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No. 98320-8

King County Superior Court No. 19-2-30171-6 SEA]

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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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GARFIELD COUNTY TRANSPORTATION AUTHORITY; et al.

Appellants/Plaintiffs,

WASHINGTON ADAPT; TRANSIT RIDERS UNION; and

CLIMATE SOLUTIONS

Appellants/Intervenor-Plaintiffs,

v.

STATE OF WASHINGTON,

Respondent/Defendant.

CLINT DIDIER; PERMANENT OFFENSE; TIMOTHY D. EYMEN;

MICHAEL FAGAN; JACK FAGAN; and PIERCE COUNTY,

Respondent/Intervenor-Defendants.

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**BRIEF OF *AMICI CURIAE***

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**Puyallup Tribe of Indians**

**Nisqually Indian Tribe**

**Tribal Transportation Planning Organization Transit Subcommittee**

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## I. INTRODUCTION

Amici curiae the Puyallup Tribe of Indians (“Puyallup Tribe”), the Nisqually Indian Tribe (“Nisqually Tribe”) (these collectively, “the Tribes”), and the Tribal Transportation Planning Organization Transit Subcommittee (“TTPO”) (collectively, “Amici”) respectfully submit this brief contingent on granting of the accompanying motion for leave. Amici urge that this Court consider how affirming the lower court’s orders, permitting implementation of Initiative 976 (“I-976”), would impact tribal members, reservation, and operations by impeding crucial infrastructural and economic development.

Traffic fatalities kill more Native Americans than members of any other ethnic group, and lack of transit infrastructure impedes tribal economic progress. To remedy these evils, the Tribes have worked for years with state and local transit authorities, including the Central Puget Sound Regional Transit Authority (“Sound Transit”) and the Washington State Department of Transportation (“WSDOT”) to improve traffic conditions and knit their region more closely together, while safeguarding treaty-protected resources.

I-976 threatens to defund such vital work, including the first project in United States history to bring mass transit to Indian Country. Delaying necessary transit development will only worsen the congestion that threatens tribal lives and divides tribal reservations from urban centers. It could set regional and tribal economies

back several years, ignoring the costs tribes have already sunk expecting conditions to improve. And it could force tribes into a Hobson's choice between vital transit improvement and the health of precious natural resources.

Amici hope the Court will consider the impacts discussed below in deciding whether to permit implementation of a measure imposed by outsiders on tribal communities that have suffered outsider intervention enough already.

## **II. IDENTITY, INTEREST, AND FAMILIARITY OF *AMICI CURIAE***

The Puyallup Tribe of Indians is a sovereign and federally recognized Indian tribe, and the direct successor to the Puyallup tribe that signed the Treaty of Medicine Creek in 1854. Since time immemorial, its members have lived throughout the South Puget Sound. Its modern reservation, although much reduced from its ancient bounds, covers much of Pierce County, including the entire City of Fife, together with parts of East Tacoma, Federal Way, Puyallup, and the Port of Tacoma. Its unique and complex character, both urban and rural, coupled with the I-5 Highway's proximity, make transit and traffic ever pressing concerns. The Puyallup Tribe has long coordinated with other local governments and transit authorities to address those concerns. It is not only familiar with the need for improved transit, but is deeply involved in those coordinated solutions underway.

Likewise, the Nisqually Indian Tribe is a sovereign and federally recognized Indian tribe, and the direct successor to signatories of the Treaty of Medicine Creek

in 1854. Since time immemorial, its members have lived throughout the interior woodlands and coastal waters between Mount Rainier and Puget Sound. It maintains an extensive reservation covering parts of Thurston and Pierce Counties along the Nisqually River, and it is concerned with the impact of highway connections on its watershed absent roadway improvement.

The Tribal Transportation Planning Organization is an independent nonprofit with a membership including all 29 recognized tribes in Washington State. Founded in 2003, it provides its members a forum to actively engage in statewide transportation planning by identifying and highlighting tribal transportation needs.

I-976 now threatens to drain the funding necessary to implement solutions important to Amici, drawing their concerned interest to this case, especially as COVID-19 places tribal communities in special jeopardy.

### **III. ARGUMENT**

Traffic accidents, caused by congestion, poor road maintenance, and inadequate transit kill Native Americans at a higher rate than any other ethnicity. The same evils slow the Puyallup Tribe's effort to grow its economy in order to fund crucial governmental services. The Puyallup Tribe spent decades working to improve matters and introduce new and necessary transit solutions, coordinating in good faith with non-tribal governments to do so. And together with the Nisqually Tribe, it is deeply concerned with pending transit projects necessary to mitigate the

impact of climate change on fishing stocks. I-976 threatens to undo these substantial efforts, defunding and delaying vital infrastructure and economic development by years the Tribes do not have to waste, as they chart a road to recovery from the ongoing COVID-19 pandemic.

**A. Inadequate Transit Puts Native Americans at Disproportionate Risk of Dying in Traffic Accidents**

The Washington Traffic Safety Commission recently published a report entitled *Target Zero: Washington State Strategic Highway Safety Plan 2019*. That Plan paid special attention to safety problems for Native Americans and reservation communities in Washington. Washington Traffic Safety Commission, *Target Zero: Washington State Strategic Highway Safety Plan 2019* 15 (2019), available at [http://targetzero.com/wp-content/uploads/2020/03/TargetZero2019\\_Lo-Res.pdf](http://targetzero.com/wp-content/uploads/2020/03/TargetZero2019_Lo-Res.pdf). Using data from 2008-2017, the Commission explained that Native Americans are 4.4 times more likely to die in a traffic related fatality and 6.4% more likely to die in a pedestrian involved fatality than all other races combined. *Id.*

In certain counties, disparities are even starker. Natives make up 1.2% of the Pierce County population but 3.4% of traffic fatalities, clustered around the Puyallup reservation. *Id.* at 18. Likewise, Natives are 0.6% of the King County population, and represented in 2.3% of fatalities. *Id.* Trends are only worsening. *Id.*

According to the Target Zero Plan, “[t]ransportation planning and engineering, as well as the human factors of traffic safety on tribal lands, are

important areas of focus in our state.” *Id.* at 16. In concrete terms, the Commission named “[m]inimal availability of transit services” as a factor “creat[ing] unsafe conditions and contribut[ing] to the disproportionate fatalities rates.” *Id.* at 19.

No governments are more attuned to such disparities or more committed to improving reservation safety through vital transit development than tribes. Until I-976’s passage, necessary progress looked more promising than ever.

**B. For Almost Twenty Years, the Puyallup Tribe has Worked with Governmental Partners to Expand Local Transit Infrastructure to Increase Public Safety, Encourage Economic Development, and Further Regional Prosperity**

For almost two decades, the Puyallup Tribe has sought transit solutions to take its members off dangerous roadways, reduce traffic congestion that has left its reservation one of the most collision-prone in the country, and link its government offices, medical clinic, and flagship business, the Emerald Queen Casino (“EQC”) to downtown Tacoma and King County.

From humble origins on the deck of a Mississippi riverboat, the EQC has grown into a multi-facility gaming enterprise centered in East Tacoma with a satellite in Fife, funding 80% of tribal governmental services. *New Emerald Queen Casino opens June 8 - Sneak Preview*, 500 NATIONS, last visited Jun. 2, 2020, available at <https://www.500nations.com/casinos/waEmeraldQueen.asp>. The EQC is a regional magnet and, together with the Puyallup tribal government, one of Pierce County’s largest employers, drawing most of its workforce from surrounding non-

Indian populations and investing millions of dollars in local economies. 272 *Qualify as Pierce County's Major Employers in 2019*, ECONOMIC DEVELOPMENT BOARD OF TACOMA PIERCE COUNTY, available at <https://www.edbtacomapierce.org/area-profile/largest-employers/> (visited Jun. 2, 2020).

Since 2002, the Puyallup Tribe has worked to connect the EQC's East Tacoma location, along with adjacent government offices and health clinic, to transit by proposing to extend Tacoma Link light rail. Rob Carson, *City, tribe study light-rail deal*, THE NEWS TRIBUNE, Oct. 17, 2002; Seattle Post-Intelligencer Staff, *Casino Seeks Light Rail Link*, SEATTLE POST-INTELLIGENCER, Oct. 17, 2002, available at <https://www.seattlepi.com/news/article/Casino-seeks-light-rail-link-1098739.php>.

The Tribe paid \$41,000 in 2004 to study the project's cost and feasibility. Jane Hadley (March 24, 2004). *Light rail extension studied in Tacoma*, SEATTLE POST-INTELLIGENCER, Mar. 24, 2004, available at <https://www.seattlepi.com/local/transportation/article/Light-rail-extension-studied-in-Tacoma-1140565.php>. The proposed extension would connect not only the EQC's East Tacoma site to downtown Tacoma, but also tens of thousands of Native people throughout the Puget Sound to the Puyallup tribal health clinic. *Id.*

Eventually, in 2016, Sound Transit voters approved financing the Sound Transit 3 plan ("ST 3"), the first public project in American history to provide mass transit directly to tribal land, including the very extension the Puyallup had proposed



long ago, now entitled the Tacoma Dome Link Extension (“TDLE”).<sup>1</sup>

This Extension would add 9.7 miles of fast, reliable light rail to connect 27,000 to 37,000 daily riders between South King and Pierce Counties, drastically easing traffic on the I-5 corridor. Tacoma Dome Link Extension, Sound Transit, <https://www.soundtransit.org/system-expansion/tacoma-dome-link-extension> (last visited Jun. 2, 2020) (containing numerous subpages with project details, timelines, and stakeholder lists). It would serve four new light rail stations, in South Federal Way, Fife, East Tacoma, and the Tacoma Dome area, respectively. *Id.*

The Puyallup Tribe has worked with Sound Transit on this project for years, explaining to the regional agency in 2018 that it remains “aligned with Sound Transit’s mission to provide transit options to our tribal community and throughout the Puyallup Reservation.” Letter from the Puyallup Tribe of Indians to Sound Transit Chair Dave Somers Re: Sound Transit Scoping Process Initial Comments (Apr. 30, 2018), available at Appendix to Brief of Tribal Amici Curiae (“App.”) at 1-3. Its good faith engaging with Sound Transit is made more poignant by the Puyallup Tribe’s troubling history with non-tribal transit projects.

For over 150 years, the Puyallup Tribe has been forced to accept such projects

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<sup>1</sup> This brief discusses the TDLE planning process largely from the Puyallup Tribe’s perspective because of its greater involvement in a project that crosses its reservation. The project is vital to the Nisqually Tribe too, whose members also suffer the long commutes and dangers current traffic poses.

over which it had no say. When President Grant approved construction of the Northern Pacific Railroad across the Puyallup reservation, the Tribe was neither consulted nor compensated. Timothy Egan, *The Good Rain* 122-23 (Vintage Departures, 1991). Again, the Tribe was left out when the Pierce County electorate voted to establish the Port of Tacoma in 1918. *See Puyallup Indian Tribe v. Port of Tacoma*, 717 F.2d 1251, 1253–54 (9th Cir. 1983) (discussing the Puyallup Tribe’s historical relationship with the Port of Tacoma). Yet again, Congress ignored the Puyallup Tribe in the late 1950s when it forced the Tribe to accept construction of the I-5 across its reservation. Federal Aid Highway Act of 1956, 70 Stat. 374 (1956); *Tacoma Opens New Section Of Freeway*. THE SEATTLE TIMES, Oct. 1, 1959. p. 15. As a result, the Puyallup Tribe has been left a checkerboard reservation, a superfund site that requires mitigation to protect imperiled fish stocks, and traffic congestion the members of this Court can take judicial notice of each morning.<sup>2</sup>

Despite cause for distrust, the Puyallup Tribe has actively engaged with Sound Transit in good faith to plan the TDLE. In early 2019, these parties signed a Statement of Partnering Intent to “memorialize[] shared understandings between

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<sup>2</sup> The Puget Sound Regional Council recently reported that Pierce County residents, including many employees of the ECQ, have the longest average commute of any county population in the state. *Region's workers spending more time commuting*, PUGET SOUND REGIONAL COUNCIL, Dec. 5, 2018, available at <https://www.psrc.org/whats-happening/blog/regions-workers-spending-more-time-commuting>.

Sound Transit and the Puyallup Tribe regarding the Project scope and schedule.” *Statement of Partnering Intent Between the Central Puget Sound Regional Transit Authority (Sound Transit) and the Puyallup Tribe of Indians for the Tacoma Dome Link Extension Project 3* (2019), available at App. 4-7. The Statement acknowledged “[m]eeting the Project schedule milestones and objectives . . . as a mutual goal of Sound Transit and the Puyallup Tribe in order to begin transit operations on time. . . . Sound Transit and the Puyallup Tribe will work in coordination to meet these dates.” *Id.*

Sound Transit and the Puyallup Tribe have done just that. Leadership from the tribal chairperson and council on down have contributed to this effort.

