

**LETTER OF AGREEMENT BETWEEN
MUCKLESHOOT INDIAN TRIBE AND PORT OF SEATTLE**

Terminal 117 Habitat and Public Shoreline Access Project in the Duwamish Waterway

This letter of agreement confirms the understanding and commitments between the Muckleshoot Indian Tribe (“Tribe”) and the Port of Seattle (“Port”) regarding in-water construction activities necessary for building the Terminal 117 Habitat and Public Shoreline Access Project in the Duwamish Waterway (U.S. Army Corps of Engineers Reference Number NWS-2014-0749-WRD).

The Muckleshoot Indian Tribe and the Port of Seattle agree as follows:

- (1) Construction activities for the referenced project will comply with periods stipulated for protection of salmon resources and all other conditions and requirements of local, state, and federal permit approvals.
- (2) In-water construction for the project will occur from May 1 through February 15 of one construction window. See Attachment 1 for a figure noting when different areas of the project will require in-water or river bank work.
- (3) In-water construction may include movement of material transport barges in the Duwamish Waterway, to and from the project site, as determined by the project contractor. Off-site barge movements will be coordinated with Treaty fishing activities. The Port agrees that potential disruption of treaty fishing activities will be caused by the project. The Tribe will invoice the Port for any fishing net moves, fishing gear damage or loss, and/or lost fishing time claims associated with this project separately from the existing Muckleshoot Indian Tribe, Port of Seattle, the Northwest Seaport Alliance Maritime Access and Impact Mitigation Agreement.
- (4) The Port shall transmit \$300,000 to the Muckleshoot Indian Tribe for the purpose of establishing a Fisheries Mitigation Fund in response to construction-related impacts from the project to the Tribe's fisheries. The Fisheries Mitigation Fund will be managed solely by the Tribe. Expenditures from the fund shall be made at the sole discretion of the Tribe. Notice will be provided of the Port Commission's construction authorization to the Tribe and funds will be transferred to the Tribe within 10 days of the Port Commission's authorization for construction of the Project. If notice of construction authorization is provided after July 27, 2019, the initial \$300,000 contribution to the Fisheries Mitigation Fund will be adjusted to reflect any increase in the Seattle Urban Area Consumer Price Index published by the U.S. Department of Labor Statistics effective as of January 1, 2019. The check will be made payable to the Muckleshoot Indian Tribe and mailed to:

Jeff Songster, Comptroller
Muckleshoot Indian Tribe
39015 172nd Avenue Southeast
Auburn, Washington 98092


- (5) The Port will include at least 100, ten feet to 12 feet high, deciduous and evergreen trees in the project riparian planting plan in order to provide more rapid tree-shade of adjacent aquatic area. No less than 100 trees in this size range will be planted within ten feet of MHHW, spaced

approximately 20 feet apart. The Port commits to taking all reasonable measures to ensure survival of the trees, including weeding, mulching, staking, and watering. The Port will replace unsuccessful large tree installations with smaller trees, since it will be difficult to access the replacement site following construction and successful establishment of adjacent riparian plantings.

- (6) The Port will work with the Tribe to develop, fund, install and maintain interpretive signage to raise awareness about treaty-reserved fisheries in the area. The Port agrees to separately fund the project for up to \$50,000 and will meet with designated Tribe contacts to advance work on this project. The Port shall submit final signage plans to the Tribe for review and approval. Any future modifications to the signage shall require Tribal approval.
- (7) The Port will install up to nine (9) set net attachment piling along the shoreline within the project site. These will be steel piling installed at approximately plus eight feet MLLW. The Port will also install shoreline set net attachment points at approximately plus 12 feet MLLW (toe of slope) once the on-channel marsh has developed and marsh planting area goose-exclusion structures have been removed. The precise size and location of the piling will be determined through field-consultation with representatives of the Tribe.
- (8) The Muckleshoot Indian Tribe agrees to transmit a letter to the U.S. Army Corps of Engineers, referencing the Project (U.S. Army Corps of Engineers Reference Number NWS-2014-0749), stating that the Tribe does not oppose the issuance of federal permit approval for the project. This letter will be sent no later than 10 business days following execution of this agreement.

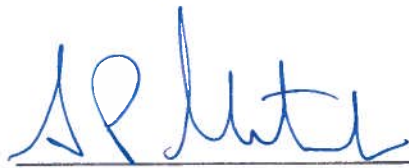
This Agreement relates solely to the Terminal 117 Habitat and Public Shoreline Access Project (U.S. Army Corps of Engineers Reference Number NWS-2014-0749-WRD). The eight elements of this Agreement represent the entire scope of the agreement of the parties with respect to its subject matter. This Agreement does not preclude the Tribe from pursuing any violations of local, state, or federal authorizations applicable to the referenced project. The Tribe is not precluded from commenting on or challenging any modification of the referenced project with the potential to alter the scope of potential adverse effects on the Tribe. The Tribe and the Port further agree that nothing in this agreement is intended to or should be construed to define the nature and scope of treaty fishing rights.

