when such amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all signatories is filed with the ACHP.

VI. DISPUTE RESOLUTION

Should any signatory or concurring party to this MOA object at any time to the manner in which the terms of this MOA are implemented, OEA will consult with such party to resolve the objections. If OEA determines that such objection cannot be resolved, OEA will:

- A. Forward all documentation relevant to the dispute, including OEA's resolution, to ACHP. The ACHP shall provide OEA with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, OEA will prepare a written response that takes into account any timely advice or comments regarding the dispute from ACHP, signatories, and concurring parties, and provide these parties with a copy of the written response. OEA will then proceed according to its final decision.
- B. If ACHP does not provide its advice regarding the dispute within the 30-day period, OEA may make a final decision on the dispute and proceed accordingly. Prior to reaching a final decision, OEA will prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA and provide these parties and ACHP with a copy of such written response.
- C. OEA's responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

VII. TERMINATION

If any signatory determines after the effective date that the terms of this MOA will not or cannot be carried out, that signatory shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation V. If within 30 days (or another period agreed to by the signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the Undertaking, OEA must either (a) execute a MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into account, and respond to the comments of ACHP under 36 C.F.R. § 800.7. OEA will notify the signatories as to the course of action it will pursue.

VIII. COUNTERPARTS; FACSIMILE OR .PDF SIGNATURES

This MOA may be executed in counterparts, each of which shall be considered an original and together shall be one and the same MOA. A facsimile or .pdf copy of this MOA and any signatures thereon will be considered for all purposes, as an original.

Execution of this MOA by the signatories, and implementation of its terms evidence that OEA has taken into account the effects of the Undertaking on historic properties and afforded ACHP an opportunity to comment.

SIGNATORY PAGE

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Surface Transportation Board

By: **DANIELLE**
GOSSELIN  Digitally signed by DANIELLE
GOSSELIN
Date: 2024.10.22 09:43:30
-04'00' Date: _____

Danielle Gosselin, Director, Office of Environmental Analysis

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GEORGIA STATE HISTORIC PRESERVATION OFFICER

By:  Date: October 21, 2024
Jennifer Flood, Division Director, Deputy SHPO

INVITED SIGNATORY PAGE

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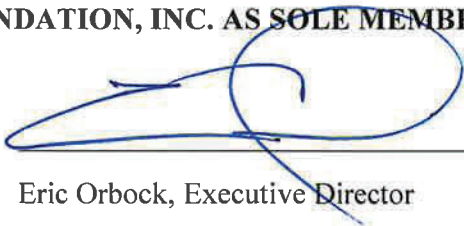
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**ATHENS TRANSPORTATION PARTNERS, LLC., BY UGA REAL ESTATE
FOUNDATION, INC. AS SOLE MEMBER AND MANAGER**

By:



Eric Orbock, Executive Director

Date:

10/1/2024