

MEMORANDUM OF AGREEMENT

BETWEEN THE U.S. ARMY CORPS OF ENGINEERS AND

THE WASHINGTON STATE HISTORIC PRESERVATION OFFICER

SUBJECT: National Historic Preservation Act Section 106 Memorandum of Agreement for Resolution of Adverse Effects to the Weyerhaeuser Corporate Headquarters Historic District, Federal Way, King County, Washington, U.S. Army Corps of Engineers, Corps Reference Number USACE NWS-2017-1077.

1. WHEREAS, the U.S. Army Corps of Engineers (Corps), Seattle District Regulatory Branch received a Department of Army (DA) permit application from the Federal Way Campus, LLC (FWC) associated with the Woodbridge Corporate Park Building A & B project (the Project) located in Federal Way on private land at the former Weyerhaeuser campus, at Section 21, Township 21 North, Range 4 East, Poverty Bay USGS 7.5' quadrangle, King County, Washington; and
2. WHEREAS, a Department of the Army Section 404 of the Clean Water Act permit would be required from the Corps to conduct activities related to the construction of the undertaking; and
3. WHEREAS, the Corps' issuance of such a permit is subject to review under Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108 (NHPA); and
4. WHEREAS, the proposed project includes discharge up to 800 cubic yards of permanent fill in 9,922 square feet (SF) of nine Category III and IV wetlands, 17,046 SF of wetland buffer reduction, and 2,951 SF of stream buffer reduction to construct up to 439,050 SF of new building space with associated infrastructure, parking and stormwater facilities; and
5. WHEREAS, the area of potential effects (APE) includes all areas of permitted in-water activity, including upland areas where work is directly associated, integrally related, and would not occur but for the in-water authorized activity associated with the DA permit (i.e., the 19.1 acre ground-disturbing footprint of the Project), as well as effects to known historic properties outside the permit area (i.e., effects to the approximately 490-acre Weyerhaeuser Corporate Headquarters Historic District); and
6. WHEREAS, FWC prepared three reports on the results of cultural resources assessments of the APE; the first report, *Archaeological Resources Survey for the Woodbridge Corporate Park Building A and Building B Projects, Federal Way, Washington*, dated March 30, 2020, is an archaeological survey of the 32.2-acre Corps' permit area; the second report, *Built Environment Survey of the Former Weyerhaeuser Corporate Headquarters Campus, Federal Way, Washington*, dated July 29, 2020, is a built environment assessment of the approximately 490-acre Weyerhaeuser campus, and includes areas outside the Corps' permit area but within the APE; the final report, *Evaluation of Effects for the Proposed Woodbridge Building A and Woodbridge Building B Projects, Federal Way, Washington*, dated October 15, 2020, is a permit-

specific assessment of project effects to historic properties; and by Corps' letters to SHPO dated October 20, 2020, and SHPO's response letter dated October 21, 2020, and these documents are incorporated into this MOA by reference; and

7. WHEREAS, the Corps identified the Weyerhaeuser Corporate Headquarters Historic District (WCHHD) within the APE as eligible for listing in the National Register of Historic Places (NRHP) with a period of significance from 1969–1979; and

8. WHEREAS, the Washington State Department of Archaeology & Historic Preservation (DAHP), also known as the Washington State Historic Preservation Officer (SHPO), concurs the WCHHD is eligible for NRHP listing; and

9. WHEREAS, the Project would have an adverse effect on the WCHHD, including forested areas, trails, and viewshed; and

10. WHEREAS, the parking terraces connected to the former Weyerhaeuser Headquarters building are outside the permit area for this undertaking but significantly contribute to the WCHHD, and FWC has no current plans to develop or alter the parking terraces, and FWC acknowledges the importance of the parking terraces to the Headquarter building and has stated it intends in the future to take commercially reasonable efforts to preserve and maintain the current design of the Headquarter parking terraces; and

11. WHEREAS, background research and archaeological survey did not reveal the presence of any precontact archaeological materials; and

