

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

**SECOND AMENDED INTERLOCAL AGREEMENT BETWEEN THE
PORT OF SEATTLE AND THE PUGET SOUND CLEAN AIR AGENCY
FOR A DRAYAGE TRUCK REPLACEMENT PROGRAM**

This second amended Interlocal Agreement (“Agreement”) is entered into between the **Puget Sound Clean Air Agency**, (hereinafter referred to as the “Agency”), a municipal corporation under the laws of the State of Washington, and the **Port of Seattle** (hereinafter referred to as “Port”), a Washington municipal corporation, located at Pier 69, 2711 Alaskan Way, Seattle, WA 98111.

WHEREAS, the Port of Seattle and the Board of Directors of the Puget Sound Clean Air Agency deem it desirable to amend the original interlocal agreement No. 2014-052 dated January 2, 2014, and amended October 8, 2014, to incorporate additional funding and to reflect mutually agreeable schedule changes; and

WHEREAS, the Port has been awarded a supplemental grant No. CM-1140(060), in the amount of \$638,215 from the U.S. Department of Transportation Federal Highway Administration Congestion Mitigation and Air Quality (CMAQ) Program through the Washington State Department of Transportation (WSDOT) to provide financial incentives to nineteen or more truck owners to replace their older, higher-polluting vehicles with trucks that meet the United State Environmental Protection Agency’s (EPA’s) 2010 engine standards; and

WHEREAS, the CMAQ Supplemental grant to replace nineteen trucks is consistent with the goals of the Scrapage and Replacement for Air in Puget Sound (“ScRAPS 2”) program currently funded by grants awarded to the Port under the U.S. Department of Transportation’s CMAQ Program through WSDOT, by the Washington State Department of Ecology’s (Ecology) Clean Diesel Program, by the EPA’s Diesel Emission Reduction Act (DERA) Grant Program, and by matching funds provided by the Port; and

WHEREAS, the Port has agreed to provide matching funds needed to execute the supplemental CMAQ grant; and

WHEREAS, the Port has determined that the Agency is qualified and available to expand the current drayage truck scrapage and replacement to implement the supplemental CMAQ grant; and

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

WHEREAS, the nineteen CMAQ Supplemental grant-funded truck replacements and corresponding administrative costs will be tracked separately from those funded by the other CMAQ, Ecology and DERA grants; and

NOW, THEREFORE, the Agency and the Port mutually agree as follows:

A. Agreement No. 2014-052 and its corresponding amendment No. 2015-052-01 are hereby amended as follows:

I. Section 1, "Purpose and Scope of this Agreement," is replaced with the following:

1. Purpose and Scope of this Agreement.

A. The purpose of this agreement is to implement the CMAQ grant No. CM-1140(055) under WSDOT Local Agency Agreement LA-8219 dated August 2, 2013; Washington State Department of Ecology Clean Diesel Grant No. G1400386 dated December 18, 2013; U.S. Environmental Protection Agency DERA Grant No. DE-83561401 dated March 31, 2014; and CMAQ grant No. CM-1140(060) under WSDOT Local Agency Agreement LA-8464 dated August 13, 2014 to replace 242 or more older, pre-2007 engine-year drayage trucks that serve the Port's marine terminals with trucks that have newer engines and/or EPA-verified or California Air Resources Board (CARB)-verified emissions reduction upgrades. The result will be trucks that meet (or achieve equivalency with) either the EPA's 2007 or 2010 engine standards for heavy-duty diesel highway vehicles, depending upon which grant program funds each replacement truck. Truck owners will be able to participate in one of the grant programs, as described below. If the grant administrators approve a lesser number of truck replacements under their respective grant based on revised program standards, the Port and the Agency shall adjust the number of truck replacements accordingly under this Agreement by written notice signed by both parties. Funding for this work is provided from the following sources: (i) by the Port; (ii) an Ecology grant (Clean Diesel Grant No. G1400386, dated December 18, 2013, and amended August 13, 2014 and April 15, 2015) to the Port, included as Attachment A, A-1, and A-2 respectively, and incorporated herein by reference; (iii) a WSDOT Agreement (Local Agency Agreement LA-8219, dated August 2, 2013) with the Port, included as Attachment B and incorporated herein by reference; (iv) an EPA DERA Grant (No. DE – 83561401, dated March 31, 2014) to the Port, included as Attachment C and incorporated herein by reference; and (v) a WSDOT Agreement (Local Agency Agreement LA-8464, dated August 13, 2014) with the Port, included as Attachment D and incorporated herein by reference.

