



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 119647

Record No.: CB 119647

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125943

In Control: City Clerk

File Created: 08/20/2019

Final Action: 10/04/2019

**Title:** AN ORDINANCE authorizing the General Manager/CEO of Seattle Public Utilities to execute a memorandum of agreement between The City of Seattle and the Muckleshoot Indian Tribe for the transfer and curation of the Chester Morse Collection; and ratifying and confirming certain prior acts.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Juarez

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att 1 - Collection Transfer and Curation Agreement

Drafter: bob.hennessey@seattle.gov

Filing Requirements/Dept Action:

### History of Legislative File

Legal Notice Published:

Yes

No

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	09/03/2019	sent for review	Council President's Office			
1	Mayor	09/03/2019	Mayor's leg transmitted to Council	City Clerk			
1	Council President's Office	09/09/2019	sent for review	Civic Development, Public Assets, and Native Communities Committee			

**Action Text:** The Council Bill (CB) was sent for review. to the Civic Development, Public Assets, and Native Communities Committee

**Legislative Summary Continued (CB 119647)**

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- 1 City Council 09/16/2019 referred Civic Development, Public Assets, and Native Communities Committee
- 1 Civic Development, Public Assets, and Native Communities Committee 09/18/2019 pass Pass  
**Action Text:** The Committee recommends that City Council pass the Council Bill (CB).  
In Favor: 3 Chair Juarez, Vice Chair Bagshaw, Member González  
Opposed: 0
- 1 City Council 09/23/2019 passed Pass  
**Action Text:** The Council Bill (CB) was passed by the following vote, and the President signed the Bill:  
In Favor: 7 Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Pacheco  
Opposed: 0  
Absent(NV): 2 Councilmember Herbold, Councilmember Sawant
- 1 City Clerk 09/27/2019 submitted for Mayor's signature Mayor
- 1 Mayor 10/04/2019 Signed  
**Action Text:** The Council Bill (CB) was Signed.
- 1 Mayor 10/04/2019 returned City Clerk  
**Action Text:** The Council Bill (CB) was returned. to the City Clerk
- 1 City Clerk 10/04/2019 attested by City Clerk  
**Action Text:** The Ordinance (Ord) was attested by City Clerk.
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**CITY OF SEATTLE**

**ORDINANCE** 125943

**COUNCIL BILL** 119647

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4  
5 AN ORDINANCE authorizing the General Manager/CEO of Seattle Public Utilities to execute a  
6 memorandum of agreement between The City of Seattle and the Muckleshoot Indian  
7 Tribe for the transfer and curation of the Chester Morse Collection; and ratifying and  
8 confirming certain prior acts.

9  
10 WHEREAS, the City has responsibility under federal and other applicable laws to preserve for  
11 future use a collection it holds of archaeological artifacts, specimens and associated  
12 records pertaining to the sites identified as the Chester Morse Collection or 45-KI-25, 45-  
13 KI-27, 45-KI-29, 45-KI-30, 45-KI-31, 45-KI-32, 45-KI-298, 45-KI-299, and 45-KI-300  
14 (“the Collection”), and Seattle wishes to cede and transfer all of its interest and control  
15 over the Collection to a qualified curation facility; and

16 WHEREAS, the Muckleshoot Indian Tribe (MIT) is desirous of obtaining, housing, and  
17 maintaining the Collection, which holds historic and cultural significance for MIT and  
18 other tribes of the region, and intends to house and maintain the Collection consistent  
19 with federal law and within the mission of its Preservation Program and Repository to  
20 preserve and protect the Tribe’s ancestral heritage; and

21 WHEREAS, the Parties have provided notice of intent to transfer with U.S. Army Corps of  
22 Engineers, Washington Department of Archaeology and Historic Preservation, the  
23 Snoqualmie Tribe, Yakama Indian Nation, and Tulalip Tribes on Seattle’s desire to  
24 transfer the Collection; and

25 WHEREAS, the Parties recognize the mutual benefits to be derived by having the Collection  
26 permanently managed, housed and maintained in MIT’s Repository, and recognize the  
27 benefits which will accrue to public and tribal scientific interests by having MIT house

1           and maintain the Collection for study and other educational purposes; NOW,

2           THEREFORE,

3 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

4           Section 1. The General Manager/CEO of Seattle Public Utilities is authorized to execute,  
5 for and on behalf of The City of Seattle, a memorandum of Agreement between The City of  
6 Seattle and the Muckleshoot Indian Tribe for the transfer and curation of the Chester Morse  
7 Collection, substantially in the form of Attachment 1 to this ordinance.

8           Section 2. Any act consistent with the authority of this ordinance taken after its passage  
9 and prior to its effective date is ratified and confirmed.