**1. The Puyallup Tribe has Worked with Sound Transit to Ensure the TDLE Furthers Tribal and Regional Wellbeing**

In planning the TDLE, the Puyallup Tribe has worked with Sound Transit to coordinate station alignment to best connect members and the broader public to tribal businesses and other services. Thus, for example, the Tribe persuaded Sound Transit to place the East Tacoma Station near the East Tacoma EQC location and tribal governmental offices, rejecting other alternative proposals. Letter from Puyallup Tribal Chairman Bill Sterud to Sound Transit Chair John Marchione at 2 (May 1, 2019), available at App. 8-10; Level 2 Alternatives for Tribal Council at 3, available at App. 13. The Tribe has paid similar attention to supporting the economic development of other local jurisdictions within its borders. Thus, it and the City of

Fife jointly urged Sound Transit to locate the Fife station to “capture potential riders going to and from existing Tribal enterprises in this area and to recognize the City of Fife’s plans to catalyze the area as part of their City Center Plan.” Letter to Sound Transit Chair John Marchione, App. at 9.

**2. The Puyallup Tribe has Engaged with Sound Transit in Good Faith, Trusting that Agency will Commit the Necessary Funding to Protect Tribal Infrastructure, and Natural and Cultural Resources**

As noted above, the Puyallup Tribe’s voice has often been ignored in transit decisions that affect its reservation. Accordingly, the Puyallup Tribe has vigorously defended its interests in planning the TDLE, based on trust that Sound Transit will respect those interests and commit the necessary funding to do so.

Crucially, the Puyallup Tribe has sought throughout planning to protect its natural and cultural resources, enshrining the parties’ “mutual goal that the Preferred Alternative identified in NEPA/SEPA documents is supported by the Puyallup Tribe” in the original Statement of Partnering Intent. *Statement of Partnering Intent Between the Central Puget Sound Regional Transit Authority (Sound Transit) and the Puyallup Tribe of Indians for the Tacoma Dome Link Extension Project* at 2.

Some of these concerns relate to potential impacts off-reservation. For example, in considering placement of the Tacoma Dome Station, the Puyallup Tribe opposed “tunneling in the Tacoma Dome station because of the high probability of culture and human remains in the area,” where a large traditional village site once

stood. Letter to Sound Transit Chair John Marchione, App. at 10. The risks of tunneling would be “catastrophic [and] could end up being immitigable and prevent the completion of the project.” *Id.*

But the potential on-reservation impacts warranted no less concern. Much of the TDLE must cross the Puyallup reservation, and can only be constructed should the Puyallup Tribe grant the necessary easements. In making that pivotal decision, the Tribe has worked at length with Sound Transit to minimize impact where the TDLE would have to traverse the Puyallup River. “The Puyallup River is a significant historical, cultural, and economic resource to the Puyallup Tribe.”<sup>3</sup> *Id.* at 9. Thus, the Tribe advocated, successfully so, to persuade Sound Transit to shelve theoretical plans to lay rail near tribal ceremonial grounds on the River’s western

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<sup>3</sup> Similarly, the Nisqually Tribe is concerned about the adequacy of funding for transit projects impacting the Nisqually watershed. WSDOT Olympic Region Multimodal Planning Office and Thurston Regional Planning Council, *Interstate 5: Tumwater to Mounts Road Mid-Range Strategies | 2020: Chapter 5 – Developing a strategic plan for Interstate 5 through the Nisqually River valley* (2020), available at <https://www.wsdot.wa.gov/sites/default/files/2020/05/06/I-5-tumwater-mounts-rd-study-chapter5.pdf>. The nation’s only river to begin and end in nationally protected land, the Nisqually has sustained the Tribe since time immemorial and hosts various endangered salmonid populations protected by treaty. *Id.* Eight bridges carry the I-5 over the River and through its watershed. *Id.* These bridges and the impoundments they entail, the Nisqually Tribe has noted, reduce sediment delivery to the delta and imperil salmon recovery, growing worse each year due to rising sea levels. *Id.* To resolve these concerns, the Nisqually Tribe has actively engaged WSDOT since at least 2018 to study transit improvement options that would protect river integrity and promote fish recovery, and future efforts may be imperiled by any shortfall in funding. *Id.*

banks. *Id.* Later, the Tribe urged Sound Transit to find alternatives to in-river piling, noting if that “option were to be pursued, strong mitigation measures to prevent impacts to the Tribal Fishery must be explored and part of the EIS process.” *Id.*

The Puyallup Tribe has raised these concerns while reiterating its commitment “to continuing to work with [Sound Transit] and [its] staff on making sure this project is successful.” *Id.* at 10.<sup>4</sup> But it has done so, assuming Sound Transit will maintain necessary funding to keep its side of the bargain.

I-976 threatens that good faith.

**C. Unless the Lower Court Blocks I-976, Its Expected Funding Cuts on Sound Transit and Other State Accounts Could Imperil Transit Developments Vital to the Tribes**

I-976 threatens to defund projects like ST 3 and others vital to helping reservations succeed, in which the Puyallup Tribe has invested substantial effort, and upon which its future development relies. Without exaggeration, I-976 will make much of this vital work, conducted in good faith between independent sovereigns, impossible.

I-976’s projected impacts to transit funding are not in controversy. Studying these in a fiscal note on the initiative, Washington’s Office of Financial Management (“OFM”) summarized: “Total revenue loss to the state in the next six years is

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<sup>4</sup> Consistently, it has signed several Entry Agreements in recent months, granting Sound Transit access across numerous parcels of tribal land to facilitate construction. App. at 14-29.

\$1,922,643,101. Total revenue loss to local governments in the next 6 years is \$2,317,121,034.” Office of Financial Management, *Fiscal Impact Statement for Initiative 976* at 1, available at <https://wacities.org/docs/default-source/Legislative/i976fiscalimpactstatement.pdf?sfvrsn=0> (visited Jun. 2, 2020).

The OFM’s fiscal note further breaks down projected impacts to various agencies and accounts. Sound Transit, OFM predicts, will lose \$328 million every fiscal year for the upcoming future, with a total projected loss of \$7.2 billion by 2041 from direct cuts, reducing taxing authority, and requirements to prematurely retire existing bonds. *Id.* at 3; Sound Transit, *Powerpoint: Discussion on I-976* at 19 (Nov. 21, 2019), available at [https://www.soundtransit.org/st\\_sharepoint/download/sites/PRDA/ActiveDocuments/Presentation%20-%20I-976%20Discussion.pdf](https://www.soundtransit.org/st_sharepoint/download/sites/PRDA/ActiveDocuments/Presentation%20-%20I-976%20Discussion.pdf). Such a drastic shortfall, the Puyallup Tribe fears, will substantially impact projects like the TDLE.

But the Puyallup Tribe is also concerned for the fate of other state transit accounts, which could impact not only the TDLE but the SR 167 development and regular transit operations. These impacted accounts include:

- \$1.5 million in cuts to the Multimodal Transportation Account, which funds all modes of transportation projects, including public transportation, rail and bicycle/pedestrian projects, *Fiscal Impact Statement for Initiative 976* at 2-3;

- \$265.5 million in cuts to Motor Vehicle Account, limiting the funds it can provide for highway construction, maintenance, and local road programs, *Id.*; and
- \$5,446,700 in cuts to the Transportation Improvement Account, which funds local transportation projects to address congestion. *Id.*

Such funding cuts will likely impact projects crucial to the Tribes like the TDLE. For that reason, the Puyallup Tribe opposed I-976 before its passage and, together with the other Amici does so still.

**D. The Puyallup Tribe Opposed I-976 Before its Passage Given Projected Threats to Transit Projects, and Maintains that Opposition Still, Together with the Nisqually Tribe**

As explained, Amici value expanding transit to reduce dangerous congestion, foster economic development, and help all local communities prosper. They understand, informed by a troubling history, the importance of leaving local transit decisions to local affected communities. Accordingly, the Puyallup Tribe has long opposed the efforts of I-976's sponsors like Tim Eyman to dictate local transit revenue and hopes this Court will consider its reasons; all Amici oppose it still.

The Puyallup Tribe made its opposition plain on October 8, 2019, when Puyallup Tribal Councilmember Timothy Reynon appeared before the Tacoma City Council in his official capacity, urging that body to adopt Council Resolution 40442, opposing passage of I-976. Video coverage Tacoma City Council Meeting at 40:00,



TACOMA CITY COUNCIL, Oct. 8, 2019, available at [http://cityoftacoma.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=3880](http://cityoftacoma.granicus.com/MediaPlayer.php?view_id=2&clip_id=3880). In his comment, Councilmember Reynon conveyed the Tribe's concern that I-976 would deprive "major transit projects critical to the future of the region" of necessary funding. *Id.* He specifically identified the TDLE amongst those at risk. *Id.*

I-976, Councilmember Reynon explained, threatened to "destabilize[] the future for addressing traffic and planning for economic development in our region." *Id.* Regarding traffic, he stressed the importance of transit to reducing traffic accidents on the Puyallup reservation, one of the "most collision prone reservations in the United States." *Id.*

Referencing the Puyallup Tribe's many years of work on these projects, he explained that "[w]ithout state funding we have to go back to the drawing board to complete this vital project that makes our region economically competitive." *Id.*

I-976 threatens to make Councilmember Reynon's concerns a frightening reality. As stated, OFM determined that that I-976's implementation could rob state coffers of almost \$2 trillion, including \$7.2 billion from Sound Transit alone. It is difficult for the Tribes to imagine such cuts will leave projects like the TDLE or those affecting fish passage unaffected.

If Sound Transit has to cancel or delay the TDLE beyond 2030, it would severely impact Puyallup tribal safety, infrastructure, revenue, and resources. In

supporting the TDLE, the Puyallup Tribe sought to reduce congestion that endangers members, leaving them longer commutes than residents in any other Washington county, distances economic development projects from market, and discourages talented employees outside the reservation from working for the Tribe.

Even partial project reductions would imperil tribal welfare. For example, if Sound Transit has to skip over the East Tacoma station, the EQC and tribal government would lose access to almost 40,000 projected transit riders every single day, who could otherwise work for tribal operations, or patronize the EQC's restaurants, gaming, and entertainment facilities. And any reduction in the scope of construction would leave fewer jobs for tribal members.

Lastly, if Sound Transit or WSDOT are forced to take shortcuts, it could damage important tribal resources throughout the reservation. These impacts could be devastating off-reservation. On-reservation, they could force the Puyallup Tribe to deny Sound Transit necessary easements and shelve the TDLE project entirely.

I-976 may force state and local transit authorities to break the trust the Tribes have placed in them. The Tribes need these projects to succeed more than ever, given the devastation the COVID-19 pandemic has already left in its wake.

**E. I-976's Promised Cuts do not Exist in a Vacuum and this Court Should Not Allow Tim Eyman to Further Imperil the Road to Recovery from the COVID-19 Pandemic or Any Other Local Government.**

In considering I-976's consequences, Amici hope this Court will note the

unprecedented times in which we live, and the strain the COVID-19 pandemic puts on tribal finances.

The COVID-19 pandemic has left no jurisdiction in Washington unscathed, ending lives, burdening healthcare, and closing businesses statewide for the public good. But while state and local governments can rely on a varied tax base to fund government services, tribes must depend disproportionately on revenue from their closed business developments. Letter from the Harvard Project on American Indian Economic Development to Treasury Secretary Steven Mnuchin Re: Allocation of COVID-19 Response Funds to American Indian Nations (Apr. 10, 2020), available at [https://ash.harvard.edu/files/ash/files/hpaied\\_ash\\_covid\\_letter\\_to\\_treasury\\_04-10-20\\_vsIGNEDVFINV02.pdf](https://ash.harvard.edu/files/ash/files/hpaied_ash_covid_letter_to_treasury_04-10-20_vsIGNEDVFINV02.pdf).

The toll visited upon tribal economies, therefore, has been devastating. The New York Times recently detailed that devastation. Simon Romero and Jack Healy, *Tribal Nations Face Most Severe Crisis in Decades as to the Coronavirus Closes Casinos*, N.Y. TIMES, May 11, 2020, available at <https://www.nytimes.com/2020/05/11/us/coronavirus-native-americans-indian-country.html>. Its coverage quotes Joseph Kalt, co-director of the Harvard Project on American Indian Economic Development, comparing the forced closure of tribal businesses to the demise of the bison herds in the 19th century or the termination of tribal governments (including the Puyallup Tribe) in the 1950s to the impact of

forced casino closures. *Id.* Fawn R. Sharp, President of the Quinault Nation and the National Congress of American Indians elaborates, noting that “[t]he failure to fund us has left us incredibly vulnerable” to economic and infrastructural disaster. *Id.*

While the New York Times coverage examined COVID-19’s impact on tribal economies nationwide, its choice of photograph to run by the headline was illustrative: the marquee of the Puyallup Tribe’s Emerald Queen Casino. *Id.*

The Puyallup Tribe depends on revenue from the EQC, which funds 80% of tribal services and government operations, including various emergency services vital to protecting tribal members on the road. Economically, the Tribe hoped Spring 2020 would be a time for celebration, as it welcomed customers to a massive 310,000 square foot expansion of the East Tacoma facility, at a cost of \$450 million. The Puyallup Tribe, *Final Casino Update: Emerald Queen Casino to remain closed at least 2 more weeks* (Mar. 31, 2020), available at [http://news.puyalluptribe-nsn.gov/wp-content/uploads/2020/03/2020\\_0331\\_Final\\_Casino-update-002.pdf](http://news.puyalluptribe-nsn.gov/wp-content/uploads/2020/03/2020_0331_Final_Casino-update-002.pdf).