12. WHEREAS, in addition to FWC and SHPO, the Corps notified, the Muckleshoot Tribe, the Puyallup Tribe (Puyallup), the Snoqualmie Tribe of Indians (Snoqualmie), the Stillaguamish Tribe of Indians (Stillaguamish), the Tulalip Tribes, The Cultural Landscape Foundation (TCLF), Docomomo Wewa (DW), King County Historic Preservation Program (KCHPP), the National Trust for Historic Preservation (NTHP), PWP Landscape Architecture (PWP), Save Weyerhaeuser Campus (SWC), SoCoCulture (SCC), Skidmore, Owings & Merrill (SOM), SWA Group (SWA), and the Washington Trust for Historic Preservation (WTHP) about this Project; and

13. WHEREAS, the Corps notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination and the Council has not opted to participate in the consultation; and

14. WHEREAS, the SHPO, Puyallup, Snoqualmie, Stillaguamish, TCLF, DW, KCHPP, NTHP, PWP, SWC, SCC, SOM, SWA, and the WTHP expressed a desire to consult on this Section 106 MOA, and are hereafter referred to as “the Consulting Parties”; and

15. WHEREAS, [PLACEHOLDER IF NEEDED] participated in the development of the MOA but declined the invitation to have a signature page for this MOA; and,

15. WHEREAS, because of its role and responsibilities as the applicant for the DA permit, the Corps has invited FWC to sign this MOA as an invited signatory; and

16. WHEREAS, based on their stated interest, the Corps has invited Puyallup, Snoqualmie, Stillaguamish, TCLF, DW, KCHPP, NTHP, PWP, SWC, SCC, SOM, SWA, and the WTHP to sign this MOA as concurring parties; and

17. WHEREAS, the Corps has consulted with the Consulting Parties in accordance with Section 106 of the NHPA to resolve the adverse effects of the undertaking on historic properties;

NOW, THEREFORE, the Corps and SHPO agree that should the undertaking move forward to construction, the following Corps-enforced stipulations shall resolve adverse effects to historic properties associated with the undertaking, and that these stipulations shall govern the Project and all of its parts unless this MOA expires or is terminated.

Stipulations

The Corps shall ensure that the following stipulations are implemented:

- I. WCHHD. To avoid, minimize and mitigate adverse effects to the WCHHD, FWC will implement the following:
 - a. *Easements*. Appendix A contains five (5) easements (Exterior Façade of the former Weyerhaeuser Corporate Headquarters building, Viewshed Easement North, Viewshed Easement South, Buffer Easement AB, and Buffer Easement BP) between FWC and the State of Washington designed to preserve and maintain the historic, aesthetic and scenic character of approximately 25 percent of the WCHHD. These five easements shall be recorded by FWC with the King County Records Office within 120 days of USACE verification that the proposal for wetland modification in connection with development of Buildings A and B is authorized by nationwide permit (USACE Buildings A/B Permit Issuance) or issuance of the last permit necessary for construction of Building A and Building B (as previously described), whichever occurs later. FWC will email a copy of the fully executed easements and proof of recording to the Consulting Parties prior to Project-related construction that has the potential to affect the WCHHD.
 - b. *Inadvertent Discovery Plan*. FWC will implement the Inadvertent Discovery Plan titled *Monitoring and Inadvertent Discovery Plan, Woodbridge Building A and Building B Projects, Federal Way, Washington* dated April 9, 2021 (see Attachment B) in full.
- II. Yearly Status Updates. At least once a year, from the date of the DA permit issuance date until all Stipulations are complete, FWC will email a yearly status update to the Consulting Parties detailing the current status of any incomplete Stipulation, which will include any scheduling changes proposed, any problems encountered, and any disputes and objections.
- III. Dispute Resolution.

- a. Should any Signatory or concurring party to this MOA object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:

- (1) Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, Signatories, and Consulting Parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.

- (2) If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the Signatories and Consulting Parties to the MOA, and provide them and the ACHP with a copy of such written response.