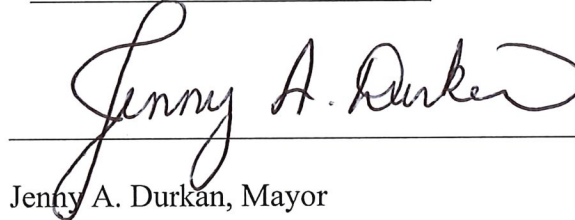
1 Section 3. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 23<sup>rd</sup> day of September, 2019,  
5 and signed by me in open session in authentication of its passage this 23<sup>rd</sup> day of  
6 September, 2019.

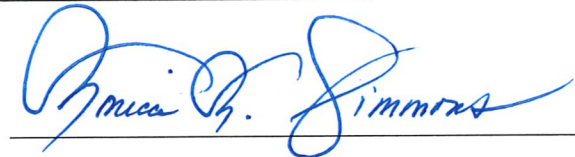
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8 President \_\_\_\_\_ of the City Council

9 Approved by me this 4<sup>th</sup> day of October, 2019.

10   
11 Jenny A. Durkan, Mayor

12 Filed by me this 4<sup>th</sup> day of OCTOBER, 2019.

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14 Monica Martinez Simmons, City Clerk

15 (Seal)  
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20 Attachments:

21 Attachment 1 – Collection Transfer and Curation Agreement Between The City of Seattle and  
22 the Muckleshoot Indian Tribe

## **Collection Transfer and Curation Agreement**

### **Between the**

### **City of Seattle and the Muckleshoot Indian Tribe**

This Memorandum of Agreement ("MOA") is entered into between Seattle Public Utilities and Seattle City Light (collectively referred to as "Seattle") and the Muckleshoot Indian Tribe (MIT), a federally recognized Indian tribe, (collectively referred to as "the Parties") in the State of Washington.

Whereas, Seattle has the responsibility under federal and other applicable laws to preserve for future use a collection it holds of archaeological artifacts, specimens and associated records pertaining to the sites identified as the Chester Morse Collection or 45-KI-25, 45-KI-27, 45-KI-29, 45-KI-30, 45-KI-31, 45-KI-32, 45-KI-298, 45-KI-299, and 45-KI-300 ("the Collection") and Seattle wishes to cede and transfer all of its ownership interest and control over the Collection to a qualified curation facility; and

Whereas, MIT is desirous of obtaining, housing and maintaining the Collection, which holds historic and cultural significance for MIT and other tribes of the region, and intends to house and maintain the Collection consistent with federal law and within the mission of its Preservation Program and Repository to preserve and protect the Tribe's ancestral heritage; and

Whereas, the Parties have provided notice of intent to transfer with U.S. Army Corps of Engineers, Washington Department of Archaeology and Historic Preservation, the Snoqualmie Tribe, Yakama Indian Nation, and Tulalip Tribes on Seattle's desire to transfer the Collection; and

Whereas, the Parties recognize the mutual benefits to be derived by having the Collection permanently managed, housed and maintained in MIT's Repository, and recognize the benefits which will accrue to public and tribal scientific interests by having MIT house and maintain the Collection for study and other educational purposes;

Now therefore, the Parties do mutually agree as follows:

#### **1. TITLE**

By execution of this MOA, Seattle's representative asserts that they have full authority to quit claim and convey Seattle's interests in the Collection to the Muckleshoot Tribe, and Seattle relinquishes all title and claim to the Collection, including data, specimens, objects and documents, and associated copyrights.

MIT will receive the transfer of title to all data, specimens, objects or documents associated with the Collection which are in the possession of Seattle, or were loaned to other facilities, or retained by researchers or firms who have kept them while employed on work associated with the Collection.

MIT has had the opportunity to observe, participate, and train during preparation processing of the Collection at SPU's Gale Archives located at the Cedar River Watershed Education Center, is satisfied

\*SWD later became Seattle Public Utilities

that the Collection has been properly processed, and waives any objections or claims concerning the curation of the Collection.