But instead, COVID-19 has forced the EQC to close, at a substantial cost to both its workforce and government services. Debbie Cockrell, *Closure of Emerald Queen casino operations extended; layoffs, furloughs announced*, THE NEWS TRIBUNE, May 15, 2020, available at <https://www.thenewstribune.com/news/local/article241669391.html>. 12% of the casino’s 2,400-person workforce were laid off, with another 73% furloughed. *Id.*

Although the Puyallup Tribe is in the process of reopening the ECQ, it is severely limiting guest capacity to protect public health. Drew Mikkelsen, Casinos in Western Washington reopen to big crowds, KING 5, available at <https://www.king5.com/article/news/local/casino-opening-line-covid-fife-emerald-queen/281-937f0fe4-42af-4fb0-97e3-4ee9075c7f76> (May 18, 2020).

These restrictions have cost the Puyallup Tribe around \$100 million and delayed opening of the East Tacoma expansion by several months. The News Tribune Editorial Board, *Risky gamble? Puyallup Tribe may reopen EQC casinos in May as Inslee's shutdown continues*, THE NEWS TRIBUNE, May 14, 2020, available at <https://www.thenewstribune.com/opinion/editorials/article242480916.html>.

Although the Puyallup Tribe cannot yet estimate the full effect of such privation in the long term, the immediate hardship is clear. On April 16, 2020, the EQC's closure and other COVID-19 impacts, forced the Puyallup Tribe to furlough nearly 40% of its governmental workforce. Debbie Cockrell, *Layoffs, furloughs announced for Puyallup tribal government workers after casino shutdown*, THE NEWS TRIBUNE, Apr. 4, 2020, available at <https://www.thenewstribune.com/news/local/article241764081.html>. Likewise, it has been forced to suspend long-planned capital projects in order to sustain the most basic government operations. *Id.*

I-976 threatens to cut off a major planned artery to tribal government offices,

medical clinics, and the EQC East Tacoma expansion that offered to light the way to recovery. The wound that COVID-19 opened, I-976 threatens to drive still deeper.

#### **IV. CONCLUSION**

Amici ask this Court consider how its decision may impact Washington's tribes, whose members suffer traffic fatalities more than any other community and whose economies suffer behind congested roadways due to inadequate transit infrastructure. The Puyallup Tribe spent almost two decades fighting to connect its businesses and government to urban centers in Pierce and King Counties, to improve safety and overcome those barriers. ST 3, the first project in American history to promise Indian County mass transit, appeared to make that vision possible. A good neighbor, the Puyallup Tribe has worked with Sound Transit to complete vital transit projects like the TDLE, expecting Sound Transit to uphold its commitments. Together with the Nisqually Tribe, it needs these projects to succeed to clear the road to recovery from the economic devastation of COVID-19.

I-976 threatens to block that road and set transit planning back many years the Tribes cannot spare. The costs to tribal government, business, safety, infrastructure, regional access, and natural resources have been detailed. I-976 is just one more effort by those outside the reservations to dictate transit decisions within.

The Tribes respectfully request this Court reverse the orders under review, and direct the lower court to enjoin I-976's implementation.

June 5, 2020

Respectfully submitted

*s/ Brent W. Bottoms*

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**Attorney for Nisqually Indian Tribe**

*s/ Samuel J. Stiltner*

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**Attorney for Puyallup Tribe of  
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*s/ Jeremy F. Wood*

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**Attorneys for all *Amici Curiae***

## CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2020, I electronically filed and caused to be served on all counsel of record the foregoing **Brief of Amici Curiae**.

s/ Jeremy F. Wood  
Jeremy F. Wood  
LITTLER MENDELSON, P.C.



FILED  
SUPREME COURT  
STATE OF WASHINGTON  
6/5/2020 3:39 PM  
BY SUSAN L. CARLSON  
CLERK

WASHINGTON ADAPT; TRANSIT RIDERS UNION; and  
CLIMATE SOLUTIONS

Appellants/Intervenor-Plaintiffs,

v.

STATE OF WASHINGTON,  
Respondent/Defendant.

CLINT DIDIER; PERMANENT OFFENSE; TIMOTHY D. EYMEN;  
MICHAEL FAGAN; JACK FAGAN; and PIERCE COUNTY,  
Respondent/Intervenor-Defendants.

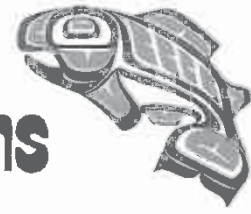
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**APPENDIX TO BRIEF OF TRIBAL *AMICI CURIAE***

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# Puyallup Tribe of Indians



Dave Somers  
Chair, Sound Transit Board  
401 South Jackson Street  
Seattle, WA 98104

April 30, 2018

RE: Sound Transit Scoping Process Initial Comments

Dear Chair Somers,

The Puyallup Tribe of Indians is pleased to be working with Sound Transit staff in the initial scoping process for the Tacoma Dome Link Extension Project. The scoping process has provided important insight in how the Tribe can anticipate both the potential impacts and benefits of the representative alignment. Today, we provide our early scoping comments to help refine the project and to inform you and your staff.

## 1. Cultural & Environmental Considerations

- The proposed alignment will be impacting several historic sites and Sound Transit will need to work with Historic Preservation Department to limit those impacts with frequent and adequate consultation.
- Sound Transit should work with the Tribe's Historic Preservation Department to identify a preferable cultural resources consultant to work on the project.
- The representative alignment entering into Pierce County abuts Tribe's "St. George" property (King County Parcel 3221049134) is a property that has a high risk for cultural and human remains and should be avoided.
- The section of the representative alignment near SR 99 and 70<sup>th</sup> Ave E is an area of high risk probability for cultural and human remains. Sound Transit should work with the Tribe's Historic Preservation Department to determine suitability of piling locations in this area.
- The Puyallup River crossing and relocation of Hylebos will have significant water quality impacts during construction. The Tribe will want to work closely with Sound Transit and it's contractors to avoid and minimize to greatest extent possible.
- A clear span bridge over I-5 is highly preferable to additional columns in Puyallup River due to interruptions to fishing access and impacts to fishery and water quality.
- The crossing of the proposed Sound Transit bridge over the Puyallup River will also impact the Ceremonial grounds which is considered a Traditional Cultural Property (TCP) and ST should work closely with Historic Preservation Department to protect any cultural resources that will be impacted to limit those impacts.

3009 E. Portland Ave.

Tacoma, Washington 98404

253/573-7800

- The Tribe requests locating storm ponds and other stormwater features as soon as possible in this process, so we can work with Sound Transit on treatment scheme and configuration. Additional outfalls in the Puyallup River will be problematic. We will convey the enhanced treatment pond the Tribe used in the WSDOT I-5 HOV project to the Sound Transit team.
2. Impact to Tribal Properties
- Any alignment should avoid individual tribal member trust properties. We have identified some of these properties within the vicinity of the representative alignment.
  - There are several individual member trust properties consolidated around the Milton Area along SR 99. Maintaining an I-5 alignment will avoid impacting them.
  - Additionally, there are two properties north of SR 99 in the City of Fife's Town Center concept area.
  - The station location in East Tacoma abuts an individual member's property. If any of these properties are essential we ask that you engage with these Tribal members early in the process.
  - The Puyallup Tribe will consider necessary right-of-way needs for the project over government owned tribal trust properties unless otherwise specified below.
3. Fife Area Representative Project Alignment and Station Location
- The representative station location in Fife is not a feasible consideration and will greatly impact the Tribe's EQC and Tahoma Market operations. It is because of this reason that alternatives immediately be considered.
  - It is the Tribe's preferred option to have the initial rail alignment from the King/Pierce County boundary fall on I-5 and gently curve between SR 99 and 15<sup>th</sup> Street E to a preferred station location north of SR 99 between 54<sup>th</sup> Ave E and 59<sup>th</sup> Ave E with pedestrian access from SR 99.
  - Additionally, it is the Tribe's preferred option for rail alignment to cross 54<sup>th</sup> Ave E and move toward I-5 and continue along WSDOT right-of-way to avoid impact to a major Tribal community at 12<sup>th</sup> and Alexander Ave E.
4. East Tacoma Area Representative Project Alignment and Station Location
- The Tribe anticipates working with Sound Transit to secure the necessary aerial easements/right-of-way over the Puyallup River and any necessary piling easements in the Puyallup River. These cannot be permanent easements under current BIA regulations and would be termed to a max of 99 years with renewal options.
  - It is the Tribe's preferred option that the rail alignment fall south of the Tribe's Ceremonial Grounds to avoid any impact to them (Pierce County Parcels 4715024440, 4715023640, 4715024450, 4715023610).

- The Tribe's preferred station location area is well within the current representative station location just north of the individual member trust property (Pierce County Parcels 4715011370, 4715011350).
- An alignment and station location South of I-5 along Portland Avenue should not be further considered as there is no feasible alignment/siting without large impacts to tribal properties and increasing the cost of the project exorbitantly by crossing the interstate two times.
- The East Tacoma site should have proper connectivity through enhancing pedestrian infrastructure under I-5 on Portland Avenue and R Street. Additionally, the station should be transit oriented to work with Pierce Transit services since there will be no parking at this location.

5. Tacoma Dome Area Representative Project Alignment and Station Location

- The Tribe's preferred rail alignment from the East Tacoma Station is along East 26<sup>th</sup> Street.
- The preferred station location would be (1) not to impact the Tribe's current land holdings in the area (Pierce County Parcels 2076230024, 2076230010, 2076220080, 2076220070) and (2) provide connectivity into other modes around Tacoma Dome Station (Sounder, Pierce Transit, Link, Amtrak). If any of the above identified parcels are essential the Tribe is willing to entertain potential offers for easements/right-of-way. The Tribe cannot sell property under its constitution but can grant easements/right-of-way in 99 year terms under current BIA regulations. This may however not be acceptable for Sound Transit.

Finally, we would like to request setting up a meeting with our tribal community and individual member trust property owners to help provide input on the alignment and station locations. We take our member's concerns seriously and would like to offer them the opportunity to voice their concerns directly with Sound Transit. Please work with our staff on coordination with this effort.

The Puyallup Tribe of Indians looks forward to continuing to work with Sound Transit on finding a viable preferred alignment for the Tacoma Dome Link Extension. We are aligned with Sound Transit's mission to provide transit options to our tribal community and throughout the Puyallup Reservation.

Sincerely,



Chairman Bill Sterud  
Puyallup Tribe of Indians

3009 East Portland Avenue, Tacoma, WA. 98404 Ph: (253) 680-5774 Fax: (253) 680-5771

**STATEMENT OF PARTNERING INTENT BETWEEN  
THE CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY (SOUND TRANSIT)  
AND THE PUYALLUP TRIBE OF INDIANS FOR THE  
TACOMA DOME LINK EXTENSION PROJECT**

**1 BACKGROUND**

- 1.1 The Puyallup Tribe of Indians (“Puyallup Tribe”) is a federally recognized tribal nation pursuant to the Medicine Creek Treaty of 1854, whose reservation lands are located within the State of Washington.
- 1.2 The Central Puget Sound Regional Transit Authority (“Sound Transit”) is a regional transit authority created pursuant to Chapters 81.104 and 81.112 RCW with all powers necessary to implement a high-capacity transit system within its boundaries in King, Pierce, and Snohomish Counties.
- 1.3 The Tacoma Dome Link Extension Project (“Project”) is part of the Sound Transit 3 (“ST3”) plan, for which voters approved financing in 2016, and is an element of Sound Transit’s Long-Range Transit Plan. The Project will connect Pierce and South King County residents to the regional light rail network, including direct access to SeaTac Airport and downtown Seattle, with stations at Tacoma Dome, East Tacoma, Fife, and South Federal Way.
- 1.4 A portion of the Project will be constructed on the Puyallup Tribe’s Reservation.
- 1.5 Sound Transit will be conducting environmental review for the Project in accordance with the National and State Environmental Policy Acts (“NEPA” and “SEPA,” respectively). The Puyallup Tribe and Sound Transit (collectively, the “Parties”) intend to work toward development of a Preferred Alternative to be included in the SEPA/NEPA Environmental Impact Statement (EIS) for the project.
- 1.6 Per Puyallup Tribal Code, the Puyallup Tribe will administer its environmental review and permits for the Project.
- 1.7 The Parties have a mutual goal that the Preferred Alternative identified in NEPA/SEPA documents is supported by the Puyallup Tribe.
- 1.8 The Parties agree that nothing in this Agreement shall be interpreted as waiving any requirement or limitation imposed by the Puyallup Tribal Land Claims Settlement Agreement dated August 28, 1988, ratified by Congress in P.L. 101-41.

