

Attachment A - Memorandum of Agreement

MEMORANDUM OF AGREEMENT

AMONG

THE U.S. ARMY CORPS OF ENGINEERS,

THE FEDERAL HIGHWAY ADMINISTRATION,

THE WASHINGTON STATE DEPARTMENT OF
ARCHAEOLOGY & HISTORIC PRESERVATION,

THE CITY OF REDMOND, AND

THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

REGARDING TREATMENT OF ADVERSE EFFECTS TO
THE BEAR CREEK SITE (45KI839), REDMOND, KING COUNTY, WASHINGTON

1. WHEREAS, U.S. Army Corps of Engineers, Seattle District Regulatory Branch (Corps) received a Department of the Army (DA) permit application (DA Permit No. NWS-2009-0242) from the City of Redmond (Redmond) for a fisheries habitat restoration project located at the lower reach of Bear Creek just south of the Redmond Town Center, T25N, R5E, sec12, W.M., Bellevue North USGS 7.5' quadrangle, King County, Washington (the "Project"); and
2. WHEREAS, the Corps' issuance of such a permit for the Project is subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. (NHPA), and its implementing regulations (36 CFR Part 800 and 33 CFR 325, Appendix C); and
3. WHEREAS, prior to seeking a Corps permit Redmond contracted with Northwest Archaeological Associates, Inc (now SWCA) to conduct a cultural resources assessment of the Project area, as reported in the January 9, 2009 report titled *Cultural Resources Assessment for the Lower Bear Creek Rehabilitation Project, King County, Washington*, included as if attached hereto and incorporated by this reference, and as a result of its assessment SWCA recorded the Bear Creek archaeological site (Site No. 45KI839); and
4. WHEREAS, prior to seeking a Corps permit Redmond contracted with SWCA to conduct large-scale archaeological testing at the Bear Creek Project site under Washington State Archaeological Excavation Permit 09-11. The testing included stripping of approximately one meter of sterile overburden, excavation of 150 meters of backhoe trenches and archaeological excavation of 43.86 cubic meters of sediment, and identified a highly significant 10,000 year old site as reported in the January 6, 2010 report titled *Results of Testing at the Bear Creek Site, 45-KI-839, Redmond, King County, Washington*, included as if attached and incorporated by this reference; and
5. WHEREAS, after test excavation Redmond applied for a DA permit, and upon review of the work completed associated with the Undertaking, the Corps requested that Redmond halt all

Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

ground disturbance associated with the Undertaking until the Section 106 process could be completed; and

6. WHEREAS, the Corps established the Undertaking's permit area and the Area of Potential Effect (APE) as all areas of project-related ground-disturbing activities plus access and staging areas associated with the DA permit; and

7. WHEREAS, based on the results of survey and testing, the Corps determined that the Bear Creek site is eligible for listing in the National Register of Historic Places (NRHP) for its demonstrated information potential, and the Washington State Department of Archaeology & Historic Preservation (DAHP) also known as the Washington State Historic Preservation Officer (SHPO) concurs with this determination; and

8. WHEREAS, the Corps notified the Chehalis Tribe, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, the Lummi Nation, the Muckleshoot Indian Tribe (Muckleshoot), the Nisqually Tribe, the Nooksack Tribe, the Port Gamble S'Klallam Tribe, the Puyallup Tribe, the Samish Tribe (Samish), the Sauk-Suiattle Indian Tribe, the Skokomish Tribe, the Snoqualmie Indian Tribe (Snoqualmie), the Squaxin Island Tribe, the Stillaguamish Tribe (Stillaguamish), the Suquamish Tribe, the Swinomish Indian Tribal Community, the Tulalip Tribes (Tulalip), the Upper Skagit Indian Tribes, and the Yakama Nation of the Project and asked each Tribe whether they would like to participate in this process, and

9. WHEREAS, the Samish have asked to be kept informed about the project and Muckleshoot, Snoqualmie, Stillaguamish, and Tulalip have asked to participate as consulting parties in the Section 106 process; and

10. WHEREAS, pursuant to an Agreement with the City of Redmond (GCA 5854), Washington State Department of Transportation (WSDOT) will be providing a lump sum amount of funding for the Bear Creek Restoration Project, and in exchange will receive credit for aquatic habitat mitigation for the SR 520, I-5 to Medina Project, a federal undertaking for which the Federal Highway Administration (FHWA) is the lead agency; and

11. WHEREAS, for the purpose of Section 106, the FHWA has acknowledged the Corps as the lead federal agency for the Bear Creek Restoration Project; and

12. WHEREAS, the King County Historic Preservation Program (KCHPP) has requested consulting party status as an interested public entity; and

13. WHEREAS in accordance with 36 CFR Section 800.6(a)(1), Corps 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); and

14. WHEREAS, the Corps held a meeting on August 24, 2011 to solicit Public, Tribal, and consulting party comments on ways to avoid, minimize, and mitigate adverse effects to the Bear

Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

Creek Site, and has allowed the Public, Tribes, and consulting parties the opportunity to comment on these issues through various forums, and

15. WHEREAS, Redmond has determined that portions of the Bear Creek site can be preserved in place, and based on Corps and consulting party review, Redmond has modified their proposed construction to minimize effects to the Bear Creek site, as shown in the final drawings under modified Alternate 2A in a letter to the Corps dated April 12, 2012, and as finalized in the Corps permit (NWS-2009-0242) for this project, included as if attached and incorporated by this reference; and

16. WHEREAS, the revised construction will result in an adverse effect to the Bear Creek site, removing approximately 40 percent of the known site area; and

17. WHEREAS, the Corps has consulted with DAHP, Redmond, Muckleshoot, Snoqualmie, Stillaguamish, Tulalip, WSDOT, FHWA, and KCHPP in accordance with Section 106 of the National Historic Preservation Act, 16 U.S.C. §470 (NHPA), to receive input on for resolving adverse effects of the undertaking on the Bear Creek Project site; and

18. WHEREAS, pursuant to 36 CFR Part 800.6(c)(2), the FHWA has asked to sign this MOA as a signatory, and the Corps granted this request; and

19. WHEREAS, pursuant to 36 CFR Part 800.6(c)(2), and because of their role as the applicant for the DA permit, the Corps has invited Redmond to sign this Memorandum of Agreement (MOA) as a signatory; and

20. WHEREAS, pursuant to 36 CFR Part 800.6(c)(2), and because of their role as the funding agency, the WSDOT has asked to sign this MOA as a signatory, and the Corps granted this request; and

21. WHEREAS, pursuant to 36 CFR Part 800.6(c)(3), and based on their stated interest, the Corps has invited Muckleshoot, Snoqualmie, Stillaguamish, Tulalip, and KCHPP to sign this MOA as concurring parties;

NOW, THEREFORE, the Corps, FHWA, DAHP, Redmond, and WSDOT (collectively the "Parties" and individually the "Party") agree that should the Undertaking move forward to construction, that the following Corps-enforced stipulations 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:

1. Cultural Resource mitigation plan. Redmond will adhere to the site mitigation plan (Plan) dated February 27, 2013 and titled "Cultural Resources Mitigation Plan for the City of Redmond's Bear Creek Restoration Project", included as attached hereto and incorporated by

Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

this reference. The Plan can be implemented by any entity that demonstrates they meet federal and state standards for conducting archaeological investigations and are capable of conducting the work in the Plan to the Parties' satisfaction.

