

**SECONDMENT INTERLOCAL AGREEMENT
BETWEEN THE PORT OF SEATTLE AND THE ALLIANCE**

PARTIES AND PURPOSE

This Interlocal Agreement (ILA) is between Port of Seattle (“Homeport”), a port district organized under the laws of Washington state) and The Northwest Seaport Alliance, a port development authority (“Alliance”). This ILA documents the agreed upon roles and responsibilities of the Homeport and the Alliance with respect to Homeport employees providing services to the Alliance in support of activities of mutual interest to the Homeport and the Alliance (collectively “Parties”).

TERMS OF AGREEMENT

1. Commitment of Funds

Except as specified in this ILA, no Party has any financial obligation to the other Party with respect to the secondment of the Homeport’s staff to the Alliance.

2. Employment Relationship

The Parties agree that the staff members of Homeport identified on the attached **Exhibit A** (“Seconded Employees” or if referring to individual members, “Seconded Employee”) are seconded to the Alliance and shall remain at all times and in all respects employees of the Homeport and shall under no circumstances be considered employees of the Alliance.

3. Direct Employment Costs of Seconded Staff

- A. Administration of Payroll and Benefits. The Homeport shall be solely responsible for all facets of payroll and benefits administration with respect to Seconded Employees, including the payment of any and all contributions, premiums, or fees, as the case may be, for federal, state, and local taxes (including withholding and sales taxes), unemployment insurance, workers’ compensation, disability insurance, Social Security, or any other legally required benefits for Seconded Employees.

- B. Workplace Injury. Any workplace or work-related injuries sustained by Seconded Employees while working on Alliance business shall be subject to the Homeport’s workers’ compensation insurance. The Alliance shall immediately advise the Homeport of any such workplace or work-related accidents or injuries and provide all information required by the Homeport to prepare necessary safety and workplace injury reports. If a Seconded Employee suffers a workplace or work-related injury while providing Services to the Alliance, the Alliance shall reimburse the Homeport for all expenses incurred as a result of such injury, subject to any workers’ compensation or other benefits provided by Homeport.

4. Financial Support

- A. From August 4, 2015 through December 31, 2015 (“Initial Period”), the Homeport will be responsible for all costs of the Seconded Employees.

- B. Beginning January 1, 2016, the Alliance will be charged with and responsible for costs of the Seconded Employees. Costs associated with Seconded Employees will be charged to the Alliance by various methods including direct charges, inclusion in support service allocation charges or charges to a project that may be expensed or capitalized in the Alliance.

5. Information Technology & Confidentiality.

The Seconded Employees will have access to Alliance owned and created Information Technology, which access and content shall remain secure. Any proprietary or business sensitive information will be shared only with properly authorized employees. Notwithstanding anything contained herein to the contrary, the obligations of the Seconded Employees and the Alliance pursuant to this Section 5 shall survive the expiration or termination of this ILA.

6. General Terms and Conditions of Employment

Seconded Employees shall continue to be employees of the Homeport and subject to all Homeport employment policies applicable to such Seconded Employee. The general terms and conditions of employment for a Homeport employee seconded to the Alliance shall be guided by the Policies and Procedures of the Homeport, and the seconded employee’s individual employment contract, if any. Seconded Employees will be provided a copy and will acknowledge receipt of this ILA.

7. Secondment Scope of Work

The Homeport and the Alliance will consult initially regularly, and not less than monthly for the duration of this ILA, to define, refine and document in writing the scope of work for which the seconded employee is responsible, and the time frame within which the work is expected to be completed. The scope of work will be included in the employee’s job description or provided in addition to it. In the event that the Parties cannot mutually agree on the scope of work a seconded employee will be expected to perform, following reasonable efforts to come to agreement, The Homeport may at its sole discretion provide written notice to the Alliance that the secondment arrangement for that specific employee is null and void.

8. Delegated Authority.

The Seconded Employee shall have the authority to act on behalf of the Homeport and/ or the Alliance consistent with the respective Homeport and Alliance Master Policy Delegation of Authority for the position of that Seconded Employee.

9. Supervision

The Homeport will designate the supervisor for the Homeport staff member to be seconded to the Alliance. The supervisor is responsible for conducting performance reviews in consultation with the Alliance Lead, and if necessary, administering discipline.