## **2 PURPOSE**

This Statement of Partnering Intent (“Statement”) is intended to memorialize shared understandings between Sound Transit and the Puyallup Tribe regarding the Project scope and schedule, Sound Transit’s role in implementing the Project, and the Puyallup Tribe’s interest in the Project. It will be used as a basis for establishing processes for coordination between Sound Transit and the Puyallup Tribe through the early stages of Project development, leading up to future agreements addressing the Project.

## **3 PROJECT UNDERSTANDING AND OBJECTIVES**

- 3.1 The ST3 Plan included “representative projects” developed for the purpose of establishing scope, cost estimates, and ridership forecasts for consideration and action by the region’s citizens. The applicable ST3 Plan representative templates for the Project are provided for reference as **Exhibit A**.
- 3.2 The Parties intend to share information on existing conditions and planned projects within the Project area with the intent to identify opportunities for coordination and to resolve conflicts as early as possible during Project development, and to reduce risks to Project development and delivery.
- 3.3 Meeting the Project schedule milestones and objectives is acknowledged as a mutual goal of Sound Transit and the Puyallup Tribe in order to begin transit operations on time. Target dates and milestones are identified in the schedule attached as **Exhibit B** and Sound Transit and the Puyallup Tribe will work in coordination to meet these dates.

## **4 PROJECT COMMUNICATIONS AND DESIGNATED REPRESENTATIVES**

- 4.1 In order to provide timely responses and to facilitate efficient coordination, Sound Transit and the Puyallup Tribe will each designate a single representative responsible for communications. These Designated Representatives are identified in **Exhibit C**, which also describes the duties to be performed by the Designated Representatives. Designated Representatives may change during the course of Project Development and changes will take effect upon notice from either Sound Transit or the Puyallup Tribe.
- 4.2 Sound Transit is willing to reimburse the Puyallup Tribe for their staff engagement in Project coordination and collaboration activities. If the Puyallup Tribe determines it would like to obtain reimbursement, a separate agreement may be made that would allow for the creation of task orders to establish timelines and cost estimates for tasks agreed to between Sound Transit and the Puyallup Tribe.

- 4.3 Sound Transit has convened an Elected Leadership Group, a Stakeholder Group, and an Interagency Group to work toward consensus on a Preferred Alternative with the elected officials, the Puyallup Tribe, stakeholders, and governmental agencies. The Puyallup Tribe was formally invited and has been participating in this process including:
- 4.3.1 The Elected Leadership Group includes Sound Transit Board members and other local elected officials in the corridor. The representative selected by the Puyallup Tribe to represent the Tribe's interests in this group is shown in **Exhibit C**.
  - 4.3.2 The Stakeholder Group includes transit riders, residents, business owners, major institutional representatives, community organizations, and members of the public. Puyallup Tribe representatives that are participating in this group are shown in **Exhibit C**.
  - 4.3.3 The Interagency Group includes senior staff from Sound Transit and the City, county, state, and federal permitting agencies empowered with technical decision-making authority. Puyallup Tribe representatives that are participating in this group are shown in **Exhibit C**.
  - 4.3.4 The purpose of engaging with these groups is to offer opportunities for greater collaboration early in Project development. The Parties intend to facilitate engagement that produces enduring decisions and that streamlines the Project development and delivery process. The Puyallup Tribe intends to participate as much as feasible in these meetings. Sound Transit intends to offer individual meetings with the Puyallup Tribe in the event that tribal elected members or staff cannot attend these meetings.

## **5 CONCLUSION AND SIGNATURE BLOCK**

Sound Transit and the Puyallup Tribe acknowledge that this Statement of Intent is not a complete statement of terms and conditions that will apply to the transactions associated with the Project. If Sound Transit and the Puyallup Tribe determine it is in their respective best interests to enter into future agreements related to the Project, the terms of those agreements shall govern. Additional issues not addressed in this Statement of Intent may be identified and included in these future agreements.

SOUND TRANSIT

THE PUYALLUP TRIBE OF INDIANS

By:   
Peter M. Rogoff  
Chief Executive Officer

By:   
Bill Sterud  
Tribal Chairman

Date: 4/2/19

Date: 2/26/19

Authorized by Motion No. M2019-XX

Authorized by Tribal Council Determination  
Report No. XXX

**EXHIBITS**

- Exhibit A: ST3 Plan Representative Project Templates
- Exhibit B: Project Schedule
- Exhibit C: Designated Points of Contact





# Puyallup Tribe of Indians



May 1<sup>st</sup>, 2019

Honorable John Marchione  
Sound Transit Board Chair  
401 South Jackson Street  
Seattle, WA 98104

Dear Chair Marchione,

The Puyallup Tribe of Indians would like to offer its esteemed gratitude to Mayor Woodards, Executive Dammeier, and Sound Transit CEO Rogoff for participating in our recent government to government consultation last February over the Tacoma Dome Link Extension Project. We recognize the importance of continuing to engage in meaningful dialogue to ensure the project addresses concerns of the Puyallup Tribe and that project delivery meets expectations.

Our comments submitted today are for the Scoping Period Analysis and characterize the Tribe's positions on several of the station locations, crossings, and alignment configurations filtered out of the Level 2 Analysis. The Tribe will continue to work with you and your staff to identify a preferred alignment that works congruous with our developments on the Puyallup Reservation.

## **South Federal Way Station Alignment**

There are two primary alignments toward the City of Fife from the South Federal Way Station. One alignment along I-5 and the other along SR 99. We believe an SR 99 alignment would pose a multitude of tribal trust property impacts to our members. We believe that there are fewer impacts to tribal property along I-5 and thus prefer this alternative. While there are potential cultural resource impacts along this corridor near the St. George property, we believe these impacts can be properly addressed by working with our Historic Preservation Department. By working together, we believe these impacts can be minimized or outright avoided. It is the Tribe's understanding that both alignments are likely to be studied as part of the EIS and welcome the opportunity to provide input and data in identifying challenges with both alignments.

Additionally, the Tribe looks forward to studying the interchange between the SR 167 project and the Tacoma Dome Link Extension where both projects bifurcate Hylebos Creek. It is vital this area is properly studied since all prospective alignments thread in the same location. It is important for Sound Transit and WSDOT to work collaboratively with the Tribe to ensure that efforts to enhance the Hylebos are not conflicted by the two projects.

3009 East Portland Avenue, Tacoma, WA. 98404 Ph: (253) 680-5774 Fax: (253) 680-5771

### **Fife Station & Alignment**

The City of Fife and the Tribe have been actively collaborating on a station location. The Tribe supports Fife-3A and Fife-3B in order to capture potential riders going to and from existing Tribal enterprises in this area and to recognize the City of Fife's plans to catalyze the area as part of their City Center Plan. We believe Fife-4 may impose traffic circulation issues along SR 99 and Fife-1 is too far away to maximize ridership of existing and potential development in the area.

Regarding alignment out of the station locations, the Tribe supports the continued study of alignments along the south side of SR 99 and along the North I-5 right of way. We are opposed to a north SR 99 alignment between 46<sup>th</sup> Ave E to Alexander Ave as this path would significantly impact Tribal facilities, businesses, residences, and trust lands. Additionally, we recognize both a SR 99 and I-5 alignment will impact the Puyallup Tribe Integrative Medicine Building property and Sound Transit will likely need an easement from the Tribe.

### **Puyallup River Crossing**

Tribal Council is pleased that Sound Transit is exploring multiple options to span the Puyallup River, including the option of a clear span. The Puyallup River is a significant historical, cultural, and economic resource to the Puyallup Tribe. If an in-river piling option were to be pursued, strong mitigation measures to prevent impacts to the Tribal Fishery must be explored and part of the EIS process. We look forward to studying the differences between the impacts associated with the varying options of spanning the river. Additionally, we are pleased that the pre-scoping process has eliminated alignments that would impact the Tribe's Ceremonial Grounds on the western bank of the river.

### **East Tacoma Station & Alignment**

Regarding the East Tacoma Station locations, the Tribe is supportive of ET-3a/ET-3b with ET-6 being an important alternative to study in the EIS. ET-1 and ET-2 are not supportive of ridership and connectivity to East Tacoma. ET-5 would have individual member trust land impacts. In any station design the Tribe is concerned with traffic circulation in and out of this station. Consideration of existing road conditions and street realignment should be an essential part of this station's study to maximize ridership and reduce congestion on Portland Avenue.

Additionally, we are interested in future consideration for Sound Transit parking facilities for the station in this area. The Tribe will have to carefully evaluate usage of the Tribe's parking facilities in conjunction with these stations so that system demand is not impacting Tribal enterprises.

**Tacoma Dome Station**

In this station area the Tribe prefers alternatives TD-2 and TD-3 for continued study. We believe these stations are the strongest suited for supporting ridership and connecting riders to other transit connections.

In our review of the remaining stations, TD-4 East Off-Street is the most impactful to our off-reservation trust lands and this station should be removed from further study. We also find TD-4 East In-Street to be undesirable in its current location. However, we believe the station warrants further study in a nearby location that doesn't directly impact the frontage of the Tribe's property. TD-4 West & TD-1 we believe are poor location choices due to congestion impacts on East D Street and connecting other transit options.

Finally, there has been some recent discussion of the possibility of undergrounding a station within the Tacoma Dome station location area. The Puyallup Tribe is deeply concerned with tunneling in the Tacoma Dome station because of the high probability of cultural and human remains in the area. As the high ground near the original mouth of the Puyallup River, the Tribe knows this area to be a large traditional village site. In 2015, as part of the Tacoma Trestle Project, Sound Transit unearthed a cultural finding within this area. We continue to work with Sound Transit in mitigating the impacts of cultural and historic resources of the Tacoma Trestle project to this day. An above ground station will have challenges mitigating for cultural and historic resources. An underground station would expose the project to potential catastrophic risks that could end up being immitigable and prevent the completion of the project. If this proposal continues forward in the EIS, the Tribe will actively work with Sound Transit's Cultural Resource Consultant to properly characterize the impact of a below grade station.

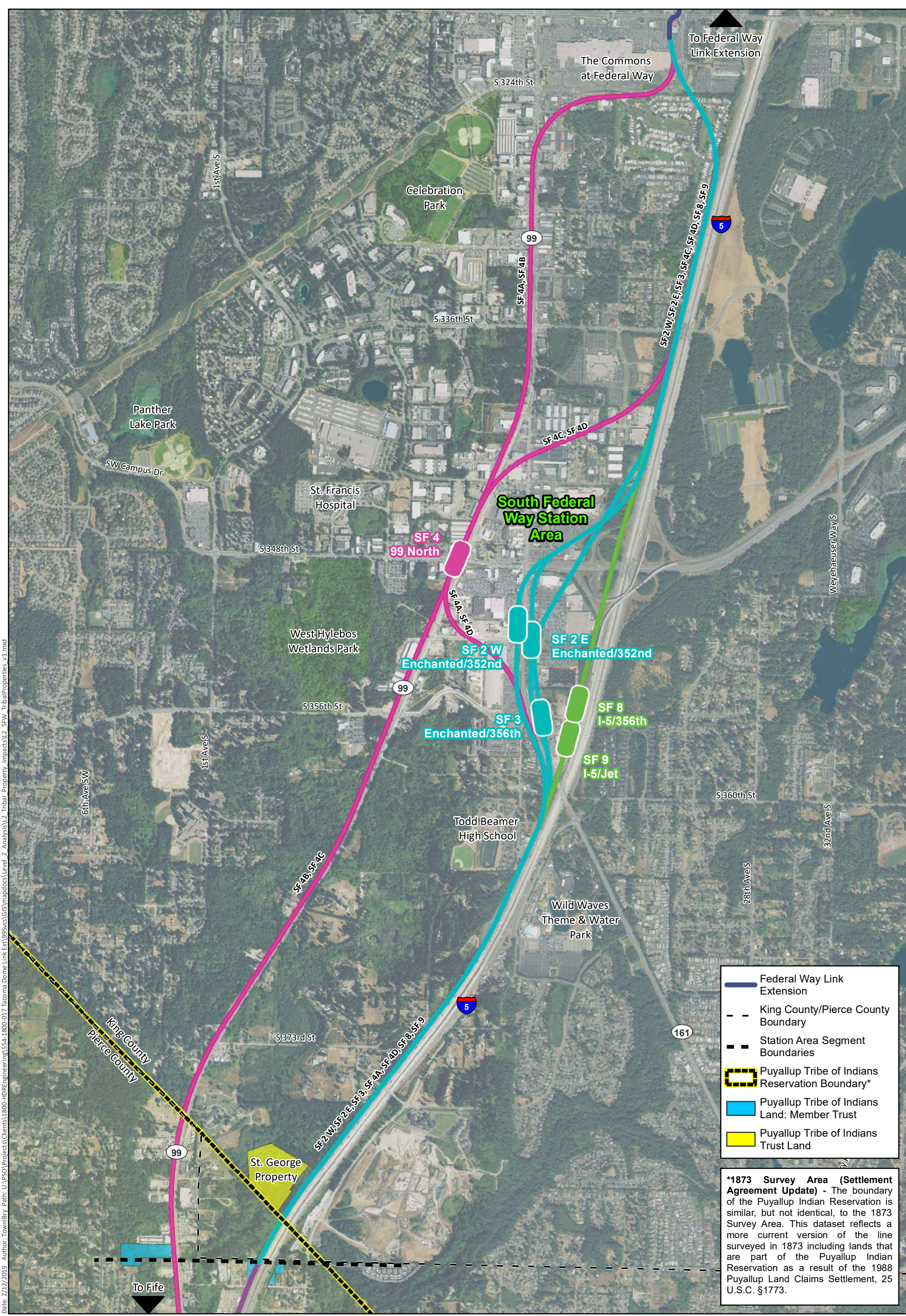
We thank Sound Transit for this opportunity to provide comment for the Scoping Period Analysis. The Puyallup Tribe is excited at the opportunities regional light rail will provide to our membership. We look forward to continuing to work with you and your staff on making sure this project is successful.