In addition to the requirements detailed in the Plan, Redmond will adhere to the following:

- a. Workforce Education. Redmond will educate the workforce prior to initiation of any construction associated with the Bear Creek restoration project with the goal of avoiding inadvertent damage to site 45KI839. Education will apply to all Redmond employees, contractors, and subcontractors working within the project APE that are conducting work that has the potential to adversely affect the site for tasks related to this MOA.
 - b. Public and Tribal Outreach. Redmond shall bear the expense for public and Tribal outreach as detailed in the Plan and will allocate \$100,000 for this purpose. Outreach activities include sponsorship of a cultural resource workshop, public talks on the archaeology of the site and the history of the larger cultural area, development of a webpage with photo/video documentation of the site and larger cultural area, creation of a hand-carved Tribal art piece, installation of interpretative signs, and development of education curriculum materials.
 - c. Site Preservation and Post Construction Monitoring. Redmond shall bear the expense for site preservation and post construction monitoring as detailed in the Plan and will allocate \$50,000 for this purpose.
 - d. Curation. Redmond will curate in perpetuity all artifacts, samples, records, and other relevant materials from the Bear Creek excavations at a single facility that meets or exceeds federal curation standards as described in 36 CFR 79 and that provides reasonable access to the collection consistent with 36 CFR 79. Requirements for curation are detailed in Appendix A of this agreement.
 - e. Discovery of Human Remains. If human remains are discovered at any time during the data recovery excavation or during construction, work will cease in the discovery vicinity and the location will be secured. Procedural requirements for the discovery of human remains are detailed in Appendix C of the mitigation plan. The treatment of human remains will meet state and federal laws and regulations.
2. Tribal Access, Monitoring, and Notification. Redmond will facilitate tribal access for any interested tribe during data recovery excavations, during construction of the Project, and during post construction monitoring. Redmond will notify consulting tribes at the staff level at least one week prior to any ground disturbing activity at site 45KI839, and will provide reasonable access for tribal involvement of any ground-disturbing activity that could affect intact portions of the site.

Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

3. Reporting. For any report produced under this MOA, Redmond will provide Signatories and Concurring parties a draft version of the electronic copy to review. Redmond will revise the draft electronic copy in consideration of the comments. After final approval by the Parties, Redmond will provide Signatories and Concurring parties to this MOA two hard copies and one electronic copy of any final report Redmond prepares as required under this MOA. In addition, Redmond will provide the Corps 10 hard copies and 10 electronic copies of any final report or volume. The electronic copy will include the report as well as copies of field notes, pictures of the excavation, photo logs, pictures of artifacts with associated logs, and raw data from any analysis. For the lithic artifact analysis, the electronic version will include a Microsoft Excel file that contains unique attribute information (i.e., each artifact will be on its own row in the Excel spreadsheet).

4. Administrative Stipulations

a. 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 Corps shall consult with the objecting party(ies) to resolve the objection. If Corps determines, within 30 days, that such objection(s) cannot be resolved, Corps will:

- i. 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 Corps 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 Corps in reaching a final decision regarding the dispute.
- ii. If the Council does not provide comments regarding the dispute within 30 days after receipt of adequate documentation, the Corps may render a decision regarding the dispute. In reaching its decision, the Corps will take into account all comments regarding the dispute from the parties to the MOA.
- iii. 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. The Corps will notify all parties of its decision in writing before implementing that portion of the Undertaking subject to dispute under this stipulation. The Corps' decision will be final.

b. 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 an 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

Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

Council. If the signatories cannot agree to appropriate terms to amend the MOA, any signatory may terminate the agreement in accordance with Stipulation 4e, below.

c. Primary Contact Information.

The contact information for each signatory to this MOA may be updated which shall not be considered 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

d. Duration

If the terms of this agreement have not been implemented within ten years of execution of the MOA, this agreement shall be considered null and void, unless the signatories agree in writing to an extension for carrying out its terms. If this agreement is considered null and void, the Corps shall so notify the parties to this agreement, and if Redmond chooses to continue with the undertaking, shall re-initiate review of the undertaking in accordance with 36 CFR Part 800.

e. Termination

If an MOA is not amended following the consultation set out in Stipulation 4b., it may be terminated by any signatory or invited signatory. Within 30 days following termination, the Corps 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.

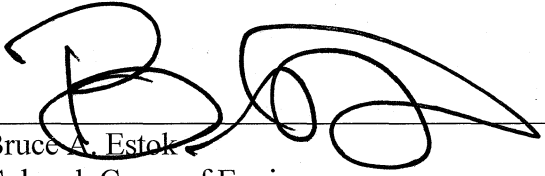
Execution of this Memorandum of Agreement by the Corps, FHWA, DAHP, Redmond, and WSDOT, the submission of documentation and filing of this Memorandum of Agreement with the Council pursuant to 36 CFR Section 800.6(b)(1)(iv) prior to the Corps approval of this undertaking, and implementation of its terms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

Attachment A - Memorandum of Agreement

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Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

SIGNATORY PARTY:

U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT



Bruce A. Estok
Colonel, Corps of Engineers
District Commander

Date:

4 Jun 2013

Contact Information:

Chris Jenkins, Regulatory Cultural Resources Program Manager
US Army Corps of Engineers, Seattle District
P.O. Box 3755
Seattle WA 98124
(206) 764-6941
Paul.C.Jenkins @usace.army.mil

Note: Signatures continued on next page.

