APPENDIX Q

National Historic Preservation Act: Section 106 Documentation
Section 106 Finding
DATE: February 28, 2012

TO: Michelle Eraut, FHWA Environmental Manager
    Casey Barney, Cultural Resources, Confederated Tribes and Bands of the Yakama Nation
    Briece Edwards, Archaeologist, Cultural Protection Specialist, Confederated Tribes of the Grand Ronde Community of Oregon
    David Harrelson, Cultural Protection Specialist, Confederated Tribes of the Grand Ronde Community of Oregon
    Robert Kentta, Cultural Resources Director, Confederated Tribes of Siletz Indians
    Roberta Kirk, Review and Compliance Coordinator, Geo Visions, Confederated Tribes of Warm Springs Reservation of Oregon
    Johnson Meninick, Cultural Resources Manager, Confederated Tribes and Bands of the Yakama Nation
    Eirik Thorsgard, Cultural Protection Coordinator, Confederated Tribes of the Grand Ronde Community of Oregon
    Sarah Jalving, ODOT Cultural Resources Specialist
    Kurt Roedel, ODOT Archaeologist
    Rod Thompson, ODOT Environmental Project Manager
    Christopher Bell, ODOT Cultural Resources Program Coordinator

FROM: Rebecca Littau, Geo-Environmental Administrative Staff

SUBJECT: Request for Concurrence
          Finding of No Adverse Effect
          Newberg-Dundee Bypass Project
          Washington and Yamhill Counties, Oregon
          SHPO Case Number: 07-0352
          ODOT Key Number: 09320; EA: PE000000
          Federal-Aid Number: ACHPP-HPP-S01W(036)

Attached is the signed Concurrence from the State Historic Preservation Office for the above referenced project, approved on Feb. 27, 2012.
February 24, 2011

Roger Roper
Deputy State Historic Preservation Officer
State Historic Preservation Office
725 Summer Street NE, Suite C
Salem, OR 97310-1271

Subject: Request for Concurrence
Finding of No Adverse Effect
Newberg-Dundee Bypass Project
Washington and Yamhill Counties, Oregon
SHPO Case Number: 07-0352
ODOT Key Number: 09320; EA: PE000000
Federal-Aid Number: ACHPP-HPP-S01W(036)

Dear Mr. Roper,

The Oregon Department of Transportation (ODOT) prepared the following letter in compliance with Section 106 of the National Historic Preservation Act. The letter includes a combined Finding of No Adverse Effect for historic properties (built environment and archaeological resources) for the Newberg Dundee Bypass Project.

Project Description:

The Newberg-Dundee Bypass (Bypass) Project is part of the Newberg-Dundee Transportation Improvement Project (NDTIP). The purpose of the NDTIP is to improve mobility and safety for inter-regional highway traffic through Newberg and Dundee and to relieve congestion by reducing truck and passenger vehicle traffic on Oregon 99W in these communities. The project is in the northern part of the Willamette Valley in Washington and Yamhill Counties, extending from east of Newberg in the Rex Hill area to north of Dayton at the junction of Oregon 99W and Oregon 18. The cities of Newberg, Dundee and Dayton, and the surrounding unincorporated areas of Yamhill County are in the project area.

The Oregon Jobs and Transportation Act (JTA), passed by the 2009 Oregon Legislature, included $192 million for the Bypass, which is not enough to build the entire Bypass. However, the JTA provides a significant source of funding toward construction of Phase 1, which will help relieve persistent congestion on Oregon 99W in Newberg and Dundee. This project Finding of Effect includes the documentation for cultural resources within the Phase 1 area of potential effect.
Phase 1 of the Bypass will include some roadway improvements extending outside the project area previously analyzed in the Newberg Dundee Bypass Draft Environmental Impact Statement (Tier 2 DEIS). The expanded project areas are in East Newberg and south of Dundee, where improved roadways will connect Oregon 99W to the Bypass.

