

**THE NORTHWEST SEAPORT ALLIANCE**  
**MEMORANDUM**

**MANAGING MEMBERS**  
**ACTION ITEM**

<b>Item No.</b>	<u>8E</u>
<b>Date of Meeting</b>	<u>August 1, 2023</u>

**DATE:** July 11, 2023

**TO:** Managing Members

**FROM:** John Wolfe, CEO

**Sponsor:** Tong Zhu, Chief Commercial & Strategy Officer

**Project Manager:** Brittney Kigara, Real Estate Manager

Erin DeBroux, Interim Director, Real Estate

**SUBJECT:** T-106W First Addendum to Interlocal Agreement and Second Amendment to Lease with ConGlobal Industries, LLC - Consent Authorization

**A. ACTION REQUESTED**

The following requests for authorization are related to reimbursing ConGlobal Industries, LLC (“ConGlobal”) for a mobile office trailer move (“the Move”) at Terminal 106W (“T-106W”).

**1. First Addendum to Interlocal Agreement (Dual Action Vote):**

Request Managing Members of The Northwest Seaport Alliance (“NWSA”) to authorize the Chief Executive Officer or their delegate to enter into a First Addendum to Interlocal Agreement (“ILA”) between The Port of Seattle and The Northwest Seaport Alliance Regarding the Port of Seattle’s Use of a Portion of Terminal 106 West, to reimburse the NWSA for reasonable and appropriate cost to reimburse ConGlobal to move its mobile office trailer in an amount not to exceed \$159,000.00 plus applicable Washington State sales tax.

Jointly request Commissioners of the Port of Seattle (“POS”) to authorize the Executive Director or their delegate to enter into a First Addendum to Interlocal Agreement between The Port of Seattle and The Northwest Seaport Alliance Regarding the Port of Seattle’s Use of a Portion of Terminal 106 West, to reimburse the NWSA for reasonable and appropriate cost to reimburse ConGlobal to move its mobile office trailer in an amount not to exceed \$159,000.00 plus applicable Washington State sales tax.

**2. Second Amendment to Lease, ConGlobal Industries, LLC (NWSA MM Vote):**

Request Managing Members of The Northwest Seaport Alliance (“NWSA”) to authorize the Chief Executive Officer or their delegate to enter into a Second Amendment to Lease between the NWSA as Lessor and ConGlobal Industries, LLC as Lessee at Terminals 106 West and 108, to reimburse ConGlobal for the reasonable and appropriate cost to move the mobile office trailer in an amount not to exceed \$159,000.00 plus applicable Washington State sales tax.

**B. SYNOPSIS**

T-106W is a multi-tenant premises, respectively managed by the NWSA and POS based on the allocated acreage between entities. POS issued and awarded a Request for Proposal to redevelop a portion of T-106W, which included a need to widen the ingress/egress options on the premises. Such widening will impact the current NWSA licensed property known as T-106W and its current tenant, ConGlobal by removing 10,797 square feet from ConGlobal’s premises and relocating the fence.

The NWSA seeks to reimburse ConGlobal for the relocation costs of the Move incurred by ConGlobal to make them whole in accordance with the First Amendment and ILA, and the NWSA will be reimbursed by POS as a part of the overall Project costs.

Upon the approval and execution of the proposed First Addendum to ILA, the Second Amendment to the ConGlobal Lease will be executed.

**C. BACKGROUND**

T-106W is an approximate 31.23-acre site with approximately 10 of the total acres licensed to NWSA, of which ConGlobal leases 8.7 acres out of the NWSA licensed acreage.

POS and ConGlobal entered into a 12-year lease commencing January 1, 2015 (dated June 8, 2015) and terminating December 31, 2026 for certain premises located at Terminals 106 and 108 (the Lease), the Lease was amended by a First Amendment to Lease (dated August 16, 2021).

The Managing Members, during the April 6, 2021 Managing Member meeting, approved the First Amendment to Lease with ConGlobal for its leased premises modification conditioned upon the NWSA and POS entering into an ILA, approved

by the Managing Members and jointly by POS during the May 4, 2021 Managing Member meeting, to formalize use of the area to be removed from ConGlobal's premises for use by Port of Seattle and its tenant(s) while addressing restoration of ConGlobal's premises.

**1. First Addendum to Interlocal Agreement:**

The Managing Members jointly with the Commissioners of POS, during the May 4, 2021 Managing Member meeting, approved an Interlocal Agreement between the NWSA and POS to use a portion of NWSA licensed property located at T-106W for the purposes of widening the roadway in conjunction with the POS T-106W redevelopment project. The ILA provides that costs required to restore the T-106W premises currently under a leasehold agreement to the same or better pre-Project condition shall be the sole cost and responsibility of POS.

