

COPY

MEMORANDUM OF AGREEMENT

**BETWEEN THE NATIONAL PARK SERVICE, FORT VANCOUVER NATIONAL
HISTORIC SITE**

AND THE OREGON STATE HISTORIC PRESERVATION OFFICER

**REGARDING THE PROPOSED REMOVAL OF A HAZARDOUS HISTORIC
SYCAMORE MAPLE TREE LOCATED AT THE MCLOUGHLIN HOUSE UNIT OF
FORT VANCOUVER NATIONAL HISTORIC SITE, OREGON CITY, OREGON**

WHEREAS, the National Park Service, Fort Vancouver National Historic Site (NPS), has determined that the proposed removal of a hazardous, historic Sycamore Maple tree (undertaking) may have an adverse effect on the McLoughlin House National Historic Site which is listed in the National Register of Historic Places, and has consulted with the Oregon State Historic Preservation Officer (SHPO) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. Section 470f); and

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

NOW, THEREFORE, the NPS, in cooperation with the Oregon State Historic Preservation Office (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.

I. STIPULATIONS

The NPS shall ensure that the following measures are carried out:

A. The hazardous, historic Sycamore Maple will be removed by a certified tree care and removal service, utilizing a crane to ensure the safety of the McLoughlin House and the surrounding neighborhood. The resultant stump will be ground by a certified tree stump removal service, and all tree stump grinding activities will be monitored by a NPS archaeologist, to ensure that intact, sub-surface archaeological deposits are not disturbed by this activity.

B. The park unit will have a Cultural Landscape Report completed on it to determine the significant cultural features that exist at the McLoughlin House unit. By the end of Fiscal Year 2011, the NPS shall have a qualified contractual cultural landscape architect analyze the McLoughlin House unit of Fort Vancouver National Historic Site, and prepare a report on the findings of the analysis. Specifically, the cultural landscape report will make a recommendation of the period of significance for the applicable cultural landscape, and list the significant features

that are associated with the cultural landscape. As part of this analysis, the cultural landscape architect will make recommendations as to the feasibility, appropriateness, best placement, and most appropriate species of tree to plant in order to replace this hazardous, historic Sycamore Maple tree with. The NPS will consult with the Oregon SHPO as to the appropriateness of these recommendations prior to enacting a tree replacement plan.

C. If the recommendation from the cultural landscape report is to replant a tree in a new location, the NPS shall conduct sub-surface, archaeological testing of the proposed tree planting location prior to the initiation of the tree planting. The NPS has previously recorded an archaeological site at the McLoughlin House Unit (35CL318), that has significant deposits of both prehistoric and historical contexts. Based upon the size of hole that will need to be excavated (based upon the recommendations of the size of tree to be planted), the NPS will consult with the Oregon SHPO and other interested parties, as to the best size and scope of archaeological test units to be excavated prior to the tree planting. An archaeological scope of work will be developed by the NPS and the recommended methodologies will be approved by the Oregon SHPO prior to the archaeological testing project.

II. **DURATION.** This agreement will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the NPS may consult with the other signatories to reconsider the terms of the agreement and amend in accordance with Stipulation VIII below.

III. **POST-REVIEW DISCOVERIES** (*when historic properties are likely to be discovered, see Section 800.13(a)(2) of Council's regulations*)

If potential historic properties are discovered or unanticipated effects on historic properties found, the NPS shall develop a discovery plan and seek approval of all MOA signatories prior to proceeding with the project.

IV. **MONITORING AND REPORTING**

Each year following the execution of this agreement until it expires or is terminated, NPS shall provide all parties to this agreement a summary report detailing work undertaken pursuant to its terms. such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in NPS efforts to carry out the terms of this agreement. Failure to provide such summary report may be considered noncompliance with the terms of this MOA pursuant to Stipulation VIII, below.

V. **DISPUTE RESOLUTION**

Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this MOA are implemented, the NPS shall consult with the objecting party(ies) to resolve the objection. If the NPS determines, within 30 days, that such objection(s) cannot be resolved, the NPS will;

A. Forward all documentation relevant to the dispute to the council in accordance with 36 CFR Section 800.2(b)(2). Upon receipt of adequate documentation, the Council shall review and advise the NPS on the resolution of the objection within 30 days. Any comment provided by the Council, and all comments from the parties to the MOA, will be taken into account by the NPS in reaching a final decision regarding the dispute.

B. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the NPS may render a decision regarding the dispute. In reaching its decision, the NPS will take into account all comments regarding the dispute from the parties to the MOA.

C. The NPS' responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged. NPS will notify all parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. The NPS' decision will be final.

VI. AMENDMENTS AND NONCOMPLIANCE

If any signatory to this MOA, including any invited signatory, determines that its terms will not or cannot be carried out or that the amendment to its terms must be made, that party shall immediately consult with the other parties to develop an amendment to this MOA pursuant to 36 CFR § 800.6(c)(7) and 800.6(c)(8). The amendment will be effective on the date a copy signed by all of the original signatories is filed with the Council. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation IX, below.

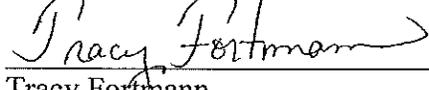
VII. TERMINATION

If an MOA is not amended following the consultation set out in Stipulation VI., it may be terminated by any signatory or invited signatory. Within 30 days following termination, the NPS shall notify the signatories if it will initiate consultation to execute an MOA with the signatories under 36 CFR § 800.6(c)(1) or request the comments of the council under 36 CFR § 800.7(a) and proceed accordingly.

Execution of this Memorandum of Agreement by NPS and the Oregon SHPO, the submission of documentation and filing of this Memorandum of Agreement with the Council pursuant to 36 CFR § 800.6(b)(1)(iv) prior to NPS' approval of this undertaking, and implementation of its terms evidence that NPS has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

SIGNATORIES:

National Park Service:

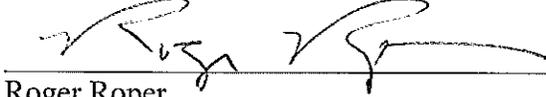


Date:

8/12/09

Tracy Fortmann,
Superintendent, Fort Vancouver National Historic Site, National Park Service

State Historic Preservation Officer:



Date:

8.17.09

Roger Roper
Office of Archaeology and Historic Preservation

Advisory Council for Historic Preservation

Date: _____