## **2. OBLIGATIONS OF MIT AND REPOSITORY**

MIT shall:

- a. Accept the transfer of and permanent custody of the Collection as described in Attachment A;
- b. Perform all work necessary to protect the Collection and maintain records in accordance with the regulations at 36 CFR part 79 regarding curation of federally-owned and administered archaeological collections, and provide a summary of costs of such work to Seattle;
- d. Maintain the integrity of the Collection, and in no way adversely alter or deface any part of the Collection except as may be deemed necessary in the course of stabilization, conservation, scientific study analysis or research repair or restoration. MIT reserves the right to have the Collection reviewed by a professional archaeologist to determine whether to retain smaller samples of soils and cull fire cracked rock if smaller samples are sufficient and the Collection contains samples in excess of standards, and to deaccession, and dispose of these materials using professional museum standards of disposal;
- e. Review and approve or deny requests for access to or short-term loan of the Collection (or a part thereof) for scientific, educational or religious uses in accordance with regulations 36 CFR part 79 for the curation of federally-owned and administered archaeological collections, and assure that when all or part of the Collection is loaned for a term to a qualified party or institution, that the obligations and applicable standards for care and inspection are met by the borrowing institution pursuant to appropriate loan agreements.
- f. Refrain from taking any action whereby any part of the Collection shall be encumbered, seized, taken in execution, sold, attached, lost, stolen, destroyed or damaged, and observe procedures at 36 CRF 79 for deaccession of collections.

## **3. OBLIGATIONS OF SEATTLE**

Seattle shall;

- a. Within 90 days of execution of this Agreement, deliver or cause to be delivered to the Muckleshoot Tribe's Repository the Collection as described in Attachment A, prepared for curation consistent with requirements of the Cultural Resources Mitigation Plan, Cedar Falls Improvement Project.
- b. Secure all permissions, assents, and /or agreements to authorize the transfer of the Collection as contemplated by this MOA that are required from the signatory parties to the Memorandum of Agreement for the Safety Improvements to Cedar Masonry Dam and Associated Facilities 1986, developed under Section 106 of the National Historic Preservation Act. For the purposes of this MOA only, Seattle agrees to undertake the actions described in this section without waiving any objections that it is not a signatory to the Memorandum of Agreement Among the U.S. Army Corps of Engineers, the Advisory Council on Historic Preservation, and the Washington State Historic Preservation Officer of

\*SWD later became Seattle Public Utilities

1986 and does not have custodian responsibilities for any artifacts subject to that agreement under Section 106 of the National Historic Preservation Act.

#### 4. REMOVAL FOR LOAN, EXHIBITS, PHOTOGRAPHS

a. Removal of all or any portion of the Collection from the premises of MIT's Repository for scientific, educational or religious purposes will be in accordance with the federal regulations at 36 CFR part 79 and any other reasonable conditions for handling, packaging and transporting the Collections that may be specified by MIT in order to prevent breakage, deterioration, and contamination.

b. The Collection or portions thereof may be exhibited, photographed, or otherwise reproduced and studied in accordance with the terms and conditions stipulated in federal regulations at 36 CFR part 79. Exhibits and with terms and conditions stipulated by MIT. Reproductions and studies utilizing the Collection shall credit use as MIT may direct but shall at minimum include information that the Collection is owned by the Muckleshoot Indian Tribe and originated with Seattle.

#### 6. EFFECTIVE DATE, DEFAULT OR TERMINATION

This Agreement shall be effective once it has been duly executed by both parties and is expected to transfer title and provide permanent housing at MIT's Repository, or MIT will transfer the Collection to another local federally approved tribal facility if available, or to another qualified curation facility, in a manner assuring the integrity and safety of the Collection. By executing this agreement with MIT, Seattle has conveyed title, transferred permanent custody of the artifacts and will no longer bear custodial responsibilities for the artifacts.

By execution of this Agreement, Seattle represents to MIT that to the best of its knowledge, none of the Collection has been exported from its country of origin in violation of the 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, nor illegally collected without a permit within the United States.

#### PARTY SIGNATORIES

In witness whereof, the Parties hereto have executed this Memorandum.

  
\_\_\_\_\_

Mami Hara, General Manager/CEO Seattle Public Utilities

7.9.19

Date

  
\_\_\_\_\_

Jaison Elkins, Chairperson Muckleshoot Indian Tribal Council

6-21-19

Date

\*SWD later became Seattle Public Utilities



**Attachments:**

A: Chester Morse Lake Collection Description

B: Resolution of the Muckleshoot Indian Tribe

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## Attachment A: Chester Morse Lake Collection Description

### Background

In 1986, the US Army Corps of Engineers (USACE) issued a permit for safety improvements to the Seattle City Light (SCL)/Seattle Water Department (SWD\*) Cedar Masonry Dam and construction of the Overflow Dike. The permit generated a Cultural Resources Mitigation Plan, which led to a Memorandum of Agreement (MOA) between USACE, the Advisory Council on Historic Preservation (ACHP) and the Washington State Historic Preservation Officer (SHPO), with SCL, SWD and the King County Historic Preservation Officer concurring.

