

APPENDIX G

SECTION 106 MEMORANDUM OF AGREEMENT

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

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

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

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

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

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

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

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

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

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

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

9 **WHEREAS**, FHWA and FTA have determined that the Project has the potential to
10 adversely affect previously unidentified archaeological sites; but due to the large land areas
11 under consideration, extensive areas within the APE containing deep sediments that are difficult
12 to access and identify historic (archaeological) properties due to actively used development,
13 engineering and design-level of constraints that prevent accurate assessment of adverse effects,
14 private property access restrictions, and safety concerns regarding conducting archaeological
15 investigations within an intensively developed and actively used urban context, further
16 identification of historic properties, assessment of adverse effects, and resolution of adverse
17 effects, if needed, shall be phased into the construction program in accordance with 36 CFR
18 800.4(b)(2), 36 CFR 800.5(a)(3) and 36 CFR 800.6(c)(6); and

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

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

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

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

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

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

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

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

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

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

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

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

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

40 **B. The Pier 99 Building**

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

- 6 1. ODOT will obtain a Stipulation Letter from NPS detailing the appropriate level of
7 Historic American Buildings Survey (HABS)/HAER documentation. At a
8 minimum, documentation will include the following (Deadline: within two years
9 of the start of the project's final design):
 - 10 a. HABS/HAER documentation consisting of a context statement; a minimum of
11 20 large format photographs that address both the nature of the overall
12 structure and specifically the details of the hyperbolic, butterfly roof and
13 supporting structures; aerial perspective photographs; and narrative
14 documentation of distinctive attributes.
 - 15 b. The HABS/HAER package will also include digital copies of all available
16 historic photographs collected and held by either DOT.
 - 17 c. HABS/HAER documentation, including photographs and narrative, shall be
18 filed at the following institutions: Library of Congress, ORSHPO, Multnomah
19 County Public Library, the Oregon Historical Society, the Architectural
20 Heritage Center/Bosco Milligan Foundation, University of Oregon Library –
21 Special Collections and University Archives, University of Oregon Allied
22 Arts and Architecture Library, Portland State University Library- Special
23 Collections, Stanley Parr Archives (City of Portland), and ODOT's Central
24 Services library in Salem.
 - 25 d. ODOT, in consultation with ORSHPO, shall offer and provide the large-
26 format photographs and narrative essays for display and interpretation at one
27 or more of the following local museums, repositories, and public venues:
28 Multnomah County Public Library, the Oregon Historical Society, the
29 Architectural Heritage Center/Bosco Milligan Foundation, Portland City Hall,
30 Port of Portland, the Oregon State Library, and the Oregon State Archives.
- 31 2. If appropriate, decorative or interpretive building elements will be offered to local
32 historical societies/museums, then offered to architectural recycling companies
33 before demolishing the building completely (Deadline: within one year of
34 building removal).
- 35 3. ODOT, in consultation with ORSHPO and the city of Portland, will develop a
36 professionally-designed interpretive project that results in the documentation of
37 the structure's history and meaning to the general public (e.g. in a pamphlet on the
38 immediate area's mid-century architectural resources). This information will
39 highlight mid-century, modern engineering and architecture, including the Pier 99
40 building, as well as the social, economic, and cultural trends of mid-20th century
41 with an emphasis on the regional impact of this period's architecture and
42 engineering. These professionally researched, written and printed materials will
43 be offered at the following local museums and heritage organizations for the

