Project Name

**Inadvertent Discovery Plan**

**A Plan and Procedure for Dealing with the Inadvertent Discovery**

**of Cultural Resources**

1. **INTRODUCTION**

Project Sponsor Agency Name will provide a brief project description including location.

This project is currently funded by the Federal Transit Administration (FTA), which requires the planning effort to follow the Section 106 process. Project Sponsor Agency Name prepared a Documented Categorical Exclusion Worksheet for the project dated insert date.

Federal law stipulates that in the case of an undertaking that utilizes federal money, a project will adhere to provisions of the National Historic Preservation Act of 1966 (as amended). As the lead agency, the FTA is responsible for all aspects of 36 CFR 800 in dealing with the treatment of cultural resources and the consultation of concerned parties. The FTA has delegated authority to Project Sponsor Agency Name for examining cultural resources and communicating with the parties concerning such examinations. Potentially concerned parties include: list any potentially interested enter text, the Oregon State Historic Preservation Office (SHPO), the Legislative Commission on Indian Services (CIS), and the FTA.

Any staff members of Project Sponsor Agency Name PROJECT SPONSOR AGENCY NAME, their contractors, or subcontractors are required to halt construction if they observe or identify any cultural materials and Project Sponsor Agency Name will provide a professional archaeologist adequate time to obtain any applicable state permits necessary to complete evaluation of the site, assess, record, and potentially analyze any resources that might be uncovered. The SHPO and the FTA will be notified of any discoveries that occur during construction.

This document serves as the plan for dealing with any discoveries of human skeletal remains, artifacts, sites, or any other cultural resources eligible for listing in the National Register of Historic Places (NRHP). This plan is intended to provide guidance to Project Sponsor Agency Name personnel so they can:

* Comply with applicable Federal and State laws and regulations, particularly 36CFR 800 (as amended January 11, 2001) of the regulations that implements Section 106 of the National Historic Preservation Act of 1966; the Oregon Revised Statutes Chapter 97.740-97.760 Indian Graves and Protected Objects, Chapter 358.905-358.961 Archaeological Objects and Sites, Chapter 390.805-390.925 Scenic Waterways, Chapter 271.715-271.795 Conservation Easement, Chapter 390.235 Permit and Conditions for Excavation or Removal of Archaeological or Historical Materials; and the Oregon Administrative Rule for Archaeological Permits for Public and Private Land 736-051-0000 through 0090, and
* Describe to regulatory and review agencies the procedures that Project Sponsor Agency Name will follow to prepare for and deal with inadvertent discoveries, and
* Provide direction and guidance to project personnel on the proper procedures to be followed should an inadvertent discovery occur.

**2.0 INADVERTENT DISCOVERY OF HUMAN SKELETAL REMAINS ON NON-FEDERAL AND NON-TRIBAL LAND IN THE STATE OF OREGON**

If ground disturbing activities encounter human skeletal remains during the course of construction, then all activity must cease that may cause further disturbance to those remains and the area of the find must be secured and protected from further disturbance. In addition, the finding of human skeletal remains must be reported to the State and Local Police Departments, the SHPO, the FTA, the CIS, and appropriate Indian tribe(s) in the most expeditious manner possible. Project Sponsor Agency Name Planner will contact the CIS who will determine the appropriate Indian tribe(s) for the Project Sponsor Agency Name Planner to contact. The remains and associated objects should not be manipulated, touched, moved, or further disturbed.

The State or Local Police Department will assume jurisdiction over the human skeletal remains and contact the coroner’s office who will make a determination of whether those remains are forensic or non-forensic. If the coroner determines the remains are non-forensic, then they will report that finding to the SHPO, the CIS, and the project professional archaeologist. The project professional archaeologist will then contact the appropriate Indian tribe(s) provided by the CIS. A Physical Anthropologist will make a determination of whether the remains are Indian or non-Indian and report that finding to the SHPO, the CIS, and the project professional archaeologist. The project professional archaeologist will then contact all appropriate Indian tribe(s) provided by the CIS. The project professional archaeologist that is called in at the time of the discovery will handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains.

