

**2022 INTERLOCAL AGREEMENT
FOR
FEDERAL PERMIT REVIEW LIAISONS**

This Interlocal Agreement (the "Agreement") is between the following (referred to herein individually as a "Party" and collectively as the "Parties"):

the PORT OF ANACORTES
the PORT OF BELLINGHAM
the PORT OF EVERETT
the PORT OF KALAMA
the PORT OF LONGVIEW
the PORT OF OLYMPIA
the PORT OF PORT ANGELES
the PORT OF VANCOUVER USA
the NORTHWEST SEAPORT ALLIANCE
and
the WASHINGTON PUBLIC PORTS ASSOCIATION

WHEREAS, the port districts named above are Washington public port districts (the "Districts").

WHEREAS, the Northwest Seaport Alliance ("NWSA") is a port development authority created and existing pursuant to Title 53 RCW.

WHEREAS, the Washington Public Ports Association is organized pursuant to chapter 53.06 RCW (the "WPPA").

WHEREAS, in 2008 the Districts noted above along with the Port of Tacoma and the Port of Seattle (as predecessors to the NWSA) entered into an interlocal agreement for a federal permit review (the "2008 Interlocal") to fund a port district and dedicated a NMFS liaison to expedite applicable permit reviews and consultations.

WHEREAS, the Districts and the NWSA each engage in projects requiring permit review by, or consultations with, the National Marine Fisheries Service and/or the United States Fish and Wildlife Service (respectively, "NMFS" and "USFWS" and collectively "Services").

WHEREAS, the Services are authorized by federal law, and have agreed in a Memorandum of Agreement between the NWSA and each Service (the "MOAs"), attached as Appendices A & B hereto, to host within the Services' offices two NWSA employees (the "Liaisons") in the position of staff biologist to assist the Districts and the NWSA to comply with the Endangered Species Act and other authorities or environmental regulations regarding listed species thereby resulting in focused document review, project coordination on applicable projects and expedited permit processing by the Services.

WHEREAS, one of the Liaisons will be dedicated to assist NWSA on its projects (the "NWSA Liaison") and the other will be dedicated to assist the Districts on their projects (the "Districts Liaison").

WHEREAS, the Parties recognize that each District will realize important beneficial efficiencies and enhanced compliance with federal environmental requirements from the Districts Liaison's work on permit applications and; therefore, desire to enter into a collaboration and cooperative arrangement to provide for and fund the one (1) Districts Liaison to work on District projects.

WHEREAS, on behalf of the Districts, the NWSA has agreed to: (i) hire, employ, supervise and pay the compensation of the Districts Liaison as a full-time NWSA employee, including salary, benefits, leave, and other appropriate overhead costs according to NWSA employment policies; and (ii) pay any other fees charged by the Services directly related to the District Liaison (collectively the "Districts Liaison Costs") as further defined below.

WHEREAS, the Districts have agreed to pay, according to the terms of this Agreement, to the NWSA, the full amount of the annual Districts Liaison Costs.

WHEREAS, it is anticipated that the Districts Liaison will work for the Districts and the other NWSA Liaison will work for the NWSA although it is recognized that the Liaisons will be available to work on behalf of Districts and/or the NWSA as primary workloads permit.

WHEREAS, the NWSA permits are for work on or adjacent to property owned by the Port of Tacoma and the Port of Seattle.

WHEREAS, the Districts appreciate the willingness of the NWSA to undertake the administration of the Districts Liaison under this Agreement.

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.

NOW THEREFORE, the Parties, for and in consideration of the mutual covenants herein contained, hereby agree as follows:

A. Purpose, Utilization and Exhibits.

1. The purpose of this Agreement is to cooperatively establish and fund the Districts Liaison position for the primary support of the Districts' applications to the Services. The Districts Liaison will prioritize permit applications, with coordination of the Districts' project manager and representative, submitted by the Districts and process consultations for said permit applications to promote focused document review and project coordination on applicable District projects. It is expected that this will enhance the Districts' ability to comply with the Endangered Species Act and other authorities or environmental regulations regarding listed species in a timely manner.