Attachment A - Memorandum of Agreement

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Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

SIGNATORY PARTY:

THE FEDERAL HIGHWAY ADMINISTRATION

By: Daniel M. Mathis Date: 02/28/2013

Title: FHWA - Washington Division Administrator
Daniel M. Mathis
Division Administrator

Contact Information:

Sharon Love
Washington Division
Federal Highway Administration
711 Capitol Way, Suite 501
Olympia, Washington 98501
Phone: 360-753-9558
E-mail: Sharon.love@dot.gov

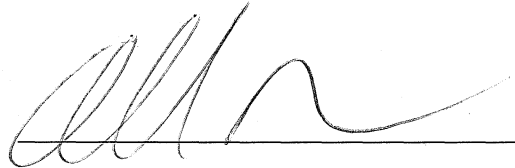
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Attachment A - Memorandum of Agreement

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Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

SIGNATORY PARTY:

THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY & HISTORIC
PRESERVATION

By:  Date: 5/23/13

Title: Director / SAPO
Allyson Brooks, Ph. D.
State Historic Preservation Officer

Contact Information:

Matthew Sterner, M.A.
Transportation Archaeologist
Department of Archaeology and Historic Preservation
1062 S. Capitol Way, Suite 106
Olympia, WA 98501
360.586.3082 (voice)
360.280.7563 (cell)

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Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839),
Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

SIGNATORY PARTY:

THE CITY OF REDMOND

By: John Marchione Date: March 7, 2013

Title: _____
John Marchione
Mayor

Contact Information:

Michael Haley, P.E.
Senior Project Manager
Public Works
City of Redmond
425-556-2843
mhaley@redmond.gov

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Attachment A - Memorandum of Agreement

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Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

SIGNATORY PARTY:

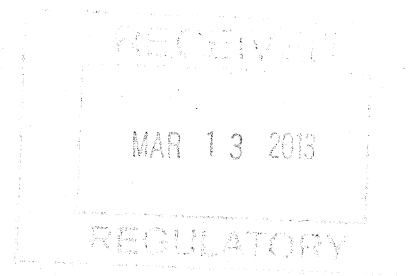
WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

By: Julie Meredith Date: 3/11/13

Title: _____
Julie Meredith, P. E.
SR520 Program Director

Contact Information:

Steve Archer
Cultural Resources Specialist
WSDOT ESO Mega Projects
999 3rd Avenue, Suite 2424
Seattle, WA 98104
(206) 805-2895 (office)
(206) 714-4681 (cell)
archers@wsdot.wa.gov



Designated by WSDOT as Agreement Number GCB 1394.


Note: Signatures continued on next page.

Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

CONCURRING PARTY:

MUCKLESHOOT INDIAN TRIBE

By:  Date: May 6, 2013

Title: _____
~~Virginia Cross~~ Mike Jerry, Sr.
Tribal Council Chairperson
Vice

Contact Information:

Laura R. Murphy
Archaeologist
Muckleshoot Indian Tribe
39015 172nd Ave. SE
Auburn, WA 98092-9763
(253) 876-3272
laura.murphy@muckleshoot.nsn.us

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Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839),
Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

CONCURRING PARTY:

SNOQUALMIE INDIAN TRIBE

By: Carolyn Lubenau Date: 5/20/2013

Title: Carolyn Lubenau
Carolyn Lubenau
Chair, Snoqualmie Indian Tribe

Contact Information:

Steven Mullen-Moses
Director Archaeology & Historic Preservation
Snoqualmie Indian Tribe
Desk: 425-888-6551 x1106
Cell: 425 -495-6097
steve@snoqualmientation.com


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Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839),
Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

CONCURRING PARTY:

STILLAGUAMISH TRIBE

By:  Date: 3/7/2013

Title: Chairman
Shawn Yanity
Chair, Stillaguamish Tribe of Indians

Contact Information:

Kerry Lyste
Cultural Resources
GIS Analyst/ Database Administrator
Stillaguamish Tribe of Indians
360-652-7362 ext 226
klyste@stillaguamish.com

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Attachment A - Memorandum of Agreement

-SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839),
Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

CONCURRING PARTY:

TULALIP TRIBES

By: Mel Sheldon Date: July 15 2013
Tulalip Tribal Chairman

Signed: Mel Sheldon
Title: _____
Mel Sheldon, Jr.
Chair, Tulalip Tribes

Contact Information:

Richard Young
Hibulb Cultural Center &
Natural History Preserve
6410 23rd Avenue, N.E.
Tulalip, WA 98271
ryoung@tulaliptribes.nsn.gov
(360) 716-2652
(425) 239-0182 - Message

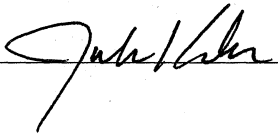
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Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839),
Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

CONCURRING PARTY:

KING COUNTY HISTORIC PRESERVATION PROGRAM

By:  Date: 3/17/13

Title: Preservation Officer

Contact Information:

Philippe D. LeTourneau, PhD
Archaeologist
King County Historic Preservation Program
Department of Natural Resources and Parks
201 South Jackson Street, Suite 700 [MS: KSC-NR-0700]
Seattle, WA 98104
206 296-5217
Philippe.LeTourneau@kingcounty.gov

Note: End of signature pages.

Attachment A - Memorandum of Agreement

SUBJECT: MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

Appendix A: Requirements for Curation

Following are the requirements for museum curation for the Bear Creek Site (45KI839):

- (1) Redmond will curate in perpetuity artifacts, samples, records, and other relevant materials from the Bear Creek excavations undertaken by Redmond (survey, testing, and any work completed under this MOA) at a single facility that meets or exceeds federal curation standards as described in 36 CFR 79 and that provides reasonable access to the collection consistent with 36 CFR 79.
- (2) Redmond will consult with the Muckleshoot Tribe, Snoqualmie Indian Tribe, Tulalip Tribes, and Stillaguamish Tribe of Indians regarding curation of the Bear Creek materials at the Muckleshoot museum facility. If feasible and practicable for both parties and in consideration of Appendix A (1), Redmond will curate the materials at the Muckleshoot facility.
- (3) If, after six months of execution of this MOA, no decision has been finalized on use of the Muckleshoot curation facility, the curation facility will default to the Burke Museum. Redmond will so notify the Corps and the Muckleshoot Tribe. The Corps will consider a time extension on this requirement if so requested in writing by either party.
- (4) Redmond will curate all artifacts and records detailed in Appendix A (1) at the facility selected in Appendix A(3) within six months of final acceptance of any report prepared per Stipulation 3 of the MOA.
- (5) Redmond will document the name of the curation facility in the final data recovery report and in the site form such that future researchers can locate the materials.

