

**MEMORANDUM OF AGREEMENT AMONG THE FEDERAL HIGHWAY ADMINISTRATION, THE FEDERAL TRANSIT ADMINISTRATION, THE UNITED STATES ARMY CORPS OF ENGINEERS, WASHINGTON STATE DEPARTMENT OF TRANSPORTATION, OREGON STATE DEPARTMENT OF TRANSPORTATION, WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC PRESERVATION, AND OREGON STATE HISTORIC PRESERVATION OFFICE**

**IMPLEMENTING SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT FOR THE COLUMBIA RIVER CROSSING, I-5 CORRIDOR BRIDGE REPLACEMENT PROJECT AND PUBLIC TRANSIT IMPROVEMENTS, CITY OF VANCOUVER, CLARK COUNTY, WASHINGTON, AND CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON**

**WHEREAS**, the Washington State Department of Transportation (WSDOT) and the Oregon State Department of Transportation (ODOT) plan to replace the Interstate 5 Bridge with a mix of bridge, public transit, highway and local street elements, and utility modifications, as part of the Columbia River Crossing Project (Project); and

**WHEREAS**, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) are co-lead agencies that have and may, respectively, provide financial assistance for the Project. The United States Army Corps of Engineers (USACE) will be provided copies of all consultation documentation; and

**WHEREAS**, FHWA and FTA have determined that the Project is an undertaking, as defined in 36 CFR § 800.16(y), subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f and its implementing regulations 36 CFR § 800; and

**WHEREAS**, FHWA and FTA have requested that WSDOT and ODOT initiate consultation with the Washington State Department of Archaeology and Historic Preservation (DAHP), the Oregon State Historic Preservation Office (ORSHPO), interested and affected Indian tribes, and other interested parties pursuant to 36 CFR § 800.14, on behalf of FHWA and FTA; and

**WHEREAS**, FHWA and FTA, in conjunction with WSDOT and ODOT, and in consultation with DAHP and ORSHPO and eleven consulting tribes, have defined the undertaking's Area of Potential Effect (APE); and

**WHEREAS**, FHWA and FTA consulted with DAHP and ORSHPO regarding appropriate levels of effort to identify historic properties in accessible areas of the APE, including inventorying 872 previously unrecorded built-environment historic resources, identifying 32 archaeological resources, preparation of oral histories by 2 consulting tribes, and evaluating historic significance of these resources resulting in the identification of 196 built environment and 32 archaeological historic properties eligible for listing on the National Register of Historic Places; and

**WHEREAS**, after assessing the direct, indirect and/or reasonably foreseeable adverse effects to historic properties, FHWA, FTA, WSDOT and ODOT, in consultation with DAHP and ORSHPO have agreed that the undertaking will have an adverse effect on the northbound I-5

Columbia River Bridge #18781, and the Vancouver National Historic Reserve (VNHR), which are listed on the National Register of Historic Places (NRHP), and the Pier 99 Building in Portland, which is eligible for listing in the NRHP; and

**WHEREAS**, FHWA and FTA were only recently made aware that the USS LCI-713, a historic WWII amphibious assault vehicle that is listed on the National Register of Historic Places, was moved within the project APE after the Built Environment survey was conducted, and although no adverse effects are expected, resolution of any adverse effects to the LCI-713 will be agreed upon under a separate Memorandum of Agreement; and

**WHEREAS**, FHWA and FTA have determined that the Project has the potential to adversely affect previously unidentified archaeological sites; but due to the large land areas under consideration, extensive areas within the APE containing deep sediments that are difficult to access and identify historic (archaeological) properties due to actively used development, engineering and design-level of constraints that prevent accurate assessment of adverse effects, private property access restrictions, and safety concerns regarding conducting archaeological investigations within an intensively developed and actively used urban context, further identification of historic properties, assessment of adverse effects, and resolution of adverse effects, if needed, shall be phased into the construction program in accordance with 36 CFR 800.4(b)(2), 36 CFR 800.5(a)(3) and 36 CFR 800.6(c)(6); and

**WHEREAS**, FHWA and FTA have notified the Advisory Council on Historic Preservation (ACHP) of FHWA's and FTA's adverse effect determination and the ACHP has chosen not to participate in the consultation; and

**WHEREAS**, FHWA and FTA have engaged in consistent and regular consideration of ways to avoid and minimize adverse effects to individual historic properties; and

**WHEREAS**, "signatories" means the required (FHWA, FTA, USACE, DAHP, ORSHPO, WSDOT and ODOT) and invited (National Park Service) signatories; "concurring parties" means consulting parties that have signed the Agreement, and "consulting parties" means signatories, concurring parties, all interested and affected tribes, and other interested parties consulted on the Project, regardless of whether they agreed to sign the Agreement; and

**WHEREAS**, TriMet, C-TRAN, the City of Portland, the City of Vancouver, and the Washington State Department of Natural Resources have been consulted regarding this Agreement and invited to concur in this Agreement; and

**WHEREAS**, the ten federally recognized tribes including the Confederated Tribes and Bands of the Yakama Nation, the Confederated Tribes of the Colville Reservation, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of the Siletz Reservation, the Confederated Tribes of the Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation, the Cowlitz Indian Tribe, the Nez Perce Tribe, the Nisqually Indian Tribe, the Spokane Tribe of Indians, (collectively "Indian tribes") have been consulted early in and throughout the section 106 process and invited to concur in the Agreement; and

