

## **Unintended Discoveries Plan**

### **Orange Line Bus Rapid Transit Project, City of Minneapolis, City of Richfield, City of Bloomington & City of Burnsville, Hennepin & Dakota County, Minnesota**

#### **I. Introduction**

The Federal Transit Administration (FTA), in coordination with Metro Transit, has initiated the environmental review process for the Orange Line Bus Rapid Transit Project (project) located in Hennepin and Dakota Counties, MN.

METRO Orange Line is a 17-mile corridor bus improvement project in Minneapolis, Richfield, Bloomington, and Burnsville. The Orange Line will travel between downtown Minneapolis and Burnsville on Marquette/Second Avenues (MARQ2) and 12<sup>th</sup> Street in downtown, then travel south through Richfield, Bloomington, and Burnsville primarily along I-35W, and terminate in Burnsville.

The Orange Line will provide 10-minute peak frequency and 15-minute off-peak and weekend frequency. Service will operate 20 hours per day, seven days a week. Orange Line service will upgrade and replace existing Route 535 which provides 30-minute frequency and operates 18 hours per day only on weekdays. The Orange Line will expand on previous technology infrastructure investments along the corridor, adding real-time information and introducing off-board fare collection at every station. South of downtown, new stations provide a significant upgrade from existing bus stops and will include heat, light, and comfortable passenger waiting areas. Orange Line's all-day, frequent, bi-directional service will complement local and express bus routes in the corridor, provide competitive running times for station-to-station trips, and offer a new option for reverse-commute markets. The project will benefit existing users and attract new riders by improving transit facilities, access, service, and reliability on the I-35W corridor.

Generally, buses will travel using a combination of existing center-running highway managed lanes, bus-only shoulders, transit-only guideways, high-occupancy vehicle ramp bypass lanes, and short segments of operating in mixed traffic on local streets, primarily in downtown Minneapolis. The project is proposed to include three new BRT advantages: a transit-only exit ramp from I-35W at 12<sup>th</sup> Street in downtown Minneapolis, a transit-only underpass and sidewalk on Knox Avenue between 76<sup>th</sup> Street and American Boulevard in Richfield and Bloomington, and a transit or HOV freeway ramp bypass at Burnsville Parkway and I-35W.

As a result, the FTA has initiated activities under Section 106 of the National Historic Preservation Act (NHPA) (36 CFR Part 800). Because the proposed project occurs primarily within existing right-of-way and areas already disturbed, no archaeological field investigations were conducted. Instead, the FTA recommends the inclusion of an Unintended Discoveries Plan for use during the construction of the project. This approach will be coordinated with the Minnesota Historic Preservation Office (HPO) and the Section 106 consulting parties as part of the Section 106 process.

The project area has been substantially disturbed, making it unlikely that intact archaeological resources are present in the project area. Should, however, the unintended discovery of archaeological resources, human remains, or potential burial sites occur during the course of demolition or construction for the project, the following procedures will be used to comply with federal and state mandates, such as the Section 106 requirements, (36 CFR 800, including 800.13 - Post-Review Discoveries), the NHPA as amended (16 USC Ch. 1A, Subch. II, Sect. 470 et seq.), the Native American Graves Protection and Repatriation Act (NAGPRA, 25 USC Ch. 32), the Minnesota Field Archaeology Act (MS 138.31-138.42), and the Minnesota Private Cemeteries Act (MS 307.08).

## **II. Unintended Discovery – General Information and Best Management Practices (BMPs)**

Construction activities involving ground disturbance have the potential to uncover previously unknown archaeological sites and/or human skeletal remains, as well as other types of cultural remains. The following provides an example list of the types of material remains that may be found on site:

- Pre-Contact Artifacts and Features
  - Stone implements (e.g., axes, gouges)
  - Lithic workshops (e.g., chipping debris, projectile points)
  - Burial pits (e.g., darkened soil, textile, shell-lined) and/or human remains
  - Post molds and post holes, indicative of dwellings
- Historic Artifacts and Features
  - Pottery shards
  - Stone (e.g., fieldstone, cut granite, rubble) walls and flooring – with and without mortar or other adhesive materials
  - Brick walls and flooring – with and without mortar or other adhesive

materials

- Concrete walls and flooring
- Privies, cisterns, wells, or trash pits – dense layers of bottles, dishes, animal bones, and other household items in dark, greasy organic soil, with or without stone/brick/concrete lining
- Iron or other metal objects, including farm implements (e.g., pieces of hoes, rakes, or plows)
- Transportation-related objects, such as wooden planking
- Non-human skeletal remains/features
- Human remains

The construction contractor (Contractor) will use the following best management practices (BMPs) during construction of the proposed project:

- The Contractor will hold a pre-construction meeting to notify workers of the potential to locate material finds of a historic nature. The Contractor will provide example photographs of historic and prehistoric artifacts that are typical of this geographic region. The archaeological monitor and Metro Transit construction project manager will also participate in this meeting.
- The Contractor will notify on-site construction personnel of the procedures for alerting the appropriate technical personnel of any potential unintended discoveries.
- The Contractor will properly define construction areas, especially in locations near cemeteries or previously defined site locations.
- The Contractor will keep a copy of the notification requirements for the discovery of human remains on-site throughout the duration of construction.

### **III. Unintended Discovery – Human Remains/Potential Burial Sites**

For the purposes of this document, potential burial sites are defined as areas containing evidence that points to a high probability of the former or current presence of human remains as a burial, cremation, or otherwise. Such evidence may include defined burial pit or grave shaft outlines, coffin fragments, or bone that is not readily identifiable as either human or animal. In the event that human remains or potential burial sites are encountered during the course of construction for the project:

- A) The Contractor will immediately cease all activity in the vicinity of the discovery.