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

- B. Throughout this Agreement, the EPA-funded grant will be referred to as the “DERA grant program”, the grants funded by WSDOT and Ecology will be referred to as the “CMAQ/Ecology grant program,” and the supplemental CMAQ funding will be referred to as the “CMAQ Supplemental grant program.” Collectively, these separate grant programs are referred to as the “ScRAPS 2 program.”
- C. Each grant program will provide financial incentives to replace or upgrade trucks. If the Agency identifies a suitable retrofit or upgrade kit that will enable an existing truck to meet the required emission standards of one of the CMAQ grants, then truck owners participating in that grant program will be offered financial incentives to have such a kit installed, instead of replacing the truck. All trucks with pre-2007 model-year engines being replaced under the ScRAPS 2 program will be scrapped and all replacement trucks will meet the program requirements of the grant that funds the replacement.

II. Section 2, “Duties of the Agency,” is replaced with the following:

2. Duties of Agency

A. Develop Program Work Plan

The Agency will undertake the following actions:

- 1) Develop, in collaboration with the Port, a detailed program work plan to include, but not be limited to, a description of the following tasks for the CMAQ/Ecology grant program:
 - a. Open and operate a truck outreach center for potential applicants at or near a Port-owned marine terminal, to be in place by May 27, 2014, and to operate through December 31, 2015. If funds available from all grant programs are exhausted prior to December 31, 2015, the Port and the Agency will end the ScRAPS 2 Program earlier by mutual agreement. The Agency will operate the outreach center consistent with the work plan.
 - b. Process applications from truck owners for financial assistance per Port-provided guidelines.
 - c. Assess suitability of trucks that are proposed to be scrapped or retrofitted, to verify program eligibility.
 - d. Assess suitability of proposed replacement trucks to verify program eligibility.

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

- e. Coordinate scrapping and associated documentation for trucks being scrapped and replaced.
- f. Process ScRAPS 2 scrapping/upgrading incentive payouts.
- g. Track emission reductions associated with each truck replacement/upgrade.
- h. Maintain up-to-date records and report on the above actions.

Deliverable date for initial work plan: January 31, 2014.

- 2) Update the work plan to incorporate the DERA grant program. These updates will include but not be limited to, a description of the following tasks:
 - a. Operate the DERA grant program concurrently with the CMAQ/Ecology grant programs as one unified ScRAPS 2 program. Provide details on the unique requirements of both the DERA grant program and the CMAQ/Ecology grant program and how these programs will be administered concurrently.
 - b. Describe how the agency will track the DERA grant program vouchers and the corresponding administrative costs and truck scrap income separately from the CMAQ/Ecology grant program vouchers and corresponding administrative costs and truck scrap income.

Deliverable date for initial work plan update: October 3, 2014.

- 3) Update the work plan to incorporate the CMAQ Supplemental grant program. These updates will include but not be limited to, a description of the following tasks:
 - a. Operate the CMAQ Supplemental grant program concurrently with the other grant programs as one unified ScRAPS 2 program. Provide details on the unique requirements of the CMAQ Supplemental grant program and the other grant programs and how these programs will be administered concurrently.
 - b. Describe how the agency will track the CMAQ Supplemental grant program vouchers and the corresponding administrative costs and truck scrap income separately from the other grant program vouchers and corresponding administrative costs and truck scrap income.