Attachment A - Amendment 1 to MOA

AMENDMENT 1
TO
MEMORANDUM OF AGREEMENT
AMONG
THE U.S. ARMY CORPS OF ENGINEERS,
THE FEDERAL HIGHWAY ADMINISTRATION,
THE WASHINGTON STATE DEPARTMENT OF
ARCHAEOLOGY & HISTORIC PRESERVATION,
THE CITY OF REDMOND, AND
THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION
REGARDING TREATMENT OF ADVERSE EFFECTS TO
THE BEAR CREEK SITE (45KI839), REDMOND, KING COUNTY, WASHINGTON\

WHEREAS, U.S. Army Corps of Engineers, Seattle District Regulatory Branch (Corps) entered into a Memorandum of Agreement (Agreement) with the City of Redmond (Redmond), Federal Highway Administration (FHWA), Washington State Department of Transportation (WSDOT) and Washington State Department of Archaeology & Historic Preservation (DAHP), for a fisheries habitat restoration project located at the lower reach of Bear Creek just south of the Redmond Town Center, T25N, R5E, sec12, W.M., Bellevue North USGS 7.5' quadrangle, King County, Washington (the "Project"), which is incorporated by this reference; and

WHEREAS, the terms and conditions of the Agreement not modified by this first amendment (Amendment 1) are still in force; and

WHEREAS, the Corps' issuance of a Department of Army permit for the Project is subject to review under Section 106 of the National Historic Preservation Act, 16 U.S.C. 470 *et seq.* (NHPA), and its implementing regulations (36 CFR Part 800 and 33 CFR 325, Appendix C); and

WHEREAS, based on the results of survey and testing, the Corps determined that the Bear Creek site (Site No. 45KI839) was eligible for listing in the National Register of Historic Places (NRHP) for its demonstrated information potential, and the Washington State Department of Archaeology & Historic Preservation (DAHP) also known as the Washington State Historic Preservation Officer (SHPO) concurs with this determination; and

WHEREAS, Redmond determined that portions of the Bear Creek site could be preserved in place, and based on Corps and consulting party review, Redmond modified its proposed

Attachment A - Amendment 1 to MOA

construction to minimize effects to the Bear Creek site, as shown in the final drawings under modified Alternate 2A in a letter to the Corps dated April 12, 2012, and as finalized in the Corps permit (NWS-2009-0242) for this project, which is incorporated by this reference; and

WHEREAS, Redmond, as signatory to the agreement agreed to adhere to the site mitigation plan (Plan) dated February 27, 2013 and titled "Cultural Resources Mitigation Plan for the City of Redmond's Bear Creek Restoration Project" to resolve the adverse effects, which is incorporated by this reference; and

WHEREAS, the Corps determined Redmond's archaeological contractor and construction contractor conducted unauthorized work (data recovery excavations, channel construction, and unmonitored construction) outside the authorized channel construction zone; and

WHEREAS, the Corps determined by performing unauthorized work outside the approved project construction limits/boundaries, the City of Redmond performed work in violation of Special Condition "d" of its Department of Army permit (Appendix A), which required compliance with the Agreement; and

WHEREAS, the Corps determined the unauthorized work outside the channel construction zone resulted in an additional adverse effect to the site; and

WHEREAS, the excavated materials (spoils), which consist of mixed artifact and non-artifact bearing sediments, resulting from the unauthorized construction have been relocated; and

WHEREAS, the spoils have been screened, and the artifacts catalogued under DAHP permit # 2014-06 and the attached treatment plan titled "Bear Creek Site 45KI839, Treatment of Sediments and Their Contents from Damaged Site Area," which is incorporated by this reference; and

NOW, THEREFORE, the Corps, FHWA, DAHP, Redmond, and WSDOT (collectively the "Parties" and individually the "Party") agree to the following stipulations to resolve adverse effects to historic properties associated with the construction damage.

STIPULATIONS

Redmond shall ensure that the following stipulations are implemented:

1. Redmond shall reimburse the Muckleshoot Indian Tribe (Muckleshoot), the Snoqualmie Indian Tribe (Snoqualmie), and the Stillaguamish Tribe (Stillaguamish), for the staff time needed to respond to the unauthorized work.
2. Redmond shall allocate an additional \$20,000 to fund the Public and Tribal Outreach mitigation measures outlined in Stipulation 1b of the original Agreement.
3. If Redmond's lithic analysts determine additional analysis of the artifacts recovered from the spoils is warranted, Redmond shall bear the cost of such analyses. Redmond's additional analysis shall be conducted in a manner that is consistent with the data recovery excavation

Attachment A - Amendment 1 to MOA

analysis as outlined in the Plan and included with the final data recovery excavation report.

4. Redmond's final report documenting the recovery, cataloging, and any analysis of artifacts recovered from the spoils shall be appended to the final data recovery excavation report.
5. Redmond shall pay for the preparation and curation of all artifacts recovered from the spoils, in addition to and at the same repository as the materials recovered from other phases of archaeological work at the site.
6. In order to meet the obligations outlined in this Amendment 1 Redmond shall utilize the services of a professional cultural resource specialist or firm with qualified personnel meeting the Secretary of the Interior's Standards specified in 36 CFR Part 61 and RCW 27.53.030 (11) to prepare a comprehensive cultural resources management plan (CRM Plan) for Redmond. Redmond shall provide the consulting parties with an opportunity to comment on the specialist or firm(s) being considered to prepare the CRM Plan, and opportunity to provide review and comment regarding the content of the Plan prior to its adoption. Redmond shall implement the CRM plan. The CRM Plan will include but not be limited to:
 - Identification of high site probability areas within the city utilizing existing materials, DAHP data, KCHPP data, and any additional information provided by the Muckleshoot, Snoqualmie, Stillaguamish, and Tulalip Tribes.
 - Protocols for identifying, investigating, and treating cultural resources, including how to address high-site probability areas.
 - Protocols for coordinating cultural resource review between the city's departments.
 - A cultural resource training plan and schedule for Redmond employees.
 - Procedures to improve existing tribal consultation protocols.
 - Inadvertent Discovery Procedures, including provisions for the discovery of human remains.
 - Emergency response protocols.
 - Monitoring protocols.

This plan shall be completed within three years of execution of this Amendment 1 and shall be consistent and integrated with Redmond's existing professional cultural resource services and agreements.

7. Redmond shall coordinate public and tribal outreach efforts developed as part of the City's CRM Plan developed as part of Stipulation 2 and Stipulation 6 of this Amendment 1.
8. Redmond shall sponsor annual, public cultural resource education workshops for a period of five years. The topics will be developed in consultation with the consulting parties.
9. Redmond shall facilitate and implement cultural resource training for appropriate Redmond employees, developed as part of the CRM plan. The schedule and intervals of training shall be determined in the CRM plan, and will cover a period of at least five years.
10. Redmond shall provide a yearly progress report, for a period of at least five years following the execution of this Amendment 1, to the consulting parties on the obligations as Stipulated. The report will include an evaluation of their effectiveness to improve cultural resource treatment and increase awareness of city employees and the public. The evaluation shall

Attachment A - Amendment 1 to MOA

address resource identification, interdepartmental and interagency coordination, consultation with concerned parties, and treatment/preservation outcomes.

Failure to comply with the terms and conditions of Amendment 1 is a violation of Redmond's Permit.