**WHEREAS**, The Chinook Tribe, a non-federally recognized tribe, has been consulted early in and throughout the Section 106 process and invited to concur in the Agreement; and

**WHEREAS**, Fort Vancouver is a nationally and internationally significant site, containing the remains of the colonial capital of the Pacific Northwest from 1825-1860; a village whose inhabitants included Europeans, Native Hawaiians, and representatives of over 30 different American Indian tribes from homelands spanning the continent; and the region's first permanent U.S. Army post; and

**WHEREAS** Fort Vancouver was designated a National Monument on June 19, 1948 (62 Stat. 532) and redesignated, with expanded boundaries, as Fort Vancouver National Historic Site on June 30, 1961 (75 Stat. 196); and

**WHEREAS** the Vancouver National Historic Reserve was established in 1996 (Public Law 104-333, Section 502) and the National Park Service was named the lead partner for interpretation, education, and cultural resources management (Cooperative Management Plan, 2000); and

**WHEREAS** in order to bring the East and South Vancouver Barracks under the administrative jurisdiction of the National Park Service, the Secretary of the Army is relinquishing the East and South Barracks to the Department of the Interior; and

**NOW, THEREFORE**, FHWA, FTA, and USACE, WSDOT and ODOT, and DAHP and ORSHPO, agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties:

## **-STIPULATIONS-**

FHWA and FTA, in cooperation with WSDOT and ODOT, will ensure that the following measures are carried out:

### **I. GENERAL REQUIREMENTS AND STANDARDS**

- A. As a condition of the award of any assistance under the Federal-Aid Highway and the New Starts 5309 Programs, FHWA and FTA shall require that WSDOT and ODOT carry out the requirements of this Agreement, and all applicable laws.
- B. Signatories and Consulting Parties shall keep sensitive cultural resources information confidential to the extent allowed by state and federal law.
- C. Activities carried out pursuant to this Agreement shall meet the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 FR 44716 as revised) as well as existing standards and guidelines for historic preservation activities established by DAHP and ORSHPO.
- D. FHWA, FTA, WSDOT, and ODOT will ensure that all cultural resources work carried out under this Agreement is conducted by or under the direct supervision of a person or persons meeting the Secretary of the Interior's Professional Qualification Standards (36 CFR 61). Non-cultural resources work mentioned in this Agreement will be carried out by Professionals in the appropriate field. WSDOT and ODOT shall communicate with consulting parties at the beginning, middle, and draft review of all mitigation materials, with a 30-day review period for comments.

- E. All resource management documents as specified under this Agreement (e.g. the Archaeological Treatment Plan) will be completed prior to any construction and within three months of the release of the 90% design documents for the Project. Nothing in this Memorandum of Agreement (MOA) shall be construed as indicating acceptance by the concurring parties of the resource management documents, which have yet to be developed. WSDOT and ODOT shall in good faith attempt to reach a consensus on the contents of the resource management documents with the consulting parties. As the MOA functions in lieu of a state permit in Washington, all documentation generated will be provided to DAHP in accordance with State law.
- F. FHWA and FTA shall retain ultimate responsibility for complying with all federal requirements pertaining to direct government-to-government consultation with Indian tribes. Notwithstanding any other provision of this stipulation, FHWA and FTA shall honor the request of any of the Indian tribes listed herein for direct government-to-government consultation regarding the Project. WSDOT and ODOT are authorized by FHWA to carry out, as their agents, Section 106 compliance activities, Section 4(f) of the Department of Transportation Act and tribal consultation. FHWA and FTA also agree that they have specific responsibilities and authorities in compliance with the National Environmental Policy Act, the Archaeological Resources Protection Act, the Native American Graves and Protection and Repatriation Act, the Historic Sites Act of 1935, the American Antiquities Act of 1906, the American Indian Religious Freedom Act, the Religious Freedom Restoration Act, Executive Order 13007 (Indian Sacred Sites), Executive Order 13287 (Preserve America), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and related authorities.
- G. Within one month of signing the Record of Decision (ROD), FHWA and FTA shall inform all consulting parties that the ROD has been issued.

**II. STIPULATIONS FOR MITIGATING ADVERSE EFFECTS TO SPECIFIC BUILT ENVIRONMENT HISTORIC PROPERTIES IN OREGON AND WASHINGTON**

**A. Columbia River (Interstate) Bridge NB (Oregon Bridge No. 1377A) 1917**

The bridge was listed on the National Register of Historic Places on July 16, 1982, and will be adversely affected by its removal by the project. Previous Historic American Engineering Record (HAER) documentation on the bridge was completed in 1993.