2. The Districts shall utilize the Districts Liaison to interface with the Services in support of their respective federal permit applications.

3. The following exhibits are appended to this Agreement and incorporated herein by reference.

Exhibit A	MOA between the NMFS and NWSA
Exhibit B	MOA between the USFWS and NWSA
Exhibit C	Formula for allocation of cost of the Districts Liaison

B. **The Districts' Obligations.** The Districts are obligated under this Agreement as follows:

1. For a period of five years (years 2023-2027) annually contribute their respective pro-rata share of the Districts Liaison Costs to the NWSA in a timely manner; provided that the Districts shall not be responsible to cover NWSA costs arising from employment claims asserted by the Districts Liaison or employee/employer disputes.

2. Collectively appoint a Districts' project manager (the "Districts' Project Manager") to (i) represent the Districts in meetings with NWSA and the Services, (ii) schedule periodic meetings of the Districts and/or NWSA as may be necessary to implement this Agreement, (iii) if necessary, make the final determination as to the work priorities of the Liaison assigned to the Districts and (iv) be the point of contact between the Districts and the NWSA.

3. Appoint a representative (the "District Representative") to be the contact for their respective District for the purpose of implementing this Agreement, including but not limited to, (i) working with NWSA to develop appropriate chargeable hour tracking procedures, (ii) participating in meetings with the NWSA, other Representatives and the Districts' Project Manager, and (ii) if necessary, assist in determining work priorities of the Districts Liaison.

4. Cooperate together and with NWSA to determine, no later than August 31, 2022, and annually thereafter, the subsequent year's budget for the Districts Liaison Costs, including the payment of any Districts Liaison Cost incurred by NWSA in excess of the then-current year's budget, and each District's individual portion thereof (the "Allocated Share").

5. Commencing in the fall of 2023, and annually thereafter, include in its adopted annual budget for the ensuing year adequate funds to pay its Allocated Share.

6. No later than sixty (60) days after the Effective Date, provide its Allocated Share as set forth in Exhibit C hereto, and within 30 days after receipt of an invoice in subsequent years.

7. Take all reasonably required actions to work with the other Districts and the NWSA in a collaborative manner to conduct, monitor, and adapt this Agreement in the best interest of all Parties.

8. Act promptly and reasonably to address any request from other port districts to join this Agreement.

9. Cooperate with the NWSA to evaluate the performance of the Districts Liaison.

C. **NWSA's Obligations.** NWSA is obligated under this Agreement as follows:

1. Administer this Agreement and the MOAs according to its terms and conditions and perform duties set forth herein in furtherance of a successful liaison program and in a manner consistent with the MOAs with the Services.

2. For each calendar year during the existence of this Agreement establish, after consultation with the Districts, an "Annual Budget" by no later than August 31 for the following year.

3. As part of the Annual Budget, provide the Fully Burdened Hourly Rate for the Districts Liaison. The term "Fully Burdened Hourly Rate" means:

- a. The salary x 1.5 (to account for benefits) = "Full Salary;" and then,
 - b. The Full Salary x 1.20 (to account for the NWSA overhead) = "NWSA Full Salary;" and then,
 - c. The NWSA Full Salary x 1.02 (to account for the WPPA fee) = the "Fully Burdened Hourly Rate."
4. Pay all reasonable and necessary expenses related hereto and account fully to the Districts for such expenses during July of each year starting in 2023.

5. Select (in consultation with the Districts Project Manager), employ and supervise (including, as appropriate, discipline or terminate) the District Liaison as a NWSA employee to perform the duties described in the MOAs. The District Liaison will be compensated, receive benefits, attend conferences and receive technical training consistent with NWSA human resource policies. To be clear NWSA will employ the Districts Liaison for a minimum of five years based, in part, upon the five-year commitments from the Districts. If a Districts Liaison resigns or is terminated from employment, NWSA shall select (in consultation with the Districts) and employ a replacement. To be clear, Districts may interact with the Districts Liaison to address routine issues that may arise during application review but shall in no manner supervise the Districts Liaison's work.