As mentioned, JTA funding is not enough to build the entire Bypass, but has been earmarked to build one lane in each direction between Oregon 219 in Newberg and Oregon 99W south of Dundee. Phase 1 will be located on the westbound travel lanes of the eventual full Bypass. Local roads disrupted by Phase 1 will be reconnected using the same locations as in the Preferred Alternative described in the Tier 2 DEIS.

ODOT recognizes that traffic between Oregon 99W in East Newberg and the Bypass could cause congestion on other roadways. To help relieve this congestion, ODOT will also use JTA funding to construct local roadway improvements that are already identified in the City of Newberg’s Transportation System Plan, as well as improvements to Oregon 99W.

**Summary of Resources Present:**

There were 13 cultural properties evaluated under section 106, three of which resulted in findings of no effect, 10 of which resulted in findings of no adverse effect. Project effects on the 13 cultural properties include minor right-of-way acquisition from three properties, and minor audible impacts at the remaining properties. Detailed descriptions of each cultural property, methodology for resource identification and evaluation, and individual evaluation of the project's effects on each resource are provided in the attached supporting documentation.

**Finding of Effect:**

Application of Section 106 Criteria for Identification and Evaluation of Historic Properties [36 CFR 800.4 and 5] indicates a finding of insert “No Adverse Effect” for the Newburg Dundee Bypass Project. ODOT, acting as an agent of the Federal Highway Administration, requests your concurrence with a **FINDING OF NO ADVERSE EFFECT** on cultural properties for the Newburg Dundee Bypass Project. All supporting documentation is attached.

Unknown resources that may be identified by additional archaeological investigation required in the *Programmatic Agreement for Identifying and Evaluating Archaeological Sites in the Newberg-Dundee Bypass Project* have the potential to be adversely affected by the Bypass. If the Bypass will adversely affect any historic properties, this project-wide Finding of No Adverse Effect will be revised by the additional archaeological information and submitted to the Oregon State Historic Preservation Office for concurrence.
If you have any questions, please contact Michelle Erat with FHWA, at (503) 316-2555, or James Norman, Environmental Planning Unit Manager with ODOT, at (503) 986-3514.

Sincerely,

James B. Norman
Environmental Planning Unit Manager
ODOT Geo-Environmental Section

The State Historic Preservation Office concurs that the Newberg-Dundee Bypass will have No Adverse Effect on Historic Properties (Built Environment).

Julie Osborne
SHPO Official (Built Environment) 2-27-12

The State Historic Preservation Office concurs that the Newberg-Dundee Bypass will have No Adverse Effect on Historic Properties (Archaeology).

Marti O'Neill
SHPO Official (Archaeology) 2/27/12

List of Attachments:
99W Drive-in, 3110 99W, Newburg
Springbrook Grange, 216 Springbrook Road, Newburg
Residence, 21050 99W, Dundee
Leppin Farmstead, 20422 99W, Dundee
Chehalem Winery, 31190 Veritas Lane, Newburg
Chambers Farmstead, 30295 99W, Newburg
S.P. Newsprint, 1301 Wyonoaki, Newburg
Residence, 1303 River Street, Newburg
Hagey Farm Site, 22750 99W, Dundee
Farmstead, 20770 99W, Dundee
Southern Pacific Railroad between Rex Hill and Dayton
Archaeological Investigations for the Newberg-Dundee Bypass Project, Yamhill and Washington Counties, Oregon
Programmatic Agreement among the Federal Highway Administration, the Oregon State Historic Preservation Office, and the Oregon Department of Transportation for Identifying and Evaluating Archaeological Sites in the Newberg-Dundee Bypass Project, ODOT Key No. 12819, Federal Aid No. S091(018)PE, Washington and Yamhill Counties, Oregon
Copies with attachment to:
Michelle Eraut, FHWA Environmental Manager
Casey Barney, Cultural Resources, Confederated Tribes and Bands of the Yakama Nation
Brieece Edwards, Archaeologist, Cultural Protection Specialist, Confederated Tribes of the Grand Ronde Community of Oregon
David Harrelson, Cultural Protection Specialist, Confederated Tribes of the Grand Ronde Community of Oregon
Robert Kentta, Cultural Resources Director, Confederated Tribes of Siletz Indians
Roberta Kirk, Review and Compliance Coordinator, Geo Visions, Confederated Tribes of Warm Springs Reservation of Oregon
Johnson Meninick, Cultural Resources Manager, Confederated Tribes and Bands of the Yakama Nation
Eirik Thorsgard, Cultural Protection Coordinator, Confederated Tribes of the Grand Ronde Community of Oregon

