

DEED OF GIFT

Donor:

Snohomish County
3000 Rockefeller Avenue M/S 607
Everett, WA 98201

Recipient:

Stillaguamish Tribe of Indians
3310 Smokey Point Drive
Arlington, WA 98223

Description of Property:

The cultural and historic artifacts collection (collection) recovered as part of the Jim Creek Bridge #42 archaeological data recovery effort and archaeological monitoring during the construction of the bridge, and artifacts discovered and collected during preliminary site investigations.

The collection is associated with recorded site 45SN439, and is deeded to the Stillaguamish Tribe of Indians (Tribe) and will be preserved and curated as outlined in the March 2011 *Draft Data Recovery and Monitoring Plan for the Jim Creek Bridge #42 Replacement Project Snohomish County, Washington Sites 45SN148 and 45SN439*. The approved data recovery plan states:

Curation

Following laboratory analysis, culling (if applicable), and cataloging, artifacts will be prepared for curation. ICF will work with the Corps and the County to establish a curation agreement with the Burke Museum to curate the collection in perpetuity, and ICF will prepare the collection for curation in accordance with 36 CFR 79 and curation standards for the Burke Museum. The prepared artifact collection, as well as materials produced during the project, such as photographs, field notes, catalogs, and a copy of the final report, will be submitted to the Burke Museum upon completion of the project.

Subsequent to Section 106 consultation and Army Corps of Engineers permit approval (See *Project Section 106 Background Related to Artifact Collection* at end of this agreement), the potential for alternative curation arrangements have been developed as part of continued Army Corps involvement with the project such that the artifacts are hereby deeded to the Tribe and curation would be implemented in accordance with 36 CFR 79, and can be implemented through curation at The Tulalip Tribes' Hibulb Museum if space is available. The collection would be stored at either of these facilities until such time that the Tribe has been able to construct and open their own curation facility that meets Federal curation requirements.

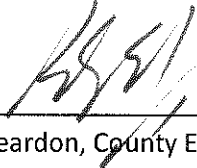
Snohomish County Public Works ("Donor") has delivered and hereby unconditionally and irrevocably gives the Property described above, together with all right, title, and interest, including copyright, trademark, patents, trade secrets, and other intellectual property rights therein, of Donor herein, to the Tribe.

The Tribe accepts the Donor's gift of the Property subject to the following terms and conditions:

1. By execution of this Deed of Gift, the Donor represents and warrants to the Tribe that it has full power and authority to transfer its interest, if any, in the Property to the Tribe using this instrument.
2. By execution of this Deed of Gift, the Donor represents and warrants to the Tribe that to the best of Donor's knowledge, the Property has not been exported from its country of origin in violation of Laws of that country in effect at the time of the Export, nor imported into the United States in violation of the United States laws and treaties.
3. The Donor acknowledges that upon execution of this Deed of Gift, the Property (both the objects being donated and any and all copyright, trademark, patents, trade secrets, and other intellectual property rights therein) irrevocably becomes the property of the Tribe. It is the Donor's expectation that the Property will be transferred to either the Burke Museum or The Tulalip Tribes' Hibulb Museum for curation and to be held in trust for the benefit of the Tribe consistent with the commitments made in the March 2011 *Draft Data Recovery and Monitoring Plan for the Jim Creek Bridge #42 Replacement Project Snohomish County, Washington Sites 45SN148 and 45SN439* that was approved by the Army Corps of Engineers and Washington State Department of Archaeology and Historic Preservation/State Historic Preservation Office, and with assurance that curation will be in accordance with the provisions of *Curation of Federally Owned and Administered Archeological Collections (36 CFR 79)*. The collection would be stored at either of these facilities until such time that the Tribe has been able to construct and open their own curation facility that meets Federal curation requirements.
4. The Donor acknowledges that in making this gift the Property may be used, at the Tribe's sole discretion, for purposes such as being: (a) displayed, (b) reproduced for any purpose including display, distribution (in any and all media now known or later developed, digital or otherwise), or reproduced by the public from such media, (c) photographed by the public while on display, (d) stored, (e) maintained, (f) loaned, or (g) disposed of as the Tribe sees fit. To the extent that the Property is subject to or includes any material subject to copyright, or is subject to other intellectual property protection, including publicity rights, and to the extent that Donor owns, controls, and/or administers such copyright or other intellectual property rights, Donor hereby irrevocably assigns, transfers and conveys to the Tribe, and their successors and assigns, all right, title and interest in and to the Property, including all copyrights, trademarks, patents, trade secrets, and other intellectual property rights therein (including extensions and renewals thereof and the right to license and assign), throughout the world, royalty-free, and in perpetuity.
5. The Donor acknowledges that the Tribe has not promised, and is no way obligated, to exhibit the Property or to do so in any particular manner.