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

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

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

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

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

37 **D. Vancouver National Historic Reserve**

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

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

- 3 1. WSDOT will consult and coordinate with DAHP, NPS, City of Vancouver, and
4 interested tribes to design and install an aesthetically appropriate noise wall
5 structure. The noise wall will stretch from the Land Bridge to the southern edge
6 of the Post Hospital, where the City of Vancouver prefers the noise attenuation
7 provided by the Lid (Deadline: installation of structure shall be completed by
8 completion of the project).
- 9 2. As mitigation for impacts to cultural resources, WSDOT will provide funding for
10 the design and the renovation of Building 405 into a fully-operational curation
11 facility which will meet federal standards for curation as defined in 36 CFR Part
12 79 and as promulgated by National Park Service policy for a NPS
13 museum/curatorial facility. WSDOT has reviewed the building conceptual design
14 (Appendix A), which is consistent with NPS policy, and agree to fund the
15 renovation based on this concept. Within 60 days of the start of the project’s final
16 design, WSDOT, in consultation with NPS, will fund design of the facility
17 through construction documents, producing a Class A construction cost estimate
18 for the museum facility. The Class A construction cost estimate, with appropriate
19 contingencies, will be used to determine the funding level to be transferred to the
20 NPS for the renovation of building 405 when the CRC project construction begins
21 (not to exceed \$16.9 million based on the construction of the curation facility
22 beginning in March 2013). All improvements will be the property of the NPS.

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

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

27	DAHP ID	Address
28	116	307 E 17th Street
29	129	404-406 E 17th Street
30	119	415 E 17th Street
31	133	604 E 17th Street

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

1 **III. PRINCIPLES AND STIPULATIONS TO COMPLETE ARCHAEOLOGICAL**
2 **INVESTIGATIONS**

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

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

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

35 **IV. SIGNIFICANT ARCHAEOLOGICAL RESOURCES**

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

1 thin and archaeological remains are relatively close to the surface. The studies identified
2 32 historical archaeological resources in Washington that meet NRHP criteria. In Oregon,
3 the project extends across the Columbia River floodplain with alluvial deposits in excess
4 of 30 m (100 feet) deep. Although no archaeological deposits were discovered, a
5 paleoenvironmental model will be created to guide the search for possible significant
6 prehistoric archaeological resources within identified target areas. Based on the design
7 parameters, buried conditions, and construction methods, it is possible that some
8 resources may not be accessible for data recovery mitigation measures. All plans as
9 specified below will be developed in consultation with consulting parties prior to any
10 construction activity. Consideration of significant resources shall be addressed by the
11 following actions.

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

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

- 23 1. Evaluate and describe the location-specific Project actions that have a potential to
24 affect significant archaeological resources including:
 - 25 (i) The nature of the actions (excavation, cast piles, etc.); and
 - 26 (ii) Probable effects relative to resource potentials;
- 27 2. Discuss in detail appropriate treatments (possibly including integrated rapid data
28 recovery, monitoring, alternative mitigation measures, or other measures) and
29 how they will be applied to the identified Project actions. This discussion will
30 include specific proposals and methods for an integrated rapid data recovery for
31 areas where construction activity encounters previously unidentified cultural
32 deposits. Mitigation for impacts to sites considered significant under criterion A,
33 B, and C will include support for interpretive programs, including panels,
34 exhibits, and educational materials; or other mitigation as appropriate to the
35 historic property.
- 36 3. Establish criteria that trigger further consultation with DAHP and ORSHPO,
37 interested and affected tribes, and other consulting parties, and evaluation of
38 archaeological resources identified during construction (for example, intact
39 features and artifacts related to prehistoric Native American use);
- 40 4. Describe methods that will be used to recover and process archaeological
41 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;

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

1 (vii) Noise Wall Plan

2
3 **D. Tribal Monitoring**

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

10 **E. Consultation**

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

27 **V. DISPUTE RESOLUTION**

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

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

3 D. This MOA or violation of any of its terms does not create any right of action for any
4 party whether a signatory of this MOA or not. Violations of the terms of the MOA
5 shall be addressed as violations of the consultation requirements under 36 CFR Part
6 800.

7 **VI. AMENDMENT AND TERMINATION**

8 A. Any signatory to this MOA may terminate it by providing 30 calendar days written
9 notice to the other parties, provided that the signatories will meet during the period
10 prior to termination to seek agreement on amendments or other actions that would
11 avoid termination. Consulting parties will be invited to any such meetings. This MOA
12 cannot be terminated without such a meeting.

13 B. In the event of termination, and prior to work continuing on the undertaking, FHWA
14 and FTA shall either (a) execute an MOA pursuant to 36 CFR 800.6 or (b) request,
15 take into account, and respond to the comments of the ACHP under 36 CFR 800.7.
16 FHWA and FTA will notify the signatories as to the course of action it will pursue.