Deliverable date for initial work plan update: July 1, 2015.

- 4) Update the work plan to reflect any grant amendments or revisions approved by the grant administrators at the funding agency within one month of the Port providing

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

written notice to the Agency that it has received the grant amendment or the official approval from the funding agency.

Deliverable date for work plan revisions: One month after the Port notifies the Agency of the grant amendment or of the official approval from the funding agency.

B. Create and Provide Contracts, Forms, and Other Relevant Documents as Needed

- 1) Allow the Port an opportunity to review any new forms, contracts RFPs, or promotional materials.

Deliverable date: No less than 3 days before issuing them.

- 2) Send a copy of all contracts, form templates, and other relevant documents to the Port.

C. Select Partner Truck Dealers, Truck Retrofitters, and Truck Scrapping Service Providers

- 1) Identify and contract with truck scrapping service providers and truck retrofitters via a competitive process that meets procurement requirements of the applicable federal and state grants.

Deliverable date: June 6, 2014.

- 2) Identify and contract with truck dealers via a competitive process that meets requirements of the applicable federal and state grants. All agreements with the dealers must state that all dealers agree to honor ScRAPs 2 vouchers issued by the Agency that are redeemable as individual incentive payouts for specific, pre-approved trucks and specific, pre-approved truck owners.

Deliverable date: May 7, 2014.

- 3) Pursue new contractors via a competitive process and amend existing contracts with truck dealers to incorporate any requirements of the grant programs. All new agreements with the dealers must state that all dealers agree to honor ScRAPs 2 vouchers issued by the Agency that are redeemable as individual incentive payouts for specific, pre-approved trucks and specific, pre-approved truck owners.

Deliverable date: Ongoing through an open Request for Qualifications and amendments as program needs are identified.

D. Assist the Port in Determining Program Eligibility Criteria

Review the draft program eligibility criteria developed by the Port and provide comments on the draft.

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

Deliverable date for the CMAQ/Ecology grant program: February 28, 2014.

Deliverable date for DERA grant program: Within two weeks after Port provides draft eligibility criteria for the DERA grant program,

Deliverable date for CMAQ supplemental: Within two weeks after the Port provides draft eligibility criteria for the CMAQ Supplemental program.

E. Assist with Outreach to Truck Owners

Assist the Port in conducting an outreach campaign to truck owners that will promote the ScRAPS 2 program. This includes assisting in planning and delivering information to truck owners at a minimum of five events. Obtain approval from the Port prior to initiating additional outreach activities or promotional materials.

Deliverable date: December 31, 2015.

F. Make Equivalency Determinations

As part of the WSDOT/Ecology grant program, the Agency will prepare and submit to the Port analyses of truck technologies/upgrades that would achieve equivalency to the 2007 EPA emission standards for heavy-duty diesel truck engines. These equivalency determinations will: address the fuel and retrofit actions necessary to meet these standards; provide the ScRAPS 2 program with criteria to determine if a fuel/technology is eligible for an incentive payment under the ScRAPS 2 program; and include an estimated per unit cost of upgrade and recommended incentive level. The Port will make the final determination on the level of incentive provided to participating truck owners for truck replacements, truck upgrade kits and retrofit kits.

Deliverable date: Initial determination on March 15, 2014, and updated by the Agency as new relevant information becomes available.

G. Launch and Operate Truck Center

- 1) Enter into a License Agreement with the Port for office space for a truck outreach center at the Port's Terminal 5. If the space becomes committed to another Port tenant and is no longer available for the ScRAPS Program, the Agency will work with the Port to find an alternate suitable space from which to run the program. Terms and conditions to use Port property are set forth in the License Agreement attached hereto as Attachment E and incorporated by reference.
- 2) Open the truck center to the drayage truck community and accept and process truck replacement or upgrade authorization requests. Deliverable date: May 27, 2014, through December 31, 2015. If grant funds are exhausted prior to

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

December 31, 2015, the Port and the Agency will end the ScRAPs 2 program earlier by mutual agreement.

