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of Transportation**

**U. S. DEPARTMENT OF TRANSPORTATION**

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October 29, 2024

Lawson E. Fite  
1211 SW 5<sup>th</sup> Avenue, Suite 1900  
Portland, OR 97204  
lfite@schwabe.com

RE: NHPA Section 106 Consultation on Providence Academy  
(OR SHPO Case No. 21-0006; DAHP Project No.: 2020-12-07501)

Dear Mr. Fite,

The Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) are in receipt of your letter, on behalf of the Historic Trust, dated August 7, 2024, expressing the Historic Trust's concerns with the Section 106 process for the IBR Program. Our agencies offer the following in the response to the three primary concerns raised in your August 7, 2024, letter.

**1. The Historic Trust letter contends that the Advisory Council was not properly involved.**

As explained below, consultation with the consulting parties, including the Historic Trust, and state agencies to resolve disagreement regarding the finding of no adverse effect to the Providence Academy has been on-going. Therefore, it was premature to involve the Advisory Council on Historic Preservation (AHP) under 36 C.F.R. § 800.5(c)(2)(i) prior to this point.

On September 15, 2023, FHWA and FTA circulated the determinations of eligibility and findings of effect for resources within the IBR Program area of potential effect (APE) to all consulting parties for review and comment, which included a finding of no adverse effect for the Providence Academy. The Washington Department of Archaeology and Historic Preservation (DAHP) did not concur with the Providence Academy finding of effect in correspondence dated October 13, 2023. FHWA, FTA, and IBR Program staff met with DAHP on November 7, 2023, to discuss the effect finding for Providence Academy and provide additional information and analysis.

Based on feedback from consulting parties and the results of consultation with DAHP, FHWA and FTA revised the finding of effect form for the Providence Academy and submitted a revised finding of effect analysis to DAHP and all consulting parties on February 6, 2024. DAHP reviewed the revised finding of effect analysis and provided concurrence with FWHA and FTA’s finding of no adverse effect on February 14, 2024. Following DAHP concurrence, the Historic Trust emailed the IBR Program staff directly on February 19, 2024, to restate their concerns about the finding of effect and scope of work elements they believed had the potential to impact the property. IBR Program staff responded on February 20, 2024, offering to schedule a meeting to discuss the concerns raised by the Historic Trust. The Historic Trust did not respond to IBR’s offer to schedule a meeting to discuss the concerns raised in the February 19 email. The IBR Program, FHWA, and FTA subsequently met with the Historic Trust on March 25, 2024, to discuss mitigation measures as part of the Programmatic Agreement (PA) development. The Historic Trust did not raise concerns about the finding of effect for the Providence Academy during this meeting.

As FHWA and FTA have continued to work with the IBR Program to address concerns raised by consulting parties on the finding of effect after October 2023, it was not appropriate to involve ACHP to resolve the Historic Trust’s dispute pursuant to 36 C.F.R. §§ 800.5(c)(3)(i) and (c)(3)(ii) prior to this point.

Following receipt of the August 7, 2024, letter, FHWA and FTA scheduled two meetings with the Historic Trust, on September 4 and September 10, 2024. In these meetings, the IBR Program presented the additional information and analysis in the revised finding of effect document from February 6, 2024. The IBR Program also presented information related to the concerns raised in the Historic Trust’s August 7, 2024, letter (included as an enclosure to this correspondence). Over the course of these two meetings, the Historic Trust had the opportunity to express its concerns and ask questions. These conversations were quite productive; we are providing our understanding of the Historic Trust’s concerns and next steps.

## **2. The Historic Trust letter contends the finding of no adverse effect is flawed.**

The August 7, 2024, letter contends that FHWA and FTA’s finding of no adverse effect is flawed and cites four concerns related to eligibility as the basis for the Historic Trust’s position. We understand these four concerns to be related to the Providence Academy boundary identified in the Determination of Eligibility (DOE), the Kindergarten Building, the Sacred Heart Garden, and the property’s character-defining features, namely quietude.