Copies without attachment:
Sarah Jalving, ODOT Cultural Resources Specialist
Kurt Roedel, ODOT Archaeologist
Rod Thompson, ODOT Environmental Project Manager
Christopher Bell, ODOT Cultural Resources Program Coordinator
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Programmatic Agreement
PROGRAMMATIC AGREEMENT
AMONG FEDERAL HIGHWAY ADMINISTRATION, OREGON STATE HISTORIC
PRESERVATION OFFICE, AND OREGON DEPARTMENT OF TRANSPORTATION
FOR
IDENTIFYING AND EVALUATING ARCHAEOLOGICAL SITES IN
THE
NEWBERG-DUNDEE BYPASS PROJECT
ODOT KEY NO. 09320, FEDERAL-AID NO. ACHPP-HPP-S01W(036)
WASHINGTON AND YAMHILL COUNTIES, OREGON

RECITALS:

1. WHEREAS, the Federal Highway Administration (FHWA) and the Oregon Department of Transportation (ODOT) plan to construct the Newberg-Dundee Bypass Project (Project); and

2. WHEREAS, FHWA has provided funding for the Project and has determined that the Project is an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 United States Code (U.S.C.) 470f and its implementing regulations, 36 Code of Federal Regulation (CFR) 800; and

3. WHEREAS, FHWA has invited ODOT to participate in consultation and to become a signatory to this Agreement; and

4. WHEREAS, ODOT, on behalf of FHWA, has consulted with the Oregon State Historic Preservation Office (SHPO) and interested and affected Indian tribes (Confederated Tribes of the Grande Ronde Community of Oregon, Confederated Tribes of Siletz Indians, Confederated Tribes of Warm Springs Reservation of Oregon, and Confederated Tribes and Bands of the Yakama Nation) pursuant to 36 CFR 800.14; and

5. WHEREAS, ODOT, on behalf of FHWA, and in consultation with SHPO and tribes regarding appropriate levels of effort to identify historic properties in the Area of Potential Effect (APE), as described in the Newberg Dundee Bypass Tier 2 Final Environmental Impact Statement (see Figures 1 and 2); and determining their significance using the National Register Criteria for Evaluation; and

6. WHEREAS, ODOT in consultation with the SHPO has determined preparation of this Agreement is the appropriate means to ensure completion of the identification and evaluation of historic properties within the APE, and provide for the resolution of any adverse effects on historic properties subsequent to its approval of the Project; and

7. WHEREAS, FHWA, through ODOT and in consultation with SHPO, shall ensure that the following terms and conditions will be implemented in a timely manner in compliance with the NHPA; and

8. WHEREAS, ODOT, on behalf of FHWA, has determined that Sites 35YA15 and 35YA21 have been determined not eligible, and concurred by SHPO as not eligible, for listing in the National Register of Historic Places (Request for Concurrence, Finding of No Adverse Effect, Newberg-Dundee Project, SHPO Case Number 07-0352); and

KEY NO. 09320
9. WHEREAS, ODOT has not obtained rights-of-entry to six (6) parcels in the APE, in which additional archaeological review is recommended (Figures 3 and 4; Table 1). When ODOT obtains ownership of the unevaluated properties as part of the Project, FHWA in conjunction with ODOT will, in consultation with SHPO, identify historic properties in the APE and determine their significance using the National Register Criteria for Evaluation; and