- 3) Complete all incentive processing for approved truck replacements, upgrade kits and retrofit kits. Deliverable Dates:
 - a. December 31, 2015, for the CMAQ/Ecology grant program;
 - b. September 30, 2015, for the DERA grant program;
 - c. December 31, 2015, for the CMAQ Supplemental grant program.

H. Maintain separate records for the DERA grant program, the CMAQ/Ecology grant program, and the CMAQ Supplemental grant program.

- 1) Keep separate records for the grant participants for each of the three grant programs. The Agency will identify each truck replacement as either being part of the CMAQ/Ecology grant program, the DERA grant program, or the CMAQ Supplemental grant program. The records that will be kept separate include but are not limited to application forms, vouchers, and scrapping reimbursements.
- 2) Submit invoices itemized as specified in Section 5 of this Agreement for each of the three grant programs. The agency will submit with each invoice the required documentation for each truck voucher and the corresponding administrative costs incurred under each program.

I. Conduct Recordkeeping and Reporting

- 1) Develop and implement an auditable system meeting federal and state grant requirements to document truck evaluation, scrapping, replacement, and upgrade processes, including cash flow, lien and insurance search procedures and scrap yard coordination. Deliverable dates:
 - a. March 31, 2014, for the CMAQ/Ecology grant program;
 - b. October 10, 2014, for the DERA grant program;
 - c. July 1, 2015 for the CMAQ Supplemental grant program.
- 2) Provide information to the Port to meet the requirements of the CMAQ/Ecology, the DERA and the CMAQ Supplemental grants (see Attachments A, A-1, B, C, and D). Submit a monthly project report and invoice for each program, including the number of trucks upgraded or replaced, the reimbursable costs for each truck, program income due to scrapping replaced trucks and emission calculations showing the annual reduction attributable to each upgraded or replaced truck.

Deliverable dates: Monthly, throughout the term of the agreement.

- 3) Cooperate with routine Port-led audits and budget reconciliation as required.

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

- 4) Submit final project reports summarizing results of programs and project costs. Verify all files are complete. Deliverable dates:
 - a. January 31, 2016, for the CMAQ/Ecology grant program;
 - b. November 30, 2015, for the DERA grant program;
 - c. January 31, 2016 for the CMAQ Supplemental grant program.

II. Section 3, "Duties of the Port," is replaced with the following:

3. Duties of the Port

A. Approve Invoice Package

- 1) The Port will work with the Agency to develop a sample invoice documentation package for voucher reimbursement requests.

Deliverable Date: Prior to the first voucher invoice.

- 2) The Port's Project Manager will sign off on the final sample invoice documentation package.

Deliverable Date: Prior to the first voucher invoice.

B. Make Payments

The Port will make payments to the Agency as set forth in Section 5 of this agreement.

C. Manage and Administer Grants

Manage and administer all WSDOT, Ecology, and EPA grants, including auditing Agency performance under this agreement, processing reimbursements, and submitting reports to these organizations.

D. Ensure Billing Requirements Are Vetted and Approved

Ensure that any changes to the itemized billing requirements described in Section 5 have been vetted and approved in writing by the finance departments of all funding sources in the ScRAPs 2 program prior to requiring the Agency to implement those changes.

E. Review and Approve Work Plans

Review and approve the Agency's draft work plans within one week of receipt.

Deliverable dates: Within one week of receipt.

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

F. Provide Comments on Documents

Provide comments on any documents that the Port has requested to review.

Deliverable date: Within three days of receiving the draft document.

G. Provide Truck Owner Eligibility Criteria

Provide the Agency with final truck owner eligibility criteria for participation in the ScRAPS 2 Program.

Deliverable date: One month prior to the launch date of each respective grant program.

H. Provide Program Review

Perform regular on-site and ScRAPS 2 program review of the drayage truck outreach center to ensure compliance with grant requirements.