6. Provide supervision and evaluation of the Districts Liaison consistent with the MOAs and the human resource policies of NWSA and to reasonably conduct the purposes of this Agreement. The Districts Liaison shall be subject to the performance expectations of the NWSA and is subject to NWSA sole discretion with regard to employee performance and management, including any decisions relating to compensation, discipline, or termination.

7. To the extent permitted by law, save, defend, indemnify and hold harmless the Districts from third-party claims, demands or damages arising from the Districts Liaison's acts or omissions that occurred or are alleged to have occurred in the course and scope of their employment. Additionally, NWSA will save, defend, indemnify and hold harmless the Districts from any claims, demands or damages brought by the Districts Liaison relating to their employment with NWSA. This defense and indemnity obligation shall not apply to a District to the extent that the claim, demand, or damages arise from that District's acts, omissions, or conduct.

8. Track the chargeable time for the Districts Liaison's time by project and by port district and provide a report/spreadsheets to the Districts.

D. The WPPA Accounting Function.

1. The WPPA shall function as the financial agent for this Agreement. As financial agent, the WPPA shall:

- a. Periodically receive reports from the NWSA tracking time for the Districts Liaison's time by project and by port districts.
- b. Upon request, provide time, project and financial information to the Districts.
- c. Where the services of the Districts Liaison are utilized by a port district that is not a Party to this Agreement, bill such port district using the rate established herein.

d. On or before January 31 of each year, perform the true-up required herein and circulate the draft true-up calculation to each District Representative. On or before February 15 of each year, the WPPA will work to resolve any concerns of the District Representatives and issue a final calculation of the account for each District.

e. On or before March 1 of each year, receive the payments due for the following year from Districts.

f. After receiving payments from the Districts forward the amount equal to the Annual Budget to the NWSA.

g. Maintain any excess funds for application to subsequent years' Annual Budget.

h. Recognizing that the true-up procedure will yield credits or debits to various Districts, (i) any excess funds will be held by the WPPA and (ii) the credits and debits will be applied in following years' allocations. By way of example only, a District that has paid its allocated share for a year and not used the services of the Districts Liaison would expect to receive a credit as a result of the true-up procedure. This credit would be applied by the WPPA for the following year's allocated share.

2. The WPPA shall be paid two (2%) of the Annual Budget for providing the services described herein (the "WPPA Fee"). The Annual Budget shall be adjusted each year to include the WPPA Fee.

E. Withdrawal By Parties.

1. A District may withdraw from this Agreement by providing written notice to all other Parties of its intent to withdraw from this Agreement no later than September 30th of any year with withdrawal effective on December 31st of the following year (the "Exit Date"). Any permit work by the Districts Liaison prioritized for the withdrawing District under this Agreement shall continue until the Exit Date.

2. The Exit Date for any District providing notice of withdrawal after September 30, shall be December 31st of the second year thereafter.

3. The withdrawing District shall not be entitled to any reimbursement or repayment of its paid Allocated Share.

4. So long as the cost of the Districts Liaison is paid to NWSA by the Districts, the NWSA shall not withdraw during the term of this Agreement.

F. Addition of Parties and Project Assistance.

1. The Parties, by majority vote of the District Representatives and the affirmative vote of the representative of the NWSA, may allow another port district to join this Agreement under such terms and conditions as the Parties may determine.

2. The Parties, by majority vote of the District Representatives and the affirmative vote of the representative of the NWSA, may allow another port district without joining this Agreement to utilize the Districts Liaison for assistance on a particular project as provided in this Agreement and under

such terms and conditions as the Parties may determine. Provided, that no such agreement shall delay or interfere with any permit work being performed for a District under this Agreement.

3. NWSA may allow another port district to utilize the NWSA Liaison for assistance on a particular project under such terms and conditions as NWSA may determine. Provided, that no such agreement shall delay or interfere with any permit work being performed for a District under this Agreement.