Both the NWSA and POS acknowledge that the fence relocation will cause ConGlobal's shop to become inaccessible for truck deliveries required for its operation without relocation of the adjacent mobile office building, resulting in the premises not being restored to same or better pre-Project condition.

**The base terms of the First Addendum to Interlocal Agreement are as follows:**

- POS agrees to reimburse the NWSA for reasonable and appropriate costs to reimburse ConGlobal to move its mobile office (inclusive of project design, permitting, materials, labor and other costs associated with the Move) in an amount not to exceed \$159,000.00 plus applicable Washington State sales tax, estimated to be \$16,700.00.
  - a. The NWSA shall submit a copy of ConGlobal's contract, scope of work and any plans for POS review and approval prior to commencing work for the Move.
  - b. All work shall be performed at Prevailing Wage in accordance with all prevailing wage laws in the State of Washington as a condition of reimbursement.
  - c. Upon substantial completion of the Move, the NWSA shall submit an invoice together with back-up documentation of the work completed to POS, and POS shall reimburse the NWSA.

## **2. Second Amendment to Lease, ConGlobal Industries, LLC:**

The POS commenced redevelopment of a portion of T-106W, including widening of the roadway connecting S. Nevada Street to Idaho Street running adjacent to the eastern boundary of the premises (the "Project"). The Project resulted in removal of 10,797 square feet from ConGlobal's premises and resetting of the fence. The First Amendment provides that ConGlobal's premises shall be restored to the same or better condition of the premises prior to commencement of the Project, and restoration of and improvements to the premises shall not be the responsibility of ConGlobal.

Due to the resetting of the new fence, ConGlobal's shop building will become inaccessible for truck deliveries required for its operation without relocation of the adjacent mobile office trailer, resulting in the premises not being restored to the same or better condition of the premises prior to the commencement of the Project.

### **The base terms of the Second Amendment to Lease are as follows:**

- ConGlobal will initially pay for the work related to the Move.
- Following completion of the Move, the NWSA agrees to reimburse ConGlobal for the reasonable and appropriate cost to move the mobile office trailer (inclusive of project design, permitting, materials, labor and other costs associated with the Move) in an amount not to exceed \$159,000.00 plus applicable Washington State sales tax, estimated to be \$16,700.00.
  - a. Reimbursement shall be based upon monthly progress invoices of work completed submitted to the NWSA by the Contractor, and proof of payment by ConGlobal to the Contractor.
- ConGlobal, shall, in connection with the labor associated with the Move, comply with prevailing wage laws in the State of Washington.
  - a. ConGlobal will be required to submit to the NWSA "Statements of Intent to Pay Prevailing Wages" for its employees, contractors, and subcontractors at all tiers prior to commencing work.
  - b. ConGlobal will further be required to submit to the NWSA, "Affidavits of Wages Paid" for its employees, contractors, and subcontractors at all tiers.
- ConGlobal and their Contractor shall employ all applicable Best Management Practices ("BMPs") to protect water quality.

- ConGlobal shall be responsible for any property damage or loss resulting from the Move, except for damage caused by Lessor’s conduct.
- Breakdown of costs for the Move are as follows (sales tax not included):

Contractor	Materials	Labor	Overhead/ Profit	Total
<b>Boes Trucking</b>	\$ 1,400.00	\$ 3,100.00	\$ 500.00	\$ 5,000.00
<b>K Mechanical, LLC</b>	\$ 46,680.00	\$21,784.00	\$ 9,336.00	\$ 77,800.00
<b>Pete’s Towing</b>		\$ 900.00		\$ 900.00
<b>Phoenix Construction</b>	\$ 18,000.00	\$23,600.00	\$ 5,050.00	\$ 46,650.00
<b>JEMCO, INC. Manager/Developer</b>			\$28,650.00	\$ 28,650.00
			<b>TOTAL</b>	<b>\$159,000.00</b>

**D. FINANCIAL IMPLICATIONS**

***Source of Funds***

The POS will bear all costs and expense related to the Move and Project, at no cost to the NWSA, as part of the overall Project cost.

***Financial Impact***

The ILA Addendum is revenue neutral for the NWSA; The POS will reimburse the NWSA for the relocation costs of the Move incurred by ConGlobal to make it whole with no financial impact to the NWSA.