I. Lead Outreach and Marketing Efforts

Lead an outreach and marketing effort to engage candidate drayage truckers in the ScRAPS 2 Program.

Deliverable date: December 31, 2015.

J. Provide the Agency with a Truck Outreach Center if Space is Available

The Port shall enter into a License Agreement with the Agency for office space for a truck outreach center at the Port's Terminal 5. Terms and conditions to use Port property are set forth in the License Agreement attached hereto as Attachment E and incorporated by reference. If the space at Terminal 5 becomes committed to another Port user and is no longer available for the ScRAPS Program, the Port will first try to identify other suitable office space on Port property. If no alternative space is available on Port property, the Port will work with the Agency to find space near Port property. The Port shall have the right to terminate the License Agreement upon written notice, but must provide the Agency no less than ninety (90) days' notice before terminating the license. The Port shall also provide the Agency with office furniture and equipment, and all utilities and services except internet and telephone service for the truck outreach center. The Port will reimburse the Agency for office space, office furniture and equipment, and all utilities and services if not provided by the Port. The Agency will provide five (5) business days' prior written notice to the Port of its intent to acquire the items, including a specific list of the items and their proposed cost. The Agency may proceed with the acquisition of the listed items if the Port approves or if the Port has not responded within five (5) days of receipt of the written notice.

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

III. Section 4, “Highlighted Grant Requirements,” is replaced with the following:

- 4. Highlighted Grant Requirements.** Compliance with the requirements of the Ecology grant (Clean Diesel Grant No. G1400386, dated December 18, 2013, and amended August 13, 2014), the CMAQ WSDOT Agreement (Local Agency Agreement LA-8219, dated August 2, 2013) the EPA grant (DERA Grant No. DE – 83561401), and the CMAQ Supplemental WSDOT Agreement (Local Agency Agreement LA-8464, dated October 8, 2014), all of which are included as Attachments (A, A-1, B, C, & D), is required by the Port and the Agency. The Port, as recipient of the grants, has the responsibility to the granting agencies for adhering to the grants’ conditions. The Agency acknowledges the grants’ conditions and agrees to carry out its obligations under this Agreement in accordance with those conditions. The Agency agrees to obtain approval from the Port prior to accruing expenses for overtime compensation or overtime differential for work performed under the CMAQ/Ecology grant program, the DERA grant program, or the CMAQ Supplemental grant program.

IV. Section 5, “Compensation,” is replaced with the following:

5. Compensation

- A. The total amount paid by the Port for satisfactory performance of the work under this Agreement shall not exceed six million, three hundred forty-eight thousand dollars (\$6,348,000). Up to five million, four hundred thirty thousand dollars (\$5,430,000) will be to provide financial incentives to the truck owners; up to nine hundred eighteen thousand dollars (\$918,000) are to cover the Agency’s administrative costs, and will be paid on a time and expense basis. The estimated costs to administer the DERA, CMAQ/Ecology, and CMAQ Supplemental grant programs are described in Attachment F, which is hereby incorporated by reference. The Port and the Agency may mutually agree to modifications to the cost breakdown and hourly rates shown in Attachment F.
- B. To ensure that the Port has all of the required information for each of the grants, the Agency will itemize its invoices by the following categories.
- 1) Truck center costs and supplies (supporting documentation: receipts)
 - 2) Vouchers for replacements funded by CMAQ/Ecology (WSDOT and Ecology) grants (supporting documentation: vouchers)
 - 3) Vouchers for replacements funded by the DERA grant (supporting documentation: vouchers)
 - 4) Vouchers for replacements funded by the CMAQ Supplemental grant (supporting documentation: vouchers)

Agency Interlocal No. 2014-052-2
 Port of Seattle Contract I-00317929-2
 Draft 2015-04-28

- 5) Hourly administrative costs related to the CMAQ/Ecology grants (supporting documentation: timesheets and hourly rate schedules)
 - 6) Hourly administrative costs related to the DERA grant (supporting documentation: timesheets and hourly rate schedules)
 - 7) Hourly administrative costs related to the CMAQ Supplemental grant (supporting documentation: timesheets and hourly rate schedules)
- C. To ensure that the Agency has all of the required information for any audits related to this project, the Port will provide details with each payment showing what portion of each payment that is attributed to the funding sources described in the table below. If mutually agreeable, the Port may provide the Agency with a blanket statement indicating the percentage allocation for all payments by invoice type.