G. Determination of Annual Budget, Allocated Shares and True-Up.

1. The determination of each District's Allocated Share for any year shall be based on the Annual Budget established by NWSA as provided herein. The Annual Budget shall not include any allocated NWSA corporate overhead or NWSA human resource department expenses. For any partial year, the Annual Budget and the District's Allocated Shares shall be prorated based on the period during which the Liaison is employed.

2. The Allocated Shares for the Port of Kalama, Port of Longview, and Port of Vancouver, shall be based on an average of the Allocated Share determined for each.

H. Effective Date, Term, and Agreement Termination.

1. The "Effective Date" of this Agreement shall be the last day upon which all the Parties have executed this Agreement.

2. The "Term" of this Agreement shall begin on the Effective Date and end on December 31, 2027, unless extended by written agreement of the Parties. To provide reasonable notice to the Liaisons and the Services, the Parties shall attempt, but not be required, to reach an agreement extending--or not extending--this Agreement by June 30, 2026.

3. So long as the cost of the Districts Liaison is covered by the Districts, this Agreement may be terminated prior to the end of the Term only upon agreement of all Districts and the NWSA. In such an event the Parties will agree on a reasonable termination date.

4. Upon termination of this Agreement, all Parties' obligations hereunder shall end, and any funds held as an Allocated Share credit shall be distributed to the respective Parties entitled thereto.

I. Miscellaneous Provisions.

1. Any notice, demand, or communication required or permitted under this Agreement shall be addressed to the respective Representative and deemed to have been duly given (i) on the date of delivery if delivered by courier, (ii) three business days after posting a postage pre-paid first class letter addressed to the mailing address of the Party, or (iii) upon confirmation by the intended recipient of the receipt of email addressed to the Party to whom directed at the relevant Party's email address specified below its signature.

2. Pursuant to RCW 39.34.030 it is acknowledged that:

a. This Agreement shall not be construed to create any entity.

- b. The NWSA shall be the Administrator of this Agreement.
 - c. No property--real, personal or intangible--shall be acquired by the Parties collectively or individually pursuant to this Agreement.
3. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington. Any action to enforce the terms and conditions of this Agreement shall be brought either in Thurston County, Washington or in the county wherein the Party that is the subject of the enforcement action is located.
4. This Agreement may not be amended except by the unanimous written agreement of all the Parties.
5. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa, and the masculine gender shall include the feminine and neuter genders and vice versa.
6. The headings in this Agreement are inserted for convenience only and shall not affect the interpretations of this Agreement.
7. The failure of any Party to seek redress for violation of or to insist upon the strict performance of any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.
8. If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.
9. All covenants, promises and performances which are not fully performed as of the date of termination shall survive termination as binding obligations.
10. Each of the provisions of this Agreement has been reviewed, negotiated, and represents the combined work product of all parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.
11. This Agreement is not assignable absent written approval by all Parties, which approval shall be granted, withheld, or conditioned in the discretion of each party. Each of the covenants, terms, provisions, and agreements herein contained shall be binding upon and inure to the benefit of the Parties hereto and, to the extent permitted by this Agreement, their respective legal representatives, successors, and assigns.
12. This Agreement is not for the benefit of any individual or entity other than the Parties and shall not be enforceable thereby under any circumstances whatsoever.
13. This Agreement may be executed by the Parties hereto in counterparts and once so signed by all Parties and posted to each Party's web site in accordance with RCW 39.34, shall have full

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES



By: Daniel C. Worra
Its: Executive Director
Email: dan.worra@portofanacortes.com

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

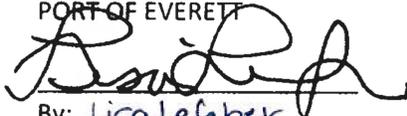
PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT


By: Lisa Lefebvre
Its: CEO/Executive Director
Email: Lisa.l@portofeverett.com

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

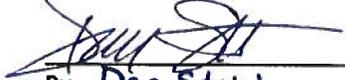
PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW


By: Dan Stahl
Its: Chief Executive Officer
Email: dstahl@portoflongview.com

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: Geoffrey James
Its: EXECUTIVE DIRECTOR
Email: GEOFFJ@PORT OF PA.COM