Execution of this Amendment 1 to the Memorandum of Agreement by the Corps, FHWA, DAHP, Redmond, and WSDOT, the submission of documentation and filing of this Amendment 1 to the Memorandum of Agreement with the Council pursuant to 36 CFR Section 800.6(b)(1)(iv) prior to the Corps approval of this undertaking, and implementation of its terms evidence that the Corps has taken into account the effects of this undertaking on historic properties and afforded the Council an opportunity to comment.

Attachment A - Amendment 1 to MOA

SIGNATORY PARTY:

U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT



John G. Buck
Colonel, Corps of Engineers
District Commander

Date:

29 Sep 14

Contact Information:

Chris Jenkins, Regulatory Cultural Resources Program Manager
US Army Corps of Engineers, Seattle District
P.O. Box 3755
Seattle WA 98124
(206) 764-6941
Paul.C.Jenkins @usace.army.mil

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA

SIGNATORY PARTY:

THE FEDERAL HIGHWAY ADMINISTRATION



By: Daniel M. Mathis Date: 09/19/2014

Title: Division Administrator
Daniel M. Mathis
Division Administrator

Contact Information:

Anthony Sarhan
Washington Division
Federal Highway Administration
711 Capitol Way, Suite 501
Olympia, Washington 98501
Phone: 360-753-9558
E-mail: Anthony.Sarhan@dot.gov

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA

SIGNATORY PARTY:

THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY & HISTORIC
PRESERVATION

RECEIVED

SEP 22 2014

REGULATORY

By:



Date:

9/15/14

Title:

State Historic Preservation Officer

Allyson Brooks, Ph. D.

State Historic Preservation Officer

Contact Information:

Matthew Sterner, M.A.
Transportation Archaeologist
Department of Archaeology and Historic Preservation
1062 S. Capitol Way, Suite 106
Olympia, WA 98501
360.586.3082 (voice)
360.280.7563 (cell)

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA

SIGNATORY PARTY:

THE CITY OF REDMOND

By: MCORBO Date: 8/29/14

Title: for
John Marchione
Mayor

Contact Information:

Michael Haley, P.E.
Senior Project Manager
Public Works
City of Redmond
425-556-2843
mhaley@redmond.gov

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA



City of Redmond
WASHINGTON

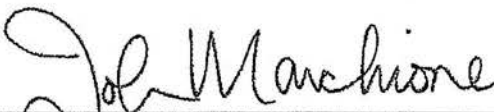
May 4, 2012

TO: Mike Bailey, Finance Director

FM: John Marchione, Mayor

RE: Delegation of Signing Authority

With this memorandum I am delegating my signature authority on City contracts and travel requests to you. In addition, I delegate authority to make day-to-day operating decisions in my absence.



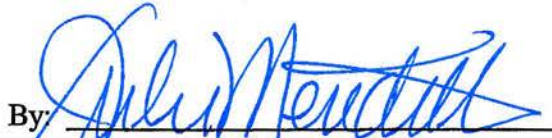
John Marchione, Mayor

cc: Directors' Team
Michelle McGehee
Talley Hudson

Attachment A - Amendment 1 to MOA

SIGNATORY PARTY:

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

By:  Date: 8/5/14

Title: SR 520 Program Director
Julie Meredith, P. E.
SR520 Program Director

Contact Information:

Steve Archer
Cultural Resources Specialist
WSDOT ESO Mega Projects
999 3rd Avenue, Suite 2424
Seattle, WA 98104
(206) 805-2895 (office)
(206) 714-4681 (cell)
archers@wsdot.wa.gov

Designated by WSDOT as Agreement Number GCB 1394.

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA

CONCURRING PARTY:

MUCKLESHOOT INDIAN TRIBE

By: _____ Date: _____

Title: _____

Virginia Cross

Tribal Council Chairperson

Contact Information:

Laura R. Murphy

Archaeologist

Muckleshoot Indian Tribe

39015 172nd Ave. SE

Auburn, WA 98092-9763

(253) 876-3272

laura.murphy@muckleshoot.nsn.us

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA

SUBJECT: Addendum to MOA Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington (DA Permit No. NWS-2009-0242).

CONCURRING PARTY:

SNOQUALMIE INDIAN TRIBE

By: Carolyn Lubenau Date: 6-25-2014

Title: Chairwoman
Carolyn Lubenau
Chair, Snoqualmie Indian Tribe

Contact Information:

Steven Mullen-Moses
Director Archaeology & Historic Preservation
Snoqualmie Indian Tribe
Desk: 425-888-6551 x1106
Cell: 425 -495-6097
steve@snoqualmienation.com

Note: Signatures continued on next page.

Stillaguamish Tribe of Indians

PO Box 277
3310 Smokey Point Drive
Arlington WA 98223



September 12, 2014

Chris Jenkins
Cultural Resource Program Manager
Tribal Relations Specialist
Regulatory Branch
Seattle District, USACE
P.O. Box 3755
Seattle WA 98124

Re: ***Bear Creek Memorandum of Agreement Amendment 1***

Dear Mr. Jenkins:

Enclosed you will find the original signature page of the Bear Creek Memorandum of Agreement, Amendment 1, which has been signed by Chairman Yanity.

As always, should you have any questions or concerns, please feel free to contact us.

Very truly yours,

KRISTIN MICHAUD
Paralegal

/s


Enclosures

cc: Ms. Tara Boser
Mr. Kerry Lyste

Attachment A - Amendment 1 to MOA

CONCURRING PARTY:

STILLAGUAMISH TRIBE

By:  Date: 8-14-14

Title: Chairman
Shawn Yanity
Chair, Stillaguamish Tribe of Indians

Contact Information:

Kerry Lyste
Cultural Resources
GIS Analyst/ Database Administrator
Stillaguamish Tribe of Indians
360-652-7362 ext 226
klyste@stillaguamish.com

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA

CONCURRING PARTY:

TULALIP TRIBES

By: _____ Date: _____

Title: _____

Herman Williams SR.
Chair, Tulalip Tribes

Contact Information:

Richard Young
Hibulb Cultural Center &
Natural History Preserve
6410 23rd Avenue, N.E.
Tulalip, WA 98271
ryoung@tulaliptribes.nsn.gov
(360) 716-2652
(425) 239-0182 - Message

Note: Signatures continued on next page.

Attachment A - Amendment 1 to MOA
CONCURRING PARTY:

KING COUNTY HISTORIC PRESERVATION PROGRAM

By: _____

Julie Koler

Date: _____

8/4/14



Title: _____

Julie Koler

Historic Preservation Officer, King County

Contact Information:

Philippe D. LeTourneau, PhD

Archaeologist

King County Historic Preservation Program

Department of Natural Resources and Parks

201 South Jackson Street, Suite 700 [MS: KSC-NR-0700]

Seattle, WA 98104

206 477-4529

Philippe.LeTourneau@kingcounty.gov

Note: End of signature pages.

