

## Interlocal Agreement

### Between the Port of Seattle and the University of Washington (UW) on behalf of its Washington Sea Grant Program

#### Relating to the Washington Sea Grant Hershman Fellowship

This Agreement is made and entered into by the State of Washington, through the University of Washington ("UW"), an institution of higher education and an agency of the State of Washington, with its principal campus located in Seattle, Washington, USA, and the Port of Seattle ("Port"), a municipal corporation of the State of Washington, individually a "Party" and collectively referred to as the "Parties."

#### RECITALS

WHEREAS, Chapter 39.34 RCW authorizes government entities to contract to perform any governmental service, activity, or undertaking which each public agency entering into the contract is authorized by law to perform;

WHEREAS, the Port and the UW have mutual interests in promoting environmental stewardship, economic development and social equity in the maritime industry;

WHEREAS, the UW provides administrative support for the Washington Sea Grant program, including the Washington Sea Grant Hershman Fellowship and the Sea Grant Keystone Fellowship programs, one-year, paid marine policy fellowships that matches highly motivated, qualified individuals with host agencies, nonprofits or tribes throughout Washington State to offer recent graduates first-hand experiences in crafting marine and natural resource policies and allows them to share their academic expertise with their host offices;

WHEREAS, the UW has legal authority to enter into this Agreement pursuant to RCW 39.34.130 and RCW 39.26.180(3);

WHEREAS, the Port has legal authority under RCW 53.08 to operate and maintain seaport infrastructure, including energy, habitat restoration, climate resilience efforts, and community engagement related to seaport operations;

WHEREAS, under the Port's Century Agenda, the Port has committed to operate its facilities in an environmentally sustainable manner, including (but not limited to) the reduction of air pollutants and carbon emissions, restoration of 40 acres of habitat, and identifying community environmental stewardship opportunities;

WHEREAS, the Port applied for and was accepted to host one (1) Keystone Fellow ("Fellow") for the period of one year (2022-23) and the purpose of this Agreement is to set out each Party's obligations with respect to the Port's hosting of the Fellow; and

WHEREAS, the Parties desire to have the option to extend the agreement for up to three years if a suitable candidate for a Fellow can be identified in future years.

NOW, THEREFORE, the Parties agree as follows:

## TERMS AND CONDITIONS

1. **Port of Seattle.** The Port of Seattle shall:
  - a) Transmit 50% of the fellow's cost in a one-time lump-sum payment to UW within sixty (60) days execution of this contract, and the remaining 50% within sixty (60) days after at the completion of the fellowship term;
  - b) Provide full-time, 40-hours per week engagement for the Fellow for one year on projects and initiatives within the Maritime Environment & Sustainability Department within the following focus areas, which may be adjusted based on Port need and/or the Fellow's interest:
    - (1) Participate in design, construction and monitoring of mitigation bank projects in the Green-Duwamish River Watershed and associated nearshore areas, including coordination with project sponsor, project managers, designers, and other project team members;
    - (2) Work with port staff, consultants, and stakeholders to support habitat and stewardship initiatives, including community engagement, stewardship, research and writing, data analysis, project coordination, among others.
  - c) Provide access to office space, equipment, training, and other items needed to perform assigned work;
  - d) Provide supervision and evaluation of the Fellow consistent with the HR policies of the Port's Code of Conduct.
2. **University of Washington.** The UW shall:
  - a) Hire and administer fellowship stipend payments and manage and distribute professional development funds.
  - b) Be available to the Port and the Fellow for consultation on fellowship progress when needed.
  - c) Refund the Port a pro-rated portion of the \$40,000 payment if a Fellow chooses to terminate their employment with the UW prior to the 11<sup>th</sup> month of the fellowship.
3. **Budget.** The UW will provide one Fellow at a rate of \$40,000 for the first year, and funding will be provided by the Port. If the Agreement is extended in accordance with Sections 4 and 9 below by written notice, the funding will be provided in the same way for future years, with half paid in a lump sum payment within sixty (60) days after the first day of the new year, and the other half paid in a lump sum payment within sixty (60) days after the completion of the term.
4. **Option Years.** If Parties agree on a suitable Fellow for future years, the Port can extend the agreement for up to two (2) years by providing written notice in accordance with Section 11 below. Such written notice will describe the projects and initiatives for the year, as well as the lump sums to be paid by the Port, with such lump sums not exceeding an additional \$10,000 above the previous year's budget for a Keystone Fellow. If the Port pursues a Hershman Fellow the Port contribution must meet the minimum requirement of \$60,000. The total not to exceed amount to be paid by the Port under this Agreement

shall be \$150,000.00.