**E. ENVIRONMENTAL**

- Permitting: Any required permits will be acquired by ConGlobal and their Contractor.
- Remediation: No impact.
- Stormwater: No impact.
- Air Quality: No impact.

**F. ATTACHMENTS TO THIS REQUEST**

- First Amendment to Lease, ConGlobal Industries, LLC
- Second Amendment to Lease, ConGlobal Industries, LLC
- Interlocal Agreement
- First Addendum to Interlocal Agreement

**G. PREVIOUS ACTIONS OR BRIEFINGS**

On May 4, 2021, the Managing Member and jointly, the Port of Seattle Commissioners approved the Interlocal Agreement between the NWSA and POS for the purposes of widening the roadway in conjunction with the POS T-106W redevelopment project.

On April 6, 2021, the Managing Members approved the First Amendment to the Lease Agreement by and between the NWSA and ConGlobal for its lease premises modification conditioned upon the NWSA and POS entering into an ILA to formalize use of the area to be removed from CGI's premises for use by Port of Seattle and its tenant(s).

FIRST AMENDMENT TO LEASE  
BETWEEN  
THE NORTHWEST SEAPORT ALLIANCE  
AS LICENSEE/AGENT FOR  
PORT OF SEATTLE  
AND  
CONGLOBAL INDUSTRIES, LLC  
AT  
TERMINALS 106 WEST AND 108

THIS FIRST AMENDMENT TO LEASE is made as of Aug 16, 2021, by and between THE NORTHWEST SEAPORT ALLIANCE, a Washington port development authority, hereinafter called the "NWSA", as agent/licensee for the PORT OF SEATTLE, a Washington municipal corporation, hereinafter called "the Port," and CONGLOBAL INDUSTRIES, LLC, a Delaware limited liability company, hereinafter called "Lessee," the NWSA, Port, and Lessee together referred to herein as "Parties,"

W I T N E S S E T H :

WHEREAS, the parties entered into a lease agreement dated June 8, 2015, hereinafter called the "Basic Lease," of approximately 857,576 square feet of land inclusive of a shop building at Terminals 106 West and 108, Seattle, Washington; and

WHEREAS, the parties are aware that the Port of Seattle intends to redevelop a portion of Terminal 106, which includes a portion of the premises leased to Lessee. The redevelopment work will include modification of the S. Idaho Street ingress to the premises, modification of the S. Nevada Street egress lane at the north end the premises, and widening of the roadway connecting S. Nevada Street to S. Idaho Street running adjacent to the eastern boundary of the premises (the "Project") which will result in removal of 10,797 square feet from the premises; and

WHEREAS, the parties now wish to amend the Basic Lease to reduce the leased premises by 10,797 square feet and reduce rental accordingly, effective upon the date contemplated in Section 5 of this Amendment; and

WHEREAS, the Port of Tacoma and the Port of Seattle are the Managing Members of NWSA, formed for the joint operation, management, and use of certain properties of each such Port by NWSA, and pursuant to NWSA agreements, the Port of Seattle licensed the operation, use and management of the real property and improvements that constitute the Premises under this Lease to NWSA as the licensee/agent for the Port of Seattle effective August 4, 2015, for the purposes and subject to the terms, conditions, and limitations set forth in such agreements, as now in effect or as hereafter amended or adopted, and for purposes of this Lease, the term "Lessor" shall mean and refer to NWSA and the Port of Seattle, unless the context clearly requires otherwise;

NOW THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:

1. Subject to the commencement date as provided in Section 5 of this Amendment, Section 1.1 of the Basic Lease is deleted in its entirety and replaced with the following:

1.1. Premises. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the following described premises ("the Premises") located at the Lessor property commonly known as Terminal 106 West and Terminal 108, being a portion of the premises described in a legal description of which is attached hereto as Exhibit A:

Approximately 479,550 square feet of land area located at Terminal 108 (Area B) and approximately 367,229 square feet of land area, inclusive of a 32,640 square-foot shop building, located at Terminal 106 West (Area A), all as shown on the attached Exhibit B-1 which supersedes and replaces Exhibit B to the Basic Lease.

Lessor and Lessee agree that the Premises are, and shall be deemed for all purposes to be, 846,779 square feet as set forth above.