The Contractor will take measures to protect the discovery (e.g., flagging or fencing off a buffer of at least 25 feet around the find to signify it as a protected zone) and prevent further disturbance to the remains or the physical context (e.g., soils, coffin) in which they are found.

- B) The Contractor will immediately notify the Metro Transit Project Manager.

In the case of a potential burial site, the Metro Transit Project Manager will contact the Archaeological Consultant for their professional judgment of the already exposed evidence. The Metro Transit Project Manager will also notify the State Archaeologist, and FTA of a potential burial site.

The Metro Transit Project Manager will immediately notify the Local Law Enforcement Agency, who will determine whether the potential burial site/human remains represent a crime scene and/or are of a recent (less than 50 years old) nature. If the site/remains are determined to represent a crime scene and/or are less than 50 years in age, their further treatment will fall under the jurisdiction of the Local Law Enforcement Agency.

- C) If the site/remains are determined not to represent a crime scene and are 50 years in age or older, once clearance to do so has been granted by the Local Law Enforcement Agency, the Metro Transit Project Manager will immediately notify the State Archaeologist, who will authenticate the burial/remains. The authentication will establish the presence of or high potential of human burials or human skeletal remains being located in a discrete area, delimit the boundaries of human burial grounds or graves, and attempt to determine the ethnic, cultural, or religious affiliation of individuals interred. No further excavation will be conducted without agreement by the Local Law Enforcement Agency and State Archaeologist.
- D) If the site/remains are determined to be American Indian, the State Archaeologist will initiate consultation with the Minnesota Indian Affairs Council and other representatives of Minnesota's tribal communities to determine appropriate measures for treatment of the remains.
- E) If the site/remains are determined to be non-American Indian or if their ethnic affiliation cannot be ascertained, appropriate measures for their treatment will be determined by the State Archaeologist.
- F) No further excavation will be conducted without agreement by the local law enforcement agency and State Archaeologist.

#### IV. Unintended Discovery – Archaeological Resources

For the purposes of this document, archaeological resources are defined as *in situ* subsurface artifacts, features (e.g., trash pits, privy shafts, hearths, other items identified in section II), and structural remains (e.g., foundation walls) 50 years or older in age. In the event that apparent archaeological resources are encountered during the course of demolition or construction for the project:

- A) Construction personnel will be responsible for notifying the construction supervisor (e.g., superintendent or foreperson). The Contractor will immediately cease all activity in the vicinity of the discovery. The Contractor will flag the site to signify it as a protected zone until an assessment is made. The Contractor will set a buffer of at least 25 feet around the location of the find in such a manner that will not cause further disturbance to the remains or the physical context in which they are found.
- B) The Contractor will immediately notify the Metro Transit Project Manager.
- C) The Metro Transit Project Manager will contact the Archaeological Consultant who will conduct an onsite preliminary assessment of the discovery, including determination of the boundaries of the discovery location. The protected zone markings will be adjusted as appropriate.
- D) If the Archaeological Consultant determines that the find is less than 50 years in age and not potentially significant, the consultant will notify the Metro Transit Project Manager that construction may proceed.
- E) The Archaeological Consultant will determine if the find is more than 50 years in age or potentially significant, and make a more detailed examination of the discovery. If this examination finds that the discovery either lacks significance or integrity (i.e., is not intact), the Archaeological Consultant will notify the Metro Transit Project Manager that demolition or construction activities may proceed and will submit a brief letter report documenting the find via Metro Transit to the Minnesota Historic Preservation Office (HPO), FTA and the State Archaeologist.
- F) If the Archaeological Consultant finds that the discovery is potentially significant and appears to retain integrity, protocol will be followed consistent with 36 CFR 800.13:
  - i. The Metro Transit Project Manager will notify the HPO, State Archaeologist, and FTA of the find, and will notify any other interested parties such as Native Americans as directed by the HPO, State Archaeologist, and FTA.

- ii. If further demolition or construction activities cannot avoid impacting the discovery, the Metro Transit Project Manager and the Archaeological Consultant will consult with the HPO, State Archaeologist, and FTA to obtain recommendations for appropriate measures for treatment of the discovered resource. Such measures will include but are not limited to:
  - a) Determination of the National Register of Historic Places (NRHP) eligibility of the site.
  - b) A recommendation by the Archaeological Consultant for site avoidance or a data recovery plan for HPO and FTA concurrence if the Archaeological Consultant determines that the site is potentially NRHP-eligible. Site avoidance or data recovery plan preparation will occur under the provisions of 36 CFR 800. Construction in the vicinity of the discovery will not resume until HPO, in coordination with FTA, concurs with the proposed plan, and the specific actions contained in the proposed plan are implemented to enact mitigation or complete data recovery. FTA, in coordination with HPO, will make the final determination on whether construction may resume.
  - c) Completion of a technical report by the Archaeological Consultant documenting the findings of any required investigations. The technical report will be submitted to HPO and FTA for review.
  - d) The return of any artifacts uncovered as part of the recovery effort by the Archaeological Consultant to the landowner.
- iii. As treatment measures are completed, the Metro Transit Project Manager will consult with the HPO, State Archaeologist, and FTA to determine the need for further treatment measures, or if no additional measures are required, to obtain approval to resume excavation, demolition or construction.

## **V. Contact List**

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