The Alliance will designate a specific Alliance employee (“Alliance Lead”) to oversee and direct day-to-day work of the Seconded Employee(s), to serve as the primary point of contact for

communication with the Homeport's designated supervisor, and ensure necessary administrative support, such as receptionist services, meeting rooms, and building access, is provided to each Seconded Employee. The Alliance Lead is responsible for assigning work, approving leave use, approving work-related travel and training for the Seconded Employee(s).

The Homeport Supervisor will consult with the Alliance Lead as part of the performance evaluation process.

10. Participation in Homeport Meetings and Events

From time-to-time it will be necessary or desirable for a Seconded Employee to participate in meetings and other work-related events at or sponsored by the Homeport. Except in the event of an emergency, the Homeport will provide the Alliance Lead with at least 24 hours notice of such meetings so that the Alliance can arrange to accommodate the seconded employee's absence.

11. Exemption Certificate and Entry Visas

The Alliance is responsible for obtaining exemption certificates for any expatriate Seconded Employees, if any. The Homeport will be responsible for obtaining entry visas for any expatriate Seconded Employees, if any.

12. Travel

The Alliance will notify the Homeport of any travel to be undertaken by the Seconded Employee in accomplishing the scope of work. The Alliance will pay for all business travel that is required for the seconded employee to perform the assigned scope of work. International travel will be governed by the terms and conditions detailed in the Homeport's travel policies and procedures.

13. Work Product.

Parties agree that the work product of any seconded Homeport employees is property of the Alliance. Upon the publication of any non-proprietary/business-sensitive work product that may emerge from work accomplished under this ILA, the Parties will cooperate in ensuring an equitable approach to authorship credit. Both Parties agree to include proper acknowledgement of the funding agency in any resulting publications.

14. Waiver of Conflict.

The Parties expressly grant, as to all Homeport seconded employees, a waiver of the conflict of interest provisions and a release of fiduciary obligations that may apply to such Seconded Employee's official capacity as both an employee of the Homeport and as seconded to the Alliance. The need for a waiver is discussed below.

Conflict of interest principles and or Homeport Ethics policies require that a Homeport employee refrain from participating personally and substantially in an official capacity in any particular matter that will have a direct, predictable or potential adverse effect on the interests of Homeport where the employee serves as an employee.

Waivers of conflicts of interest and a release of fiduciary obligations is appropriate and may be granted where the disclosed, perceived or potential conflict is not so substantial as to be deemed likely to affect the integrity of the services which the Homeport may expect from the employee.

In the course of the Homeport Seconded Employees' assigned duties as seconded to the Alliance, the following types of particular matters potentially could come before the seconded employee for participation: (1) particular matters of general applicability, such as legislation, regulations, or policy, that may affect the interest of Homeport; (2) particular matters involving specific parties (specific party matters), such as grants, contracts, application approvals, litigation, investigations, or enforcement actions, that specifically involve Homeport or otherwise affect its interests; or (3) other miscellaneous matters involving the conduct of the Homeport's affairs and support.

Accordingly, this waiver will apply fully to the Seconded Employee's participation as a Seconded Employee to the Alliance in an official capacity in any particular matter that will directly and predictably affect the interest of Homeport.

The Parties expressly grant this waiver as justified for the following reasons:

First, because the Seconded Employees will serve the Alliance as an assigned official duty activity, there is a greatly diminished risk that the integrity of the services that the Homeport expects would be affected. The Seconded Employee's position in the Alliance is fully known to Homeport. Moreover, Homeport already has determined that, to a significant degree, the statutorily defined interests of the Homeport and the Alliance are consonant; the Homeport expects that the interests of the Homeport and the Alliance both can be furthered through the performance of the Seconded Employee's official duties.

Second, most if not all of the particular matters in which the Seconded Employees would participate would not have a significant adverse effect on the interests of the Homeport, as the Commission of the Homeport has previously publically acknowledged that the continued competitiveness of the Puget Sound gateway would be enhanced by leveraging the strengths of the ports of Tacoma and Seattle to reach shared goals for the region and the State in ways that either port acting alone could not achieve; and because State law allows the Ports to exercise any of their powers jointly by mutual agreement; and the Ports of Tacoma and Seattle have expressed their desire to come together to form, establish, and support a joint seaport alliance, to carry out the unified management and operation of the marine cargo operations and functions of each port. These Homeport employees are seconded to the Alliance to expressly support and carry out that regional, lawful and Commission approved mission.