10. WHEREAS, “signatories” means FHWA, SHPO, and ODOT, and “consulting parties” include the Confederated Tribes of the Grand Ronde Community of Oregon, Confederated Tribes of Siletz Indians, Confederated Tribes of Warm Springs Reservation of Oregon; and Confederated Tribes and Bands of the Yakama Nation; and have been consulted early in and throughout the Section 106 process and invited to concur in this Agreement; and

11. WHEREAS, FHWA notified the ACHP of the preparation of this Agreement and the ACHP declined to participate in consultation for the Project; and

12. WHEREAS, FHWA has determined that the Project has the potential to adversely affect previously unidentified cultural resources; but due to the large land areas under consideration and private property access restrictions, 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

13. WHEREAS, this Agreement sets forth measures that will be implemented to identify and resolve potential adverse effects to archaeological properties within the Project’s APE; and

14. WHEREAS, execution and implementation of this Agreement evidences that FHWA has satisfied its Section 106 responsibilities for the Project; and

15. WHEREAS, in accordance with 36 CFR 800, FHWA acknowledges and accepts the advice and conditions outlined in the Advisory Council on Historic Preservation’s (ACHP) “Recommended Approach for Consultation on the Recovery of Significant Information from Archaeology Sites,” published in the Federal Register on June 17, 1999; and

16. WHEREAS, by the authority granted in ORS 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform; and
17. WHEREAS, by the authority granted in ORS 366.588, the State of Oregon may enter into cooperative agreements with the United States Federal Government, in particular FHWA, for the performance of work on improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties; and

NOW THEREFORE, FHWA, SHPO, and ODOT 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-

I. GENERAL REQUIREMENTS AND STANDARDS

1. As a condition of the award of any assistance under the Federal-Aid Highway Program, FHWA shall require that ODOT carry out the requirements in this Agreement, and all applicable laws.

2. Signatories and consulting parties shall keep sensitive cultural resources information confidential to the extent allowed by state and federal law.

3. Activities carried out pursuant to this Agreement shall meet the Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation (45 FR 44716 as revised) as well as existing standards and guidelines for historic preservation activities established by SHPO, including the “State of Oregon Archaeological Reporting Guidelines” (2011).

4. FHWA 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). ODOT shall communicate with consulting parties at the beginning, middle, and draft review of all mitigation materials, with a thirty (30) day review period for comments. ODOT will submit the report(s) to SHPO and consulting parties.

5. Nothing in this Agreement shall be construed as indicating acceptance by the concurring parties of the resource management documents, which have yet to be developed. ODOT shall in good faith attempt to reach a consensus on the contents of the resource management documents with the consulting parties.

6. FHWA shall retain ultimate responsibility for complying with all federal requirements pertaining to direct government-to-government consultation with Indian tribes. Notwithstanding any other provision in this stipulation, FHWA shall honor the request of any of the Indian tribes listed herein for direct government-to-government
consultation regarding this Project. ODOT is authorized by FHWA to carry out, as their agents, Section 106 compliance activities and tribal consultation.

7. FHWA will ensure that an active public participation program is carried out. Modified versions of reports on historic properties (location information removed) will be made available for review to the general public.

8. Consistent with Section 304 of the NHPA, as amended, and in consultation with the National Park Service and the ACHP, the signatories to this Agreement will withhold from disclosure to the public, information about the location, character, or ownership of a historic property if it is determined that disclosure may: (1) cause a significant invasion of privacy; (2) risk harm to a historic property; or (3) impede the use of a traditional religious site by practitioners.

II. PRINCIPLES AND STIPULATIONS TO COMPLETE ARCHAEOLOGICAL EVALUATION, SURVEY OF REMAINING PARCELS AND OTHER AREAS, AND MONITORING

1. FHWA in conjunction with other signatories and consulting parties has agreed that the complexities of the 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 Record of Decision is issued.