### DOE Boundary

The August 7, 2024, letter from the Historic Trust alleges the IBR Program is attempting to revise the boundary of the National Register of Historic Places (NRHP) listing for Providence Academy. The documentation in the DOE does not propose to formally revise the boundary of the 1978 NRHP listing. Rather, for the purposes of the IBR Program’s analysis, as documented in the DOE, FHWA and FTA did not include portions of the property that no longer contain NRHP contributing components within the DOE boundary. The smaller DOE boundary reflects the portions NRHP-listed property with the potential to be affected by the Program.

The Historic Built Environment Baseline Survey Reports for Oregon and Washington were prepared to evaluate resources at a reconnaissance level and inform which properties should advance to intensive-level evaluation with preparation of Section 106 DOE forms for individual properties. As such, the level of effort for each property in the baseline study was intentional. Comments provided by The Historic Trust on the baseline were considered, and the NRHP-listed Providence Academy was advanced for intensive-level evaluation, taking into account the significant changes that have occurred to the property since it was listed in the NRHP in 1978. Understanding the property's current integrity is vital to informing the Section 106 effects analysis for the specific purpose of this undertaking.

As documented in the DOE, the following changes have occurred within the 1978 NRHP boundary: the barn, root cellar, convent building, schoolhouse, and wellhouse have been removed; the ca. 1873 laundry and ca. 1910 boiler house and polygonal smokestack that stood northeast of the primary building have been removed; many of the landscape elements of the House of Providence grounds have been altered or removed, including garden plots and parterres; paved parking lots were introduced across much of the original property during the second half of the twentieth century; two parcels have been subdivided from the western portion of the parcel (along C Street) and are redeveloped with five- and six-story mixed-use commercial and residential buildings; and a grass lawn and walks adjacent to the Kindergarten Building have also been removed. Although documentation in the DOE does not propose to formally revise the boundary of the 1978 NRHP listing, the intensive-level evaluation did not consider the contributing components of the NRHP-listing that have been altered or removed because such components cannot be affected by the Program.

Notably, however, even if FHWA and FTA had considered the full 1978 boundary in assessing effects to the Providence Academy, this would not change FHWA and FTA's finding of no adverse effect for the property. The potential westward shift of I-5 would reduce the size of the area that historically contained the institution's grounds, but this will not alter any character-defining features of the Providence Academy. Program elements would instead replace portions of the non-historic surface parking lots located at the southeastern corner of the parcel, where the historic curb and hedge were removed in June 2023. Program elements within the identified boundary of the NRHP-listed resource would be located within 25 feet of the east end of the Kindergarten Building, which was constructed after the end of the period of significance and is not a character-defining feature of the property. Program elements would remain approximately 80 feet east of the extant section of the historic hedge and curb along East Evergreen Boulevard, and approximately 185 feet from the House of Providence's primary building.

We have not identified any follow up items on the DOE boundary from our recent meetings.

### Kindergarten Building

The 1978 NRHP nomination did not provide a comprehensive inventory of features on the property or clearly identify all contributing elements. However, a site map included in the nomination form noted that the property's historic components were the primary building, boiler house, laundry, wellhouse, and landscaping in front of the primary building's entrance. "Intrusions" were noted as the restaurant building and 1940s-era Kindergarten Building (then occupied by a Montessori school). The nomination form associated the property's significance with the era 1800-1899 but did not identify a more specific period of

significance. The identification of the Kindergarten Building as an intrusion suggests that the evaluator considered the property's significant period to have ended before the 1940s. Research and evaluation completed by IBR Program's Secretary of Interior-qualified staff and documented in the DOE recommended the period of significance ended in 1924. FHWA and FTA reviewed and adopted this recommendation.

Based on our recent meetings, the IBR Program is undertaking an evaluation of the Kindergarten Building to determine if it is individually eligible for inclusion in the NRHP. FHWA and FTA will review the evaluation when it is complete and relay our determination to the Historic Trust. The Historic Trust also reiterated the feedback it provided in October 2023 regarding the period of significance relating to the Kindergarten Building and World War II era events. The IBR Program will consider those thematic events as part of the individual NRHP evaluation for the Kindergarten Building and make a recommendation regarding the period of significance.