17 C. If any signatory proposes to modify this MOA or its attachments in a manner that
18 alters the resolution of adverse effects of historic properties, the modification will be
19 made in consultation with consulting parties. The modified MOA must be signed by
20 all signatories.

21 D. Unless terminated, this MOA will be in effect until FHWA and FTA, in consultation
22 with all signatory and concurring parties, determines that all of its terms have been
23 satisfactorily fulfilled. For its duration, this MOA will be reviewed by all signatories
24 and concurring parties every five years commencing upon full execution of this MOA
25 by the signatory parties.

26 **VII. DURATION**

27 A. This MOA will take effect immediately upon execution by the Signatory Parties. The
28 terms of this MOA will be satisfactorily fulfilled upon completion of the project.
29 Unless terminated, this MOA will be in effect until FHWA and FTA, in consultation
30 with all signatory and concurring parties, determine that all of its terms have been
31 satisfactorily fulfilled.

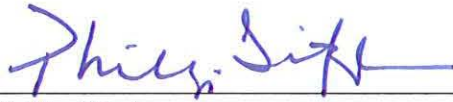
32 B. Execution of this MOA by the Signatories and implementation of its terms evidence
33 that the FHWA and FTA have taken into account the effects of this undertaking on
34 historic properties and afforded the ACHP an opportunity to comment.

35 C. Upon the execution of this MOA and unless terminated or the terms of the MOA are
36 deemed not to have been satisfactorily fulfilled, the consultation requirements of
37 ODOT, WSDOT, FHWA and FTA under 36 CFR Part 800 are deemed met.

38

VIII. SIGNATORIES:

Federal Highway Administration



Date August 25, 2011


Phillip Ditzler
Oregon Division Administrator



Date 08/24/2011

Daniel Mathis
Washington Division Administrator

Federal Transit Administration

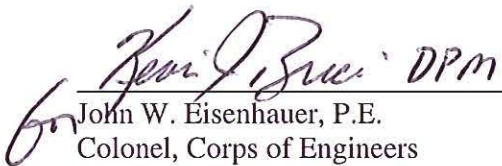


Date 23 August 2011

for

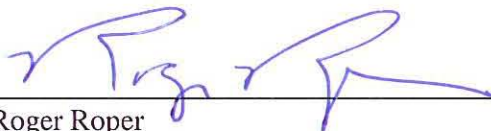
R. F. Krochalis
Regional Administrator

United States Army Corps of Engineers


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

Date 8 Sep 11


Oregon State Historic Preservation Office



Date 8.25.11

Roger Roper
Deputy State Historic Preservation Officer

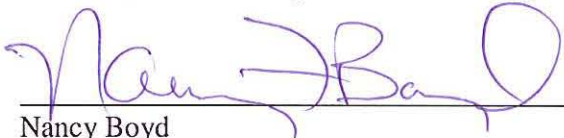
Washington State Department of Archaeology and Historic Preservation



Allyson Brooks, Ph.D.
State Historic Preservation Officer

Date 9/8/11

Washington State Department of Transportation



Nancy Boyd
CRC Project Director

Date 9/1/11

Oregon State Department of Transportation

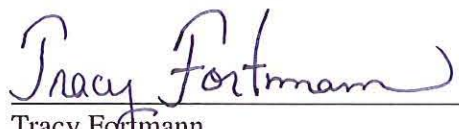


Kris Strickler
CRC Project Deputy Director

Date 09-01-11

INVITED SIGNATORY:

National Park Service



Tracy Fortmann
Superintendent, Fort Vancouver National Historic Site

Date 08/29/11

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 Siletz Indians

_____ Date _____
Delores 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

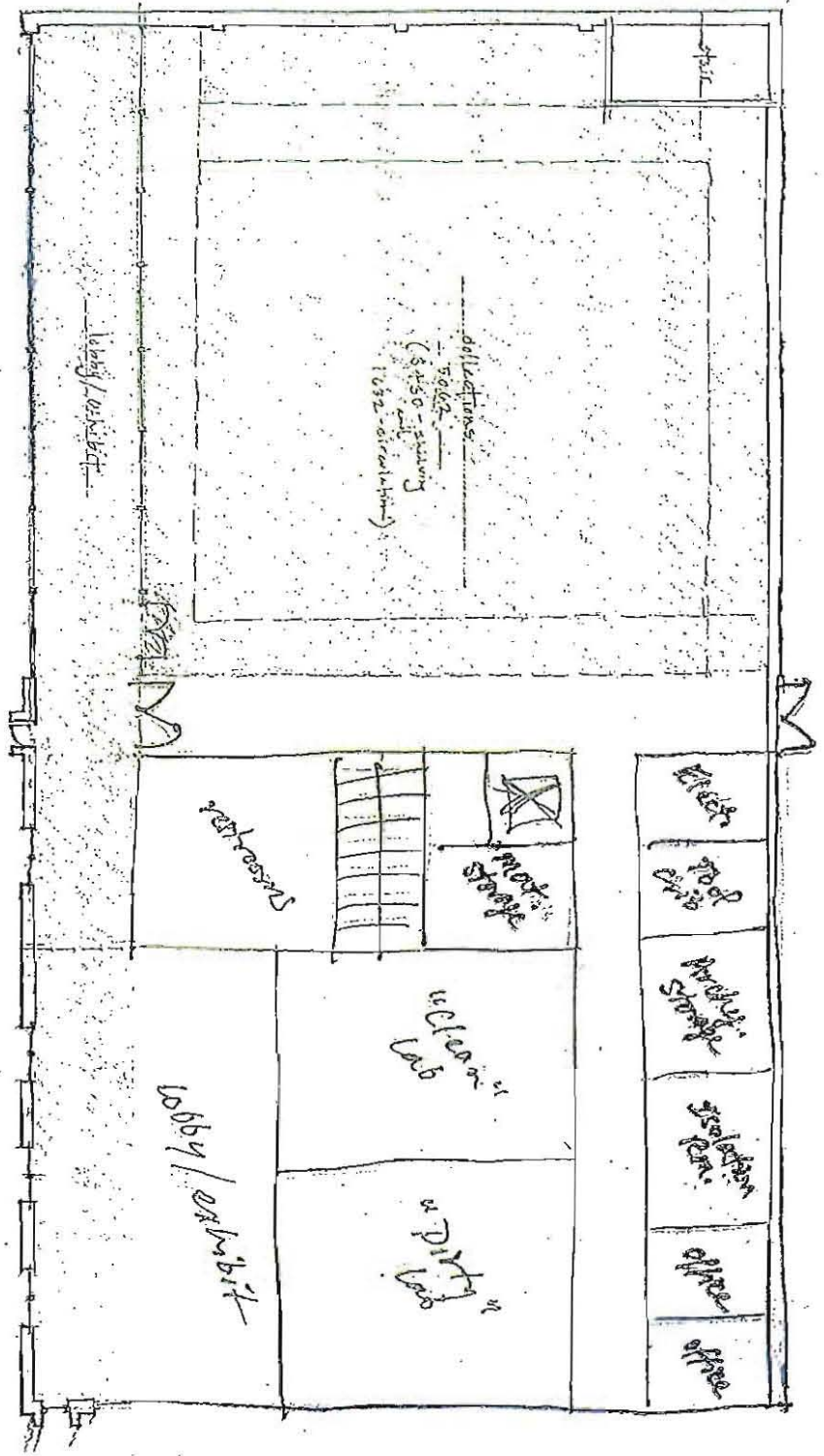
Jeff Hamm
Executive Director/CEO

Date_____

APPENDIX A