Sincerely,

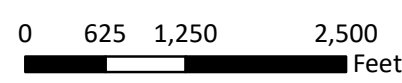


Bill Sterud, Chairman  
Puyallup Tribal Council





Date: 2/12/2019 Author: TownlBry Path: U:\PSCO\Projects\Clients\1800-HDR\Engineering\554-1800-017 Tacoma Dome Link Ext\995\GIS\Mapdocs\Level 2\_Analysis\L2\_SF\_W\_TribalProperties\_v1.mxd



- South Federal Way Alternatives**
- SF 2 East: Enchanted/S 352nd St
  - SF 4A: 99 North (SR 99 to I-5)
  - SF 8: I-5/S 356th St
  - SF 2 West: Enchanted/S 352nd St
  - SF 4B: 99 North (SR 99)
  - SF 9: I-5/Jet
  - SF 3: Enchanted/S 356th St
  - SF 4C: 99 North (I-5 to SR 99)
  - SF 4D: 99 North (I-5 to SR 99 to I-5)

- Federal Way Link Extension
- King County/Pierce County Boundary
- Station Area Segment Boundaries
- Puyallup Tribe of Indians Reservation Boundary\*
- Puyallup Tribe of Indians Land: Member Trust
- Puyallup Tribe of Indians Trust Land

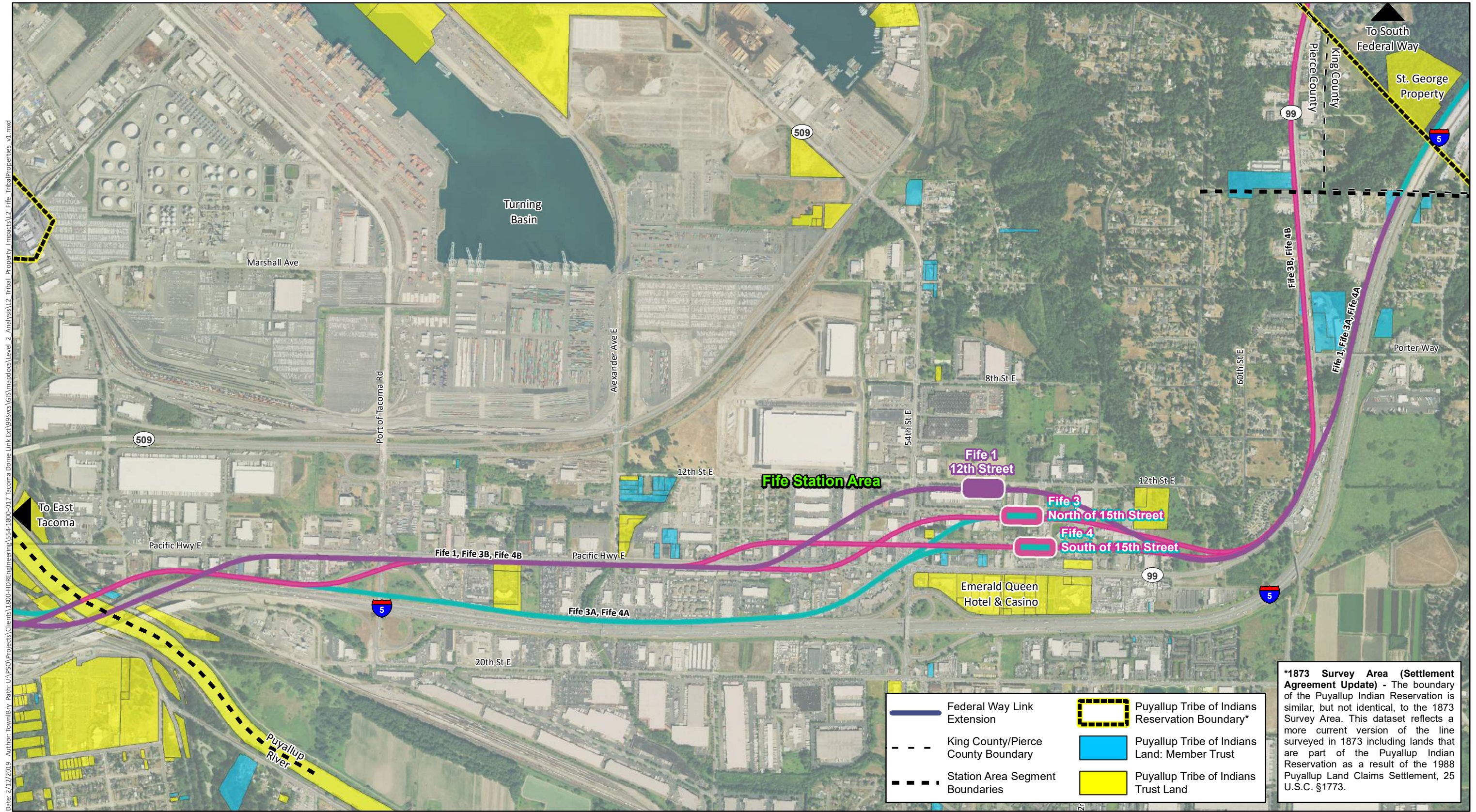
**\*1873 Survey Area (Settlement Agreement Update)** - The boundary of the Puyallup Indian Reservation is similar, but not identical, to the 1873 Survey Area. This dataset reflects a more current version of the line surveyed in 1873 including lands that are part of the Puyallup Indian Reservation as a result of the 1988 Puyallup Land Claims Settlement, 25 U.S.C. §1773.

## TRIBAL PROPERTIES SOUTH FEDERAL WAY

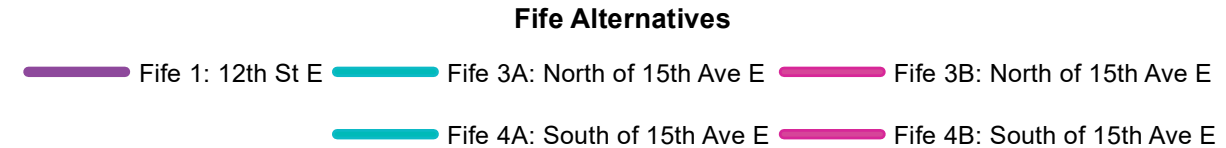
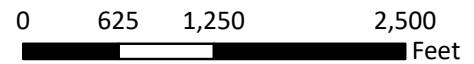
TACOMA DOME LINK EXTENSION

PRELIMINARY SUBJECT TO REVISIONS; DRAFT 2/13/2019





Date: 2/12/2019 Author: TownLibry Path: U:\P50\Projects\Clients\1800-HDR\Engineering\554-1800-017 Tacoma Dome Link Ext\995ves\GIS\mapdocs\Level\_2\_Analysis\L2\_Tribal\_Property\_Impacts\_v1.mxd



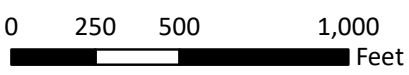
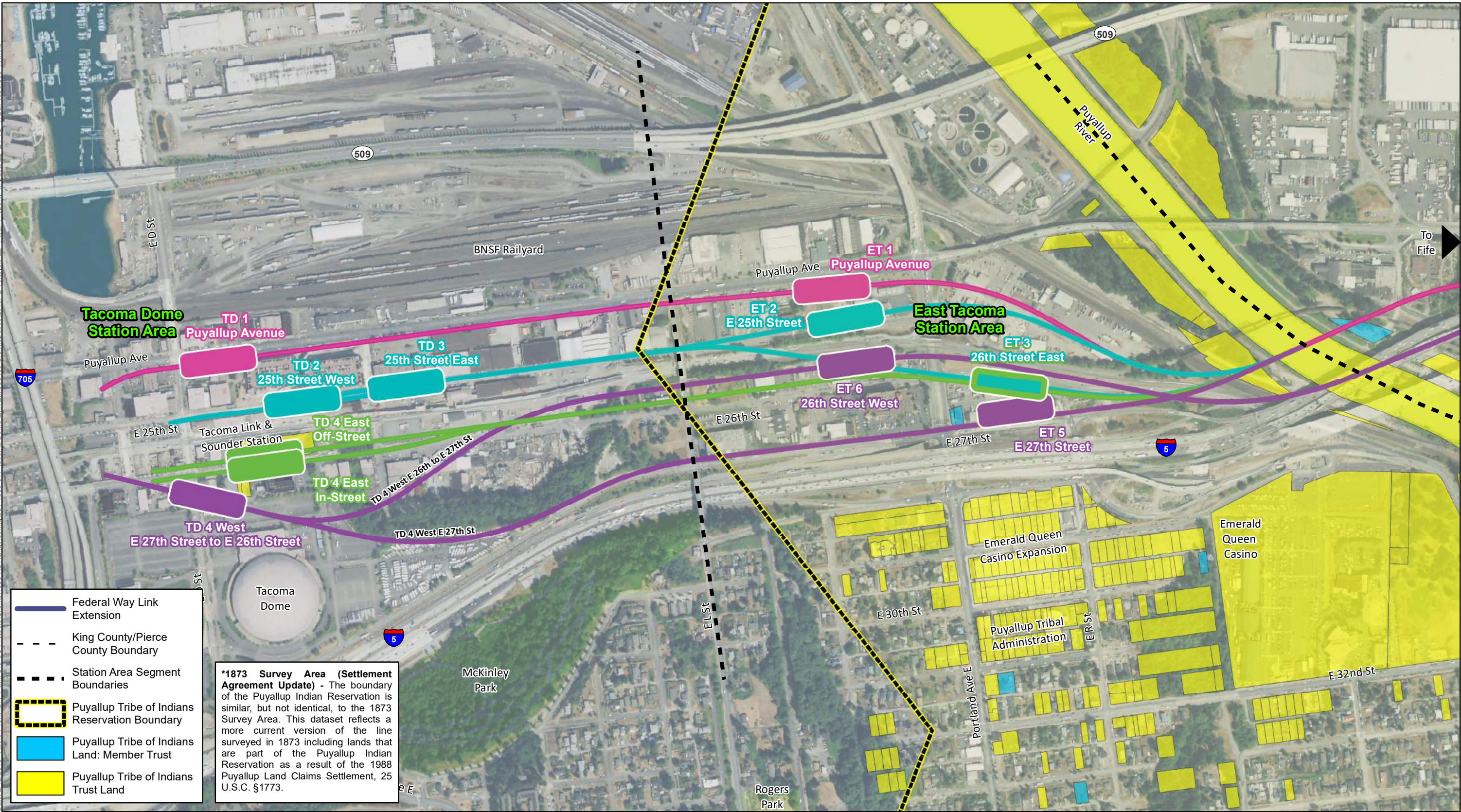
**\*1873 Survey Area (Settlement Agreement Update)** - The boundary of the Puyallup Indian Reservation is similar, but not identical, to the 1873 Survey Area. This dataset reflects a more current version of the line surveyed in 1873 including lands that are part of the Puyallup Indian Reservation as a result of the 1988 Puyallup Land Claims Settlement, 25 U.S.C. §1773.

## TRIBAL PROPERTIES FIFE

TACOMA DOME LINK EXTENSION  
PRELIMINARY SUBJECT TO REVISIONS; DRAFT 2/13/2019



Date: 2/12/2019 Author: Town/BV Path: U:\P\SOI\Projects\Clients\1800-HDR\Engineering\154-1800-017 Tacoma Dome Link Extension\GIS\MapDocs\Level 2 Analysis\L2 Tribal Property Impacts\L2 Tribal Properties v1.mxd



**\*1873 Survey Area (Settlement Agreement Update)** - The boundary of the Puyallup Indian Reservation is similar, but not identical, to the 1873 Survey Area. This dataset reflects a more current version of the line surveyed in 1873 including lands that are part of the Puyallup Indian Reservation as a result of the 1988 Puyallup Land Claims Settlement, 25 U.S.C. §1773.