15. Modification

This ILA may only be amended by a written, signed agreement between duly authorized officials of both Parties, provided however, that the Alliance CEO is delegated the authority to, and no Commission action is required, to add, delete, or modify the list of Seconded Employee staff members of Homeport identified on the attached **Exhibit A**.

16. Dispute Resolution

The Parties agree that it is in their mutual interest to avoid any litigation over potential disputes regarding the application or interpretation of this ILA. The parties therefore agree that neither Party may bring to a court of law for resolution any dispute or disagreement that may arise out of

this ILA, and that all such disputes must be resolved between the Parties themselves or through such measures that they mutually agree to enter into to facilitate dispute resolution.

The Parties agree that if either of them, contrary to the terms of this article, attempts to bring to a court of law a dispute arising out of this ILA, the Party bringing the dispute to court shall be liable for all legal costs incurred by the Party against whom the court action is brought.

In the event that the Alliance has a concern about the job performance or behavior of a Seconded Employee, the Alliance lead will present the concern to the Homeport supervisor and the Homeport supervisor and the Alliance lead will work constructively with one another to attempt to resolve the concern.

Resolution options may include but are not limited to joint meetings with the Seconded Employee to discuss concerns and develop a problem resolution action plan, training or retraining of the Seconded Employee, adjustment of job expectations, job assignments or procedures by the Alliance, initiation of corrective action or disciplinary measures, or removal of the Seconded Employee from the Alliance assignment.

In the event that the Homeport Supervisor and the Alliance Lead cannot resolve the issue after reasonable attempts have been made to do so, either party may put its concerns and recommended solution in writing to be addressed by more senior management within their respective organizations.

17. Force Majeure

Any delays in or failure of either Party shall not constitute default or give any claim for damages if and to the extent caused by or resulting from acts of God, earthquake, fire, explosion, flood, the elements, strikes, lockouts, boycotts, picketing, labor disturbances or differences with workmen, acts of the public enemy, war, rebellion, riots, acts of the governments or any cause whatsoever beyond the control of the Party in default, but performance may be resumed with all dispatch as soon as the cause preventing performance has been removed.

18. Effective Date, Duration, and Extension

A. Term. Except as otherwise provided in this Section 18 or as otherwise agreed in writing by the parties, this ILA shall commence on August 4, 2015 and shall be terminable pursuant to Section 18.B. herein.

B. Termination. Neither the Homeport nor the Alliance may terminate this ILA on or prior to the first anniversary of this ILA, except with the express written consent of both Parties. After the first anniversary of this ILA, either the Homeport or the Alliance may terminate this IA at any time upon 90 days' prior written notice. For the avoidance of doubt, this Section 18.B does not apply to nor guarantee the length of any secondment term for any particular Seconded Employee.

C. Effect of Termination. Other than as required by law, upon termination of this ILA pursuant to this Section 18, the Homeport will have no further obligation to provide the services of any Seconded Employee and the Alliance will have no obligation to pay any Service Cost related to such services as set forth in the applicable service agreement between the Homeport and Alliance; provided, however, that notwithstanding such termination, the Alliance shall remain

liable to Homeport for the costs owed and payable in respect of services provided before the effective date of the termination.

19. Property.

No ownership of property will transfer as a result of this ILA.

20. Legal Relations

- A. The Parties do not by this ILA create any separate or additional organization, legal or administrative entity. It is understood and agreed that this ILA is solely for the benefit of the Parties hereto and gives no right to any other Party, including the seconded employees. No employees or agents of any Party shall be deemed, or represent themselves to be, employees of any of the other Parties.
- B. This ILA does not relieve either Party of any obligation or responsibility imposed upon it by law.
- C. The provisions of this Article shall survive any termination or expiration of this ILA.

