

**PORT OF SEATTLE
MEMORANDUM**

COMMISSION AGENDA

Item No. 4e

Date of Meeting September 30, 2014

DATE: September 10, 2014

TO: Tay Yoshitani, Chief Executive Officer

FROM: Michael McLaughlin, Director Cruise and Maritime Operations



SUBJECT: Vessel Coordination Agreement between the Port of Seattle and the Muckleshoot Indian Tribe for coordination of Treaty fishing access and cargo/cruise vessel arrival and departures at port berthing facilities

Amount of This Request: Estimated Fixed Cost \$632,000 Source of Funds: General Fund/Ops
 Estimated Variable Cost \$200,000

ACTION REQUESTED:

Request Port Commission authorization for the Chief Executive Officer to enter into a two year Agreement with the Muckleshoot Indian Tribe to assist with permit concurrence and coordination of Treaty fishing access with cargo and cruise vessels serving Port of Seattle berthing facilities in the Duwamish Waterway, East Waterway, West Waterway, and Elliott Bay.

SYNOPSIS:

The Muckleshoot Indian Tribe (Tribe) and the port agree that continued successful Treaty fishing access and marine cargo/cruise vessel access in areas where Treaty fishing and Port operations over-lap is mutually beneficial. Experience during the past 19 years indicates that actions taken to avoid conflicts between Treaty fishing activities and cargo/cruise vessels serving Port facilities improves safety, reduces damage to fishing gear, and allows for orderly harvest, while reducing the potential for delays in vessel arrivals and departures. This agreement obligates the port to provide funds for both program administration and net claims, and includes moorage for two boats at the Harbor Island Marina during active fishing periods. The requested funding is consistent with historical program costs, moorage and anticipated claims for the 2014 and 2015 fishing seasons. Estimated annual fixed program costs \$316,000. Estimated annual variable program costs \$100,000. This Agreement will fulfill business needs of Port to obtain letters of non-opposition for two Port-sponsored projects which will help the Port obtain permits and increase the chances that those projects will be delivered on time and on budget. This program also maintains our Port's competitiveness by minimizing delays and disruptions for customers accessing or berthing at Port-owned facilities.

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BACKGROUND

Beginning in the late 90's as an element of the Terminal 5 Redevelopment Project and as a result of more recent port development projects in the East Waterway (including: Terminal 18, South and North Apron Improvement Projects; Terminal 25/Terminal 30 connecting bridge project; and, Terminal 30/Terminal 91 cruise vessel relocation project) and in the Duwamish Waterway (Terminal 115 barge cargo pier rehabilitation) the port has agreed to compensate the Tribe for adverse effects on Treaty fishing due to vessel berthing activities at port marine terminal facilities. The port's long-term commitment to the Tribe relates to maintenance of usual and accustomed treaty fishing access adjacent to port marine terminal sites throughout the East and West Waterways and adjacent to other port marine facilities in Elliott Bay and the Duwamish Waterway, which are known areas of tribal fishing activity.

The most recent vessel coordination agreement with the Tribe expired at the end of 2013.

Scope of Agreement:

The proposed agreement provides for continuing Tribe and port Treaty fishing coordination activities, based on the elements and success of past agreements and mutual actions.

During the fishing season, for each year during the 2 year term of the agreement, the Tribe will provide around-the-clock, on-site staff to monitor fishing activities during the specified fisheries in the agreement and to coordinate fishing harvest with cargo/cruise vessel movements; such that vessel and fishing gear conflicts may be managed and minimized.

Coordination activities will include exchange of harvest activity and cargo/cruise vessel arrival and departure information between the Tribe and the Port, twenty-four hour personnel tasked with alerting fishers and Port operators concerning potential vessel/net conflicts and, where appropriate, movement of fishing gear to allow for cargo/cruise vessel arrivals and departures at port berthing facilities.

The proposed agreement also provides for:

1. Moorage of two monitoring boats, used by Tribe coordination staff, at Harbor Island Marina located at Terminal 102, during the harvest periods
2. Compilation by the port and transmitting anticipated cargo/cruise vessel activity information to Tribe fishing monitors, including detailed vessel arrival and departure information, beginning Sunday of each week and up-dated daily throughout each fishing period.
3. Compensation from the port for movement of Treaty fishing gear, when determined to be appropriate, to allow moorage and departure of cargo/cruise vessels at Port of Seattle berthing facilities.
4. Compensation from the port for Treaty fishing gear lost or damaged as a result of cargo/cruise vessel arrival and departure at port berthing facilities.
5. Summary Reporting of Incidents to the Port. The Tribe agrees to provide a monthly summary report of claims made during the fishing season that includes the number and type (i.e., net move or gear damage) of claims associated with each Port marine terminal. Following all net move,

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gear loss, and lost fishing time transactions for each fishing season, the Tribe will provide the port with a summary accounting record of incidents, including net moves, compensation for damaged gear, and lost fishing time.

6. The Muckleshoot Indian Tribe agrees to transmit a letter of non-opposition for two port-sponsored projects: (1) Pier 34 moorage repair and maintenance project and (2) Terminal 91, Pier 91, Underwater Grading east berth /dredging project. A summary of the scope of these two projects is attached to this agreement. For the Pier 34 moorage repair and maintenance project, the Tribe will transmit a letter of non-opposition to the Port within five business days of execution of this agreement. For the Terminal 91, Pier 91, underwater grading east berth/dredging project, the Tribe agrees not to oppose the issuance of the Corps permit when the public notice becomes available.

DOCUMENTS ASSOCIATED WITH THIS REQUEST:

Attached proposed draft 2 year Vessel Coordination agreement.