5. **Property.** Upon termination of this Agreement, each Party will retain ownership of any real or personal property acquired in its own name prior to execution of this Agreement.
  - a) **Background Intellectual Property.** "Background IP" means all intellectual property that: (i) was owned or developed by a Party prior to the execution of this Agreement; or (ii) was independently developed by a Party without contribution, assistance or influence from the other party to this Agreement. Each Party will retain all rights, title, and interest in their respective Background IP. Each Party hereby grants to the other Party a non-exclusive, nontransferable, paid-up, worldwide, royalty-free license under its Background IP as may be necessary (i) for such other Party to perform its obligations under this Agreement; or (ii) for such other Party to practice rights to the Joint IP described below in Section 5(b).
  - b) **Joint Intellectual Property.** "Joint IP" means all intellectual property that is developed jointly by the Parties under this Agreement. Each party hereby grants to the other party a fully-paid, non-exclusive, royalty-free, license for the other party's internal use and for scholarly publication under this Agreement only, without right to sublicense or otherwise redistribute either commercially or non-commercially, to: (i) any written reports produced under this Agreement; and (ii) the data produced during the course of the Project to the extent such data is reasonably and legally available, providing that the other party requests such data within thirty (30) days of the end of the applicable calendar year and reimburses the party for any additional reasonable costs incurred in reproducing the data. The parties understand and agree that excepting only the rights granted under the foregoing license, each party retains full ownership of its reports and data.
6. **Additional Services:** The Parties can negotiate additional and non-standard services. These services must be agreed to in writing prior to implementation.
7. **Termination of Agreement:** Either Party may terminate this Agreement upon thirty days written notice to the other Party. The UW shall refund the Port a pro-rated portion of any payment if the Agreement is terminated prior to completion of the 11<sup>th</sup> month of a one year period.
8. **Dispute Resolution:** Any disputes or questions of interpretation of this Agreement that may arise between the Port and UW shall be governed under these Dispute Resolution provisions. The Port and UW agree that cooperation and communication are essential to resolving issues efficiently. If disputes about the implementation of this Agreement arise, the designated contact persons for the Port and UW shall meet to discuss the issues and attempt to resolve the dispute in a timely manner. If the designated contact persons are unable to resolve the dispute, then the Parties may pursue any legal remedies. At all times prior to resolution of the dispute, the Parties shall continue to perform and make any required payments under this Agreement in the same manner and under the same terms as existed prior to the dispute.

9. **Term of Agreement:** The initial term of this Agreement shall begin on October 1, 2022 and end on September 30, 2023. The Agreement may be extended up to two (2) additional years if written notice is provided in accordance with Sections 4 and 11 of this Agreement.
10. **Indemnification:** To the maximum extent allowed by law, the Parties shall protect, defend, indemnify, and save harmless each other, their officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, judgments, penalties, and/or awards of damages, arising out of or in any way resulting from the Parties' own negligent acts or omissions in connection with performance of activities under the terms of this Agreement. Each Party agrees that its obligations under this provision extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents. For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 Revised Code of Washington (RCW). In the event that a Party incurs any judgment, award, and/or cost arising there from, including attorneys' fees, to enforce the provisions of this Article, all such fees, expenses, and costs shall be recoverable from the responsible Party to the extent of that Party's culpability. This indemnification shall survive the termination of this Agreement.
11. **Notification:** Any notice required or permitted to be given pursuant to this Agreement shall be in writing, and shall be sent by U.S. Mail and by email (with telephonic confirmation), to the following addresses unless otherwise indicated by the Parties to this Agreement:

**For the UW:**

**Carol Rhodes**

Office of Sponsored Programs  
University of Washington 4333  
Brooklyn Ave. N.E.  
Box 359472  
Seattle, WA 98195-9472 osp@uw.edu

**For the Port of Seattle:**

Kathleen Hurley  
Senior Environmental Program Manager, Maritime Environment and Sustainability  
Port of Seattle  
2711 Alaska Way  
Seattle, WA 98121

12. **Amendment:** Either Party may request changes to the provisions contained in this Agreement. Any change to this Agreement must be mutually agreed to by both Parties, in writing and executed with the same formalities as the original Agreement.
13. **Applicable Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

- 14. **Jurisdiction and Venue:** The King County Superior Court in Seattle, Washington shall have exclusive jurisdiction and venue over any legal action arising under this Agreement.
- 15. **Severability:** If any court determines that any provision of this Agreement is invalid or unenforceable to any extent, the remainder of the Agreement shall not be affected thereby and each other term, covenant or condition of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- 16. **Waiver of Default:** Waiver of any default by either Party shall not be deemed to be a waiver of any subsequent default. Waiver of breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach. Waiver of any default or breach shall be interpreted or construed to constitute a modification of the terms of this Agreement, unless so stated in writing and signed by both Parties.
- 17. **Entire Agreement:** This Agreement and the Exhibits attached hereto, and by this reference incorporated herein, set forth the entire Agreement of the UW and the Port, and there are no other agreements or understandings, oral or written, between the UW and the Port concerning this Agreement.
- 18. **Mutual Negotiation:** The Parties agree that the terms and provisions of this Agreement have been negotiated, that the Agreement shall be deemed to be mutually negotiated and mutually drafted by both Parties, and the language in the Agreement and Exhibits shall, in all respects, be construed according to its fair meaning and not strictly for or against either Party.
- 19. **Legal Obligations.** This Agreement does not relieve either Party of any obligation or responsibility imposed upon it by law. No third-party beneficiaries are intended to be created by this Agreement and no third party, by law or equity, may enforce this Agreement against the Port or UW, their officers or elected officials, or any person.
- 20. **Counterparts:** The Parties may execute this Agreement in counterparts, which, taken together, constitute the entire Agreement.

EXECUTED BY THE UNDERSIGNED PARTIES effective as of the date last below written and posted pursuant to Chapter 39.34 RCW:

**Port of Seattle:**

**University of Washington:**

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Printed Name Stephen P. Metruck

Printed Name Carol Rhodes

Title Executive Director

Date \_\_\_\_\_

Title Director, Office of Sponsored Programs

Date \_\_\_\_\_

Approved as to form

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Attorney for University of Washington

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Date