1. WSDOT and ODOT will prepare a Bridge Marketing Plan that will ensure that all appropriate efforts will be attempted to find an alternative use including separating and relocating individual spans if relocation of the bridge in its entirety is not feasible (Deadline: within one year of ROD).
2. WSDOT and ODOT will obtain a Stipulation Letter from NPS detailing the appropriate level of HAER documentation to supplement the 1993 documentation. At a minimum, documentation will include the following (Deadline: within two years of the start of the project's final design):

- a. HAER documentation consisting of a context statement; a minimum of 40 large format photographs that address both the nature of the overall structure and unique or character-defining features; aerial perspective photographs; and narrative documentation of distinctive attributes.
  - b. The HAER package will also include digital copies of available historic photographs, construction design plans, and as-built construction plan sheets held by ODOT, WSDOT, the Oregon Historical Society, and the Clark County Historical Society.
  - c. HAER documentation, including photographs and narrative, shall be filed at the following institutions: Library of Congress, DAHP, ORSHPO, Museum of History and Industry (Seattle), Fort Vancouver Regional Library, Multnomah County Library, the Clark County Historical Society, Oregon Historical Society, Architectural Heritage Center/Bosco Milligan Foundation (Portland), University of Washington Libraries – Special Collections Division, University of Oregon Libraries – Special Collections and University Archives, University of Oregon Allied Arts and Architecture Library, Portland State University Library – Special Collections, Clark College - Cannell Library, Stanley Parr Archives (Portland), and City of Vancouver Municipal Archives.
  - d. WSDOT and ODOT, in consultation with DAHP and ORSHPO, shall offer the large-format HAER photographs and narrative essays for display and interpretation to any of the following local museums, repositories, and public venues that confirm they wish to retain the materials: Fort Vancouver Regional Library, Multnomah County Library, the Clark County Historical Society, Architectural Heritage Center/Bosco Milligan Foundation, Vancouver and Portland City Halls, Port of Portland, the Washington and Oregon State Libraries, the Fort Vancouver National Historic Site , and the Washington and Oregon State Archives.
3. Decorative or interpretive structural elements, such as the historic entry pylons, will be incorporated into the bridge design, light rail stops near the bridge, or parks; or offered to local historical societies/museums or other interested parties (Deadline: within two years of bridge removal).
  4. WSDOT and ODOT, in consultation with DAHP and ORSHPO, the cities of Portland and Vancouver, and interested tribes will develop and install or implement professionally-designed interpretive programs that will communicate the structure’s history and meaning to the general public. Professionally printed materials will be distributed at local museums and heritage organizations for the duration of the Project. The types of materials that will be prepared may include: contemporary photographs from the HAER documentation and historic photographs, quotations derived from the HAER research and oral history interviews, and a map of early-20th century attractions, including historic structures and important places located within the project’s APE (Deadline: within two years of the start of the project’s final design).

5. WSDOT and ODOT, in consultation with DAHP and ORSHPO and the cities of Portland and Vancouver, shall create and maintain a professionally-built website that will provide an historical interpretation of the role played by the I-5 bridges including display photographs, peer reviewed essays, oral interviews, maps, and background materials highlighting the significance of the river crossings and highway. The website will be designed to accommodate new information that may be prepared as mitigation for future adverse effects to historic properties, resulting from this undertaking. WSDOT and ODOT shall create the website within three years of the signing of this MOA, and maintain the website for the duration of the Project. At the completion of the project, the website will be offered to the Washington State Archives' digital library and/or HistoryLink.org, and the Oregon State Library digital archives and/or oregonencyclopedia.org for subsequent continued display. The website will include a selection of the following (Deadline: within two years of the start of the project's final design):
  - a. Explanatory materials about the I-5 bridges and its context within Portland, Vancouver, Pacific Highway, and Columbia River history,
  - b. Selected HAER photographs, essays derived from the HAER narrative report,
  - c. Visual simulation or animation videos using existing LiDAR and other electronic media; and
  - d. A webpage dedicated to educational materials and activities for children, to be created in consultation with educators from Portland and Vancouver.
  - e. WSDOT and ODOT shall contact educational, public and non-profit organizations interested in Portland and Vancouver history and historic preservation, including, but not limited to, the Cities of Vancouver and Portland, Clark County, the Washington Trust of Historic Preservation, and the Architectural Heritage Center/Bosco-Milligan Foundation and shall inform them of the ability to link to this website.
6. ODOT, in consultation with ORSHPO, will develop a Multiple Property Documentation for the remaining bridges along the old Pacific Highway in Oregon. One individual nomination for a notable resource will be developed and submitted to ORSHPO for review, and NPS for review and listing (Deadline: within two years of the start of the project's final design).
7. WSDOT, in consultation with ODOT, DAHP and the Oregon SHPO, will revise and update previous Multiple Property Documentation for bridges constructed in Washington and determined eligible for the National Register of Historic Places. For bridges where there is local support for listing, and no immediate plans for demolition, individual nominations will be developed for at least one structure. These nominations will be submitted to DAHP for review, and to NPS for review and listing (Deadline: within two years of the start of the project's final design).

## **B. The Pier 99 Building**

The Pier 99 Building has been determined eligible for the National Register of Historic Places and will be adversely affected. Given the structural design and condition of the building, there is little likelihood that the structure can be relocated. ODOT will mitigate the adverse effect by ensuring the following measures are implemented and completed:

1. ODOT will obtain a Stipulation Letter from NPS detailing the appropriate level of Historic American Buildings Survey (HABS)/HAER documentation. At a minimum, documentation will include the following (Deadline: within two years of the start of the project's final design):
  - a. HABS/HAER documentation consisting of a context statement; a minimum of 20 large format photographs that address both the nature of the overall structure and specifically the details of the hyperbolic, butterfly roof and supporting structures; aerial perspective photographs; and narrative documentation of distinctive attributes.
  - b. The HABS/HAER package will also include digital copies of all available historic photographs collected and held by either DOT.
  - c. HABS/HAER documentation, including photographs and narrative, shall be filed at the following institutions: Library of Congress, ORSHPO, Multnomah County Public Library, the Oregon Historical Society, the Architectural Heritage Center/Bosco Milligan Foundation, University of Oregon Library – Special Collections and University Archives, University of Oregon Allied Arts and Architecture Library, Portland State University Library- Special Collections, Stanley Parr Archives (City of Portland), and ODOT's Central Services library in Salem.
  - d. ODOT, in consultation with ORSHPO, shall offer and provide the large-format photographs and narrative essays for display and interpretation at one or more of the following local museums, repositories, and public venues: Multnomah County Public Library, the Oregon Historical Society, the Architectural Heritage Center/Bosco Milligan Foundation, Portland City Hall, Port of Portland, the Oregon State Library, and the Oregon State Archives.
2. If appropriate, decorative or interpretive building elements will be offered to local historical societies/museums, then offered to architectural recycling companies before demolishing the building completely (Deadline: within one year of building removal).
3. ODOT, in consultation with ORSHPO and the city of Portland, will develop a professionally-designed interpretive project that results in the documentation of the structure's history and meaning to the general public (e.g. in a pamphlet on the immediate area's mid-century architectural resources). This information will highlight mid-century, modern engineering and architecture, including the Pier 99 building, as well as the social, economic, and cultural trends of mid-20th century with an emphasis on the regional impact of this period's architecture and engineering. These professionally researched, written and printed materials will be offered at the following local museums and heritage organizations for the

duration of construction: ORSHPO, Multnomah County Public Library, the Oregon Historical Society, the Architectural Heritage Center/Bosco Milligan Foundation, Portland City Hall, Portland International Airport, the Oregon State Libraries, and the Oregon State Archives (Deadline: within two years of the start of the project's final design).

4. ODOT, in consultation with ORSHPO and the city of Portland, will develop a Multiple Property Documentation for postwar boat and automobile dealership showroom buildings in the greater Portland area. Individual nominations will be developed for at least one notable postwar resource. These nominations will be submitted to ORSHPO for review, and to NPS for review and listing (Deadline: within two years of the start of the project's final design).

### **C. Vancouver National Historic Reserve Post Hospital**

The hospital is part of the Army quarters of the VNHR and is a contributing structure within the National Register Historic District. The immediate area around the hospital is part of the Army Parade Grounds and Barracks Cultural Landscape at the Reserve. The increased proximity of the proposed retaining wall and roadways constitute an adverse effect to this resource. Additionally, NPS and City of Vancouver staff have expressed concerns about the potential that construction related activities may cause vibration impacts of an adverse nature.

1. Landscaping elements of the Lid, a freeway cover in front of the Hospital which will be constructed as part of the project, will mitigate the increased proximity of the proposed retaining wall and highway. These landscape elements will be a partnership between WSDOT, NPS, and City of Vancouver. WSDOT will consult and coordinate design with appropriate parties at NPS and City of Vancouver (Deadline: design within two years of the start of the project's final design).
2. To ensure protection of the hospital buildings structural and material integrity, WSDOT, in Consultation with the NPS and the City of Vancouver, will develop a Construction Vibration and Settlement Management and Monitoring Plan that will (1) define a pre-construction analysis of vibration and settlement analysis to determine effect thresholds and appropriate measures that might be needed to minimize vibration and settlement risks during construction; (2) define vibration and settlement monitoring and analysis methods to be used during construction and protective response procedures if adverse effects to structural and/or material integrity occur and/or appear imminent (Deadline: prior to start of construction of the project).

### **D. Vancouver National Historic Reserve**

The entire VNHR is a National Register Historic District that has four distinct cultural landscapes as substantial components of its significance. WSDOT will coordinate with NPS and City of Vancouver to develop a Visual Management Plan or work with visual elements of an existing VNHR management plan addressing visual effects, to ensure that all project design elements are consistent and compatible with



VNHR goals and that take into account the historic property’s qualifying characteristics, especially the aspects of integrity regarding setting and feeling.

1. WSDOT will consult and coordinate with DAHP, NPS, City of Vancouver, and interested tribes to design and install an aesthetically appropriate noise wall structure. The noise wall will stretch from the Land Bridge to the southern edge of the Post Hospital, where the City of Vancouver prefers the noise attenuation provided by the Lid (Deadline: installation of structure shall be completed by completion of the project).
2. As mitigation for impacts to cultural resources, WSDOT will provide funding for the design and the renovation of Building 405 into a fully-operational curation facility which will meet federal standards for curation as defined in 36 CFR Part 79 and as promulgated by National Park Service policy for a NPS museum/curatorial facility. WSDOT has reviewed the building conceptual design (Appendix A), which is consistent with NPS policy, and agree to fund the renovation based on this concept. Within 60 days of the start of the project’s final design, WSDOT, in consultation with NPS, will fund design of the facility through construction documents, producing a Class A construction cost estimate for the museum facility. The Class A construction cost estimate, with appropriate contingencies, will be used to determine the funding level to be transferred to the NPS for the renovation of building 405 when the CRC project construction begins (not to exceed \$16.9 million based on the construction of the curation facility beginning in March 2013). All improvements will be the property of the NPS.