ADDITIONAL RESPONSIBILITIES AND INFORMATION

1. The area of work stoppage will be adequate to provide for the security, protection, and integrity of the skeletal remains, in accordance with Oregon State law. The project’s Resident Engineer will be responsible for taking appropriate steps to protect the discovery. At a minimum, the immediate area will be secured to a distance of fifty (50) feet from the discovery. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site.

Project Sponsor Agency Name acknowledges that any find of human skeletal remains may be a burial of Native American ancestry. It is further acknowledged that the concerned Indian Tribes are extremely sensitive about ancestral burials, and that the find must be treated confidentially and in accordance with the Appendix 2.

1. Nothing in this agreement is intended or shall be construed to diminish or affect in any way the right of the Tribes to take any lawful action to protect Native American graves from disturbance or desecration, or to protect the Tribes’ rights under cemetery and Native American graves protection laws, or other applicable laws.

**3.0 PROCEDURES FOR THE DISCOVERY OF ARCHAEOLOGICAL RESOURCES**

1. If any staff members of Project Sponsor Agency Name, their contractors, or subcontractors believe that he or she has encountered cultural or archaeological remains of any kind, all work at and adjacent to the discovery shall immediately cease. He or she will inform the project’s Resident Engineer and Planner. The area of work stoppage will be at minimum 50 feet from the discovery and adequate to provide for the security, protection, and integrity of the archaeological discovery. A cultural resource discovery could be prehistoric-period or historic-period in age and consist of (but not limited to):
* areas of charcoal or charcoal-stained soil and stones;
* stone, tools, or waste flakes (i.e., an arrowhead or stone chips);
* bone, burned rock, or mollusk shell, whether or not seen in association with stone tools or chips;
* clusters of tin cans, ceramics, flat glass, or bottles, concentrations of brick, or logging, mining, or agricultural equipment.
1. The Project Sponsor Agency Name Planner will consult with a professional archaeologist to determine if the remains are archaeological and greater than 50 years old. If the archaeologist believes that the discovery is a cultural resource, he or she and the Project Sponsor Agency Name will discuss with the Resident Engineer and steps will be taken to protect the discovery site. At a minimum, subsurface disturbances will stop and the area adjacent to the discovery will be secured. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site. Any newly discovered archaeological resource will be treated as eligible to the NRHP until Project Sponsor Agency Name and the FTA receive concurrence with the determination that the site is not eligible from the SHPO. Work in the immediate area will not resume until treatment of the discovery has been completed following the provisions for treating archaeological/cultural material as set forth in Appendix 1.
2. The Project Sponsor Agency Name Planner will contact the SHPO State Archaeologist and the FTA to assist in the significance evaluation of all inadvertent discoveries of cultural resources. Any discovery deemed eligible for listing in the NRHP will be assessed and treated according to the provisions set forth in Appendix 1 of this document.
3. Project Sponsor Agency Name will immediately contact the FTA and the SHPO (Attachment A) for consultation regarding National Register eligibility of any new discovery. If the federal and state agency representatives determine that the discovery is an eligible cultural resource, they and concerned tribe(s), as appropriate, will consult to determine appropriate treatment to be presented and agreed upon in a Memorandum of Agreement (MOA) or other appropriate documentation. Mitigation measures will be developed in consultation with the FTA and the SHPO, and the affected tribes (where appropriate), which could include avoidance through redesign, conducting data recovery and/or relocating materials or remains. Agreed upon treatment measures performed by Project Sponsor Agency Name include protecting the resources in place, or data recovery such as mapping, photography, limited probing, and sample collection, or other measures.