However, even if the Kindergarten Building was considered a contributing component of the historic property or if the ongoing evaluation recommends the building is individually eligible, the proposed subsurface tiebacks extending into the property boundary would not cause an adverse effect because they will be placed deep below ground. Given the depth of installation, vibration associated with the type of construction equipment typically used to install subsurface tiebacks would not be sufficient to result in damage to the building. Any impacts to archaeological resources, if they exist, would be handled under the Program's PA.

### Sacred Heart Garden

As noted above, many of the original contributing landscape elements of the House of Providence grounds have been altered or removed over time, including garden plots and parterres. Additionally, paved parking lots were introduced across much of the original property during the second half of the twentieth century. As of 2023, extant landscape elements include the grass lawn, central walkway with 5 circular flower beds, and oval approach drives in front of the primary building, as well as a short hedge, concrete curb, and mortared stone gate posts along East Evergreen Boulevard that date to before the 1920s. The intact sections of the hedge and curb span a distance of approximately 250 feet (generally aligning with the primary House of Providence building), whereas they historically were present at East 10 Evergreen Boulevard over a distance of more than 500 feet between C Street and the I-5 right-of-way. The western section of the hedge and curb was removed to accommodate construction of the mixed-use buildings along C Street, and the eastern section of these features was altered and ultimately removed to accommodate an expanded parking lot in the parcel's southeastern corner. Despite these alterations, the Sacred Heart Garden is still a contributing element to the Provide Academy.

The extant contributing landscape features were considered in the effects analysis. As part of program planning, the IBR Program has included minimization of effects by restoring to preconstruction conditions the character-defining features of the House of Providence located within the temporary construction easement along the southern property boundary at E Evergreen Boulevard. This includes preserving the gate posts, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

We have not identified any follow up items regarding the integrity analysis of the Sacred Heart Garden from our recent meetings.

### Quietude

The NRHP nomination did not speak to quietude as a character-defining feature of the Providence Academy at the time of its listing, and quietude is not a character-defining feature of the property's setting as detailed in the DOE. The Finding of Effect (FOE) form concludes that "because the property does not rely upon a quiet setting to convey its significance" noise from the project "would not diminish any character-defining features of the property." Despite the objection raised by the Historic Trust, this analysis is sufficient as quietude is not a character-defining feature of the property. Furthermore, although a quiet setting for contemplation at the garden or as context for religious use of the main building may have been present in the past, noise from surrounding urbanization and the existing highway have already altered the setting such that quiet is no longer an extant character-defining feature of this property. As such, change in noise conditions would not diminish a quality that currently qualifies the property for listing in the NRHP and, therefore, would not result in an adverse effect.

We have not identified any follow up items regarding quietude from our recent meetings.

### **3. The Historic Trust contends the APE depiction should be revised.**

Pursuant to 36 CFR 800.4(a)(1), FHWA and FTA, in consultation with DAHP and OR SHPO, determined the APE. DAHP provided concurrence on March 10, 2023, and OR SHPO provided concurrence on March 7, 2023. FHWA and FTA received comments from the Historic Trust concerning the boundary of the APE, dated March 10, 2023, and responded to those comments and comments from other consulting parties on September 19, 2023. FHWA and FTA provided consulting parties with documentation of the first amendment to the APE in correspondence dated September 8, 2023, of the second amendment in correspondence dated December 27, 2023, and the third amendment in correspondence dated June 14, 2024.

The approach that has been applied for delineation of the APE boundary is consistent with Section 106 compliance among transportation infrastructure projects of similar scale and complexity across the United States. Under this approach, the APE boundary has been delineated to include the limits of construction for the Modified LPA and all design options, as proposed, and also includes a buffer of 100 feet to consider potential effects to the setting of historic properties adjacent to the program activities and physical effects from vibration or effects that may be visual, auditory, or atmospheric that are caused by program construction and operations. Given the presence of existing Interstate Bridge infrastructure, the Modified LPA is not expected to result in increased noise, vibration, visual, or indirect effects beyond what can be considered within the current 100-foot buffer.

