

Memorandum of Agreement

Item No. 8n_attach_1
Meeting Date: December 13, 2022

Between the Port of Seattle and King County

Relating to the FUSE Corps Executive Fellowship

This Agreement is made and entered into by King County ("King County"), and the Port of Seattle ("Port"), municipal corporations 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 King County have mutual interests in equitable green jobs workforce development;

WHEREAS, King County has a contract with FUSE Corps which is a national nonprofit working to expand social and economic opportunities, particularly for communities that have been limited by a history of systemic and institutionalized racism and partners with local governments and communities to more effectively address pressing challenges by placing experienced professionals within city and county agencies;

WHEREAS, the Port, pursuant to RCW 53.08.245, declares that port-related workforce development provides a substantial public benefit consistent with the port commission's economic development goals;

WHEREAS, under the Port's Century Agenda, the Port has committed to advance regional workforce development in port-related industries to provide equitable access to quality careers;

WHEREAS, the Port desires to contribute one third of the proposed cost of a FUSE Corps Fellow ("Fellow") for one year, with King County and the City of Seattle providing the remainder of the funding; 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 King County within sixty (60) days execution of this contract, and the remaining 50% within sixty (60) days after at the completion of the fellowship term; and
 - b) Provide guidance from staff to the FUSE Corps fellow to develop a strategic plan for the next

two years; foster alignment of green job strategies between the Port, King County and the City of Seattle; create a funding plan to execute the strategy; and launch a platform for regional green employment stakeholders to collectively advance their agenda.

2. **King County.** King County 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) Provide access to office space, equipment, training, and other items needed to perform assigned work.
- d) Ensure that Fuse Corps provides supervision and evaluation of the Fellow.
- e) Refund the Port a pro-rated portion of the \$26,667 payment if a Fellow chooses to terminate their employment with King County prior to the 11th month of the fellowship.

3. **Budget.** King County will provide one Fellow at a rate of \$26,667 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, which shall be one third of the proposed cost of the Fellow, with King County and the City of Seattle providing the remainder of the funding. The total not to exceed amount to be paid by the Port under this Agreement shall be \$146,667.

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.

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. King County shall refund the Port a pro-rated portion of any payment if the Agreement is terminated prior to completion of the 11th 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 King County shall be governed under these Dispute Resolution provisions. The Port and King County 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 King County 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 February 1, 2023, and end on January 30, 2024. 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 King County:

Michael Carter

Department of Natural
Resources and Parks
King Street Center
201 S Jackson St Rm 5700
Seattle, WA 98104-3855

For the Port of Seattle:

Tiffany Sevilla

Program Manager and Data Analyst, Workforce Development
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 King County and the Port, and there are no other agreements or understandings, oral or written, between King County 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 King County, 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:

Signature _____

Printed Name Stephen P. Metruck

Title Executive Director

Date _____

King County:

Signature _____

Printed Name Maurin (Mo) McBroom

Title Deputy Department Director, Department of
Natural Resources and Parks

Date _____

Approved as to form

Attorney for King County

Date