2. The Lessor-owned area subject to removal is further described on Exhibit D, attached hereto and incorporated herein.
3. The Street Use Area contemplated in Section 1.2 of the Basic Lease is hereby removed, from the Premises, subject to the Commencement Date as provided in Section 5 of this Amendment and as shown on Exhibit B-1.
4. Beginning on the Commencement Date as defined in Section 5 of this Amendment, the monthly and annual rental provided in Section 3.1 of the Basic Lease and payable by Lessee for Lease Years 9 through 12 are amended as shown below. Should the Commencement Date occur prior to Lease Year 9, rent will be pro-rated in accordance with the rate provided in Section 3.1 of the Basic Lease for the given Lease Year. The Base Rent shall constitute the contract rent for purposes of determining taxable rent for assessment of leasehold excise tax.

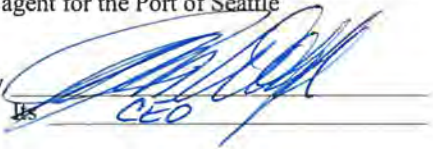
Lease Year	Monthly Rate Per Sq. Ft.	Monthly Rent	Annual Rent
9	\$0.1625	\$137,601.59	\$1,651,219.05
10	\$0.1706	\$144,460.50	\$1,733,525.97
11	\$0.1792	\$151,742.80	\$1,820,913.56
12	\$0.1881	\$159,279.13	\$1,911,349.56

5. The reduction in Premises and associated reduction in rent contemplated in Sections 1 through 4 above shall be effective upon the date the work for the Project commences ("Commencement Date") depriving Lessee use of the 10,797 square feet. Notice of the Commencement Date shall be provided in writing by Lessor to Lessee. If the Commencement Date falls on a date other than the first day of a month, then rent for the month in which the Commencement Date occurs shall be prorated based upon the number of days of the respective month after the Commencement Date.
6. Lessee's premises shall be restored to the same or better condition of the premises prior to commencement of the Project, including but not limited to, resetting the fence, parking striping, and utility and lighting relocation. Restoration of and improvements to the premises shall not be the responsibility of Lessee. A complete itemized list of work to restore the premises shall be mutually agreed upon by the parties in writing, and such work shall be limited to restoration directly related to the modified entrance and restoring the premises to the same like-kind condition prior to the Project. Lessor shall have no obligation to complete work not included in the mutually agreed upon list.
7. Upon written notice to Lessee that all improvements and restoration work are complete, the parties will jointly inspect the premises and document acceptance in writing or, alternatively, items requiring further work. Upon acceptance of improvements, Lessee accepts premises "as-is" in their then-present condition and agrees to undertake any future maintenance and repairs to the premises in accordance with Section 8 of the Basic Lease.
8. In the event the Project does not occur or is not completed as expected and Lessee is not deprived of the 10,797 square feet contemplated above, this Amendment shall automatically terminate upon written notice from Lessor stating that Lessee's premises will not be impacted or reduced.
9. The above-described square footage reduction amount and associated rental adjustments are subject to and may be adjusted in accordance with a final survey if deemed necessary by the Parties following completion of the Project.
10. Except as expressly amended herein, all provisions of the Basic Lease shall remain in full force and effect.



IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the day and year first above written.

LESSOR  
THE NORTHWEST SEAPORT ALLIANCE  
as agent for the Port of Seattle

By   
Its CEO

LESSEE  
CONGLOBAL INDUSTRIES, LLC

By   
Its \_\_\_\_\_

Notary to First Amendment to Lease  
with ConGlobal Industries, LLC  
at Terminals 106 West and 108.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this 16<sup>th</sup> day of August, 2021, before me personally appeared Jordan Wolfe, to me known to be the CEO of THE NORTHWEST SEAPORT ALLIANCE, the port development authority that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



Leilani Berinobis  
(Signature)  
LEILANI BERINOBIIS  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at Peace County  
My Commission expires: 7/15/2025

STATE OF Illinois )  
~~WASHINGTON~~ ) ss  
COUNTY OF DuPage )  
~~King~~

On this 6 day of July, 2021, before me personally appeared James Banks, to me known to be the General Manager of the ConGlobal Industries LLC, the individual/entity that executed the within and foregoing instrument as Lessee, and acknowledged said instrument to be the free and voluntary act and deed of said individual/entity, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