#### **E. Light-Rail Noise Impacts**

Along 17th Avenue, project noise levels are predicted to meet, or exceed the FTA criteria at 20 single-family residences. Of these, four have been determined NRHP eligible:

<b>DAHP ID</b>	<b>Address</b>
116	307 E 17th Street
129	404-406 E 17th Street
119	415 E 17th Street
133	604 E 17th Street

Mitigation for light rail noise impacts include sound barriers, track lubrication at curves, and other features designed into the infrastructure itself as well as residential sound insulation. Building retrofits are considered on a case-by-case basis and determined during the final design stage. In coordination with DAHP, the proposed modifications for these four NRHP-eligible houses, will be reviewed for consistency with the Secretary of the Interior Standards for Rehabilitation (Deadline: Prior to Light Rail construction).

### **III. PRINCIPLES AND STIPULATIONS TO COMPLETE ARCHAEOLOGICAL INVESTIGATIONS**

FWHA and FTA in conjunction with other signatories and concurring parties have agreed that the complexities of the CRC project require a phased approach to the completion of compliance with 36 CFR 800. Circumstances dictate that some of the activities needed to complete all steps of the Section 106 process will be carried out after the ROD is issued.

#### **A. Archaeological Survey of Remaining Parcels and Other Areas**

1. An archaeological survey of the remaining unsurveyed parcels will be completed after those parcels (or rights of entry to those parcels) have been acquired by the DOTs, but prior to project construction.
2. The survey will include subsurface investigations comparable to the surveys previously completed for the undertaking, and will be conducted by or under the direct supervision of a person or persons meeting the Secretary of Interior's Professional Qualification Standards.
3. An addendum cultural resources technical report, consistent with DAHP and ORSHPO guidelines for such documents, will be prepared for all additional archaeological survey work completed under this MOA. The report(s) will be submitted to DAHP, ORSHPO, and consulting tribes for review.
4. Archaeological investigations, including subsurface testing where appropriate, will be conducted on State Owned Aquatic Lands about 200 feet to each side of the existing bridge on the Washington shore; the report will be submitted to WDNR, DAHP, and consulting tribes for review.
5. Archaeological investigations will be conducted within the light-rail corridor and facilities, which are located in actively used streets that will likely be inaccessible to investigation until immediately prior to or during construction.
6. Archaeological investigations will be completed in Oregon, which are constrained by the extensively developed nature of the project area as well as the depth of the Holocene flood deposits, which necessitate employing roto sonic cores to search for buried deposits.
7. If archaeological survey of any remaining parcels prior to construction remains unfeasible due to safety concerns, depth, or construction techniques, then archaeological monitoring of those parcels will be employed during construction if the area has a moderate or high probability to contain significant archaeological resources.

### **IV. SIGNIFICANT ARCHAEOLOGICAL RESOURCES**

The Project area spans two very different environmental and historical contexts, which necessitated two different methods for archaeological discovery. Archaeological research designs were written, and discovery excavations have been completed for the work areas where access was secured by the Project. On the Washington side, Holocene deposits are

thin and archaeological remains are relatively close to the surface. The studies identified 32 historical archaeological resources in Washington that meet NRHP criteria. In Oregon, the project extends across the Columbia River floodplain with alluvial deposits in excess of 30 m (100 feet) deep. Although no archaeological deposits were discovered, a paleoenvironmental model will be created to guide the search for possible significant prehistoric archaeological resources within identified target areas. Based on the design parameters, buried conditions, and construction methods, it is possible that some resources may not be accessible for data recovery mitigation measures. All plans as specified below will be developed in consultation with consulting parties prior to any construction activity. Consideration of significant resources shall be addressed by the following actions.

#### **A. Preparation of Archaeological Resources Treatment Plans (Treatment Plan)**

Significant archaeological resources have only been found in Washington to date, so the Treatment Plan will only address those resources. If archaeological resources are discovered in Oregon, a separate Treatment Plan will be developed for work in Oregon. The Treatment Plan will guide the actions of cultural resources professionals during its implementation. WSDOT and ODOT shall develop the plans in consultation with DAHP and ORSHPO, interested and affected tribes, and other consulting parties, making a good faith effort to reach consensus on the contents of the Treatment Plan. As the MOA/Treatment Plan functions in lieu of a state permit in Washington, all documentation generated will be provided to DAHP in accordance with State law. The plan shall:

1. Evaluate and describe the location-specific Project actions that have a potential to affect significant archaeological resources including:
  - (i) The nature of the actions (excavation, cast piles, etc.); and
  - (ii) Probable effects relative to resource potentials;
2. Discuss in detail appropriate treatments (possibly including integrated rapid data recovery, monitoring, alternative mitigation measures, or other measures) and how they will be applied to the identified Project actions. This discussion will include specific proposals and methods for an integrated rapid data recovery for areas where construction activity encounters previously unidentified cultural deposits. Mitigation for impacts to sites considered significant under criterion A, B, and C will include support for interpretive programs, including panels, exhibits, and educational materials; or other mitigation as appropriate to the historic property.
3. Establish criteria that trigger further consultation with DAHP and ORSHPO, interested and affected tribes, and other consulting parties, and evaluation of archaeological resources identified during construction (for example, intact features and artifacts related to prehistoric Native American use);
4. Describe methods that will be used to recover and process archaeological materials and information that are deemed NRHP-eligible including:

- (i) The different methods proposed to recover different types of site assemblages (for example, appropriate methods for Native American sites vs. historic sites);
  - (ii) Potential specialty or analytical methods that may be applied to recovered resources (e.g., C-14 dating, faunal analysis, flotation, trademark identification and dating, etc.);
  - (iii) Artifact processing parameters and laboratory procedures that will permit relevant study and reporting;
5. Outline anticipated reporting requirements, realizing that reporting specifics are dependent on the nature of the resources that are recovered by Project actions. An appropriate timeframe for analysis and reporting will be negotiated with consulting parties after completion of fieldwork activities and will be dependent on the nature and extent of recovered archaeological information, not to exceed five years from the completion of construction;
  6. Identify requirements and process approaches for final curation of artifacts and information associated with any data recovery actions. All documents and artifact generated in Washington will be curated at the NPS Fort Vancouver National Historic Site Museum Facility in Vancouver, Washington. Documents and artifacts generated in Oregon will be curated at the Oregon State Museum of Natural and Cultural History in Eugene, Oregon; and
  7. Discuss measures that will be taken to disseminate findings to the general public.

## **B. Preparation of an Inadvertent Discovery Plan**

WSDOT and ODOT will revise, in consultation with DAHP and ORSHPO, tribes and other consulting parties, a previous Inadvertent Discovery Plan (IDP) from 2009 that addresses archaeological resources not previously identified in the Treatment Plan, and the treatment of human remains, if discovered. Their primary purpose is to provide procedural guidance to Project supervisors and contractors regarding actions associated with construction, and to establish the formal process and notification responsibilities of relevant parties (Deadline: Prior to construction)..

## **C. Additional Mitigation Measures and Public Education**

The Secretary of the Interior’s Standards for Archaeological Documentation mandates that “the results of archaeological documentation are reported and made available to the public” (48 CFR 44734). Therefore, WSDOT and ODOT shall:

1. Disseminate the findings of the archaeological investigations as developed under the Treatment Plan and in consultation with DAHP and ORSHPO, interested and affected tribes, and other consulting parties. Methods shall include one or more of the following:
  - (i) A reader-friendly summary of information gleaned on history (including above ground resources) and/or prehistory through the data recovery process;

- (ii) A museum-quality display or displays that could be showcased at local, state or tribal government facilities, and offered to local museums on a rotating basis;
  - (iii) Use of non-diagnostic or unproven historical artifacts (non-grave goods) may be used to develop a traveling informational toolkit for use in public and private schools and at Tribal facilities. Replications of artifacts may be commissioned for inclusion in the traveling toolkit.
2. Develop a guidance document for future development by others in the vicinity of the Project based on the insights gleaned from the identification and mitigation process used by the Project, in consultation with DAHP and ORSHPO, interested and affected tribes, and other consulting parties. Because of its size, the Project has resulted in an increased awareness of applicable research methods, resource potentials, potential precontact and historic resource locations, and potential treatment methods within a complex urban environment. The document, which will be prepared during the analysis and reporting phase of the archaeological mitigation program, shall:
- (i) Discuss appropriate background research and analysis methods that can be applied to fulfill state and federal environmental requirements for future public or private development;
  - (ii) Identify appropriate target locations that have higher probabilities to contain significant resources and the types of expected resources;
  - (iii) Identify specific subsurface testing methods that can provide preliminary indications of significant resources including a discussion of criteria for identification of probable intact resources warranting further consideration;
  - (iv) Describe mitigation data recovery methods appropriate to treatment of properties within urban settings and areas of deep Holocene sedimentation, and procedures for mitigation during construction.
  - (v) Discuss lessons learned regarding archaeological methods for discovery, analysis, and recovery of submerged cultural resources.
3. FHWA, FTA, WSDOT, ODOT will contract with interested consulting tribes to participate in the development of the following project plans and products:
- (i) Inadvertent discovery plan
  - (ii) Interpretive programs
  - (iii) Archaeological Resources Treatment Plan
  - (iv) Monitoring Plan
  - (v) Guidance Document (see IV.C.2)
  - (vi) Addenda to cultural resource reports

(vii) Noise Wall Plan

#### **D. Tribal Monitoring**

WSDOT and ODOT will ensure that an appropriate construction monitoring plan is in place during all phases of the construction of the project. The details of the monitoring efforts will be laid out in the Construction Monitoring Plan. The interested and affected tribes shall be afforded opportunity to participate directly in Project archaeological monitoring activities as specified in the Treatment Plan with staff paid for by WSDOT and ODOT.

#### **E. Consultation**

1. WSDOT and ODOT shall communicate with consulting parties at the following times, with a 30-day review period for comments:
  - a. After completion of the draft Treatment Plan and IDP for review and comment;
  - b. Monthly after the date of signing of this Agreement, providing an update on archaeological and mitigation progress;
  - c. When design is finalized, if any changes to the impacts described in the Treatment Plan have been identified; and
  - d. At the request of a consulting party.
2. WSDOT and ODOT shall facilitate field visits for consulting parties upon request.
3. Each communication with interested and affected tribes shall include an offer to meet individually, or to facilitate a meeting with multiple tribes. DAHP, ORSHPO, FHWA, and FTA shall be invited to all meetings, unless requested otherwise.
4. WSDOT and ODOT shall consult with interested and affected tribes prior to public outreach on the topic of tribal history or other tribal issues.