NPS Museum/Curation Facility Conceptual Design

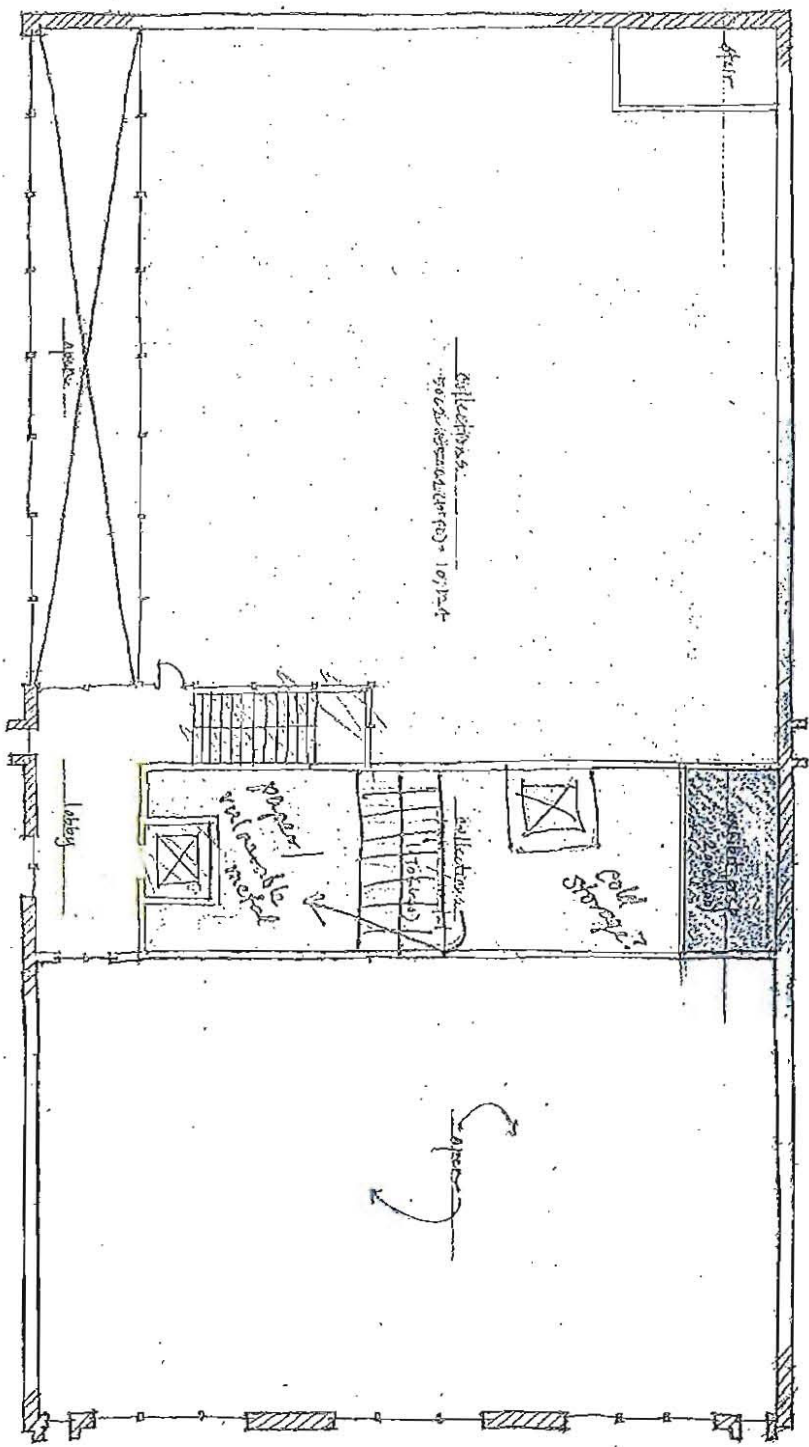
NORTHWEST CULTURAL RESOURCES CENTER
 EAST VANDERBILT - "PULPIT" FOR
 1st Floor
 SCHEME C
 DATE 11/20/00



NORTHWEST CALIFORNIA RESOURCES CENTER
FORT VANCOUVER - BUILDING 405

1st FLOOR
18' x 150'

SCHEME C



NORTHWEST CULTURAL RESOURCES CENTER
PORT VANCOUVER - BUILDING 415

3rd Floor

SCHEME C