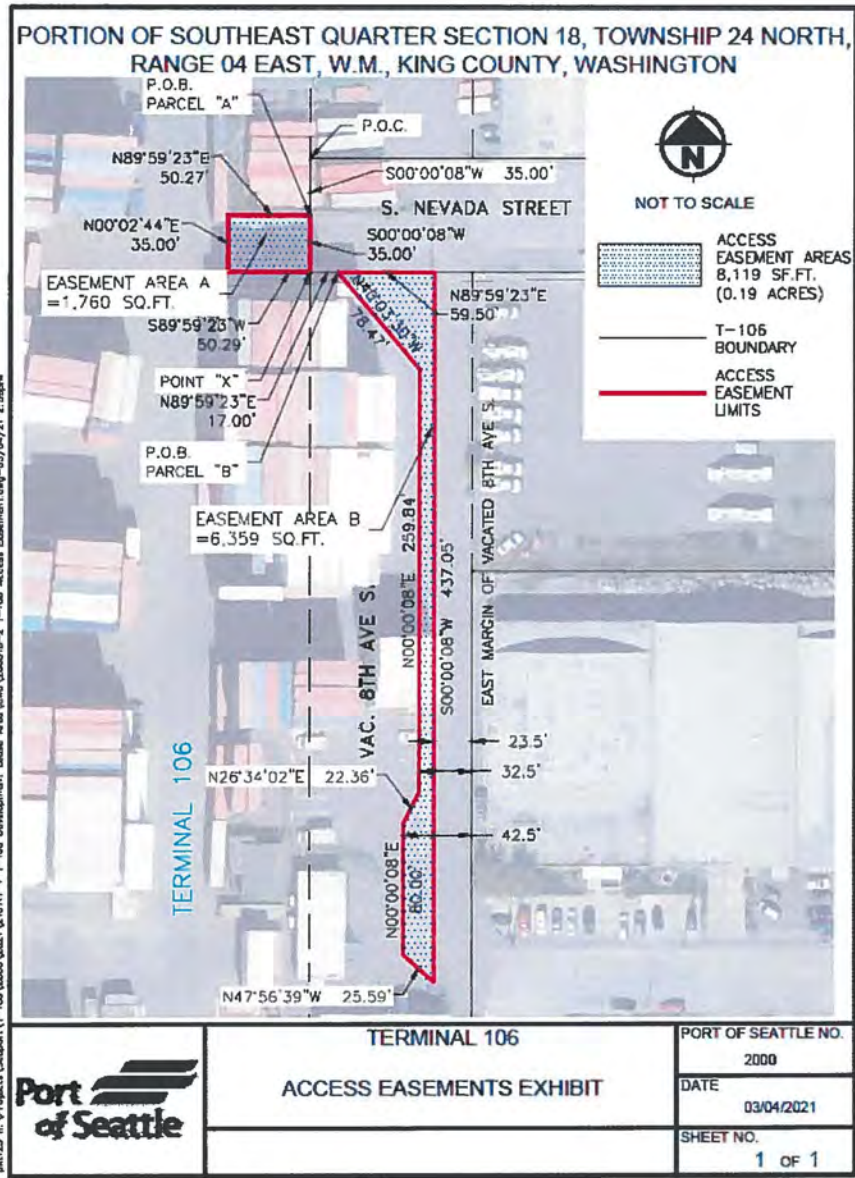
Brandy A. Sickler  
(Signature)  
Brandy A. Sickler  
(Print Name)  
Notary Public, in and for the State of Illinois  
residing at 6124 Blodgett Ave Downers Grove IL 60516  
My Commission expires: 2/8/25

EXHIBIT B-1

- PREMISES -



EXHIBIT D  
-REMOVED PORT-OWNED AREA-



SECOND AMENDMENT TO LEASE  
BETWEEN  
THE NORTHWEST SEAPORT ALLIANCE  
AND  
CONGLOBAL INDUSTRIES, LLC  
AT  
TERMINALS 106 WEST AND 108

THIS SECOND AMENDMENT TO LEASE is made as of \_\_\_\_\_, 20\_\_\_\_, by and between THE NORTHWEST SEAPORT ALLIANCE, a Washington port development authority ("NWSA"), as agent/licensee for the PORT OF SEATTLE, a Washington municipal corporation (the "Port") and CONGLOBAL INDUSTRIES, LLC, a Delaware limited liability company (the Lessee) and jointly combined established as "the Parties."