#### **V. DISPUTE RESOLUTION**

- A. All signatories and concurring parties shall strive to address and resolve disagreements informally. In the event that resolution cannot be achieved within 30 calendar days, the applicable sections of 36 CFR 800 will determine steps for notice and resolution between FHWA and FTA, and the ACHP.
- B. Should a member of the public raise an objection, FHWA and FTA shall take the objection into account and consult as needed with the objecting party to resolve the objection.
- C. Each party reserves any and all rights it may otherwise have to enforce its rights or seek resolution of the dispute under applicable law. Nothing in this agreement can be

construed as being a waiver of the sovereign immunity of any Federally recognized Tribe.

- D. This MOA or violation of any of its terms does not create any right of action for any party whether a signatory of this MOA or not. Violations of the terms of the MOA shall be addressed as violations of the consultation requirements under 36 CFR Part 800.

## **VI. AMENDMENT AND TERMINATION**

- A. Any signatory to this MOA may terminate it by providing 30 calendar days written notice to the other parties, provided that the signatories will meet during the period prior to termination to seek agreement on amendments or other actions that would avoid termination. Consulting parties will be invited to any such meetings. This MOA cannot be terminated without such a meeting.
- B. In the event of termination, and prior to work continuing on the undertaking, FHWA and FTA shall either (a) execute an MOA pursuant to 36 CFR 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR 800.7. FHWA and FTA will notify the signatories as to the course of action it will pursue.
- C. If any signatory proposes to modify this MOA or its attachments in a manner that alters the resolution of adverse effects of historic properties, the modification will be made in consultation with consulting parties. The modified MOA must be signed by all signatories.
- D. Unless terminated, this MOA will be in effect until FHWA and FTA, in consultation with all signatory and concurring parties, determines that all of its terms have been satisfactorily fulfilled. For its duration, this MOA will be reviewed by all signatories and concurring parties every five years commencing upon full execution of this MOA by the signatory parties.

## **VII. DURATION**

- A. This MOA will take effect immediately upon execution by the Signatory Parties. The terms of this MOA will be satisfactorily fulfilled upon completion of the project. Unless terminated, this MOA will be in effect until FHWA and FTA, in consultation with all signatory and concurring parties, determine that all of its terms have been satisfactorily fulfilled.
- B. Execution of this MOA by the Signatories and implementation of its terms evidence that the FHWA and FTA have taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.
- C. Upon the execution of this MOA and unless terminated or the terms of the MOA are deemed not to have been satisfactorily fulfilled, the consultation requirements of ODOT, WSDOT, FHWA and FTA under 36 CFR Part 800 are deemed met.

**VIII. SIGNATORIES:**

**Federal Highway Administration**

\_\_\_\_\_ Date \_\_\_\_\_  
Phillip Ditzler  
Oregon Division Administrator

\_\_\_\_\_ Date \_\_\_\_\_  
Daniel Mathis  
Washington Division Administrator

**Federal Transit Administration**

\_\_\_\_\_ Date \_\_\_\_\_  
R. F. Krochalis  
Regional Administrator

**United States Army Corps of Engineers**

\_\_\_\_\_ Date \_\_\_\_\_  
John W. Eisenhower, P.E.  
Colonel, Corps of Engineers  
District Commander

**Oregon State Historic Preservation Office**

\_\_\_\_\_ Date \_\_\_\_\_  
Roger Roper  
Deputy State Historic Preservation Officer



**Washington State Department of Archaeology and Historic Preservation**

\_\_\_\_\_ Date \_\_\_\_\_  
Allyson Brooks, Ph.D.  
State Historic Preservation Officer

**Washington State Department of Transportation**

\_\_\_\_\_ Date \_\_\_\_\_  
Nancy Boyd  
CRC Project Director

**Oregon State Department of Transportation**

\_\_\_\_\_ Date \_\_\_\_\_  
Kris Strickler  
CRC Project Deputy Director

***INVITED SIGNATORY:***

**National Park Service**

\_\_\_\_\_ Date \_\_\_\_\_  
Tracy Fortmann  
Superintendent, Fort Vancouver National Historic Site

