

AGREEMENT
BETWEEN
THE DEPARTMENT OF THE ARMY
AND
THE PORT OF LONGVIEW
FOR THE PROVISION OF CERTAIN TECHNICAL ASSISTANCE

THIS AGREEMENT is entered into this 27th day of JANUARY, 2022, by and between the Department of the Army (hereinafter the "Government"), represented by the District Commander for the Portland District (hereinafter the "District Commander") and the Port of Longview (hereinafter the "Non-Federal Sponsor"), represented by the Chief Executive Officer.

WITNESSETH, THAT:

WHEREAS, Section 22 of the Water Resources Development Act of 1974, as amended (42 U.S.C. 1962d-16), authorizes the Secretary of the Army to provide technical assistance related to the management of State water resources (hereinafter "Technical Assistance") to a State or non-Federal interest working with a State and to establish and collect fees for the purpose of recovering 50 percent of the costs of such assistance except that Secretary may accept and expend non-Federal funds provided that are in excess of such fee; and

WHEREAS, the Government and the Non-Federal Sponsor have the full authority and capability to perform in accordance with the terms of this Agreement.

NOW, THEREFORE, the parties agree as follows:

1. The Government shall provide Technical Assistance in accordance with the attached Scope of Work, and any modifications thereto, that specifies the scope, cost, and schedule for activities and tasks. In carrying out its obligations under this Agreement, the Non-Federal Sponsor shall comply with all the requirements of applicable Federal laws and implementing regulations.

2. The Non-Federal Sponsor shall provide 50 percent of the costs of providing the Technical Assistance in accordance with the provisions of this paragraph. As of the effective date of this Agreement, the costs of providing the Technical Assistance are projected to be \$95,000, with the Government's share of such costs projected to be \$47,500 and the Non-Federal Sponsor's share of such costs projected to be \$47,500.

a. No later than 15 calendar days after the effective date of this Agreement, the Non-Federal Sponsor shall provide the full amount of its share of costs by delivering a check payable to "FAO, USAED, Portland G2" to the District Commander or by providing an Electronic Funds Transfer of such required funds in accordance with procedures established by the Government.

b. If the Government determines at any time that additional funds are needed from the Non-Federal Sponsor to cover the Non-Federal Sponsor's costs of the Technical Assistance, the Government shall provide the Non-Federal Sponsor with written notice of the amount of additional funds required. Within 60 calendar days of such notice, the Non-Federal Sponsor shall provide the Government with the full amount of such additional funds.

c. Following provision of the Technical Assistance and resolution of any relevant claims and appeals, the Government shall conduct a final accounting and furnish the Non-Federal Sponsor with the written results of such final accounting. Should the final accounting determine that additional funds are required from the Non-Federal Sponsor, the Non-Federal Sponsor, within 60 calendar days of written notice from the Government, shall provide the Government with the full amount of such additional funds. Should the final accounting determine that the Non-Federal Sponsor has provided funds in excess of its required amount, the Government shall refund the excess amount, subject to the availability of funds. Such final accounting does not limit the Non-Federal Sponsor's responsibility to pay its share of costs, including contract claims or any other liability that may become known after the final accounting.

3. In addition to its required cost share, the Non-Federal Sponsor may determine that it is in its best interests to provide additional funds for the Technical Assistance. Additional funds provided under this paragraph and obligated by the Government are not included in calculating the Non-Federal Sponsor's required cost share and are not eligible for credit or repayment.

4. The Non-Federal Sponsor shall not use Federal program funds to meet any of its obligations under this Agreement unless the Federal agency providing the funds verifies in writing that the funds are authorized to be used for the provision of the Technical Assistance. Federal program funds are those funds provided by a Federal agency, plus any non-Federal contribution required as a matching share therefor.

5. Upon 30 calendar days written notice to the other party, either party may elect, without penalty, to suspend or terminate the provision of Technical Assistance under this Agreement. Any suspension or termination shall not relieve the parties of liability for any obligation incurred.

6. The parties agree to use their best efforts to resolve any dispute in an informal fashion through consultation and communication. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to the parties. Each party shall pay an equal share of any costs for the services provided by such a third party as such costs are incurred. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement.

7. In the exercise of their respective rights and obligations under this Agreement, the Government and the Non-Federal Sponsor each act in an independent capacity, and neither is to be considered the officer, agent, or employee of the other. Neither party shall provide, without the consent of the other party, any contractor with a release that waives or purports to waive any rights a party may have to seek relief or redress against that contractor.

8. Any notice, request, demand, or other communication required or permitted to be given under this Agreement shall be deemed to have been duly given if in writing and delivered personally or mailed by certified mail, with return receipt, as shown below. A party may change the recipient or address for such communications by giving written notice to the other party in the manner provided in this paragraph.

If to the Non-Federal Sponsor:

Lisa Hendriksen
10 International Way
Longview, WA 98632

If to the Government:

US Army Corps of Engineers, Portland District
Planning Branch
333 SW 1st Ave
Portland, OR 97204

9. To the extent permitted by the laws governing each party, the parties agree to maintain the confidentiality of exchanged information when requested to do so by the providing party.

10. Nothing in this Agreement is intended, nor may be construed, to create any rights, confer any benefits, or relieve any liability, of any kind whatsoever in any third person not a party to this Agreement.

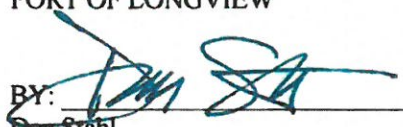
IN WITNESS WHEREOF, the parties hereto have executed this Agreement, which shall become effective upon the date it is signed by the District Commander.