Attachment A - Amendment 1 to MOA

Appendix A Department of Army permit Special Condition d

The Memorandum of Agreement (MOA), titled "Memorandum of Agreement among the U.S. Army Corps of Engineers (Corps), the Federal Highway Administration, the Washington State Department of Archaeology & Historic Preservation, the City of Redmond, and the Washington State Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington", and signed by these entities, will be implemented in its entirety. The Corps has been designated the lead Federal agency responsible for implementing and enforcing the MOA as signed. If you fail to comply with the implementation and associated enforcement of MOA the Corps may determine that you are out of compliance 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.

Attachment A - Amendment 2 to MOA

AMENDMENT 2

TO

MEMORANDUM OF AGREEMENT

AMONG

THE U.S. ARMY CORPS OF ENGINEERS,

THE FEDERAL HIGHWAY ADMINISTRATION,

THE WASHINGTON STATE DEPARTMENT OF
ARCHAEOLOGY & HISTORIC PRESERVATION,

THE CITY OF REDMOND, AND

THE WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

REGARDING TREATMENT OF ADVERSE EFFECTS TO
THE BEAR CREEK SITE (45KI839), REDMOND, KING COUNTY, WASHINGTON

WHEREAS, U.S. Army Corps of Engineers, Seattle District Regulatory Branch (Corps) entered into a Memorandum of Agreement (Agreement) as amended (Amendment 1) with the City of Redmond (Redmond), Federal Highway Administration (FHWA), Washington State Department of Transportation (WSDOT) and Washington State Department of Archaeology & Historic Preservation (DAHP), for a fisheries habitat restoration project located at the lower reach of Bear Creek just south of the Redmond Town Center, T25N, R5E, sec12, W.M., Bellevue North USGS 7.5' quadrangle, King County, Washington (the "Project"), which is incorporated by this reference; and

WHEREAS, the terms and conditions of the Agreement and Amendment 1 not modified by this amendment (Amendment 2) are still in force; and

WHEREAS, the Corps, in consultation with DAHP, Redmond, WSDOT, and FHWA, have determined Amendment 1, Stipulation 6, requires modification to reflect a change in the suspense date for Redmond to complete a comprehensive cultural resources management plan (CRM Plan) and

NOW, THEREFORE, the Corps, SHPO, Redmond, WSDOT, and FHWA agree that the following stipulation will be implemented to amend Amendment 1 to the original Agreement.


STIPULATION

1. This CRM Plan completion date shall be extended by one year to September 29, 2018.

Attachment A - Amendment 2 to MOA

SIGNATORY PARTY:

U.S. ARMY CORPS OF ENGINEERS, SEATTLE DISTRICT

for 
Mark A. Gerald
Colonel, Corps of Engineers
District Commander

Date: 9/11/17

Contact Information:

Chris Jenkins, Regulatory Cultural Resources Program Manager
US Army Corps of Engineers, Seattle District
P.O. Box 3755
Seattle WA 98124
(206) 764-6941
Cultural.Resources@usace.army.mil

Note: Signatures continued on next page.

Attachment A - Amendment 2 to MOA

SIGNATORY PARTY:

THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY & HISTORIC
PRESERVATION

By:  Date: 8/14/17

Title: State Historic Preservation Officer
Allyson Brooks, Ph. D.
State Historic Preservation Officer

Contact Information:

Matthew Sterner, M.A.
Transportation Archaeologist
Department of Archaeology and Historic Preservation
1062 S. Capitol Way, Suite 106
Olympia, WA 98501
360.586.3082 (voice)
360.280.7563 (cell)

Note: Signatures continued on next page.

Attachment A - Amendment 2 to MOA

SIGNATORY PARTY:

THE CITY OF REDMOND

By: 

Date: 8/30/2017

Title: FINANCE DIRECTOR

for John Marchione

Mayor

Contact Information:

Michael Haley, P.E.
Senior Project Manager
Public Works
City of Redmond
425-556-2843
mhaley@redmond.gov

Note: Signatures continued on next page.

Attachment A - Amendment 2 to MOA

SIGNATORY PARTY:

THE FEDERAL HIGHWAY ADMINISTRATION

By: Daniel M. Mathis Date: 09/05/2017

Title: Division Administrator
Daniel M. Mathis
Division Administrator

Contact Information:

Anthony Sarhan
Washington Division
Federal Highway Administration
711 Capitol Way, Suite 501
Olympia, Washington 98501
Phone: 360-753-9558
E-mail: Anthony.Sarhan@dot.gov

Note: Signatures continued on next page.

Attachment A - Amendment 2 to MOA

SIGNATORY PARTY:

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

By: Julie Meredith Date: 8/14/17

Title: SR520 PROGRAM DIRECTOR
Julie Meredith, P. E.
SR520 Program Director

Contact Information:

Cassandra Manetas
Cultural Resources Specialist
WSDOT ESO Mega Projects
999 3rd Avenue, Suite 2424
Seattle, WA 98104
(206) 805-2895 (office)
(206) 714-7158 (cell)
manetac@wsdot.wa.gov

Designated by WSDOT as Agreement Number GCB 1394.

Note: Signatures continued on next page.

Attachment A - Amendment 2 to MOA

CONCURRING PARTY:

MUCKLESHOOT INDIAN TRIBE

By: _____ Date: _____

Title: _____

Virginia Cross

Tribal Council Chairperson

Contact Information:

Laura R. Murphy

Archaeologist

Muckleshoot Indian Tribe

39015 172nd Ave. SE

Auburn, WA 98092-9763

(253) 876-3272

laura.murphy@muckleshoot.nsn.us

Note: Signatures continued on next page.

Attachment A - Amendment 2 to MOA

CONCURRING PARTY:

SNOQUALMIE INDIAN TRIBE

By: Sunny E. Clear Date: 9/01/17

Title: Sunny E. Clear
Sunny Clear
Chair, Snoqualmie Indian Tribe

Contact Information:

Steven Mullen-Moses
Director Archaeology & Historic Preservation
Snoqualmie Indian Tribe
Desk: 425-888-6551 x1106
Cell: 425 -495-6097
steve@snoqualmienation.com

Note: Signatures continued on next page.