- |  |   |  |  |
|--|---|--|--|
| <b>Tacoma Dome Alternatives</b>                          |   | <b>East Tacoma Alternatives</b>                                  |  |
| <span style="color: magenta;">—</span> TD1: Puyallup Ave | <span style="color: green;">—</span> TD4 East: E 26th St                | <span style="color: magenta;">—</span> ET1: Puyallup Ave         | <span style="color: green;">—</span> ET3B: 26th St East  |
| <span style="color: cyan;">—</span> TD2: 25th St West    | <span style="color: purple;">—</span> TD 4 West: E 27th St to E 26th St | <span style="color: cyan;">—</span> ET2: E 25th St               | <span style="color: purple;">—</span> ET5: E 27th St     |
| <span style="color: teal;">—</span> TD3: 25th St East    |   | <span style="color: teal;">—</span> ET3A: E 26th St to E 25th St | <span style="color: purple;">—</span> ET 6: 26th St West |

## TRIBAL PROPERTIES EAST TACOMA & TACOMA DOME

TACOMA DOME LINK EXTENSION  
PRELIMINARY SUBJECT TO REVISIONS; DRAFT 2/13/2019



**Tacoma Dome Link Extension  
ENTRY AGREEMENT  
Form A**

This Entry Agreement ("Agreement") is between the **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY** ("Sound Transit"), a regional transit authority of the State of Washington and **PUYALLUP TRIBE OF INDIANS** ("Tribe"), (collectively "Parties"). This Agreement is effective as of the date both parties sign below (the "Effective Date").

**RECITALS**

Tribe owns certain real property ("Property") described below. Sound Transit wishes to gain temporary access to the Property for the purpose(s) described below. Tribe is willing to grant Sound Transit reasonable access to the Property on the terms and conditions of this Agreement. The Property is described as follows:

Parcel Addresses	Parcel Numbers
400 S. 376th St., Federal Way, WA 98003	3221049134
XXX 12 <sup>th</sup> St. E., Tacoma, WA 98424	0420068013
1501 Alexander Ave. E., Fife, WA 98424-1111	0320013069
3700 Pacific Hwy. E., Fife, WA 98424-1148	0320111068
1901 Puyallup Ave., Tacoma, WA 98421	4715023600
XXX Unknown, Tacoma, WA 98421	4715023610

**1. Grant of License.**

Tribe grants to Sound Transit a non-exclusive license of reasonable temporary access to the Property for a period of 24 month(s) from the Effective Date, for the purpose of completing the Design Activities listed below so long as consistent with the Statement of Partnering Intent between Parties for the Tacoma Dome Link Extension Project dated April 8, 2019. See Attachment A for detailed description of Design Activities:

- Civil Survey
- Design/Site Reconnaissance activities
- Utility Locates
- Noise Monitoring
- Vibration Monitoring
- Tree Analysis/Survey
- Wetland and Stream Delineation
- Biological Assessment
- Cultural and Historical Resource
- Air Quality
- Phase 1 Environmental Site Assessments
- Access

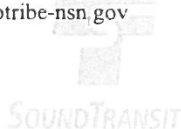
Sound Transit will not permit any other party except Sound Transit's duly authorized representatives, employees, agents and independent contractors (collectively "Representatives") to enter or use the Property.

**2. Contacts.**

In the event, Sound Transit and/or its designated Representatives cannot access some or all of the Property, the following representatives of the owner can arrange for access to the Property.

Property Access:

Name: Robert Barandon  
Title: Land Use Planner  
Telephone #: (253)573-7939 (office); (253)331-3935 (cell)  
Email: Robert.B.Barandon@puyalluptribe-nsn.gov



**3. Liability.**

While on the Property, Sound Transit will comply and will cause all Representatives to comply with all applicable government laws and regulations. Sound Transit and its Representatives will minimize the impact on the Tribe's property and be responsible for any damage done to the Property by Sound Transit or its Representatives and will repair and restore the Property to as nearly as practicable the condition that existed before Sound Transit's or its Representative's entry onto the Property.

**4. Indemnity.**

Sound Transit shall defend, indemnify and hold harmless Tribe, its agents, employees and assigns from all costs, claims, loss, damages, penalties, fines, attorney fees and expenses (collectively, "Claims") arising out of, connected with or resulting from this Agreement or Sound Transit's or its Representatives' entry onto and use of the Property in connection with the Design Activities, except to the extent such Claims are caused by the sole negligence or intentional misconduct of Tribe or its employees, agents, representatives, or invitees. For the sole purpose of enforcing and effectuating this indemnity and not for the benefit of Sound Transit's employees or any third party, Sound Transit specifically and expressly waives any immunity that may be granted to it under any workers compensation laws, disability benefit acts or other employee benefit acts (Title 51 RCW or otherwise).

**5. Governing Law/Captions.**

The validity, meaning, and effect of this Agreement shall be determined in accordance with the contract laws of the State of Washington, without reference to rules relating to choice of law, and any applicable federal law. Further the Parties recognize and agree that they will follow all applicable federal, state, and Tribal laws in the conduct of their activities under this Agreement.

**6. No Third Party Rights/Assignment.**

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any person other than the parties and their respective employees and representatives.

**7. License Agreement.**

This license does not constitute a real property interest and does not confer any rights upon Sound Transit other than the rights expressly granted herein. This license may be revoked by Tribe at any time by providing notice to Sound Transit Project Outreach Specialist: Sagar Ramachandra at 206-398-5453 or by email at [sagar.ramachandra@soundtransit.org](mailto:sagar.ramachandra@soundtransit.org).

**Central Puget Sound Regional Transit Authority:**


**Puyallup Tribe of Indians:**


\_\_\_\_\_  
Julie Aune Date  
Real Property Project Manager

  
\_\_\_\_\_  
David Z. Bean Date  
Tribal Chairman

Approved as to Form

Approved as to Form

By:   
Sound Transit Legal Counsel

By:   
Tribal Attorney





Attachment A - Definitions of Work

**Civil Survey**

A Civil Survey will gather topographical information on the property for items such as trees, buildings, walls, and utilities in order to update base mappings and/or create ALTA surveys. A typical crew will consist of 2 or 3 individuals who may use tripods with survey equipment, survey rods, and/or portable hand held computers. Surveyors may leave temporary paint marks or leave hubs that have been driven into the ground. Work will typically take 2 to 3 days on the property per visit, and may require more than one visit.

The Civil Survey may also include follow-up survey of the activities described below to update the base mapping for analysis and design. This will most typically occur for the wetland and stream delineation.

**Design/Site Reconnaissance activities**

Design Assessment will gather site-specific information on the property for the collection, preparation or verification of design documentation or data. Individuals may use portable hand held computers, digital or tape measures, cameras, design documents and sketch pads to assist in the collection of the information. If area contains blackberry bushes or thick brush, cutting may be required to gain access. Work will typically take 1 to 3 days on the property per visit, and may require more than one visit.

**Utility Locates**

The utility companies that serve this property, or have easements on this property, will locate their utilities and mark their subsurface locations on the surface of the property.

**Noise Monitoring**

This will include installing, establishing, monitoring and removing sound equipment to document existing ambient noise levels. The noise monitoring will be conducted in both indoor and outdoor areas and the monitoring duration will generally take one (1) day to complete.

**Vibration Monitoring**

This will include setting up vibration testing equipment, monitoring and removing equipment to document how vibration might travel from the proposed light rail tracks to nearby buildings. The vibration testing will be conducted in both indoor and outdoor areas and will generally take one (1) day to complete which includes set up, testing, and take down.

**Tree Analysis/Survey**

A certified arborist will survey the site on foot for trees greater than 4" in diameter. Trees will be identified by species, height, and diameter and evaluated for hazard potential. Hazard potential will include review of tree health and physical defects. Soil conditions will also be evaluated for slope, slippage and compaction. A typical crew will consist of 2 or 3 individuals who may use laser rangefinders, binoculars, and small hand tools to help determine the structural soundness of some trees; hand tools may include chisels, knives, increment borers and soft hammers. Trees may be marked with a tag, ribbon/flagging or small dot of paint at the base and may be photographed. Work will typically take 1 to 3 days on the property per visit, and may require more than one visit.

**Wetland and Stream Delineation**

Wetland Survey activities will include analysis of plant species, hydrologic conditions, and soils by biologists contracted by Sound Transit. Soil analysis will involve the use of a hand auger or a small shovel to dig a hole approximately 12 inches in diameter and 12-24 inches deep. Any holes dug will be refilled. Generally, vegetation will be visually assessed, but in some cases, blackberry bushes or thick brush may have to be cut back to identify boundaries of the wetland and streams. Wetland flags may be placed to show wetland, stream boundaries, and soil pits.

**Biological Assessment**

Biological assessment activities will include characterizing wildlife habitat and vegetation conditions by biologists contracted by Sound Transit. Individuals may use portable hand held computers, digital or tape measures, cameras, design documents and sketch pads to assist in the collection of the information. No digging or flagging will be done. Work will typically take 1 to 3 days on the property per visit, and may require more than one visit.

**Cultural and Historical Resource (Archaeological)**

Archaeological Surveys will involve systematically walking the site in a grid to determine where the archaeologists will excavate using a hand auger or shovel probe. The excavations will go down to native materials or about 2 meters (6.6 feet) deep. Excavated material will be screened through ¼-inch mesh and examined for prehistoric- and historic-period artifacts. Cultural items found will be documented and may be photographed before being returned to the excavated hole. No artifacts will be removed from the site. All the work will be done with hand tools; no mechanized equipment will be used. The work will be completed in three (3) steps as follows:

1) Preliminary site visit: The Representative will walk the site and identify location(s) for hand auger and/or shovel probe. Location(s) will be marked temporarily with flagging or a wooden stake in the ground. This step is generally completed in one day.

2) Utility locate: Prior to any digging, a Sound Transit Representative (as defined below) will contact the Washington One Call Center. The One Call Center will be given the location of temporary markings and a distance within that marking to identify utilities on your property. The entire property will not be checked for utilities. If any utilities are identified in the proposed dig areas, the utility locations will be marked as required by State law (RCW 19.122). Locates typically occur within 2 days of contacting the Utility Locate Center. Utility locate activities generally can be completed within one day.

3) Hand auger and/or shovel probe: The Representative will return to the site and complete hand auger and/or shovel probes depending on locations of the utilities. The Representative will schedule the timing of the utility locates to closely precede their schedule for completing this task to the extent possible. The step generally occurs over one to two days per location. A consultant will identify potential cultural and historical resources. This work will include digging and refilling small holes using only hand tools and the placement of survey flags.

**Phase 1 Environmental Site Assessments**

An Environmental Engineer and/or their staff will interview the property owner and walk around the property as part of a visual site assessment.

**Driveway Access**

In a few cases, access for these activities to other properties are required from an adjacent or joint use driveway. This will involve allowing use of the existing driveway to transport the professional staff, vehicles and equipment as needed to perform these activities.

**Crossing Property to Access Adjacent Parcel**

When access to a specific location on an adjacent parcel can only be achieved by crossing the Property to complete the above listed Design Activities, professional staff, equipment or vehicles may need to cross the Property. A property access plan (PAP) will be provided when there is no existing parking lot, road or driveway.



**Tacoma Dome Link Extension  
ENTRY AGREEMENT  
Form A**

This Entry Agreement ("Agreement") is between the **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY** ("Sound Transit"), a regional transit authority of the State of Washington and **PUYALLUP INTERNATIONAL, INC., a tribal corporation** ("Tribe"), (collectively "Parties"). This Agreement is effective as of the date both parties sign below (the "Effective Date").

**RECITALS**

Tribe owns certain real property ("Property") described below. Sound Transit wishes to gain temporary access to the Property for the purpose(s) described below. Tribe is willing to grant Sound Transit reasonable access to the Property on the terms and conditions of this Agreement. The Property is described as follows:

Parcel Address:           XXX North Levee Rd. E., Fife, WA 98424  
Parcel Number:           0320112014

**1. Grant of License.**

Tribe grants to Sound Transit a non-exclusive license of reasonable temporary access to the Property for a period of 24 month(s) from the Effective Date, for the purpose of completing the Design Activities listed below so long as consistent with the Statement of Partnering Intent between Parties for the Tacoma Dome Link Extension Project dated April 8, 2019. See Attachment A for detailed description of Design Activities:

- Civil Survey
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- Noise Monitoring
- Vibration Monitoring
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- Air Quality
- Phase 1 Environmental Site Assessments
- Access

Sound Transit will not permit any other party except Sound Transit's duly authorized representatives, employees, agents and independent contractors (collectively "Representatives") to enter or use the Property.

**2. Contacts.**

In the event, Sound Transit and/or its designated Representatives cannot access some or all of the Property, the following representatives of the owner can arrange for access to the Property.

Property Access:

Name: Robert Barandon  
Title: Land Use Planner  
Telephone #: (253)573-7939 (office); (253)331-3935 (cell)  
Email: Robert.B.Barandon@puyalluptribe-nsn.gov



**3. Liability.**

While on the Property, Sound Transit will comply and will cause all Representatives to comply with all applicable government laws and regulations. Sound Transit and its Representatives will minimize the impact on the Tribe's property and be responsible for any damage done to the Property by Sound Transit or its Representatives and will repair and restore the Property to as nearly as practicable the condition that existed before Sound Transit's or its Representative's entry onto the Property.