**W I T N E S S E T H :**

WHEREAS, the parties entered into a lease agreement dated June 8, 2015, and amended by a First Amendment to Lease with an effective date of August 16, 2021, hereinafter collectively called the "Basic Lease," covering certain premises and activities by Lessee at Terminals 106 West and 108, Seattle, Washington; and

WHEREAS, the redevelopment noted in the First Amendment dated August 21, 2021, was commenced by Port of Seattle to redevelop of a portion of Terminal 106, included widening of the roadway connecting S. Nevada Street to Idaho Street running adjacent to the eastern boundary of the Premises (the "Project"). The Project resulted in removal of 10,797 square feet from the Premises and resetting of the fence. The First Amendment provides that Lessee's Premises shall be restored to the same or better condition of the Premises prior to commencement of the Project, and restoration of and improvements to the Premises shall not be the responsibility of the Lessee; and

WHEREAS, the parties acknowledge that due to the relocation of the new fence, Lessee's shop building will become inaccessible for truck deliveries required for its operation without relocation of the adjacent mobile office building, resulting in the Premises not being restored to the same or better condition of the Premises prior to the commencement of the Project.

WHEREAS, the Lessor seeks to reimburse the Lessee for the relocation costs of the mobile office (the "Move") incurred by Lessee to make them whole in accordance with the First Amendment, and Lessor will be reimbursed by the Port of Seattle as a part of the overall Project costs through a separate agreement.

NOW THEREFORE, in consideration of their mutual promises, the parties hereby agree as follows:

1. This amendment and its obligations shall be effective once fully executed by the parties.
2. Lessor agrees to reimburse Lessee for the reasonable and appropriate cost to move the mobile office (inclusive of project design, permitting, materials, labor and other costs associated with the Move) in an amount not to exceed \$159,000.00 plus applicable Washington State sales tax. Lessee shall submit a copy of the contract, scope of work and any plans for Lessor review and approve prior to commencing the work. Any work performed that is required to be at Prevailing Wage shall be submitted in accordance with Section 3 below to be considered for reimbursement.
  - 2.1. Based upon monthly progress invoices of work completed (inclusive of project design, permitting, materials, labor and other costs associated with the Move) submitted to Lessee by the Contractor, and proof of payment by Lessee to the Contractor each month, Lessor shall make monthly progress payments to Lessee as provided below.
  - 2.2. Provided that a Request for Reimbursement Payment is received by Lessee no later than the 25th day of each month, Lessor shall make reimbursement payment to Lessee of the amount requested not later than the last day of the following month.

3. Lessee, shall, in connection with the labor associated with the Move, comply with all prevailing wage laws in the State of Washington, as set forth in RCW 39.12 as amended, and the rules and regulations of the Department of Labor and Industries. The wage rates to be paid to all laborers and workers that perform any part of the move shall meet the prevailing wage rates as required by Chapter 39.12 of Revised Code of Washington, as amended. This requirement applies to laborers and workers whether they are employed by Lessee, Contractors, Subcontractors, or any other person who performs a portion of the

3.1. The rules and regulations of the Department of Labor and Industries and the schedule of prevailing wage rates for the locality or localities where any work under this Amendment will be performed as determined by the Industrial Statistician of the Department of Labor and Industries, are by this reference made a part of this Amendment as though fully set forth herein. The Washington Administrative Code Chapter 296-127 relating to prevailing wage can be found at: <http://apps.leg.wa.gov/wac/default.aspx?cite=296-127>. In any contracts for the move of the mobile office approved by Lessor, Lessee's contract with any general contractor and/or sub-contractor shall require the payment of the local prevailing wage.

3.2. Lessee will be required to submit to the Lessor "Statements of Intent to Pay Prevailing Wages" for its employees, contractors and subcontractors at all tiers prior to commencing work. The Statements of Intent require the approval of the industrial statistician of the Department of Labor and Industries - which shall include the contractor's registration certificate number; the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020; and the estimated number of workers in each classification. Lessee shall ensure that each Statement of Intent to Pay Prevailing Wages that is submitted to Lessor has been approved by the industrial statistician of the Department of Labor and Industries before said statement is submitted to Lessor. Such Statements of Intent shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

3.3. Lessee will further be required to submit to Lessor "Affidavits of Wages Paid" for its employees, contractors and subcontractors at all tiers. The Affidavits of Wages Paid require the certification of the industrial statistician of the Department of Labor and Industries - which shall include the contractor's registration certificate number; the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020; and the estimated number of workers in each classification. Lessee shall ensure that each Affidavit of Wages Paid that is submitted to Lessor has been certified by the industrial statistician of the Department of Labor and Industries before said Affidavit is submitted to the Lessor. Such Affidavits of Wages Paid shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

4. Lessee and their contractor shall employ all applicable Best Management Practices ("BMPs") to protect water quality. Lessee shall maintain compliance with their ISGP at all times as well as any other environmental permit necessary to complete the Move. All environmental provisions in the Lease apply while the Move is being performed and for the duration of the Lease.