***CONCURRING PARTIES:***

**Confederated Tribes of the Colville Reservation**

\_\_\_\_\_ Date \_\_\_\_\_  
Michael Finley, Chair

**Confederated Tribes of the Grand Ronde Community of Oregon**

\_\_\_\_\_ Date \_\_\_\_\_  
Cheryle Kennedy, Chair

**Confederated Tribes of the Siletz Reservation**

\_\_\_\_\_ Date \_\_\_\_\_  
Deloris Pigsley, Chair

**Confederated Tribes of the Umatilla Indian Reservation**

\_\_\_\_\_ Date \_\_\_\_\_  
Les Minthorn, Chair

**Confederated Tribes of the Warm Springs Reservation**

\_\_\_\_\_ Date \_\_\_\_\_  
Stanley "Buck" Smith, Chair

**Confederated Tribes and Bands of the Yakama Nation**

\_\_\_\_\_ Date \_\_\_\_\_  
Harry Smiskin, Chair

**Cowlitz Indian Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
William Iyall, Chair

**Nez Perce Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
Brooklyn Baptiste, Chair

**Nisqually Tribe of Indians**

\_\_\_\_\_ Date \_\_\_\_\_  
Cynthia Iyall, Chair

**Spokane Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
Greg Abrahamson, Chair

**Chinook Tribe**

\_\_\_\_\_ Date \_\_\_\_\_  
Ray Gardner, Chair

**Washington State Department of Natural Resources**

\_\_\_\_\_ Date \_\_\_\_\_  
Bridget Moran  
DNR Deputy Supervisor

**City of Portland**

\_\_\_\_\_  
Steve Townsen, P.E.  
City Engineer

Date\_\_\_\_\_

**City of Vancouver**

\_\_\_\_\_  
Eric Holmes  
City Manager

Date\_\_\_\_\_

**TriMet**

\_\_\_\_\_  
Daniel W. Blocher, P.E.  
Executive Director Capital Projects

Date\_\_\_\_\_

**C-TRAN**

\_\_\_\_\_  
Jeff Hamm  
Executive Director/CEO

Date\_\_\_\_\_

**APPENDIX A**

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**NPS Museum/Curation Facility Conceptual Design**

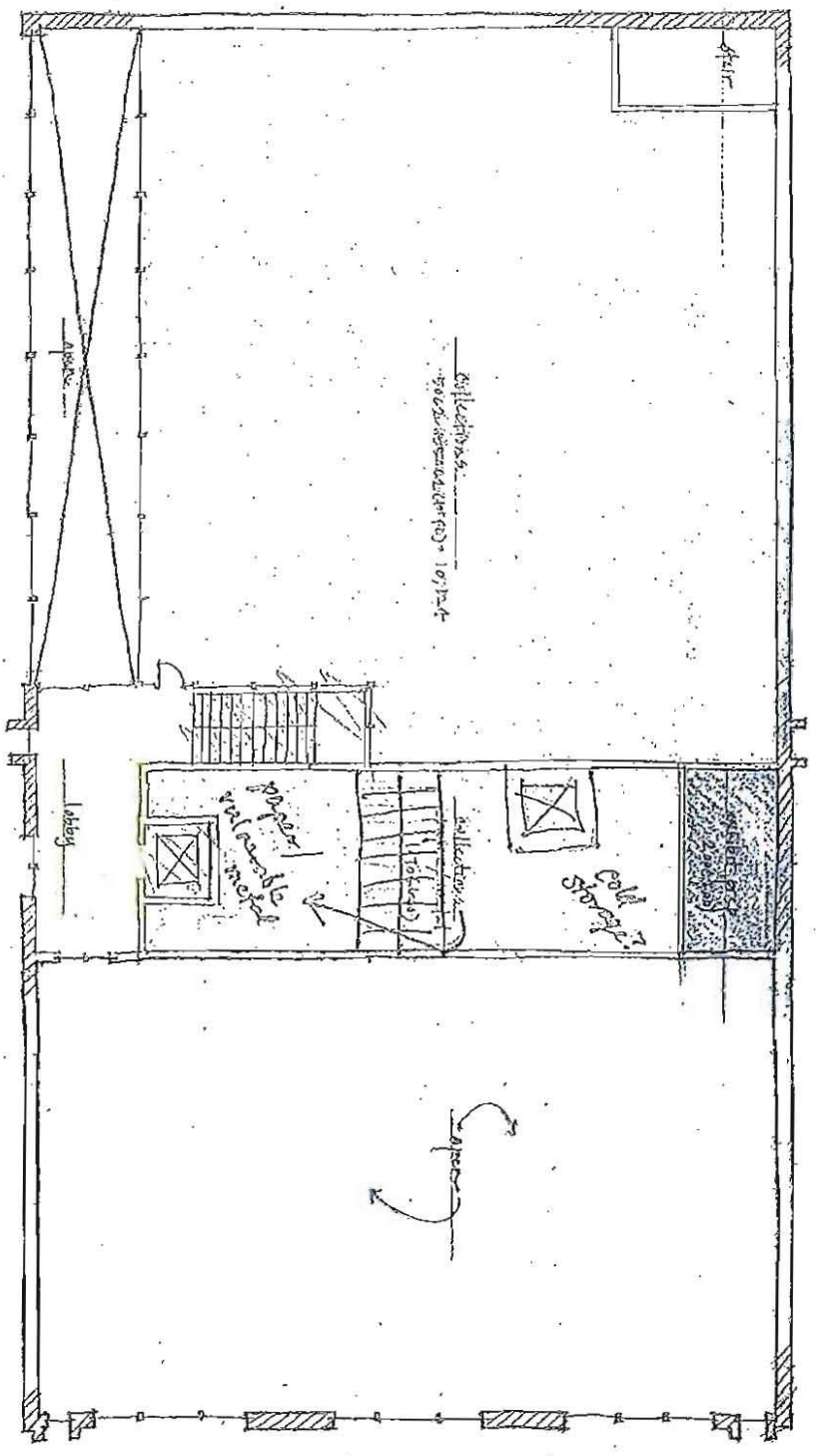




NORTHWEST CALIFORNIA RESOURCES CENTER  
FORT VANCOUVER - BUILDING 405

2ND FLOOR  
18' x 150'

SCHEME C  
DATE: 11/20/00





NORTHWEST CULTURAL RESOURCES CENTER  
PORT VANCOUVER - BUILDING 405

3rd Floor

SCHEME C