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**6. No Third Party Rights/Assignment.**

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any person other than the parties and their respective employees and representatives.

**7. License Agreement.**

This license does not constitute a real property interest and does not confer any rights upon Sound Transit other than the rights expressly granted herein. This license may be revoked by Tribe at any time by providing notice to Sound Transit Project Outreach Specialist: Sagar Ramachandra at 206-398-5453 or by email at [sagar.ramachandra@soundtransit.org](mailto:sagar.ramachandra@soundtransit.org).

**Central Puget Sound Regional Transit Authority:**

**Puyallup Tribe of Indians:**


\_\_\_\_\_  
Julie Aune Date  
Real Property Project Manager

 3/11/2020  
\_\_\_\_\_  
David Z. Bean Date  
Tribal Chairman

Approved as to Form

Approved as to Form

By:   
Sound Transit Legal Counsel

By:   
Tribal Attorney



## Attachment A – Definitions of Work

**Civil Survey**

A Civil Survey will gather topographical information on the property for items such as trees, buildings, walls, and utilities in order to update base mappings and/or create ALTA surveys. A typical crew will consist of 2 or 3 individuals who may use tripods with survey equipment, survey rods, and/or portable hand held computers. Surveyors may leave temporary paint marks or leave hubs that have been driven into the ground. Work will typically take 2 to 3 days on the property per visit, and may require more than one visit.

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**Phase 1 Environmental Site Assessments**

An Environmental Engineer and/or their staff will interview the property owner and walk around the property as part of a visual site assessment.

**Driveway Access**

In a few cases, access for these activities to other properties are required from an adjacent or joint use driveway. This will involve allowing use of the existing driveway to transport the professional staff, vehicles and equipment as needed to perform these activities.

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When access to a specific location on an adjacent parcel can only be achieved by crossing the Property to complete the above listed Design Activities, professional staff, equipment or vehicles may need to cross the Property. A property access plan (PAP) will be provided when there is no existing parking lot, road or driveway.





**Tacoma Dome Link Extension  
ENTRY AGREEMENT  
Form B**

This Entry Agreement ("Agreement") is between the **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY** ("Sound Transit"), a regional transit authority of the State of Washington and **PUYALLUP INTERNATIONAL, INC., a tribal corporation** ("Tribe"), (collectively "Parties"). This Agreement is effective as of the date Tribe signs below (the "Effective Date").

**RECITALS**

Tribe owns certain real property ("Property") described below. Sound Transit wishes to gain temporary access to the Property for the purpose(s) described below. Tribe is willing to grant Sound Transit reasonable access to the Property on the terms and conditions of this Agreement. The Property is described as follows:

Parcel Address(es): XXX North Levee Road E., Fife, WA 98424

Parcel Number(s): 0320112014

**1. Grant of License.**

Tribe grants to Sound Transit a non-exclusive license of reasonable access to the Property for a period of 24 month(s) from the Effective Date, for the purpose of completing the Design Activities listed below so long as consistent with the Statement of Partnering Intent between Parties for the Tacoma Dome Link Extension Project dated February 26, 2019. See Attachment A and the Attached Property Access - Work Plan for detailed descriptions of the Design Activities.

- **Dewatering Wells**
- **Potholing and Utility Locates**
- **Geotechnical Investigation and Exploration**
- **Access**
- **Other** (For internal use only)

Sound Transit will not permit any other party except Sound Transit's duly authorized representatives, employees, agents and independent contractors (collectively "Representatives") to enter or use the Property.

**2. Contacts.**

In the event, Sound Transit and/or its designated Representatives cannot access some or all of the Property, the following representatives of the owner can arrange for access to the Property.

Property Access:

Name: Robert Barandon

Title: Land Use Planner

Telephone #: (253)573-7939; (253)331-3935(cell)

Email: Robert.B.Barandon@puyalluptribe-nsn.gov

**3. Liability.**

While on the Property, Sound Transit will comply and will cause all Representatives to comply with all applicable government laws and regulations. Sound Transit and its Representatives will be responsible for any damage done to the Property by Sound Transit or its Representatives and will repair and restore the Property to as nearly as practicable the condition that existed before Sound Transit's or its Representative's entry onto the Property.

**4. Indemnity.**

Sound Transit shall defend, indemnify and hold harmless Tribe, its agents, employees and assigns from all costs, claims, loss, damages, penalties, fines, attorney fees and expenses (collectively, "Claims") arising out of, connected with or resulting from this Agreement or Sound Transit's or its Representatives' entry onto and use of the Property in connection with the Design Activities, except to the extent such Claims are caused by the sole negligence or intentional misconduct of Tribe or its employees, agents, representatives, or invitees. For the sole purpose of enforcing and effectuating this indemnity and not for the benefit of Sound Transit's employees or any third party, Sound Transit specifically and expressly waives any immunity that may be granted to it under any workers compensation laws, disability benefit acts or other employee benefit acts (Title 51 RCW or otherwise).

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**Central Puget Sound Regional Transit Authority:**

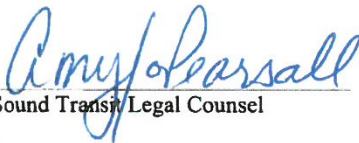
**Puyallup International, Inc.  
Puyallup Tribe of Indians:**


\_\_\_\_\_  
Julie Aune Date  
Real Property Project Manager

 5-27-2020  
\_\_\_\_\_  
David Z. Bean Date  
Tribal Chairman

Approved as to Form

Approved as to Form

By:   
\_\_\_\_\_  
Sound Transit Legal Counsel

By:   
\_\_\_\_\_  
Tribal Attorney





## Attachment A – Definitions of Work

**Dewatering Well(s)**

This will include drilling, installation and decommission of the dewatering well(s) and discharge piping. Prior to commencing work Sound Transit will provide the Owner with a detailed work plan, accompanied by a sketch of proposed well location(s) and site including truck parking where the work will take place. The dewatering well(s) will be decommissioned in accordance with state regulations.

**Potholing and Utility Locates (One Call)**

To determine the precise location and depth of existing utilities, it is sometimes necessary to use a vacuum truck equipped with a high-velocity air stream to penetrate, expand and break-up soil. The loosened chunks of soil and rock are then removed from the hole through the use of a powerful vacuum. After locating the utilities, a Civil Survey will be conducted which will include surveying the utilities and the potholes. A typical crew will consist of 2 or 3 individuals who may use tripods with survey equipment, survey rods, and/or portable hand held computers. Typical duration for potholing a given location is about 2-4 hours. After the potholing work is completed, Sound Transit representatives will restore the Property to its prior condition.

For Geotechnical Explorations, prior to drilling, the boring locations will be marked, and the One Call service will be notified for utility locates. Representatives of each utility will then visit the site to mark underground utilities, per State law. A private utility locator will also check for utilities prior to starting the boring.

**Geotechnical Exploration**

To support the design, boreholes are needed to analyze the soil and it may be necessary to monitor the groundwater with a piezometer. Typically, borehole work is performed as follows: The borehole will be approximately 6 to 8 inches in diameter. The drilling will be completed using a truck-mounted hollow stem auger, a mud rotary drilling equipment, or a sonic core drill rig. Vehicles on the site during the drilling will include the drill rig, a vactor truck, and a support vehicles for technical staff. The work area will be approximately 15 feet wide by 70 feet long and can be reconfigured based on available space. The work can usually be completed within three to five days, based on depth of boring and/or any work restrictions. The borehole will be backfilled according to Washington State Department of Ecology regulations using bentonite chips or a bentonite-grout mixture. After backfilling, the ground surface will be restored to the extent practical to the pre-drilled condition at the completion of the borehole using compost and grass seed. If the borehole is located on pavement, a cold patch will be used to restore the area. After the borehole is completed, a Civil Survey will be conducted which will include surveying the borehole. A typical crew will consist of 2 or 3 individuals during the drilling operations.

If a piezometer is installed, a staff person will periodically (quarterly or semi-annually) visit the site for approximately 30 minutes to download the data and to replace the batteries for the datalogger.

**Driveway Access**

In a few cases, access for these activities to other properties are required from an adjacent or joint use driveway. This will involve allowing use of the existing driveway to transport the professional staff, vehicles and equipment as needed to perform these activities.

**Crossing Property to Access Adjacent Parcel**

When access to a specific location on an adjacent parcel can only be achieved by crossing the Property to complete the above listed Design Activities, professional staff, equipment or vehicles may need to cross the Property. A property access plan (PAP) will be provided when there is no existing parking lot, road or driveway.

## Property Access - Work Plan (WP)

A completed work plan is required for all invasive Rights of Entry. The intent of this WP is to identify safe and legal access for field activities. To participate in field activities, contracted parties must follow the WP, Safety Plan, approved right of entry, and coordinate with Sound Transit Community Outreach.

<b>Project Name</b>	<i>Tacoma Dome Link Extension</i>	<b>Property Type</b>	vacant land
<b>Property Owner</b>	<i>Puyallup International, Inc.</i>	<b>Notes as required</b>	
<b>ST ROW ID</b>	<i>TD4149</i>		
<b>County Tax ID Number</b>	<i>0320112014</i>	<b>Point of Contact</b>	Jay Munro 360-463-3728
<b>Prepared by</b>	<i>Parametrix Inc.</i>	<b>Submission Date</b>	3/6/2020
<b><u>Activity</u></b>		<b><u>Schedule</u></b>	
Locating and Potholing at the Olympic Petroleum Pipeline		As soon as it can be scheduled - March 2020	

### PROJECT DESCRIPTION INCLUDING NEED FOR ACCESS

This Property Access Plan (PAP) outlines the planned potholing work to support the utility locate of an 8" petroleum pipeline which crosses perpendicular to the proposed Tacoma Dome Link Extension. The proposed fieldwork will support light rail transit alignment assessment from Angle Lake Station to the Tacoma Dome Station in Tacoma.

The team will need vehicle access to the site and anticipates ability to enter the site from North Levee Road East.

### WORK AREA

Refer to Exhibit A for proposed work area. Exhibit A illustrates the approximate location of the pipeline on the property.

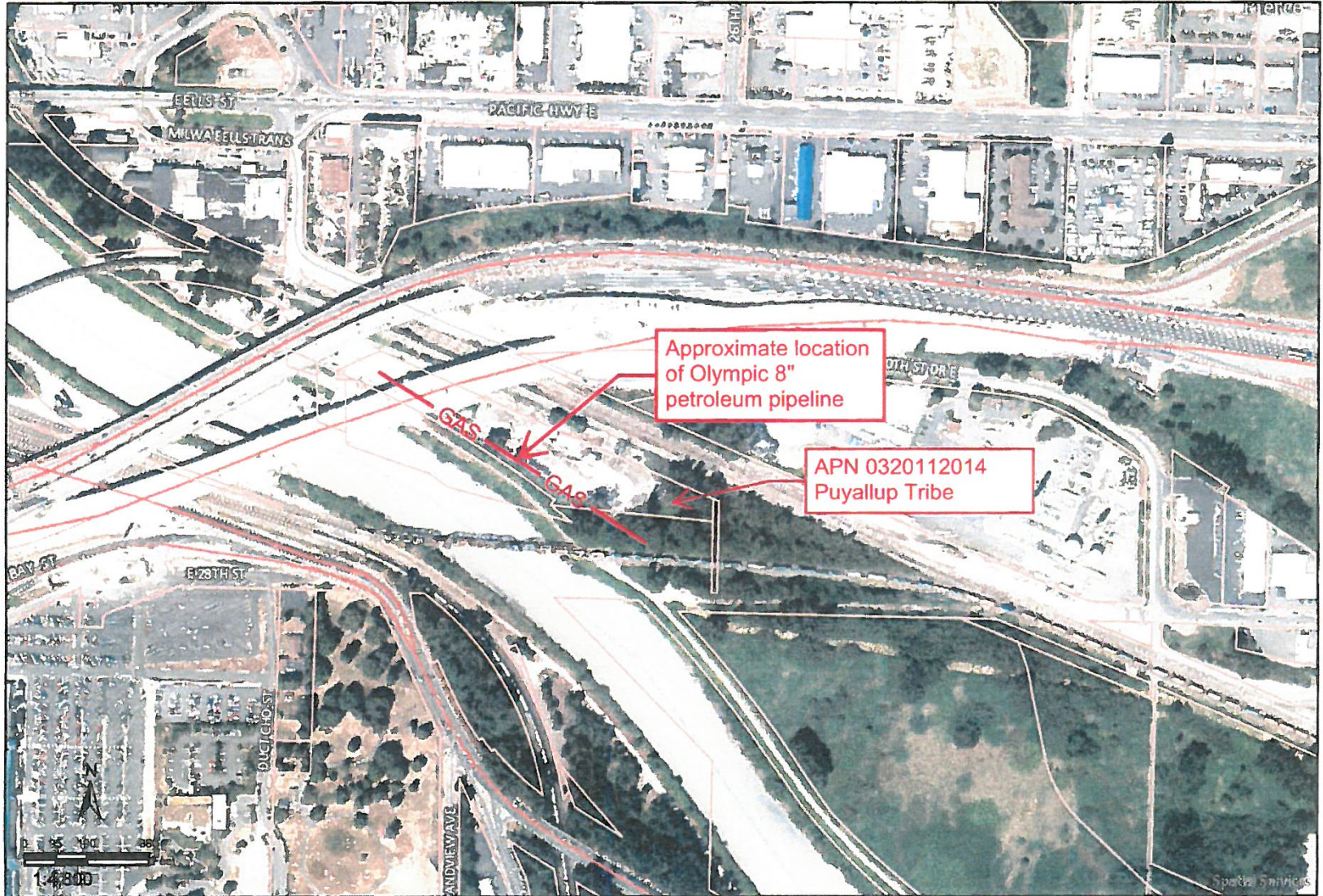
### DETAILED WORK DESCRIPTION

Parametrix will be assisting APS Locating Inc. in locating a 8" petroleum pipeline located within Pierce County APN 0320112014. APS will locate the pipeline using locating equipment and add paint marks on the ground at each angle point. After locating the pipeline, APS will use a VAC truck with air pressure to dig several 4"- 6" diameter holes down to the top of the pipeline. Anticipating approximately 3 potholes unless the pipeline has bends, which may require potholes at each angle point. Parametrix will then locate the top of the pipeline and ground elevation using GPS equipment. APS will backfill with the native soil that was removed for potholing. See attachment for the approximate location of 8" pipeline.