This agreement is made in light of currently known information concerning the referenced project and is subject to Port Commission approval. The payment described in paragraph (4) will not be made until Port Commission has approved this agreement and authorized construction of the project. Construction will not proceed without authorization of this agreement and associated payments.



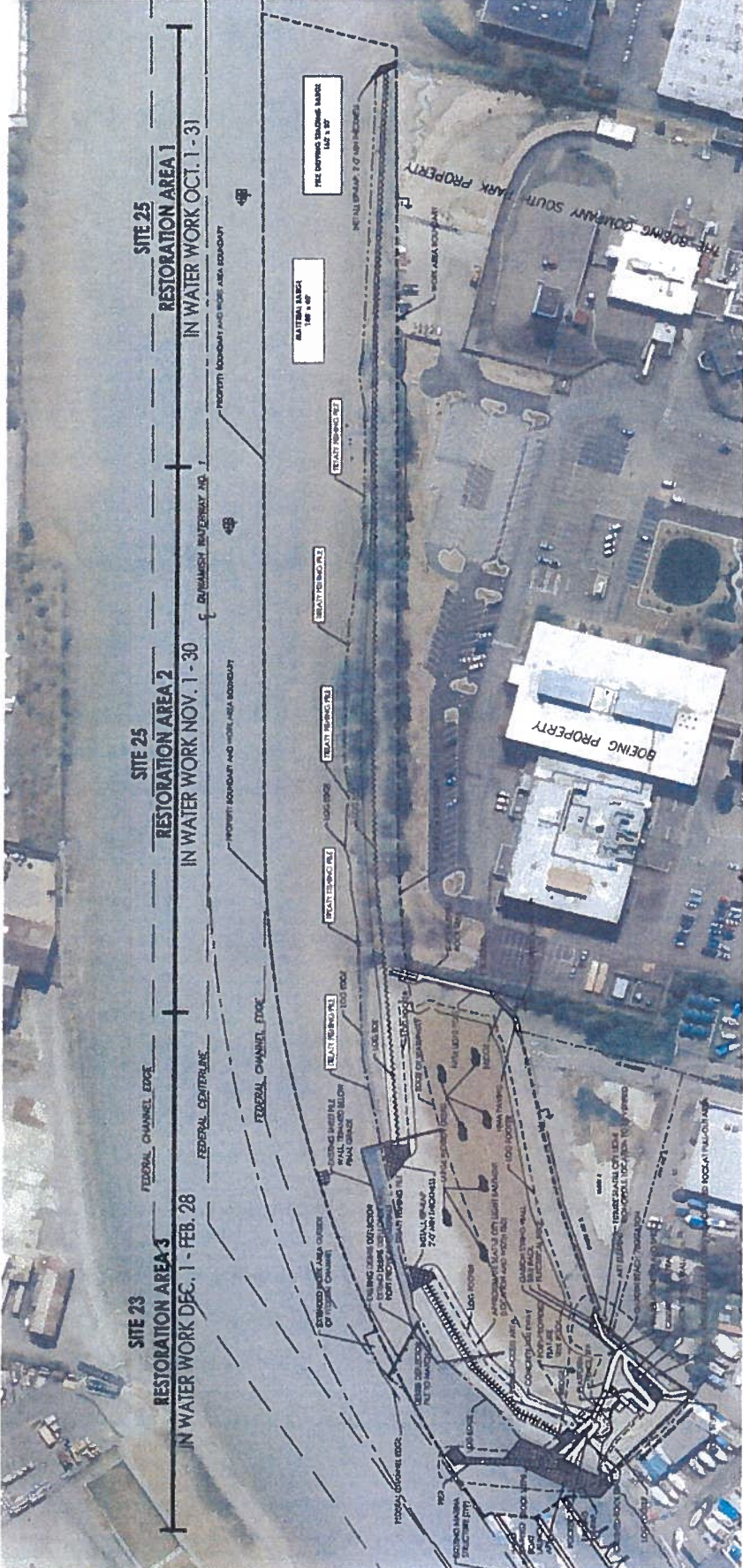
Muckleshoot Indian Tribe

Date: 4/22/20



Stephen P. Metruck
Executive Director
Port of Seattle

Date: 4/29/20



Attachment 1

- LEGEND
- Existing Channel
- Proposed Channel
- Existing Structures
- Proposed Structures
- Property Boundary
- Water Work Area