2. ODOT will ensure that contractors involved in the implementation of all phases of the Project are aware of, and comply with, the requirements of this Agreement. Compliance with this Agreement is required as part of the Project contract and will be written into the Project contract.

A. Archaeological Survey of Remaining Parcels and Other Areas

i. An archaeological pedestrian survey of six (6) parcels for which rights-of-entry were not obtained and recommended for archaeological examination will be completed after those parcels (or rights-of-entry to those parcels) have been acquired by ODOT, but prior to project construction (Figures 3, 4, Table 1).

ii. An archaeological pedestrian survey will be completed prior to construction if the APE changes to include areas not previously examined for archaeological resources.

iii. The survey may include subsurface investigations comparable to those previously completed for the Project.
iv. An addendum cultural resources technical report, consistent with SHPO guidelines for such documents, will be prepared for all additional archaeological survey work completed under this Agreement. The report(s) will be submitted to SHPO and consulting parties for review and will be kept with files for the Project.

v. 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.

vi. ODOT will revise the project-wide Finding of No Adverse Effect to Adverse Effect if historic properties are identified that will be adversely affected by the Project. ODOT will submit the revised finding and supporting documentation to SHPO for concurrence.

B. Archaeological Monitoring of HPA9 and 10

While the survey of these parcels did not reveal significant artifacts, archaeological monitoring during initial ground disturbing construction will be completed at HPA9 and 10 during project construction due to the high probability of archaeological resources buried in deep fill deposits (Figure 5).

C. Subsurface Discovery and Monitoring of HPA11

While the survey of these parcels did not reveal significant artifacts, subsurface discovery and monitoring during initial ground disturbing construction will be completed at HPA11, between 11th and 12th Streets, and west of Willamette Street, during Project construction due to the potential for wells and privies that may contain significant historic deposits (Figure 6).

III. SIGNIFICANT ARCHAEOLOGICAL RESOURCES

1. Archaeological research designs were written and fieldwork has been completed for areas where access was secured by the Project. 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 Plan (Treatment Plan)
i. FHWA and ODOT shall ensure that a Treatment Plan is developed for historic properties that are adversely affected by the Project. This Treatment Plan will consider measures to mitigate adverse effects such as avoidance by design adjustments, buffer zone establishment, protective fencing, archaeological monitoring, and education of construction personnel. The Treatment Plan will also take into account engineering feasibility, cost and other factors considered appropriate by FHWA and ODOT. If adverse effects on historic properties cannot be avoided, FHWA shall consult with SHPO and consulting parties to determine the appropriate measures to mitigate adverse effects. These measures will be included in the treatment plan.

ii. Avoidance will be the preferred treatment of adverse effects to historic properties, if possible. Any historic property that warrants preservation in place will be avoided, provided that prudent and feasible alternatives to the use of that site for highway construction exist.

iii. If the appropriate treatment of historic properties involves data recovery, FHWA and ODOT shall ensure that a data recovery plan is developed in consultation with ACHP, SHPO, and consulting parties.

B. Preparation of an Inadvertent Discovery Plan

FHWA and ODOT will, in consultation with SHPO, tribes, and other consulting parties, produce an Inadvertent Discovery Plan (IDP) prior to the start of construction that addresses historic properties and the treatment of human remains, if discovered. The IDP’s 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.