5. Lessee shall be responsible for any property damage or loss resulting from the Move pursuant to this Amendment, except for damage caused by Lessor's conduct.

Except as expressly amended herein, all provisions of the Basic Lease (as previously amended) shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment as of the day and year first above written.

LESSOR  
NORTHWEST SEAPORT ALLIANCE  
as agent for the Port of Seattle

LESSEE  
CONGLOBAL INDUSTRIES, LLC

By \_\_\_\_\_  
Its \_\_\_\_\_

By   
Its VP, General Counsel

Notary to Second Amendment to Lease  
with ConGlobal Industries, LLC  
at Terminals 106 West and 108.

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of THE NORTHWEST SEAPORT ALLIANCE, the port development authority that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

Notary Public, in and for the State of Washington,  
residing at \_\_\_\_\_

My Commission expires: \_\_\_\_\_

STATE OF Illinois )  
 ) ss  
COUNTY OF DePage )

On this 14th day of July, 2023, before me personally appeared Paul Kleppetsch, to me known to be the VP General Counsel of the ConGlobal Industries LLC the individual/entity that executed the within and foregoing instrument as Lessee, and acknowledged said instrument to be the free and voluntary act and deed of said individual/entity, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



Brandy A Sickler  
(Signature)

Brandy A Sickler  
(Print Name)

Notary Public, in and for the State of Illinois,  
residing at 8205 S. Cass Ave. Darien, IL

My Commission expires: 02/08/2025





**INTERLOCAL AGREEMENT  
BETWEEN THE PORT OF SEATTLE & THE NORTHWEST SEAPORT ALLIANCE  
REGARDING THE PORT OF SEATTLE'S USE OF A PORTION OF  
TERMINAL 106 WEST**

This Interlocal Agreement (the "ILA") is made this 13 day of May, 2021, by and between the Port of Seattle, a public port district organized under the laws of the State of Washington ("POS") and The Northwest Seaport Alliance, a Washington state port development authority ("NWSA"), (cumulatively, "Parties"), under the authority of the Washington State Interlocal Cooperation Act, RCW 39.34 and the Port Joint Powers authority (RCW 53.08.240).

**RECITALS**

WHEREAS, POS owns the property which is the subject of this ILA.

WHEREAS, the respective Commissions of the POS and the Port of Tacoma ("POT") are the two Managing Members of NWSA, and the NWSA was formed to operate, manage, and use certain real properties owned by each such Port.

WHEREAS, POS licensed the operation, use and management of the property known as Terminal 106 West ("T-106W"), as more specifically described in Exhibit A, to NWSA as POS's licensee/agent, effective August 4, 2015 ("License Agreement").

WHEREAS, NWSA manages T-106W and has leased T-106W to ConGlobal Industries, LLC until December 31, 2026, and under the terms of the License Agreement, and NWSA has the right to manage T-106W indefinitely.

WHEREAS, POS now seeks to use a portion of T-106W for the purposes of widening the roadway connecting South Nevada Street and South Idaho Street allowing for two-lanes of traffic flow between the streets for drayage and other vehicles in conjunction with the POS redevelopment project occurring on POS-owned and managed property located north of South Nevada Street and more commonly known as Terminal 106 (the "Permitted Use").

WHEREAS, in support of the POS redevelopment effort, the Parties wish to memorialize the compensation to be paid by POS to the NWSA for NWSA's lost rental income and POS's use of a portion of T-106W for the Permitted Use and further wish to memorialize the parties' intention that the POS's use of the Premises be revenue neutral to NWSA .

NOW THEREFORE, in consideration of the Premises contained in this ILA, POS and the NWSA agree as follows:

## AGREEMENT

1. **Premises.** Upon commencement of the redevelopment project, POS will have use of approximately 10,797 square feet as specified on Exhibit B (the "Premises") for the purposes of widening the roadway connecting South Nevada Street to South Idaho Street (the "Project"), of which 2,678 square feet of the Premises is utilized under a Street Use Permit between the POS and the City of Seattle Department of Transportation SDOT Permit #SUPSM0003013 (prior SDOT permit #34821) with a start date of 03/12/1971.

POS's right to use the Premises includes the right to access, construct, modify, and maintain the roadway or otherwise assign its rights under this ILA in furtherance of the Permitted Use described above. POS's right to use the Premises for any other purpose beside the Permitted Use is subject to agreement by the NWSA, which agreement shall not unreasonably be withheld or delayed.