DEPARTMENT OF THE ARMY

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Michael D. Helton
Colonel, U.S. Army
District Commander

PORT OF LONGVIEW

BY: 
Dan Stahl
Chief Executive Officer
Port of Longview

DATE: _____

DATE: 06 Jan 2022

CERTIFICATE OF AUTHORITY

I, LeAnne Bremer, do hereby certify that I am the principal legal officer for the Port of Longview, that the Port of Longview is a legally constituted public body with full authority and legal capability to perform the terms of the Agreement between the Department of the Army and the Port of Longview in connection with the Lower Columbia River Wake Stranding Study, and to pay damages, if necessary, in the event of the failure to perform in accordance with the terms of this Agreement, as required by Section 221 of Public Law 91-611, as amended (42 U.S.C. 1962d-5b), and that the person who executed this Agreement on behalf of the Port of Longview acted within his statutory authority.

IN WITNESS WHEREOF, I have made and executed this certification this
10th day of January 20 22.



LeAnne ~~Bremmer~~ Bremer
Port of Longview Legal Counsel
Partner in Charge Vancouver Office
Miller Nash LLP

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.



Dan Stahl
Chief Executive Officer
Port of Longview

DATE: 06 Jan 2022

Scope of Work for the Columbia River Wake Stranding Mapping Project

Overview

The Port of Longview requests assistance from the U.S. Army Corps of Engineers, Portland District with mapping that identifies specific beaches along the length of the lower Columbia River from river mile 3 to river mile 105.5, which based upon geomorphic features and other factors, may or may not be susceptible to wake stranding. The mapping exercise will also identify specific beaches that have public access and are capable of being monitored. The goal of the project is to generate reliable scientific information about the geographic locations, the occurrence, and the magnitude of wake stranding effects on endangered species act (ESA) listed species, and about what measures may be appropriate and effective to avoid, minimize, or offset wake stranding of ESA listed species.

Authority

Section 22 of the Water Resources Development Act of 1974, as amended, provides authority for USACE to provide planning assistance and technical expertise to support states, local governments, and other non-Federal entities in broad, comprehensive water resource planning efforts. All work described in subsequent sections will be cost shared on a 50% Federal and 50% non-Federal basis per Section 22 requirements. The Port of Longview will serve as the non-Federal sponsor.¹

Tasks

Objective 1: Characterize the current condition of the Lower Columbia River navigation channel (RM 3 to RM 105.5)

Identify specific beaches based upon geomorphic features and other factors that may or may not be susceptible to wake stranding. Using existing data and field validation, develop an initial assessment for areas of concern along the river channel from river mile 3 to river mile 105.5 The following tasks are to be conducted under objective 1:

Task 1: Coordinate with National Marine Fishery Service to develop initial mapping criteria and field methodologies

Use of existing information and topographical and bathymetric data to develop criteria to assess near shore areas of potential for wake stranding. Location of the navigation channel, commercial traffic patterns, ecological factors, near shore topography/bathymetry, publicly accessible beaches, and other relevant factors will be used to identify potential areas along the length of the study area. Identification of data collection methodologies and technologies for additional information to be established for field validation.

Task 2: Conduct initial reconnaissance of sample sites

Conduct reconnaissance of selected sites in order to refine and validate criteria and field methodologies for assessments. Data collection and assessment criteria will be refined based on reconnaissance findings.

¹ The Port of Longview intends to contract with other port districts in Washington State and Oregon under a separate, inter-port agreement for reimbursement of certain costs. The Port of Longview's responsibility for 50% of costs under the attached Section 22 agreement with Portland District is not conditioned on successful reimbursement under the separate, inter-port agreement.

Task 3: Conduct study-area-wide condition assessment and characterization

Using existing data and validated criteria conduct a virtual assessment of the entire length of the study area. Conduct modelling if needed. Develop an initial wake stranding risk characterization for the study area. Conduct targeted site visits as needed to assess and validate areas of high potential risk.

Task 4: Develop a monitoring plan methodology

Using identified areas of concern, develop a preliminary methodology for field monitoring.

Objective 2: Develop the tools to facilitate a Lower Columbia River Map

Data and information collected during the assessment outlined in Objective 1 will be compiled into tools to help facilitate the development of the Lower Columbia River Map that identifies potential wake stranding prone beaches. The following tasks are to be conducted under objective 2:

Task 1: Compile and process the outputs of the study area condition assessment

Data from the condition assessment will be reviewed for completeness and accuracy. Data will then be compiled, processed, and formatted for integration into GIS based products.

Task 2: Create a map book detailing spatially explicit areas of concern

All relevant information on at risk reaches for stranding, including assessments, historical data and representative photos, will be compiled. Maps will include other relevant geospatial information.

Task 3: Create an interactive GIS-based viewing and mapping platform

An interactive GIS-based viewer and data portal will be created that will contain all information, data, and pictures collected for the study area assessment, and be compatible with other existing geospatial datasets and imagery.

Study Budget

Activity	Cost
Project Management/Administrative	\$ 7,500
Task 1.1 Field Methodology and NMFS Coordination	\$ 12,500
Task 1.2 Reconnaissance of Sample Sites	\$ 8,000
Task 1.3 Condition Assessment and Characterization	\$ 10,500
Task 1.4 Develop a Monitoring Plan	\$ 7,000
Task 2.1 Compile and Process Obj 1 Outputs	\$ 10,000
Task 2.2 Create Mapbook Products	\$ 5,000
Task 2.3 Create Interactive GIS Tool	\$ 22,000
Review and Quality Control	\$ 4,000
Subtotal	\$ 86,500
Contingency (approx 10%)	\$ 8,500
Total Study Cost	\$ 95,000