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, ODOT shall:

i. Disseminate the findings of the archaeological investigations as developed under the Treatment Plan and in Consultation with SHPO, tribes, and other consulting parties. Methods shall include one or more of the following:

a. A reader-friendly summary of information gleaned on history and/or prehistory through the data recovery process;
b. A museum-quality display(s) that could be showcased at local, state or tribal facilities, and offered to local museums on a rotating basis;

c. Use of non-diagnostic or unprovenienced historical artifacts (non-grave goods) may be used to develop a traveling informational tool kit for use in public and private schools and at tribal facilities. Replications of artifacts may be commissioned for inclusion in the traveling toolkit.

ii. 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 SHPO, tribes, and other consulting parties. Because of its size, the Project has resulted in an increased awareness of applicable research methods, resource potentials, and potential precontact and historic resource locations. The document, which will be prepared during the analysis and reporting phase of the archaeological mitigation program, shall:

a. Discuss appropriate background research and analysis methods that can be applied to fulfill state and federal environmental requirements for future public or private development;

b. Identify appropriate target locations that have higher probabilities to contain significant resources and the types of expected resources;

c. 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;

d. Discuss lessons learned regarding archaeological methods for discovery, analysis, and recovery of submerged cultural resources.

iii. FHWA and ODOT will consult with tribes to participate in the development of the following project plans and products:

a. Inadvertent Discovery Plan;

b. Archaeological Resources Treatment Plan; and

c. Monitoring Plan
D. Inadvertent Discovery

If there is an inadvertent discovery of a historic property or human remains during construction of the Project, ODOT will stop construction in the immediate vicinity of the discovery, notify appropriate authorities, and follow the procedures outlined in 36 CFR 800.13 and ODOT Standard Specifications 290.50 – 290.51. If the discovery involves human remains and the appropriate authorities determine that the remains are historic or prehistoric Native American, ODOT will contact immediately the tribes, FHWA, SHPO, and the Commission on Indian Services.

E. Tribal Monitoring

FHWA and ODOT will ensure that appropriate construction monitoring specifications are in place during all phases of construction of the Project. Tribes shall be afforded opportunity to participate directly in Project archaeological monitoring activities as specified in the Treatment Plan.

F. Consultation

ODOT, on behalf of FHWA, shall communicate with consulting parties at the following times:

i. After completion of the draft Treatment Plan and Inadvertent Discovery Plan for review and comment;

ii. Quarterly update after the date of signing this Agreement, providing an update on archaeological and mitigation progress;

iii. When design is finalized, if any changes to the impacts described in the Treatment Plan have been identified; and

iv. At the request of a consulting party.

IV. GENERAL PROVISIONS

Funding

Costs to be incorporated into the Project budget and are estimated to be $50,000 in state and federal funds.
Dispute Resolution

1. All signatories shall strive to address and resolve disagreements informally. In the event that resolution cannot be achieved within thirty (30) calendar days, the applicable sections of 36 CFR 800 will determine steps for notice and resolution.

2. Should a member of the public raise an objection, FHWA shall take the objection into account and consult as needed with the objecting party to resolve the objection.

3. 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.

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

V. AMENDMENTS AND TERMINATIONS

1. Any signatory to this Agreement may terminate it by providing thirty (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. This Agreement cannot be terminated without such a meeting.

2. In the event of termination and prior to work continuing on the Project, FHWA shall execute an agreement pursuant to 36 CFR 800.14. FHWA will notify the signatories as to the course of action it will pursue.

3. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. If any signatory proposes to modify this Agreement or its attachments in a manner that significantly alters this Agreement, the modifications will be made in consultation with consulting parties. The modified agreement must be signed by all signatories.

4. Unless terminated, this Agreement will be in effect until FHWA, in consultation with all signatory parties, determines that all of its terms have been satisfactorily fulfilled or construction of the Project is completed.
VI. DURATION

1. This Agreement will take effect immediately upon execution of the signatory parties. The terms of this Agreement will be satisfactorily fulfilled upon completion of the Project. Unless terminated, this Agreement will be in effect until FHWA, in consultation with all signatory parties, determine that all of its terms have been satisfactorily fulfilled.

2. Execution of this Agreement by the signatories and implementation of its terms evidence that FHWA has taken into account the effects of this Project on historic properties and afforded the ACHP an opportunity to comment.

3. Upon the execution of this Agreement and unless terminated or the terms of this Agreement are deemed not to have been satisfactorily fulfilled, the consultation requirements of FHWA and ODOT under 36 CFR 800 are deemed met.

