

MEMORANDUM OF AGREEMENT
BETWEEN
THE NATIONAL CEMETERY ADMINISTRATION OF THE U.S. DEPARTMENT OF VETERANS AFFAIRS
AND
THE OREGON STATE HISTORIC PRESERVATION OFFICER
REGARDING THE EXPANSION AND IMPROVEMENTS AT WILLAMETTE NATIONAL CEMETERY,
PORTLAND, OREGON

WHEREAS, the National Cemetery Administration (NCA) of the U.S. Department of Veterans Affairs (VA) plans to implement the expansion of and improvements to Willamette National Cemetery in Clackamas County, Portland Oregon (the undertaking); and

WHEREAS, the Undertaking consists of expanding and improving Willamette National Cemetery both on its existing site and on approximately 16.7 acres of the adjoining 38-acre parcel near the intersection of SE Lucille Street and SE Callahan Road; and the undertaking includes the development of approximately 23,150 gravesites in the form of preplaced crypts, columbarium niches, and in-ground cremains; a future burial section, and 900 memorial wall markers, a roadway, a stream crossing, utility systems, site furnishings, signage, landscaping, and irrigation at the expansion site, and an Early Turnover phase consisting of approximately 1,200 preplaced crypts in the original cemetery; and the undertaking includes demolition of two buildings: Building 2001 and Building 3003, and construction of two new buildings: Building 3005 and Building 3006; Building 3005 would be constructed at the same location as Building 2001, and would include offices, lockers, restrooms, a drying room, and a lunch room in the main level; and the functions of Building 3003 would be relocated to the proposed Building 3005, which is adjacent to the site of Building 3003; and Building 3006 (Covered Equipment Storage) would be constructed in the former location of Building 3003; and

WHEREAS, the area of potential effects (APE) for above-ground resources consists of the project area and the area on land from which the project area would be visible and the visual APE was determined to encompass the viewshed of the project area in which the indirect, visual effects of the project might affect above-ground properties, if any were located there (attachment A); and

WHEREAS, NCA has determined that the Willamette National Cemetery, a property listed in the National Register of Historic Places (historic property), is within the APE and no other historic properties are within the viewshed of the undertaking; and

WHEREAS, while there are no indirect or visual adverse effects, NCA has found that the demolition of Building 2001 and Building 3003 of the undertaking will have an adverse effect on the historic property and has consulted with the Oregon State Historic Preservation Office (SHPO) pursuant to 36 CFR Part 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, NCA sent consultation letters to the Honorable Cheryle A. Kennedy and David Harrelson of the Confederated Tribe of Grand Ronde Community of Oregon, Honorable Austin Greene, Jr. and Robert Brunoe of the Confederated Tribes of the Warm Springs Reservation of Oregon, and Delores Pigsley Confederated Tribes of Siletz Indians of Oregon and no concerns were expressed to the NCA regarding the undertaking; and

WHEREAS, NCA acknowledges its continued responsibility to engage in meaningful consultation with tribes (e.g., Executive Order 13175, U.S.C. 470a(d)(6)(B), and the November 5, 2009 Presidential Memorandum on Tribal Consultation) throughout the process of carrying out the stipulations of this agreement; and

WHEREAS, NCA held a public meeting on February 21, 2018 at the Multnomah County Library Midland Branch in Portland, Oregon, notice of the public meeting was published in the *Clackamas Review* and *Oregon City News*, and no public comments were received; and

WHEREAS, NCA, in accordance with 36 CFR § 800.6(a)(1), notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP chose not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, NCA and the SHPO 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

NCA shall ensure that the following measures are carried out:

I. DOCUMENTATION

- A. Oregon State Level Documentation of the building in accordance with the following standards will be completed. This approach is similar to the standards of the Historic American Buildings Survey (HABS), but allows for digital photography in place of medium or large-format film photography. Documentation will include no less than:
 - a. Architectural descriptions of no less than 500 words for each, Buildings 2001 and 3003, contributing buildings of the Willamette National Cemetery, to include the following information:
 1. The physical context of the buildings and how they relate to the surrounding environment or property as a whole,
 2. The historical context of the Willamette National Cemetery concerning the relationship of the buildings or structures to the historical development of the surrounding area and to trends in local and national histories,
 3. Specific historical data, including the dates of initial planning and development, any changes in plan and evolution, individuals such as architects or developers associated with the site, and associated historical events, and