The historic built environment survey methodology is to evaluate all resources on any parcel crossed by the APE boundary. The Providence Academy tax lot is crossed by the APE, and therefore, FHWA and FTA considered the entire property in its identification of historic properties and assessment of effects. The property is not comparable to the Vancouver National Historic Reserve (VNHR). In the case of VNHR, the

full parcel has been included because multiple, overlapping historic properties exist in this area as well as different boundaries for the management area and the historic properties. This circumstance is different from any other parcel crossed by the APE, so the difference in approach for APE delineation at this parcel is appropriate. The approach taken for other parcels are consistent with the approach taken for the Providence Academy parcel.

We did not identify any follow up items on the APE determination from our recent meetings.

**Conclusion**

FHWA and FTA appreciate the Historic Trust’s participation as a consulting party for the IBR Program and we look forward to continued consultation on the Program’s PA. Understanding that we did not come to agreement over the Historic Trust’s concerns with the finding of no adverse effect during the September 4 and 10, 2024, meetings, the ACHP is copied on this correspondence. The enclosures list documents the materials FHWA and FTA are providing to the ACHP to enable their review of the finding pursuant to 36 C.F.R. §§ 800.5(c)(3)(i) and (c)(3)(ii). All consulting parties are cc’d on this letter as notification that we are requesting the ACHP’s review of FHWA and FTA’s finding of no adverse effect on the Providence Academy. The IBR Program will make this material available to the public through their website.

Sincerely,

For

**YAMILEE P VOLCY** Digitally signed by YAMILEE P VOLCY  
Date: 2024.10.28 15:48:46 -07'00'

Ralph Rizzo  
Division Administrator  
Federal Highway Administration,  
Washington Division

**SUSAN KAY  
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Susan Fletcher  
Regional Administrator  
Federal Transit Administration  
Region 10

**KEITH LYNCH** Digitally signed by KEITH  
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Keith Lynch  
Division Administrator  
Federal Highway Administration,  
Oregon Division

**Enclosures:**

- Baseline Survey Report
- Providence Academy DOE and FOE– October 2023
- DAHP Presentation – November 2023
- Providence Academy DOE and FOE – February 2024, revised
- DAHP Concurrence Letter – February 2024
- Historic Trust Presentation – September 2024

cc:

Jamie Loichinger, ACHP  
Rachael Mangum, ACHP  
Temple Lentz, Historic Trust  
Holly Chamberlain, Historic Trust  
Elizabeth Breiseth, FTA  
Colleen Vaughn, FHWA  
Mark Assam, FTA  
Jeff Horton, FTA  
Jenn Allaire, FTA  
Tom Goldstein, FHWA  
Thomas Parker, FHWA  
Misty Thorsgard, FHWA  
Sharon Love, FHWA  
Elisa Albury, FHWA  
Brent Allen, FHWA  
Advisory Council on Historic Preservation  
Architectural Heritage Center  
Buena Hayden, LLC  
Chinook Indian Nation  
City of Portland  
City of Vancouver  
Clark County  
Clark County Historic Preservation Commission  
Clark County Historical Society and Museum  
Columbia River Maritime Museum  
Confederated Tribes and Bands of the Yakama Nation  
Confederated Tribes of Siletz Indians of Oregon  
Confederated Tribes of the Colville Reservation  
Confederated Tribes of the Grand Ronde Community of Oregon  
Confederated Tribes of the Umatilla Indian Reservation  
Confederated Tribes of Warm Springs Reservation of Oregon  
Cowlitz Indian Tribe  
C-TRAN  
Historic Trust  
National Park Service  
Nez Perce Tribe  
Nisqually Indian Tribe  
Oregon Department of State Lands  
Oregon Department of Transportation  
Oregon Metro  
Oregon Legislative Commission on Indian Services  
Oregon State Historic Preservation Office  
Restore Oregon  
Spokane Tribe of the Spokane Reservation Indians (Spokane Tribe of Indians)



TriMet  
United States Army Corps of Engineers  
United States Coast Guard  
Vanport Placemarking Project  
Washington State Department of Archaeology and Historic Preservation  
Washington State Department of Natural Resources  
Washington State Department of Transportation  
Washington Trust for Historic Preservation