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE



John Wolfe (Sep 28, 2022 13:52 PDT)
By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

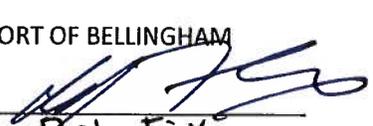
force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM


By: Rob Fix
Its: Executive Director
Email: RobF@PortofBellingham.COM

PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA


By: Mark Wilson
Its: Executive Director
Email: mark.wilson@portofkalama.com

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT

By: _____
Its: _____
Email: _____

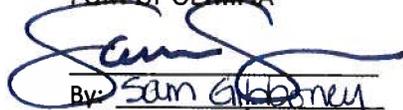
PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA


By: Sam Alborn
Its: Executive Director
Email: sam@portolympia.com

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

Dawn Egbert
By: Dawn Egbert
Its: Procurement Services Manager
Email: degbert@portvanusa.com

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION

By: _____
Its: _____
Email: _____

force and effect. PDF copies of relevant signature pages or electronic signatures shall be treated as originals. Each of the undersigned warrant that they have authority to execute this Agreement.

14. The entire agreement (including the recitals and the amendments) between the Parties hereto is contained in this Agreement, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. This Agreement may be amended only by written instrument executed by the parties subsequent to the date hereof.

PORT OF ANACORTES

By: _____
Its: _____
Email: _____

PORT OF BELLINGHAM

By: _____
Its: _____
Email: _____

PORT OF EVERETT

By: _____
Its: _____
Email: _____

PORT OF KALAMA

By: _____
Its: _____
Email: _____

PORT OF LONGVIEW

By: _____
Its: _____
Email: _____

PORT OF OLYMPIA

By: _____
Its: _____
Email: _____

PORT OF PORT ANGELES

By: _____
Its: _____
Email: _____

PORT OF VANCOUVER USA

By: _____
Its: _____
Email: _____

NORTHWEST SEAPORT ALLIANCE

By: _____
Its: _____
Email: _____

WASHINGTON PUBLIC PORTS ASSOCIATION



By: Patsy Martin
Its: Interim Executive Director
Email: pmartin@washingtonports.org

Exhibit A&B

MEMORANDUM OF AGREEMENT

BETWEEN THE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
U.S. DEPARTMENT OF COMMERCE

AND

U.S. FISH AND WILDLIFE SERVICE,
U.S. DEPARTMENT OF INTERIOR

AND

NORTHWEST SEAPORT ALLIANCE

NMFS-2022-WCRO-107

I. PARTIES

This document constitutes an agreement between the National Marine Fisheries Service (NMFS), U.S. Fish and Wildlife Service (USFWS), and the Northwest Seaport Alliance (NWSA) on behalf of its two member ports (i.e., Port of Seattle and Port of Tacoma) and on behalf of certain public ports within Washington State that have entered into an agreement with the NWSA.

II. AUTHORITIES

NMFS and the USFWS have authority to participate in technical assistance for the NWSA under one or more of the following:

- (1) 16 U.S.C. Section 661, the Fish and Wildlife Coordination Act;
- (2) 16 U.S.C. Section 1531 et seq., the Endangered Species Act (ESA);
- (3) 16 U.S.C. Section 1801 the Magnuson Stevens Fishery Conservation Act (MSA);
- (4) 16 U.S.C. Sections 703-712 the Migratory Bird Treaty Act (MBTA) of 1918, as amended; and,
- (5) Other authorities, including the Marine Mammal Protection Act, the National Environmental Policy Act, the Bald and Golden Eagle Protection Act, the Coastal Zone Management Act, and various executive and secretarial orders.

III. PURPOSE

Pursuant to this agreement, NWSA, NMFS, and the USFWS will work together in support of up to two staff positions provided to facilitate certain duties related to consultation on public port district projects.