4. A physical description of the site according to the original plan, how it has changed over time, and how it is at present.
- b. A history of Buildings 2001 and 3003 of no less than 500 words that includes at minimum the dates of construction, names of architects or builders, ownership, and changes to the property.
- c. A bibliography of sources cited and consulted.
- d. A map of the Willamette National Cemetery on the appropriate United States Geological Survey or similar map.
- e. A scale site plan that includes all buildings and structures at the Willamette National Cemetery.
- f. Scale floor plans of Buildings 2001 and 3003.
- g. Digital photographs adhering to National Register digital photograph standards in lieu of large-scale film photography. Each building or structure should have no less than eight (8) photos. The photographic documentation will be completed and sent to the Oregon SHPO for review of adequacy and completeness prior to any construction or changes to Buildings 2001 and 3003. Photographs will include:
 1. General or environmental views of both Buildings 2001 and 3003 to illustrate setting, landscape, adjacent buildings, and roadways,
 2. The front façade of each building,
 3. Perspective view, front and one side of each building on site,
 4. Perspective view, rear and opposing side of each building on site,
 5. Detail, front entrance and/or a typical doorway,
 6. Exterior details of architectural interest, and
 7. Interior views to capture spatial relationships, typical spaces, and any decorative or character defining features including hallways and stairways.
- h. Relevant archival materials, including original architectural drawings or maps, brochures, historic photos, newspaper clippings, or other archival items of interest related to the property.

B. Submission

- a. NCA will supply one hard copy and one digital CD copy of this documentation to the Oregon SHPO to fulfill this stipulation. A copy will also be filed with the VA Federal Preservation Officer. Additional copies of this documentation will be provided to the Portland Public Library, Oregon Historical Society, and the University of Oregon Knight Library Special Collections. If the listed repositories cannot accept the document, the Oregon SHPO and NCA will work together to find an appropriate repository. The document shall be available at another location besides the SHPO and NCA.

II. REVIEW OF MITIGATION MATERIALS

NCA shall provide a draft to the SHPO electronically for review to which the SHPO must submit any comments within thirty (30) calendar days to the NCA. If there are no comments the report will be considered final and the submittal listed in Stipulation I.B.a will be provided. Comments provided by the SHPO shall be taken into consideration within the limits of the project as described in Stipulation V. A final submittal will be delivered by the NCA within thirty (30) calendar days after consideration of SHPO comments.

III. MONITORING AND REPORTING

Each year from the date of final signature following the execution of this MOA until it expires or is terminated, NCA shall provide SHPO a summary memo briefly detailing work undertaken pursuant to its terms. The memo shall include any scheduling changes proposed, any problems encountered, any disputes, objections, or comments received, including those from the general public in NCA's efforts to carry out the terms of this MOA.

IV. POST-REVIEW DISCOVERIES

If historic properties are discovered or unanticipated effects on historic properties found, NCA shall implement the discovery plan included as attachment B of this MOA.

V. DISPUTE RESOLUTION

The SHPO may object at any time to any actions proposed or the manner in which the terms of this MOA are implemented by submitting the concern in writing to NCA. Upon receipt, NCA shall consult with such party for thirty (30) calendar days, or another time period agreed to by both signatories, to resolve the objection. If NCA determines that such objection cannot be resolved, NCA will:

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

VI. AMENDMENTS

Either signatory may request that this MOA be amended by submitting such a request to the other signatory in writing. NCA shall consult with the SHPO for up to thirty (30) calendar days, or another time period agreed to by both signatories, concerning the necessity and appropriateness of the proposed amendment. Any signatory may request the involvement of the ACHP during the amendment process. At the end of the consultation period, NCA shall provide an amended MOA for signature by the SHPO or a written statement describing why NCA choose not to pursue an amendment to this MOA. Amendments shall be effective on the date a copy of the MOA signed by both signatories is filed with the ACHP.

VII. TERMINATION

If either signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other signatory to attempt to develop an amendment per Stipulation VI, above. If within thirty (30) days, or another time period agreed to by both signatories, an amendment cannot be reached, either signatory may terminate the MOA upon written notification to the other signatory.

Once the MOA is terminated, and prior to work continuing on the undertaking, NCA must 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. NCA shall notify the SHPO as to the course of action it will pursue.

VIII. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, NCA may consult with the SHPO to reconsider the terms of the MOA and amend it in accordance with Stipulation VI above.

IX. EXECUTION

Execution of this MOA by NCA and SHPO and implementation of its terms evidence that NCA took into account the effects of the undertaking on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

National Cemetery Administration of the U.S Department of Veterans Affairs

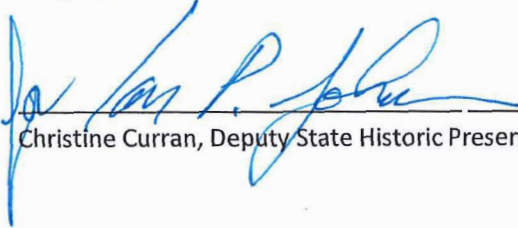
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Date _____