The MOA directed the City to complete the identification and evaluation of all archaeological properties that may be affected by project-related construction, operations, and maintenance. Specifically, this included reconnaissance and inventory of areas included within the maximum allowable Masonry Pool and Morse Lake Levels during a probable maximum flood event (PMF) of 1,570'. The elevations surveyed were from 1,533' (lowest the Lake reached in 1987) to 1,570'. Letters were sent to four federally recognized Tribes (Snoqualmie, Muckleshoot, Tulalip, and Yakama) notifying them of the planned investigations.

The Washington State University (WSU) Center for Northwest Anthropology was hired by SCL/SWD to conduct the investigations of the shoreline in 1986 and 1987. BOAS, Inc. was hired as a subcontractor to complete the fieldwork.

The Cultural Resources Mitigation Plan, which was implemented from 1986 through 1989, located nine pre-contact hunter-gatherer sites along the shores of Chester Morse Lake. Two sites (45KI25 and 45KI32) on either side of the Outlet Channel were the largest and provided the most information and artifacts. The Chester Morse Lake Archaeological District (State Register #DT00073) was nominated and accepted for the National Register of Historic Places and includes all nine sites.

### Artifacts Collected

Over 20,000 artifacts (projectile points, cores, cobble tools, flakes, fire-altered rock, etc.) were located, collected, cataloged and analyzed. These artifacts represent over 9,400 years of human habitation around Chester Morse Lake. Approximately 10,000 lithic (stone) artifacts are cores (source rock for making tools - 14%), points (14%), cobble tools (1%) and flakes (remnants of tool making, called *debitage* - 70%). The remainder are classified as "fire altered rock" (FAR). Some FAR was discarded by WSU after documenting. The collection now contains approximately 12,000 artifacts. 130 distinct hearth features were also located and mapped.

Two boxes of bones contain the concentrated remains of a young elk (and a few unidentified small animal bone fragments) found on the surface of 45KI25. They were not considered to be archaeologically significant and were collected primarily to be used in the future for comparative purposes. They were not analyzed as part of the project.

\*SWD later became Seattle Public Utilities

Artifacts were curated to the standard required in the Cultural Resources Mitigation Plan: *"Artifacts will be washed, field cataloged, labeled and grouped in clearly marked containers. Large quantities of redundant, less diagnostic materials...may be grouped and labeled by lot."*

A description of the Collection can be found in *The Archaeology of Chester Morse Lake: Long-Term Human Utilization of the Foothills in the Washington Cascade Range*, completed by the Center for Northwest Anthropology in 1993. A full inventory of the Collection is catalogued in the Artifact Records, a hard-copy paper document, currently collocated with the Collection at the Gale Archives at the Cedar River Watershed Education Center.

\*SWD later became Seattle Public Utilities



# MUCKLESHOOT TRIBAL COUNCIL

39015 172nd Avenue S.E. • Auburn, Washington 98092-9763  
(253) 939-3311 • Fax (253) 931-8570



RESOLUTION NO. 19-146

## TO APPROVE THE COLLECTION TRANSFER AGREEMENT BETWEEN THE CITY OF SEATTLE AND THE MUCKLESHOOT INDIAN TRIBE

WHEREAS, the Muckleshoot Indian Tribal Council is the duly constituted governing body for the Muckleshoot Indian Reservation by authority of and is herein acting solely pursuant to its constitution and by-laws approved May 13, 1936 by the Secretary of the Interior, and as amended June 28, 1977 and not pursuant to its Indian Reorganization Act Corporate Charter ratified October 31, 1936; and


WHEREAS, the Muckleshoot Preservation Committee, at a regular meeting on June 3, 2019, approved and recommended for Council the approval and signature of the "Collection Transfer Agreement between the City of Seattle and the Muckleshoot Indian Tribe"; and

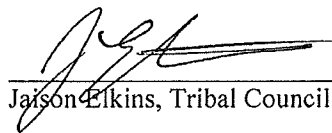
WHEREAS, Legal Department staff have reviewed the Agreement and approved as to form,

NOT THEREFORE IT BE RESOLVED by the Tribal Council of the Muckleshoot Indian Tribe that effective date of the adoption of this resolution the Chairman of the Muckleshoot Tribe is hereby authorized to sign the "Collection Transfer Agreement between the City of Seattle and the Muckleshoot Indian Tribe" on behalf of the Muckleshoot Tribe.

### CERTIFICATION

As Secretary of the Muckleshoot Indian Tribal Council, I hereby certify that the above resolution was duly adopted at a regular meeting of the Tribal Council on the 21st day of JUNE, 2019, held on the Muckleshoot Indian Reservation, Auburn, WA., at which a quorum was present by a vote of 6 for, 0 against, and 0 abstentions.

  
Jeremy James, Tribal Council Secretary

  
Jason Elkins, Tribal Council Chairperson