NMFS and USFWS, under their jurisdictions, have the responsibility to protect and recover species and their habitats listed as threatened or endangered pursuant the ESA and MSA. The state of Washington has charged public port districts with the responsibility to design, construct, and maintain port infrastructure in Washington State, including a wide range of projects. Port projects frequently affect ESA- and MSA-listed species/habitat and therefore require early coordination and consultation with NMFS and the USFWS. Because of the heavy workload related to consultation under the ESA and MSA, it is practical and beneficial for NWSA to provide resources to NMFS and USFWS to perform certain duties related to consultation on projects implemented by its member ports and by ports that have entered into an agreement with the NWSA.

In this case, the resources provided to the agencies will be in the form of up to two staff biologists who will be assigned to study and evaluate port district projects for compliance with the ESA and MSA and other pertinent laws administered by NMFS and USFWS. One staff biologist will primarily focus on NWSA and its member ports' projects, and the second staff biologist will focus on projects associated with other Washington state public port districts that have entered into an agreement with the NWSA. This is necessary and essential to further the mission of the port districts and the federal agencies in that it will increase coordination, streamline consultation, and provide early project-level planning assistance to increase compatibility of port projects with anadromous fish conservation.

No preferential treatment by NMFS or USFWS is given or should be inferred under this agreement; public port district projects will receive the same scrutiny as other projects requiring ESA and MSA consultations.

IV. MUTUAL INTEREST OF THE PARTIES

This assistance is of mutual interest to the parties because: (1) NMFS and USFWS have the responsibility to protect and recover ESA-listed species and their designated critical habitats pursuant to the ESA; (2) NMFS also has the responsibility to protect essential fish habitat under the under its jurisdiction; and (3) the NWSA and other public port districts have the responsibility to design, construct, and maintain port infrastructure in Washington State. Public port districts implement a wide range of projects that frequently affect freshwater and marine habitats that support NMFS and USFWS trust resources and therefore require frequent coordination and consultation with NMFS and USFWS.

Having multiple staff biologists assigned to the study and evaluation of public port district projects for compliance with the ESA, MSA, and other pertinent laws administered by the Federal agencies reduces time spent in coordination and increases the biologists' understanding of individual projects. In addition, having staff biologists be responsible for all public port district consultations involving NWSA's member ports and other ports that have entered into an agreement with the NWSA increases their familiarity with those agencies' personnel and processes, landscape and aquatic habitat conditions across the state of Washington, and opportunities for conservation and aquatic habitat restoration, as well as ensuring consistency and timeliness of reviews.

V. RESPONSIBILITIES OF THE PARTIES

NMFS and USFWS agree to perform the following activities and provide the following resources in support of the technical assistance for NWSA's member public port districts and public port districts that have entered into an agreement with the NWSA:

- (1) NMFS will provide office space, common office supplies, and use of office equipment (including assistance in obtaining a Common Access Card [CAC]) for the staff biologists in their Lacey, WA office. USFWS will similarly provide assistance in obtaining credentials necessary to access agency information technology (IT) systems (including assistance in obtaining a personal identity verification (PIV) card). Administrative support will be provided as is currently available to the Lacey branches. NMFS and USFWS will provide input to the NWSA on the staff biologists' performance, and may provide additional guidance as needed in consultation with the NWSA supervisor.
- (2) Provide guidance to, and coordinate with, the staff biologists to assist NWSA's member ports and public port districts that have entered into an agreement with the NWSA to comply with the ESA, MSA, and other authorities. Ensure staff biologists receive appropriate training and coaching in order to fulfill their consultation responsibilities in accordance with agency policies and procedures. The staff biologists will work primarily on projects developed by NWSA's member public port districts and port districts that have entered into an agreement with NWSA, which will result in expedited document review and project coordination on applicable port projects.
- (3) Establish workload and scheduling priorities based on input received from NWSA and a representative of certain public Port districts that have entered into an agreement with the NWSA.
- (4) Review draft work products prepared by the staff biologists for scientific accuracy, consistency with agency policy, and legal sufficiency. Ensure documents prepared for NMFS and USFWS comply with internal review and signature processes. NMFS and USFWS have final approval and signature authority over documents that are prepared on the behalf of each agency.
- (5) Serve as members of the Project Management Team.
NWSA agrees to perform the following activities and provide the following resources in support of the technical assistance for the NMFS:
 - (1) Provide one qualified staff biologist to consult with and assist NWSA's member public port districts in complying with the requirements of the ESA, the MSA, and other authorities. The staff biologist will prepare draft documentation related to ESA and/or MSA consultations (e.g., letters of concurrence, biological opinions, general correspondence, memorandums for the file, etc.) in accordance with NMFS and

USFWS policies and procedures. The staff biologist will revise draft work products as needed prior to final agency approval and signature.