- (3) The Corps' responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

- b. At any time during implementation of the measures stipulated in this MOA, should an objection to any such measure or its manner of implementation be raised by a member of the public or consulting party regarding historic preservation, the Corps shall take the objection into account and consult as needed with the objecting party, the SHPO, or the ACHP to determine how best to address the objection.

IV. Duration.

This MOA shall expire 5 years from the execution of the MOA, unless extended per Stipulation V. If this MOA expires prior to the stipulations being fulfilled, the Corps will follow Termination procedures at Stipulation VI.

V. Amendment.

Any Signatory to this agreement may propose to the Corps that the agreement be amended, whereupon the Corps shall consult with the other parties to this agreement to consider such an amendment. This MOA will be amended when such an amendment is agreed to in writing by all Signatories. The amendment will go into effect on the date of the last signature from Signatories.

VI. Termination.

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

Once the MOA is terminated, and prior to work continuing on the Undertaking, the Corps must either (a) execute an MOA pursuant to 36 C.F.R. § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 C.F.R. § 800.7. The Corps shall notify the Signatories as to the course of action it will pursue.

VII. Coordination with Other Federal Reviews.

In the event that another federal agency not initially a party to or subject to this MOA receives an application for funding/license/permit associated with the Project as described in this MOA, that agency may fulfill its Section 106 responsibilities by stating in writing it concurs with the terms of this MOA and notifying the Corps, SHPO, and the ACHP that it intends to do so. The Corps will confirm in writing that the Corps accepts Lead Agency status for Section 106, and the SHPO and ACHP will confirm in writing that the new federal action is covered by the Corps' MOA and Section 106 process. Such agreement shall be evidenced by implementation of the terms of this MOA and attachments.

VIII. Execution in Counterpart.

This MOA may be executed in counterparts, with a separate signature page for each party. The Corps will ensure that each party is provided with a copy of the fully executed Agreement.

IX. Contact Information.

The contact information for each party to this MOA may be updated without requiring an amendment to this MOA. An electronic message (email) exchanged among the contacts, indicating the updated information, shall be sufficient provided the signature authority for each party is included in such communication.

SIGNATORY PARTY

U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT

_____ Date: _____

Alexander "Xander" L. Bullock
Colonel, Corps of Engineers
District Commander

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Note: Signatures continued next page.

SIGNATORY PARTY

WASHINGTON STATE HISTORIC PRESERVATION OFFICER

Date: _____

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State Historic Preservation Officer

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INVITED SIGNATORY PARTY

FEDERAL WAY CAMPUS, LLC

Date: _____

Dana Ostenson
Authorized Signatory

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CONCURRING PARTY

PUYALLUP TRIBE

Date: _____

The Honorable David Z. Bean
Chairman

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CONCURRING PARTY

THE SNOQUALMIE TRIBE OF INDIANS

Date: _____

The Honorable Robert De Los Angeles
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CONCURRING PARTY

STILLAGUAMISH

Date: _____

The Honorable Shawn Yanity
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CONCURRING PARTY

THE CULTURAL LANDSCAPE FOUNDATION

Date: _____

Charles A. Birnbaum
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CONCURRING PARTY

DOCOMOMO WEWA

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Tyler Sprague
President

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CONCURRING PARTY

KING COUNTY HISTORIC PRESERVATION PROGRAM

Date: _____

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CONCURRING PARTY

NATIONAL TRUST FOR HISTORIC PRESERVATION

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CONCURRING PARTY

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CONCURRING PARTY

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CONCURRING PARTY

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CONCURRING PARTY

SKIDMORE, OWINGS & MERRILL

Date: _____

Craig Hartman
Senior Consulting Design Partner

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CONCURRING PARTY

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CONCURRING PARTY

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Attachment A

Woodbridge Projects Easements

[INSERT DATE]

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Attachment B

Woodbridge Projects Inadvertent Discovery Plan

[INSERT DATE]

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