Stillaguamish Tribe of Indians

PO Box 277 3322 236th St. NE
Arlington, WA 98223

BOARD OF DIRECTORS

Resolution 2017/131

APPROVING AMENDMENT 2 TO MEMORANDUM OF AGREEMENT AMONG THE U.S. ARMY CORPS OF ENGINEERS, THE FEDERAL HIGHWAY ADMINISTRATION, THE WASHINGTON STATE DEPARTMENT OF ARCHAEOLOGY & HISTORIC PRESERVATION, THE CITY OF REDMOND, and the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION re: TREATMENT OF ADVERSE EFFECTS TO THE BEAR CREEK SITE (45KI839), IN REDMOND, KING COUNTY, WASHINGTON

WHEREAS, the Stillaguamish Tribe of Indians is a party to the Treaty of Point Elliott of January 22, 1855, 12 Stat. 927; and is a sovereign, Federally Recognized tribe, which the U.S. Government acknowledged in October 1976; and

WHEREAS, the Stillaguamish Tribe of Indians Board of Directors is the duly constituted Governing Body of the Stillaguamish Tribe of Indians, in accordance with Articles III, IV and V of the Stillaguamish Constitution; and

WHEREAS, the Stillaguamish Tribe of Indians Board of Directors, acting in the best interest of its people is embarked on a course of self-determination; and

WHEREAS, the authority to protect the Tribe as a sovereign political entity is vested in the Stillaguamish Tribe of Indians Board of Directors ("Board of Directors" or "Board") under Article III and Article V, Sec. 1 of the Constitution, which Board has enumerated authority under Article V, Sec. 1 (b) to administer the affairs and assets of the Tribe, develop appropriate contracts, leases, permits, loan documents, sale agreements and, under Article V, Sec. 1(h), to exercise other necessary powers to fulfill the Board's obligations, responsibilities and purposes as the governing body of the Tribe; and

WHEREAS, the Board previously adopted Resolutions 2013/010 and 2014/14 approving the Memorandum of Agreement ("Bear Creek MOA") and Amendment 1 regarding the Bear Creek restoration project near the Redmond town center uncovered the highly significant approximately 10,000-year old Bear Creek archaeological site (Site No. 45KI839), certified copies of which are attached hereto and incorporated by reference; and

Attachment A - Amendment 2 to MOA

WHEREAS, the parties find it mutually beneficial to extend the CRM Plan completion date under the Bear Creek MOA to September 29, 2018, and to that end have created an Amendment 2 to the Bear Creek MOA, also attached herein and incorporated by reference ; and

WHEREAS, the Tribe is a Concurring Party to the Bear Creek MOA, and the Board finds that it would be in the best interests of the Tribe to execute the Amendment 2 to the Bear Creek MOA; now

THEREFORE BE IT RESOLVED, that the Stillaguamish Tribe Board of Directors hereby authorizes the Chairman, or in his absence the Vice-Chairperson, to execute the Amendment 2 to the Bear Creek MOA and to take all steps necessary to carry this Resolution into effect.

BE IT FURTHER RESOLVED, that the Board of Directors authorizes the Chairman, or in his absence the Vice-Chairman, and Secretary to certify this Resolution.

CERTIFICATION

As Chairman and Secretary of the Stillaguamish Tribal Board of Directors, we hereby certify that the above resolution was duly adopted at a meeting of the Stillaguamish Tribal Board of Directors held on the 17 day of August, 2017 at which time a quorum was present and a vote of 5 for 0 opposed and 0 abstain was cast.

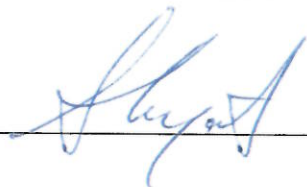

SHAWN YANITY, Chairman


PATRICIA PECOR, Secretary

Attachment A - Amendment 2 to MOA

CONCURRING PARTY:

STILLAGUAMISH TRIBE

By:  Date: 8-17-17

Title: Chairman
Shawn Yanity
Chair, Stillaguamish Tribe of Indians

Contact Information:

Kerry Lyste
THPO/ GIS Database Administrator
Stillaguamish Tribe of Indians
360-572-3072
klyste@stillaguamish.com

Note: Signatures continued on next page.



Stephenie Kramer
Assistant State Archaeologist
Department of Archaeology and Historic Preservation
P.O. Box 48343
Olympia, WA 98504-8343

RE: Stipulations and Settlement Regarding Notice of Violation
Notice of Violation 45KI839 Letter to Mike Haley dated October 23, 2013
Log: 071310-08-COE-S
Property: Lower Bear Creek Rehabilitation Project

Dear Ms. Kramer:

Please find attached 2 executed copies of the Stipulations and Settlement Regarding Notice of Violation. Please return one final executed copies to my attention.

Let me know if you have any questions.

Sincerely,

Michael Haley, P.E.
Senior Project Manager
City of Redmond
MS: 1NPW
P.O. Box 97010
Redmond, WA 98073-9710

Attachment:

cc Mike Paul, City of Redmond
Chris Jenkins USACOE

BEFORE THE WASHINGTON STATE DEPARTMENT
OF ARCHAEOLOGY AND HISTORIC PRESERVATION

Department of Archaeology and Historic
Preservation,

Petitioner,

v.

City of Redmond,

Respondent.

DAHP Case No. 2014-3-KI-839

**STIPULATION AND
SETTLEMENT REGARDING
NOTICE OF VIOLATION**

The City of Redmond (City), by and through its attorneys of record, JAMES E. HANEY of the law firm of Ogden Murphy Wallace, PLLC, and the Department of Archeology and Historic Preservation (DAHP) by and through its attorneys of record, SANDRA C. ADIX , Assistant Attorney General, hereby agree to settle the above-contested matter on the following terms:

I. STIPULATION

1. An archaeological site, 45KI839 ("the site"), containing ancient lithic materials (stone tools) is located along a portion of Lower Bear Creek in Redmond. The site is dated to the Late Pleistocene at approximately 8800 Years BP. The site is determined Eligible for listing in the National Register of Historic Places for its ability to contribute important data about prehistory.

Attachment A - DAHP Settlement

1 2. The City of Redmond recognized the historical and archaeological significance
2 of the site in 2008. During preparations, permitting, and environmental review for a channel
3 restoration project on Bear Creek ("the project"), the City applied for a Section 404 Permit
4 from the U.S. Army Corps of Engineers. The review of the Section 404 permit triggered
5 Section 106 of the National Historic Preservation Act of 1966, with the U.S. Army Corps of
6 Engineers (USACOE) acting as Lead Federal Agency for Section 106 review of the project,
7 including the site. The USACOE determined that the project would have an adverse effect on
8 the site. The USACOE conducted consultations with the City, the affected Tribes, the DAHP
9 and other consulting parties and agreed on appropriate mitigation measures for the site and
10 these measures were codified in a Memorandum of Agreement entitled "*Memorandum of*
11 *Agreement Among the U.S. Army Corps of Engineers, the Federal Highway Administration,*
12 *the Washington State Department of Archaeology & Historic Preservation, the City of*
13 *Redmond, and the Washington State Department of Transportation Regarding Treatment of*
14 *Adverse Effects to the Bear Creek Site (45KI839), Redmond, King County, Washington.*

15 3. The project was also subject to the Archaeological Sites and Resources Act
16 (RCW 27.53) which prohibits knowingly excavating or disturbing prehistoric and historic
17 archaeological sites on public or private land.