- (2) Provide one qualified staff biologist to consult with and assist public port districts that have entered into an agreement with the NWSA in complying with the requirements of the ESA, MSA, and other authorities. The staff biologist will prepare draft documentation related to ESA and/or MSA consultations (e.g., letters of concurrence, biological opinions, general correspondence, memorandums for the file, etc.) in accordance with NMFS and USFWS policies and procedures. The staff biologist will revise draft work products as needed prior to final agency approval and signature.
- (3) Provide appropriate travel, per diem, training, guidance and supervision, and associated equipment needed by the biologists to conduct reviews of public port district projects and to perform needed analysis for NMFS and the USFWS. This includes participation in NMFS and USFWS workshops/training events, field visits to project sites, meetings, and NWSA-funded training opportunities.
- (4) The NWSA will hire, employ, supervise, and pay salary, benefits, and associated cost of living increases for the two NWSA staff biologists.
- (5) The NWSA will serve as a member of the Project Management Team.

VI. PROJECT MANAGEMENT TEAM

The Project Management Team will meet as needed to discuss project prioritization, policies of importance to port projects, and to resolve issues that are elevated during project consultation.

Members of the project management team include:

NMFS Branch Chief;
USFWS Assistant Field Supervisor, Washington Ecological Services;
NWSA Representative; and
Member Ports Representative.

VII. NMFS APPORTIONMENT OF COSTS

The estimated annual costs (for supporting two professional staff) of this activity are indicated below:

NMFS:

Space/General Support	\$ 49,400.00
General Guidance/Oversight by Senior Staff	<u>\$ 31,600.00</u>
Total:	\$ 81,000.00

USFWS:

General Guidance/Oversight by Senior Staff	<u>\$ 31,600.00</u>
Total:	\$ 31,000.00

The General Guidance/Oversight cost was determined based on the amount of time (10%) the Senior Staff typically spends providing oversight and guidance to the staff biologists. These costs will be provided as in-kind services in support of this MOA by NMFS and USFWS.

VIII. CONTACTS

The contacts for each party to this agreement are:

Elizabeth Babcock
North Puget Sound Branch Chief
National Marine Fisheries Service
7600 Sandpoint Way NE
Seattle, WA 98040
Phone: 206-276-7029
Elizabeth.Babcock@noaa.gov

Scott Hecht
Washington Coast – Lower Columbia Branch Chief
National Marine Fisheries Service
1009 College St. SE, Suite 210
Lacey, WA 98503
Phone: 360-534-93067
Scott.Hecht@noaa.gov

Curtis Tanner
Assistant Field Supervisor
Coastal Lowland Aquatic Marine Team
U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office
510 Desmond Drive SE
Lacey, Washington 98503
Phone: (360) 753-4326
Email: Curtis_Tanner@fws.gov

Jason Jordan
Director, Environmental and Planning Programs
Northwest Seaport Alliance
P.O. Box 1837
Tacoma, WA 98401
Phone: 253-228-4579
jjordan@nwseaportalliance.com

The parties agree that if there is a change regarding the information in this section, the party

making the change will notify the other party in writing of such change.

IX. PERIOD OF AGREEMENT AND MODIFICATION/TERMINATION

This agreement will become effective when signed by all parties and will terminate in five years. The agreement may be amended or extended at any time by mutual consent of the parties. The parties will review this agreement every year to determine whether it should be revised, continued as is, extended, or canceled.