Executive Director, Pacific District

Oregon State Historic Preservation Officer



Christine Curran, Deputy State Historic Preservation Officer

Date

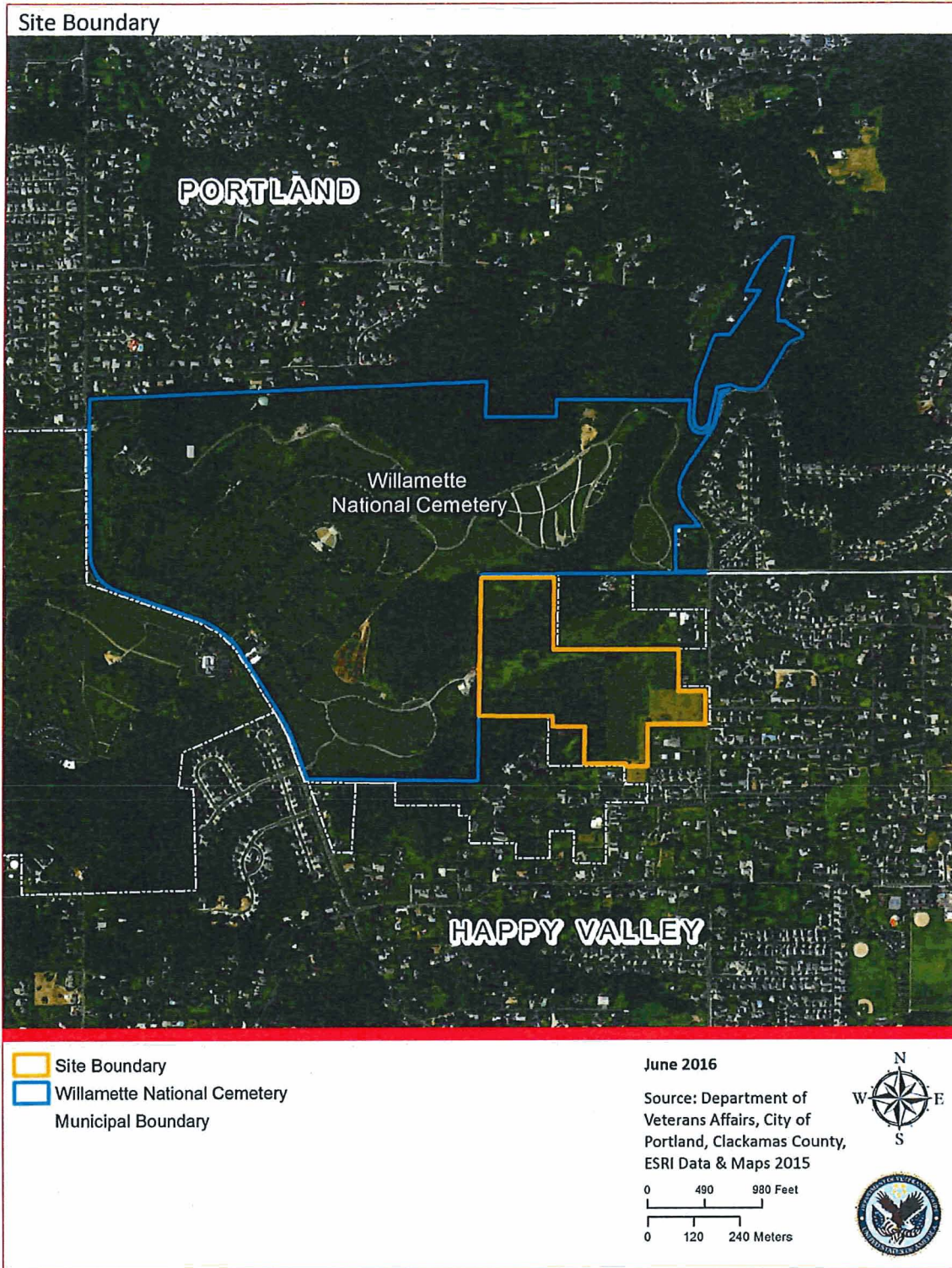
June 23, 2018

Attachments:

A – APE

B- Discovery Plan

ATTACHMENT A: APE Map and Description



Area of Potential Effect includes the Site Boundary and the Willamette National Cemetery

APE Description

The APE is limited to the entirety of the Willamette National Cemetery and the expansion area for the cemetery. Willamette National Cemetery is in the city of Portland in Multnomah and Clackamas Counties, Oregon, approximately 10 miles south of downtown Portland. The existing cemetery is situated on 269 acres of land along Mt. Scott Boulevard and northwest of Lincoln Memorial Park. The cemetery borders residential neighborhoods on the north, east and south. The expansion area of the cemetery is 38.2 acres adjacent to the southeast boundary of the cemetery.