**ATTACHMENT A**

***CONTACT INFORMATION***

1. **Primary Field Contacts**

 Project Sponsor Agency Planner: Name

Phone Number

Alternate Phone Number

Project Sponsor Agency Engineer: Name

Phone Number

Alternate Phone Number

1. **Cultural Resource Contacts**

SHPO State Archaeologist: Dennis Griffin

503-986-0674

 503-881-5038 (cell)

Deputy State Historic Preservation Officer: Roger Roper

503-986-0677

Commission on Indian Services Karen Quigley

 503-986-1067

1. **Other Agency Contacts**

Oregon State Police Department (Sgt. Chris Allori) 503-731-4717

County Sheriff’s Office Sheriff: Name

Phone Number

County Medical Examiner’s Office: Name

Phone Number

Police Department Homicide Unit: Phone Number

Federal Transit Administration: Ken Feldman

206-220-7954

fta.tro10mail@dot.gov

1. **Tribal Contacts**

Tribe Name

Primary contact title or department Name

 Phone Number

 Secondary contact title or department Name

 Phone Number

Tribe Name

Primary contact title or department Name

 Phone Number

 Secondary contact title or department Name

 Phone Number

Tribe Name

Primary contact title or department Name

 Phone Number

 Secondary contact title or department Name

 Phone Number

Tribe Name

Primary contact title or department Name

 Phone Number

 Primary contact title or department Name

 Phone Number

 **APPENDIX 1 - Treatment of Archaeological Resources**

Construction and/or field activities related to the Proposed Project Name may cause disturbance to underground archaeological resources. The following provisions are intended to assure the professional archaeological treatment of cultural materials inadvertently discovered during construction activities. Implementation of the plan is the responsibility of Project Sponsor Agency Name.

Provisions of the Archaeological / Cultural Resource Treatment Plan are as follows:

1. The Proposed Project Name Planner will contact the SHPO State Archaeologist (Dennis Griffin) to immediately report all discoveries of cultural resources. Construction will be immediately halted within the immediate area of the discovery and the scene will be protected. Proposed Project Name will arrange for the discovery to be immediately identified by a professional archaeologist. The professional archaeologist, Proposed Project Name, and the FTA will consult with the SHPO regarding eligibility of the discovery. If the discovery is determined to be a significant historic or archaeological site, or consists of Native American human remains, the SHPO, the FTA, the CIS, and tribe(s) will be consulted as appropriate to determine the course of action.
2. A professional archaeologist will ensure proper documentation and assessment of any discovered cultural resources and that appropriate permits are obtained. Non-intrusive field documentation of all human remains will be undertaken immediately. All prehistoric and historic cultural material discovered during project construction will be recorded by a professional archaeologist on State of Oregon site forms, or on isolate forms using standard techniques. After obtaining a state archaeological excavation permit, site overviews, features, and artifacts will be photographed; stratigraphic profiles and soil/sediment descriptions will be prepared for subsurface exposure. Discovery locations will be documented on scaled site plans and site location maps.
3. Sites discovered during construction will be treated as eligible under Criterion D for inclusion in the National Register of Historic Places (NRHP) for the purposes of Section 106 compliance, in accordance with 36 CFR 800.13(c).
4. Where cultural remains are encountered, the FTA, Proposed Project Name, and the professional archaeologist will jointly prepare a plan addressing the appropriate level of documentation and treatment of the resources. The FTA will forward the plan to the SHPO and tribe(s) identified by the CIS for review and comment.
5. The FTA, the SHPO, and Proposed Project Name will decide when construction may continue at the discovery location. Where cultural resources are encountered during construction, but the FTA, the SHPO, and Proposed Project Name jointly determine that additional project effects to the resources are not anticipated, project construction may continue while documentation and assessment of the cultural resources proceed. If continued construction is likely to cause additional impacts to such resources, project activities within a radius of at least 50 feet of the discovery will cease until the professional archaeologist has documented the site, evaluated its significance, and assessed potential effects to the site.
6. Cultural features, horizons, and artifacts detected in buried sediments may require further evaluation using hand-dug test units to clarify aspects of integrity, stratigraphic context, or feature function. After obtaining a state archaeological excavation permit, units may be dug in controlled fashion to expose features, collect radiocarbon or animal/plant macrofossil samples from undisturbed contexts, or interpret complex stratigraphy. A test excavation unit or small trench might also be used to cross-section a feature to determine if an intact occupation surface is present. Test units will be used only when necessary to gather information on the nature, extent, and integrity of subsurface cultural deposits to evaluate the site’s potential to address significant research domains. Excavations will be conducted using state-of-the-art techniques for controlling provenience of recovered remains. All excavation units will be square with a minimum size of 50cm x 50cm.
7. Sediments excavated for purposes of cultural resources investigations will be screened through 1/8-inch mesh. Spatial information, depth of excavation levels, natural and cultural stratigraphy, presence or absence of cultural material and depth of sterile soil, regolith, or bedrock will be recorded for each probe on a standard form. Test excavation units will be recorded on unit-level forms, which include plan maps for each excavated level, and material type, number and vertical provenience (depth below surface and stratum association where applicable) for all artifacts recovered from the level. Radiocarbon and macrofossil samples will be taken from intact subsurface features exposed by shovel/auger probes or test units. A stratigraphic profile will be drawn for at least one wall of each test excavation unit.
8. All prehistoric and historic artifacts collected from the surface and from probes and excavation units will be analyzed, catalogued, and temporarily curated. Ultimate disposition of cultural materials will be curated at the Oregon State Museum of Natural and Cultural History, as outlined in Oregon State law.
9. Within 90 days of conclusion of fieldwork, a management summary describing any and all monitoring activities and resultant archaeological excavations will be provided to Proposed Project Name. The Proposed Project Name Planner, will forward the report to the FTA for review and delivery to the SHPO and concerned tribes.
10. If construction activity exposes human remains (burials, or isolated teeth or bones), construction in the immediate vicinity of the find will be halted. Proposed Project Name will follow procedures outlined under section 2.0 of the Inadvertent Discovery Plan.
11. Treatment of Native American Remains: If the human skeletal remains are determined to be Native American, the affected agencies and tribes will consult to determine what treatment is appropriate for the human skeletal remains. At this point, if requested, the FTA may assume all authority over the government-to-government consultation process.
12. Treatment of Non-Indian Historic Remains: If the human skeletal remains are determined to be historic non-Indian remains, treatment will be determined by the SHPO and the FTA.
13. Curation: Proposed Project Name will ensure that artifacts are curated appropriately. Collected artifacts and samples will be curated for future use for research, interpretation, preservation, and cultural resource management activities using Department of the Interior federal guidelines for curation (36 CFR 79). Artifacts and associated documents resulting from data recovery, including maps, photographs, field notes, bone, shell, soil samples, wood and other botanical samples, and fire-modified rock, will be curated following analysis. Artifacts, samples, and records would be prepared for curation. All artifact categories and a sample of the sediments will be retained for curation. For cultural resources that are determined “significant” Proposed Project Name will provide and pay for long-term curation of prehistoric, ethnohistoric, and historic artifacts, data samples, and records resulting from the project investigations at the facility Oregon State Museum of Natural and Cultural History. Proposed Project Name will consult with affected federally and non-federally recognized Tribes to reach agreement about permanent storage of some of the materials.
14. Proposed Project Name will comply with any applicable Federal and State laws and regulations, including but not limited to:
* Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulations,
* Native American Graves Protection and Repatriation Act (NAGRPA) of 1990, as amended,
* The Archaeological Resource Protection Act (ARPA) of 1979, as amended,
* The Oregon Revised Statutes (ORS) Chapter 97.740-97.760 Indian Graves and Protected Objects, Chapter 358.905-358.961 Archaeological Objects and Sites, Chapter 390.805-390.925 Scenic Waterways, Chapter 271.715-271.795 Conservation Easement, Chapter 390.235 Permit and Conditions for Excavation or Removal of Archaeological or Historical Materials, and
* The Oregon Administrative Rule (OAR) for Archaeological Permits for Public and Private Land 736-051-0000 through 0090.
1. Contracts for construction and field-disturbing work: Proposed Project Name will include provisions in any contracts for construction or field-disturbing work that provide for the ability of Proposed Project Name and federal, state and local government agencies to implement the requirements of this Plan.

Appendix 2 – Oregon Tribe’s Position Paper on the Discovery of Human Remains \*\*\*To Be Attached\*\*\*