18 4. Under the stipulations of the MOA, a portion of the site was to be excavated by
19 professional archaeologists, and another portion ("preservation area") was to be preserved in
20 place, among other treatments.

21 5. On September 3, 2013, a portion of the preservation area of the site was
22 excavated, by a sub-contractor to the City. The USACOE issued an Administrative Penalty of
23 \$32,500 to the City for violation of their Section 404 permit. In addition to the Administrative
24 Penalty, the USACOE also consulted with the DAHP, the affected Tribes, WSDOT and the
25
26

Attachment A - DAHP Settlement

1 City and collectively determined mitigation measures to address the excavation into the
2 preservation area of the site.

3 6. Concurrently, the DAHP notified the City that because of the unauthorized
4 excavations into the preservation area, the City appeared to be in violation of RCW 27.53.
5 Among other on-site measures, DAHP Requested the City obtain the services of an
6 independent investigator and prepare a damage assessment and an incident report/audit of the
7 conditions and actions leading up to and causing the damage to occur.

8 7. The City acquiesced to DAHP's request and an independent consultant
9 produced a draft independent document entitled *Damage Assessment for the Bear Creek Site*
10 *45KI839, King County, Washington* in July 2014 and a final in November 2014.

11 8. Under the USACOE's process, in which DAHP participated, the mitigation
12 measures were codified in *Amendment 1 to "Memorandum of Agreement Among the U.S. Army*
13 *Corps of Engineers, the Federal Highway Administration, the Washington State Department of*
14 *Archaeology & Historic Preservation, the City of Redmond, and the Washington State*
15 *Department of Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site*
16 *(45KI839), Redmond, King County, Washington.*

17 9. The mitigation measures included: reimbursing the affected Tribes for their
18 consultation expenses, contributing \$20,000 to the Tribal and Public Outreach fund, expend
19 funds to screen disturbed soils for artifacts, and have the artifacts professionally analyzed and
20 curated, and to retain the services of a professional archaeological firm to assist and design a
21 comprehensive CRMP for the City including the following: develop an archaeological
22 probability model for the City, develop protocols for identifying and treating archaeological
23 resources, develop an internal process and protocol for reviewing projects, staff training, tribal
24 consultation, inadvertent discovery and emergency response protocols, among others.

Attachment A - DAHP Settlement

10. In the report entitled *Damage Assessment for the Bear Creek Site 45K1839 King County, Washington*, the independent investigator calculated three different types of damage, although not all types of damage were calculable. DAHP accepts the findings of the investigator with one exception. The total for all three types of damage was calculated at \$394,739.00. The investigator included, in her calculations, \$2,100 for the commercial value of the artifacts. Commercial value is not calculable under WAC 25-48-043. Therefore, DAHP calculates the damage at \$392,639.00, the investigator's calculation less the commercial value.

11. The investigator made multiple recommendations for standards of work and educational actions that could improve processes for project of this type in the future. Restoration of the site area and recovery of the artifacts was executed by the City under the stipulations of the Amendment 1 of the MOA directed by the USACOE.

12. The City acknowledges DAHP's position that the disturbance of 45KI839 met the legal standard required to be a knowing violation under RCW 27.53.060. Without admitting the violation, however, the City has agreed to comply with the conditions set forth in this stipulation in order to fully resolve the matter.

13. The parties agree that it is in the best interest of the parties and the State to conclude the matter and move forward towards further preservation and meaningful oversight of archaeological sites in the City rather than seek further executive or judicial review of this matter.

II. SETTLEMENT

Based on the above stipulation, the parties hereby agree to settle this matter in its entirety by entering into the following terms:

14. The City will undertake and fulfill the stipulations set forth in the MOA entitled *Amendment 1 to "Memorandum of Agreement Among the U.S. Army Corps of Engineers, the Federal Highway Administration, the Washington State Department of Archaeology &*

Attachment A - DAHP Settlement

1 *Historic Preservation, the City of Redmond, and the Washington State Department of*
2 *Transportation Regarding Treatment of Adverse Effects to the Bear Creek Site (45KI839),*
3 *Redmond, King County, Washington.* The City will provide DAHP and the affected Tribes a
4 copy of the yearly progress report specified in Stipulation 10 of the MOA.

5 15. The City will incorporate the recommendations of the Investigator in the CRMP
6 and site review process that will be developed by the consultant under the stipulations of the
7 Amendment 1 of the MOA referenced in Paragraph 14, and in future City Projects where
8 archaeological sites are identified.

9 16. DAHP and the City agree that the stipulations of the MOA, the payment of the
10 \$32,000 USACOE fine, and the City's sponsorship and preparation of the report entitled
11 *Damage Assessment for the Bear Creek Site 45KI839 King County, Washington* reflects a good
12 faith effort to correct the site damage and to fully satisfy and resolve the notice of violation.

13 17. The City agrees to send two City staff to the Fall 2015 Washington State
14 Cultural Resources Training and three additional City staff to the Spring 2016 training. The
15 timeliness of this training will enable and assist City staff in executing MOA stipulations
16 summarized in paragraph 9. The cost of the training is anticipated to be \$350 per person plus
17 in-state travel costs.

18 18. The City agrees to send three City staff to the two day conference entitled
19 Cultural Resources Protection Summit hosted by the Suquamish Tribe, either in 2015 or 2016.
20 The cost of the conference is anticipated to be \$425 per person plus in-state travel costs.

21 19. The City and DAHP agree that completion of the items in paragraphs 14, 15,
22 17, and 18, will satisfactorily mitigate to \$0 the \$5000 civil penalty that DAHP would
23 otherwise normally assess and will fully and finally resolve and satisfy all matters related to
24 the notice of violation.
25
26

Attachment A - DAHP Settlement

20. The City will comply with RCW 27.53 and other state or federal law protecting archaeological and historical sites and resources, historic graves and cemeteries, and Indian graves and records.

//


//

//

DATED this 14th day of May, 2015.

DIRECTOR OF PUBLIC WORKS
City of Redmond

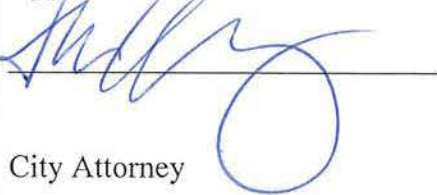
DIRECTOR OF ARCHAEOLOGY AND
HISTORIC PRESERVATION


Linda De Boldt, P.E.

Dated: _____

Allyson Brooks
Dated: _____

Approved as to Form


City Attorney

Approved as to Form

Sandra C. Adix,
Assistant Attorney General