Attachment B: Discovery Plan

Inadvertent Discovery Plan for Cultural Resources Expansion and Improvement of Willamette National Cemetery, Portland, Oregon

1. Introduction

The Department of Veterans Affairs intends to expand and improve the Willamette National Cemetery in Portland, Oregon. The purpose of this project is to meet the current and projected burial needs of veterans and their families. The following Inadvertent Discovery Plan (IDP) outlines procedures to be followed, in accordance with state and federal laws, if cultural materials or human remains are encountered during construction.

Unanticipated discoveries typically occur when previously undetected cultural resources are exposed during construction or other permitted surface-disturbing activities, after the National Historic Preservation Act Section 106 process has been completed.

This plan provides clear procedures and lines of communication with appropriate authorities prior to the start of construction, so any discoveries can be addressed in a timely manner.

2. Recognizing Cultural Resources

A cultural resource discovery could be prehistoric or historic. The discovery can be an object (artifact), or a subtle or unusual change in soil color and texture (feature). People have lived in the Oregon region since approximately 14,000 years before the present and remains could date as far back as that time.

Examples include:

- Flaked stone tools (i.e., arrowheads, knives scrapers);
- Waste flakes that resulted from the manufacture of flaked stone tools;
- Ground stone tools like mortars and pestles;
- Pottery or pottery fragments;
- Bottle/glass fragments;
- Ash, charcoal, ash-stained soils;
- Layers (strata) of discolored earth resulting from fire hearths. May be black, red or mottled brown and often contain discolored cracked rocks or dark soil with broken shell;
- Changes in soil color or texture that may be the remains of hearths, sub-surface storage pits, or wooden posts that have since deteriorated but have left darker soil in round, oblong, or irregular shapes. For example, a dark irregular round soil color in a lighter soil context can be the remains of a prehistoric hearth or storage pit.
- Bones or small pieces of bone;
- Clusters of tin cans or bottles, logging or agricultural equipment that appears to be older than 50 years;
- Buried railroad tracks, decking, or other industrial materials;
- Human remains;
- Structural remains- wooden beams, post holes, fish weirs.

3. Human Remains

- If human remains, funerary objects, sacred objects, or objects of cultural patrimony, or suspected human remains, funerary objects, sacred objects, or objects of cultural patrimony, are discovered during ground disturbing activities, the VA Project Manager will be notified immediately by telephone and notified of the discovery with written confirmation. All activity will be halted within a minimum of 30 meters of the discovery and a reasonable effort will be made to protect the discovery. These remains or objects will not be photographed.
- If Native American human remains are discovered, consultation with Native American stakeholder tribes may be required. If discovered the VA will follow procedures in accordance with Federal regulations, including the *Native American Graves Protection and Repatriation Act* of 1990 and its implementing regulations 43 CFR § 10.
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4. On-site Responsibilities

- Pre-construction brief. The construction contractor shall develop a pre-construction brief regarding unanticipated discoveries and provide the brief to onsite construction crew. The brief shall be approved by the VA.
- The construction contractor shall retain a professional archaeologist on an on-call basis to assess potential discoveries and will consult with the State Historic Preservation Office (SHPO) and appropriate Tribal entities to determine an appropriate course of action.
- In the event of an inadvertent discovery of possible cultural materials, including human remains, all work will stop immediately in the vicinity of the find. A 30-meter buffer will be placed around the discovery with work being able to proceed outside of this buffered area unless additional cultural materials are encountered. The area will be secured and protected. In the case of inclement weather, tarps or other material will be placed to protect the finds. Suspected human remains will not be photographed.
- The VA project manager/land manager will be notified immediately. The project/land manager will notify the SHPO within 5 hours.
- No work may resume until consultation with the SHPO has occurred and a professional archaeologist is able to assess the discovery.
 - If possible human remains are encountered, the Clackamas or Multnomah County Office of the County Coroner, Oregon State Police, Legislative Commission on Indian Services, State Historic Preservation Office, and appropriate Tribes will also be notified. If human remains are encountered, they will not be disturbed in any way. The location will be secured and work will not resume in the area of discovery until all parties involved agree upon a course of action. Suspected human remains will not be photographed.

5. Proceeding with Construction:

- Construction can proceed only after the proper archaeological inspections have occurred and environmental clearances are obtained. This requires close coordination with SHPO and the Tribes.

- After an inadvertent discovery, some areas may be specified for close monitoring or 'no work zones.' Any such areas will be identified by the professional archaeologist to the Project Manager, and appropriate Contractor personnel.
- In coordination with the SHPO, the Project Manager will verify these identified areas and be sure that the areas are clearly demarcated in the field, as needed.

CONTACT INFORMATION

VCA PROJECT MANAGER/ LAND MANAGER

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**CONFEDERATED TRIBES OF THE UMATILLA
INDIAN RESERVATION**

Teara Farrow
Phone: 541-276-3629

MULTNOMAH COUNTY CORONER

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OREGON STATE POLICE

Sgt. Chris Allori, Department of State Police
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