21. Liability & Indemnity

- A. Acts of Employees. All duties to be performed by a Seconded Employee in the course of such employee's secondment to the Alliance will be for and on behalf of the Alliance, in the name of the Alliance, and for the Alliance's sole account and no action or inaction by any Seconded Employee in the course of such employee's secondment to the Alliance will be binding on the Homeport. In taking any action pursuant to such employee's secondment with the Alliance, a Seconded Employee will be acting on behalf of the Alliance and not for the Homeport, and nothing herein will require the Homeport to bear any liability for any claim arising out of or in connection with the acts or omissions of such Seconded Employee. All debts and liabilities to third parties incurred by a Seconded Employee in the course of such employee's secondment to the Alliance will be the responsibility of the Alliance and not the Homeport.
- B. Indemnification. Each Party to this ILA shall indemnify, defend and hold harmless the other Party for the negligent actions or omissions of that Party's employees, representatives, officers, agents or any subcontractor or its employees, from and against all claims arising out of or resulting from the performance of this Agreement. "Claim" as used in this ILA means any financial loss, claim, suit, action, damage or expense, including but not limited to attorney's fees attributable for bodily injury, sickness, disease or death, or injury to or destruction of tangible property including loss of use resulting there from. Each Party's obligation to indemnify, defend and hold harmless the other Party includes any claim by that Party's agents, officers, representatives, or any subcontractor or its employees.

C. Survival. The provisions of this Section 20 shall survive any termination or expiration of this ILA.

22. Severability

If any term or provision of this ILA, or its application to any person or circumstance is ruled unconstitutional, invalid or unenforceable, the remainder of this ILA will not be affected and will continue in full force and effect.

23. Notices

Any notice, demand, request, consent, approval or communication that either Party desires or is required to give to the other Party shall be in writing addressed to the other Party at the addresses as follows:

Alliance:	Attn: Erin Galeno Chief Financial and Administrative Officer PO Box 2985, Tacoma, WA 98401-2985
-----------	---

Port of Seattle:	Attn: Senior Director, Human Resources P.O. Box 1209 Seattle, WA 98111
------------------	--

24. Records Retention and Audit.

For a period not less than six years from the date of signature, the records and accounts pertaining to this ILA and accounting thereof by each Party are to be kept available for inspection and audit by the other Party. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit finding has been resolved, even though such litigation, claim, or audit continues past the typical six year retention period. This provision is not intended to alter or amend records retention requirements established by applicable state and federal laws.

25. Integration and Amendment

This ILA constitutes the complete and final agreement of the Parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made by the Parties on the subject matter, and may be modified only by a writing signed by the Parties hereto.

26. Copies Filed With County Auditor or Posted On Parties' Web Site.

Copies of this ILA shall either be filed with the Pierce County and King County Auditor's Office after execution or posted on each Parties' website listed by subject or other electronically retrievable public source, as allowed by RCW 39.34.040, and shall be filed with the respective Parties' authorities.

[SIGNATURE PAGE FOLLOWS]

Dated this 4th day of August 2015, **The Managing Members For The Northwest Seaport Alliance:**

Port of Seattle	Port of Tacoma
_____ Commissioner Co-Chair Stephanie Bowman	_____ Commission Chair Donald C. Johnson
_____ Commissioner Co-Chair Courtney Gregoire	_____ Commissioner Connie Bacon
_____ Commissioner John Creighton	_____ Commissioner Dick Marzano
_____ Commissioner Tom Albro	_____ Commissioner Don Meyer
_____ Commissioner Bill Bryant	_____ Commissioner Clare Petrich

Dated this 4th day of August 2015, **The Port of Seattle Commission:**

_____ Commissioner Co-Chair Stephanie Bowman
_____ Commissioner Co-Chair Courtney Gregoire
_____ Commissioner John Creighton
_____ Commissioner Tom Albro
_____ Commissioner Bill Bryant

**EXHIBIT A –
List of Port of Seattle Employees Seconded to the Alliance**

1. Beckett, Kurt
2. Bookout, Bari
3. Balaski, Steve
4. Pattison, Scott
5. Campagnaro, Mike
6. Amble, David
7. Peterson, Josh
8. Donnelly, Devlin
9. Brown, LaTonja
10. Queen, Steve
11. Levine, Heidi
12. Ferrel, Rebecca
13. Hanson, Eric
14. Wolf, Christine
15. Gedlund, Janice
16. Watson, Ellen
17. Guthrie, Marilyn
18. Burke, Mike