Any party may terminate this agreement by providing 60 days written notice to the other party. In the event this agreement is terminated, each party shall be solely responsible for the payment of any expenses it has incurred. This agreement is subject to the availability of funds.

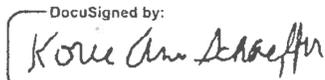
X. OTHER PROVISIONS

Should disagreement arise on the interpretation of the provisions of this agreement, or amendments and/or revisions thereto, that cannot be resolved at the operating level, the area of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation, is not reached within 30 days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution. Under the Inspector General Act of 1978, as amended, 5 USC App. 3, a review of this agreement may be conducted at any time. The Inspector General of the Department of Commerce, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the parties to this agreement, whether written, printed, recorded, produced, or reproduced by any mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law.

Nothing herein is intended to conflict with current Department of Commerce directives. If the term of this agreement are inconsistent with existing directives of other agencies entering into this agreement, then those portions of this agreement which are determined to be inconsistent shall be invalid; but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. At the first opportunity for review of the agreement, all necessary changes will be accomplished by either an amendment to this agreement or by entering into a new agreement, whichever is deemed expedient to the interest of the parties.

XI. SIGNATURES

NATIONAL MARINE FISHERIES SERVICE

By: 
Korie Schaeffer
Acting Deputy Regional Administrator
NMFS West Coast Region
Department of Commerce

Date: _____

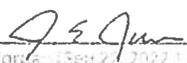
U.S. FISH AND WILDLIFE SERVICE

By: **CURTIS
TANNER** _____
Digitally signed by CURTIS
TANNER
Date: 2022.09.16 10:13:14 -0700

Date: _____

Curtis Tanner
Assistant Field Supervisor
Coastal Lowland Aquatic Marine Team
U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office
Department of Interior

NORTHWEST SEAPORT ALLIANCE

By:  _____
Jason Jordan (Sep 23, 2022 11:34 PDT)

Date: _____

Jason Jordan
Director, Environmental and Planning Programs
Northwest Seaport Alliance

Exhibit C
Formula to Determine Allocated Share for Each District

**Step 1: The Districts Will Determine Each Districts
Percentage Share of the Annual Budget**

- A. Using the formula then in effect to assess WPPA membership dues according to the WPPA Bylaws, determine each District's percentage share of the Annual Budget for the following year.
- B. Average the percentage share for the Port of Kalama, Port of Longview, and Port of Vancouver.
- C. Using the percentages x the Annual Budget determine each District's presumed annual contribution. In the first year this amount will be paid.
- D. In subsequent years, each District's presumed annual contribution will be adjusted to a final annual contribution using the true-up procedure noted herein.

Step 2: NWSA Tracks Project Time

- A. NWSA tracks the chargeable hours of the Districts Liaison by "project" and by "port district" for both member Districts and non-member Districts. The NWSA will provide a spreadsheet on a shared site periodically updated showing the amount of time charged to each project and each port district. The spreadsheet may include notes of what work was performed for the time charged.

**Step 3: The WPPA Performs an Annual True-Up
of Each Districts Allocated Share**

- A. On or before January 31, the WPPA will perform a "true-up" using the following rules
 - 1. The total hours tracked will be multiplied by:
 - a. For member Districts, 85% of the previous year's fully burdened hourly rate.
 - b. For non-member Districts 180% of the previous year's fully burdened hourly rate.
 - 2. The result of the calculations will yield "notational revenue."
 - 3. Non-member Districts will be billed according to this formula by the WPPA District which will hold the funds until disbursed as provided in this Exhibit C.
 - 4. The "notational revenue" which includes the actual revenue from non-member Districts and the amount owed by the member Districts will be used to first offset the Annual Budget.

5. Any amount of "notational revenue" above the Annual Budget will be credited to the member Districts by percentage.
6. A true-up will be performed using the notational revenue. Port districts that were heavy hourly users may owe additional funds even after the credit against their initial payment. Other port districts may be entitled to a credit.
7. The credits will be maintained by the WPPA for application in following years. In the event this Agreement is terminated each port district will receive the balance of their account less its prorated share of final expenses.