VII. EXHIBITS

(Attached hereto and by this reference made a part hereof):

1. Figure 1, General Project Area

2. Figure 2, Project Area, including Phase 1

3. Figure 3, South Half of the Project Area, showing Areas with No Rights-of-Entry Granted

4. Figure 4, North Half of the Project Area, showing Areas with No Rights-of-Entry Granted

5. Figure 5, Areas Recommended for Monitoring at HPA 9 and 10 in Dayton

6. Figure 6, Areas Recommended for Subsurface Exploration and Monitoring at HPA 11 in Newberg

7. Table 1, Parcels Lacking Rights-of-Entry that Need Archaeological Examination

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.
VIII. SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By __________________________
Phillip A. Ditzler
Oregon Division Administrator

Date __________________________

FHWA Contact:
Michelle Eraut, Environmental Program Manager
FHWA – Oregon Division
530 Center Street NE, Suite 420
Salem, OR 97301
503-316-2559
Michelle.eraut@dot.gov

ODOT Contact:
Kurt Roedel, Archaeology Specialist
ODOT – Geo-Environmental Section
4040 Fairview Industrial Dr. SE MS#6
Salem, OR 97301
503-986-6571
Kurt.ROEDEL@odot.state.or.us

STATE OF OREGON, by and through its Department of Transportation

By __________________________
Catherine Nelson
Technical Services Manager/Chief Engineer

Date __________________________

APPROVAL RECOMMENDED

By __________________________
Paul Wirfs, Geo-Environmental Section Manager

Date __________________________

STATE OF OREGON, by and through its Historic Preservation Office

By __________________________
Roger Roper
Deputy State Historic Preservation Officer

Date 3.21.12

SHPO Contact:
Matt Diedrich, Archaeologist
SHPO
725 Summer Street NE, Suite C
Salem, OR 97310-1271
503-986-0577
Matthew.Diedrich@state.or.us
VIII. SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By ____________________________
Phillip A. Ditzler
Oregon Division Administrator

Date __________________________

FHWA Contact:
Michelle Eraut, Environmental Program Manager
FHWA – Oregon Division
530 Center Street NE, Suite 420
Salem, OR 97301
503-316-2559
Michelle.eraut@dot.gov

ODOT Contact:
Kurt Roedel, Archaeology Specialist
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SHPO Contact:
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503-986-0577
Matthew.Diederich@state.or.us

STATE OF OREGON, by and through its Department of Transportation

By ____________________________
Catherine Nelson
Technical Services Manager/Chief Engineer

Date 3/20/12

APPROVAL RECOMMENDED

By ____________________________
Paul Wirfs, Geo-Environmental Section Manager

Date 3/20/12

STATE OF OREGON, by and through its Historic Preservation Office

By ____________________________
Roger Roper
Deputy State Historic Preservation Officer

Date __________________________
VIII. SIGNATORIES

**FEDERAL HIGHWAY ADMINISTRATION**

By [Signature]
Phillip A. Ditzler
Oregon Division Administrator

Date **March 20, 2012**

**FHWA Contact:**
Michelle Eraut, Environmental Program Manager
FHWA – Oregon Division
530 Center Street NE, Suite 420
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Michelle.eraut@dot.gov

**ODOT Contact:**
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**SHPO Contact:**
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503-986-0577
Matthew.Diederich@state.or.us

**STATE OF OREGON, by and through its Department of Transportation**

By __________________________
Catherine Nelson
Technical Services Manager/Chief Engineer

Date __________________________

**APPROVAL RECOMMENDED**

By __________________________
Paul Wirfs, Geo-Environmental Section Manager

Date __________________________

**STATE OF OREGON, by and through its Historic Preservation Office**

By __________________________
Roger Roper
Deputy State Historic Preservation Officer

Date __________________________
Due to the sensitive nature of these locations, the remaining Figures and Table to this PA are not included.