### SCHEDULE

- Work will be completed on weekdays (Mon-Fri) during daylight hours (approximately 7am to 7pm) unless otherwise specified
- Utility locates by APS prior to potholing
- 6-8 hours onsite total





Disclaimer: The map features are approximate and have not been surveyed. Additional features not yet mapped may be present.  
Pierce County assumes no liability for variations ascertained by formal survey.

Date: 3/5/2020 10:58 AM

**Tacoma Dome Link Extension  
ENTRY AGREEMENT  
Form A**

This Entry Agreement ("Agreement") is between the **CENTRAL PUGET SOUND REGIONAL TRANSIT AUTHORITY** ("Sound Transit"), a regional transit authority of the State of Washington and **PUYALLUP TRIBE OF INDIANS** ("Tribe"), (collectively "Parties"). This Agreement is effective as of the date both parties sign below (the "Effective Date").

**RECITALS**

Tribe owns certain real property ("Property") described below. Sound Transit wishes to gain temporary access to the Property for the purpose(s) described below. Tribe is willing to grant Sound Transit reasonable access to the Property on the terms and conditions of this Agreement. The Property is described in the attached diagram labeled, "Puyallup River Bathymetry Survey Limits."

Parcel Address(es): Puyallup River

Parcel Number(s): N/A

**1. Grant of License.**

Tribe grants to Sound Transit a non-exclusive license of reasonable temporary access to the Property for a period of 6 month(s) from the Effective Date, for the purpose of completing the Design Activities listed below so long as consistent with the Statement of Partnering Intent between Parties for the Tacoma Dome Link Extension Project dated February 26, 2019.

- Bathymetry

The contractor will put their boat in at the Puyallup River boat launch at the 11<sup>th</sup> street bridge. The contractor will utilize Network VRS GPS for positioning. They will check into 2 published state plane monuments prior to beginning the work from the boat and at the end of each day. The monuments selected to check the positional tolerances will be on publicly accessible property. The contractor should not be required to access any localized ground control on Tribal property. The work from the boat will consist of navigating lines up and downstream while collecting high definition sonar data, assuring full bottom coverage. All work will be done in the river channel from the boat. Work will be completed over a 2 day period. The ROE period is for 6 months to allow return to the river if any additional data is deemed necessary.

Sound Transit will not permit any other party except Sound Transit's duly authorized representatives, employees, agents and independent contractors (collectively "Representatives") to enter or use the Property.

**2. Contacts.**

In the event, Sound Transit and/or its designated Representatives cannot access some or all of the Property, the following representatives of the owner can arrange for access to the Property.

Property Access:

Name: Robert Barandon

Title: Land Use Planner

Telephone #: (253)573-7939 (office); (253)331-3935 (cell)

Email: Robert.B.Barandon@puyalluptribe-nsn.gov





**3. Liability.**

While on the Property, Sound Transit will comply and will cause all Representatives to comply with all applicable government laws and regulations. Sound Transit and its Representatives will minimize the impact on the Tribe's property and be responsible for any damage done to the Property by Sound Transit or its Representatives and will repair and restore the Property to as nearly as practicable the condition that existed before Sound Transit's or its Representative's entry onto the Property.

**4. Indemnity.**

Sound Transit shall defend, indemnify and hold harmless Tribe, its agents, employees and assigns from all costs, claims, loss, damages, penalties, fines, attorney fees and expenses (collectively, "Claims") arising out of, connected with or resulting from this Agreement or Sound Transit's or its Representatives' entry onto and use of the Property in connection with the Design Activities, except to the extent such Claims are caused by the sole negligence or intentional misconduct of Tribe or its employees, agents, representatives, or invitees. For the sole purpose of enforcing and effectuating this indemnity and not for the benefit of Sound Transit's employees or any third party, Sound Transit specifically and expressly waives any immunity that may be granted to it under any workers compensation laws, disability benefit acts or other employee benefit acts (Title 51 RCW or otherwise).

**5. Governing Law/Captions.**

The validity, meaning, and effect of this Agreement shall be determined in accordance with the contract laws of the State of Washington, without reference to rules relating to choice of law, and any applicable federal law. Further the Parties recognize and agree that they will follow all applicable federal, state, and Tribal laws in the conduct of their activities under this Agreement.

**6. No Third Party Rights/Assignment.**

Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any person other than the parties and their respective employees and representatives.

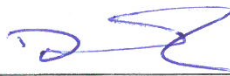
**7. License Agreement.**

This license does not constitute a real property interest and does not confer any rights upon Sound Transit other than the rights expressly granted herein. This license may be revoked by Tribe at any time by providing notice to Sound Transit Project Outreach Specialist: Sagar Ramachandra at 206-398-5453 or by email at [sagar.ramachandra@soundtransit.org](mailto:sagar.ramachandra@soundtransit.org).

**Central Puget Sound Regional Transit Authority:**

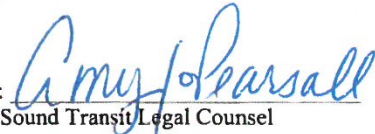
**Puyallup Tribe of Indians:**


\_\_\_\_\_  
Julie Aune Date  
Real Property Project Manager

 5-27-2020  
\_\_\_\_\_  
David Z. Bean Date  
Tribal Chairman

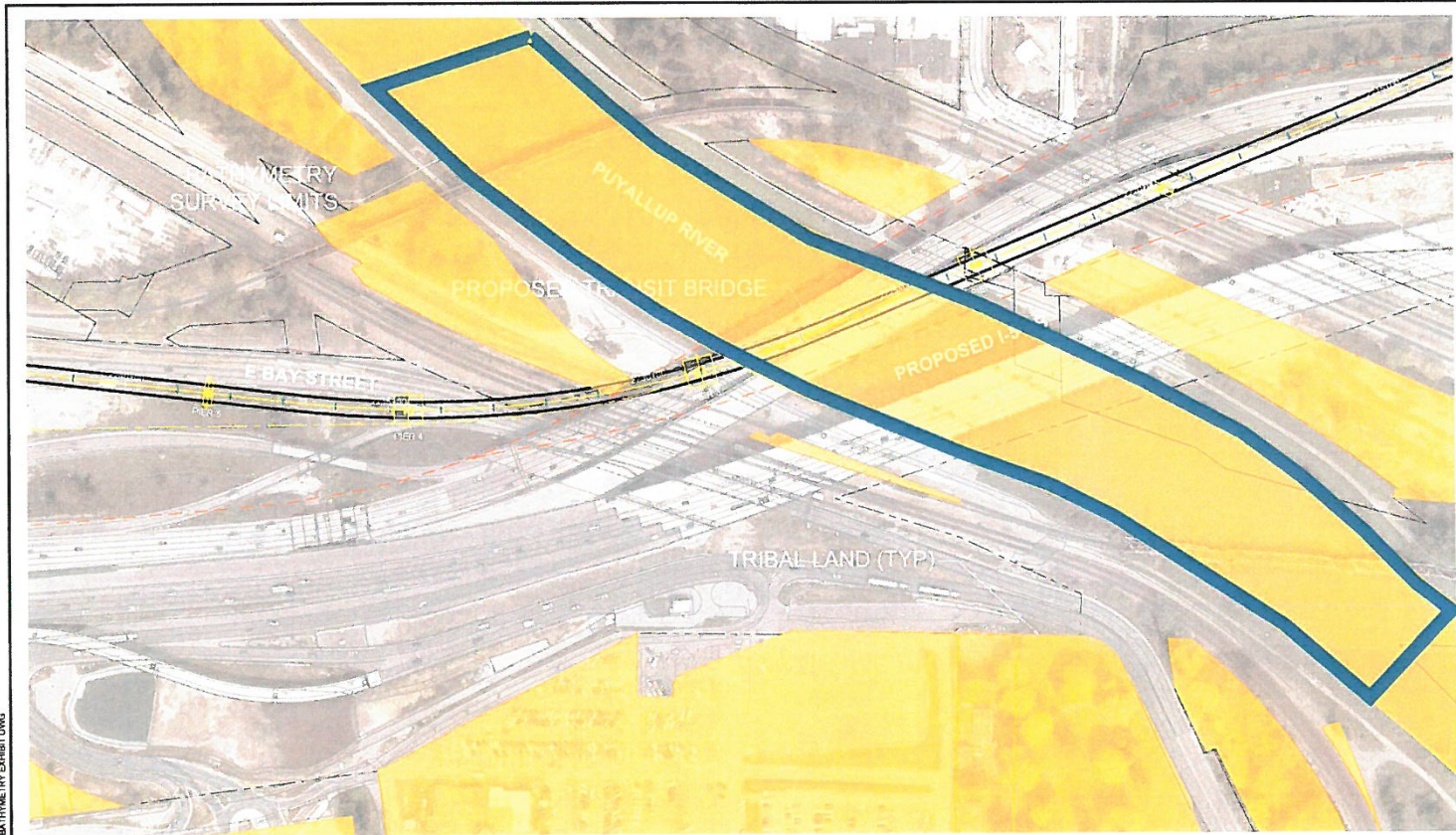
Approved as to Form

Approved as to Form

By:   
Sound Transit Legal Counsel

By:   
Tribal Attorney

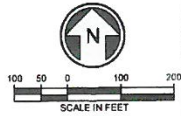




**DRAFT**  
 For discussion purposes only. Not approved by or on behalf of any party.

**PUYALLUP RIVER BATHYMETRY SURVEY LIMITS**

(page 3 to Tacoma Dome Link Extension Form A Right of Entry request for the Puyallup River)



SOURCE: 10:35 AM, J. PETERSON, C:\PROGRAMS\METSO\TDCR\PUYALLUP\_RIVER\_CROSSING\BATHYMETRY\EXHIBIT.DWG

DESIGNED BY	
DRAWN BY	
CHECKED BY	
APPROVED BY	

NO.	DATE	DSN	CHK	APP	REVISION



SUBMITTED BY	DATE	REVIEWED BY	DATE

LINE 17 AT FULL SCALE
SCALE
FILENAME
CONTRACT No.
DATE

<b>SOUND TRANSIT TACOMA DOME LINK EXTENSION</b>	
PLAN VIEW PUYALLUP RIVER CROSSING BATHYMETRY SURVEY LIMITS	

DRAWING No.	
FACILITY ID	
SHEET No.	REV
A-1	

# LITTLER MENDELSON

June 05, 2020 - 3:34 PM

## Transmittal Information

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** 98320-8  
**Appellate Court Case Title:** Garfield County Transportation Authority, et al. v. State of Washington

### The following documents have been uploaded:

- 983208\_Briefs\_20200605152013SC267504\_7141.pdf  
This File Contains:  
Briefs - Amicus Curiae  
*The Original File Name was Tribal Brief Amicus Brief.pdf*
- 983208\_Motion\_20200605152013SC267504\_6066.pdf  
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Motion 1 - Amicus Curiae Brief  
*The Original File Name was Tribal Brief Motion to File Amicus.pdf*
- 983208\_Notice\_20200605152013SC267504\_4638.pdf  
This File Contains:  
Notice - Appearance  
*The Original File Name was Tribal Brief - Notice of Appearance T. Tyson and J. Wood.pdf*

### A copy of the uploaded files will be sent to:

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- Jacob.Giem@atg.wa.gov
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- david.hackett@kingcounty.gov
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- sydney.henderson@pacificlawgroup.com
- ttyson@littler.com

**Comments:**

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Sender Name: Jeremy Wood - Email: jfwood@littler.com

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SEATTLE, WA, 98101-3122

Phone: 206-765-9031

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