Administrative Costs	Voucher Costs
Washington Department of Ecology	Washington Department of Ecology
Washington Department of Transportation CMAQ funding under LA-8219	Washington Department of Transportation CMAQ funding under LA-8219
The Port's CMAQ Match under LA-8219	The Port's CMAQ Match under LA-8219
The Port's DERA Match	U.S. Environmental Protection Agency DERA funding
Washington Department of Transportation CMAQ Supplemental funding under LA-8464	Washington Department of Transportation CMAQ Supplemental funding under LA-8464
The Port's CMAQ Supplemental match under LA-8464	The Port's CMAQ Supplemental match under LA-8464

- D. Program income from scrapping trucks that have been replaced under each grant program (DERA, CMAQ/Ecology, or CMAQ Supplemental) will be put back into the corresponding grant program to increase the amount available for incentives under that grant program. At the end of the ScRAPs 2 program, any remaining scrapping income that is insufficient to allow another complete replacement incentive shall be handled as follows:
- 1) For the CMAQ/Ecology and CMAQ Supplemental grant programs, any remaining scrapping income that is insufficient to allow another complete

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

replacement incentive will be used to offset the Agency's administrative costs in that billing period,

- 2) For the DERA grant program any remaining scrapping income that is insufficient to allow another complete replacement incentive will be remitted to the Port for submittal to EPA.

E. The Agency will submit invoices for administration expenses for each grant program to the Port monthly and for voucher expenses for each grant program twice monthly, using a template approved by the Port. The Agency will also submit a monthly written report describing the progress made on each task that the Agency is administering under Section 2 of this Agreement, for reimbursement for work performed during the preceding month. Invoices will list the name of the person(s) who performed the work; the actual wages and benefits per hour for the persons(s) who provided the services; and the specific number of hours spent within a given billing period (monthly). Indirect charges shall utilize the Agency's federally approved indirect rate, which shall be applied to direct wages and benefits. Direct expense shall be supported by actual receipts. All labor and expenses submitted to the Port for reimbursement shall comply with the conditions specific to the grants. The Agency shall submit invoices to the Port's Project Manager listed in Section 7. The Port will send its payments within fifteen (15) business days of receipt of the Agency's invoice to the Puget Sound Clean Air Agency, attention Finance Department, and 1904 3rd Ave., Suite 105, Seattle, WA 98101.

V. Section 7, "Term," is replaced with the following:

Term: The effective date of this Agreement is December 31, 2013. The termination date of this Agreement is March 31, 2016.

B. All other terms and conditions of original Interlocal Agreement No. 2014-052 and amended Interlocal Agreement No. 2014-052-01 remain in full force and effect.

ITEM NO: 4d Attach 1

DATE OF MEETING: May 26, 2015

Agency Interlocal No. 2014-052-2
Port of Seattle Contract I-00317929-2
Draft 2015-04-28

IN WITNESS HEREOF, the Agency and the Port have executed this amended Interlocal Agreement No. 2014-052-2 as to the date first above written.

PUGET SOUND CLEAN AIR AGENCY

PORT OF SEATTLE

By:

Paul Roberts
Board of Directors, Chair

Date: _____

By:

Ted J. Fick
Chief Executive Officer

Date: _____

Attest:

By:

Craig T. Kenworthy
Executive Director

Date: _____

Approved as to Form:

By:

Laurie Halvorson
Director of Compliance and Legal

Date: _____

By:

Tom Tanaka
Senior Port Counsel

Date: _____