Executed by the parties in counterparts and effective as of the date of last signature below.

Snohomish County

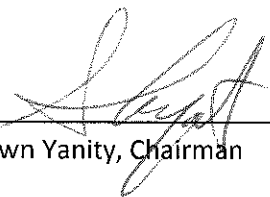
By: 
Aaron Reardon, County Executive

PETER B. CAMP
Executive Director

5/16/13
Date

COUNCIL USE ONLY
Approved: 5-15-13
Docfile: D-1

Stillaguamish Tribe of Indians

By: 
Shawn Yanity, Chairman

7-18-13
Date

Project Section 106 Background Related to Artifact Collection

Artifacts were initially discovered as part of pedestrian field reconnaissance site investigations conducted by BOAS, Inc., including shovel probes, on February 21 and February 22, 2007. Based on these findings additional probing was recommended to determine the extent of cultural deposits. An Archaeological Excavation Permit (No: 07-19) was obtained from the Washington Department of Archaeology and Historic Preservation (DAHP) on July 2, 2007 so that additional site investigations could occur. A report titled *Results of Archaeological Survey and Testing for the Jim Creek Bridge #42 Replacement Project, Snohomish County, Washington* dated March 28, 2008 was prepared. The report summarized the field findings and identified the extent of cultural deposits located within the project's right-of-way.

As Jim Creek Bridge #42 project development and design progressed, additional field work was also conducted in July 2009 to evaluate additional areas that would be affected by the project for stormwater facilities and critical areas mitigation. An October 2009 report titled *Jim Creek Bridge #42 Replacement Project Archaeological Investigations of Additional Areas* was prepared by ICF Jones and Stokes summarizing field findings. No additional cultural resources were identified as part of this field work.

The Area of Potential Effect (APE) was identified and a proposed archaeological data recovery plan developed by ICF Jones and Stokes and was included in the March 2011 *Draft Data Recovery and Monitoring Plan for the Jim Creek Bridge #42 Replacement Project Snohomish County, Washington Sites 45SN148 and 45SN439*. The data recovery plan was submitted to the Army Corps of Engineers to fulfill Section 106 National Historic Preservation Act consultation requirements associated with the project's

application for an Army Corps of Engineers Section 404 Nationwide Permit. Accordingly, the Section 106 consultation process requirements including consultation with DAHP and Native American tribes were administered by the Army Corps of Engineers, Seattle District.

Through Section 106 review by the Corps and consultation with DAHP, it was determined that the project's proposed data recovery plan and monitoring was a reasonable mitigation measure and that under Corps regulations at 33 CFR Part 325, Appendix C, the project's effects would be determined to have no adverse effect. This finding was included in an April 12, 2011 letter from the Corps to Allyson Brooks, State Historic Preservation Officer. The letter stated that Appendix C provisions applied to the project because conditions were consistent with Appendix C provisions that state when "the designated historic property is of value only for its potential contribution to archaeological, historical, or architectural research, and when such value can be substantially preserved through the conduct of appropriate research, and such research is conducted in accordance with applicable professional standards and guidelines" the effects "of an undertaking that would be otherwise be found to be adverse" may be considered as being not adverse for the purpose of the appendix. The letter stated that the proposed mitigation and monitoring would be listed as a special condition to the permit issued by the Corps for the project.

DAHP sent a letter of concurrence to the Corps dated May 3, 2011 and said that completion of the Section 106 review process would require submittal of the final data recovery report for review and approval by DAHP.

A Nationwide Permit (Reference: NWS-2010-17) was issued by the Army Corps of Engineers, Seattle District on May 18, 2011 authorizing the project's work in wetlands and other waters of the US pursuant to terms and conditions. (The permit was re-authorized on November 2, 2012.) Special Condition A of the permit stated the following:

- a. The permittee shall implement the Draft Data Recovery and Monitoring Plan, Jim Creek Bridge #42 Replacement, Snohomish County, Washington Sites 45SN148 and 45SN439, dated March 2011, in its entirety. This includes the requirement that a professional archaeologist be on-site to monitor for the presence of archaeological resources during all ground disturbing construction activities. The required post-project Data Recovery Report shall be considered complete when it has been approved by the Washington Department of Archaeology and Historic Preservation. If the permittee fails to comply with this plan, the Corps may determine that the work does not comply with the conditions of the Department of the Army permit or authorization and suspend the permit or authorization. Suspension may result in modification or revocation of the authorized work.