2. **Compensation to the NWSA.** POS will provide up to 30 days' written notice to NWSA before the construction mobilization date for the Project. Thereafter, POS shall pay to the NWSA an annual sum equal to the base rental rate per square foot of any then-current leasehold agreement directly abutting the Premises located on T-106W ("Use Fee"). This Use Fee is intended to compensate the NWSA for lost rental income that would otherwise be paid by a tenant at the Premises and for POS's use of the Premises. The Use Fee shall be paid in arrears annually on or before each January 1st and shall be pro-rated for any partial year thereof. Should T-106W become vacant, POS shall not pay the Use Fee during any such vacancy period until a new leasehold agreement for T-106W is in place, at which time, POS will again be charged a Use Fee as described herein. All future payments shall be subject to the then-current base rental rate of any leasehold agreement in effect for T-106W as specified above.

The current ConGlobal Industries LLC base rent as set forth in their lease at T-106W applied to Premises square footage is as follows:

Year	SF	Rate/Mo	Use Fee/Mo	Rate/Yr	Use Fee/Yr
2022	10,797	\$ 0.1548	\$ 1,671.38	\$ 1.8576	\$ 20,056.51
2023	10,797	\$ 0.1625	\$ 1,754.51	\$ 1.9500	\$ 21,054.15
2024	10,797	\$ 0.1706	\$ 1,841.97	\$ 2.0472	\$ 22,103.62
2025	10,797	\$ 0.1792	\$ 1,934.82	\$ 2.1504	\$ 23,217.87
2026	10,797	\$ 0.1881	\$ 2,030.92	\$ 2.2572	\$ 24,370.99

Should T-106W be leased to multiple tenants the Premises Use Fee shall be determined by the rental rate of the leasehold agreements directly abutting the Premises and the rental rate of each lease multiplied by the square footage immediately abutting each leasehold as reasonably agreed to in writing by the Parties.

3. **Capital Improvements and Maintenance.** The NWSA and the POS will each be responsible for any future capital improvements, repairs and/or maintenance on their respective premises.

Any and all modifications, upgrades, maintenance and repair of the roadway shall be the responsibility of the POS. Notwithstanding the foregoing, the initial improvement and repair costs required to restore the T-106W premises currently under a leasehold agreement to the same or better pre-Project condition shall be the sole cost and responsibility of POS.

Upon completion and delivery of the Project, the newly installed fence located within T-106W, shall become an asset of the terminal. As such, all maintenance, repair and/or replacement of the fence shall then be the responsibility of the NWSA.

4. **Stormwater.** The POS shall be responsible for the stormwater utility fees for the Premises to be paid directly by or charged to the POS. In addition to the stormwater, POS shall be responsible for the cost and repair of any issues pertaining to storm water drainage resulting from the Project, which obligations shall survive the Project completion date.

## 5. MISCELLANEOUS

- A. **Third Party Beneficiaries.** This ILA does not create any rights, claims, or benefits inuring to any person that is not a party hereto, and it does not create or establish any third-party beneficiary hereto.
- B. **Binding Effect.** This ILA shall be binding upon and inure to the benefit of the Parties, and their legal representatives, successors, and permitted assigns.
- C. **Severability.** If any provision of this ILA shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties agree to use good faith efforts to replace such invalid or unenforceable provision of this ILA with a valid and enforceable provision that will achieve,

to the extent possible, the purposes of such invalid or unenforceable provision. If the Parties cannot reach a mutually agreeable and enforceable replacement for such invalid, illegal, or unenforceable provision, the balance of the ILA shall be interpreted as if such provision were so excluded so as reasonably to effectuate the intent of the Parties.

**D. Notices.** Unless otherwise specified herein, all notices, consents, approvals, reports, designations, requests, waivers, elections, and other communications authorized or required to be given pursuant to this ILA shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by personal hand-delivery, by facsimile transmission, by electronic mail, by mailing the same in a sealed envelope, certified first-class mail, postage prepaid, return receipt requested, or by air courier guaranteeing overnight delivery, sent to the addresses on Schedule 3 of the NWSA Charter (as such may be updated by notice from time to time).

**E. Usage Generally; Interpretation.**

1. The captions and headings of this ILA are for convenience of reference only and shall not affect the interpretation of this ILA.
2. Any statute or law defined or referred to herein means such statute or law as from time to time amended, modified, or supplemented, including by succession of comparable successor statutes.

**F. Entire Agreement.** This ILA embodies the entire agreement of the Parties and supersedes all prior agreements and understandings between the Parties with respect to the subject matter herein.

**G. Counterparts.** This ILA may be executed in any number of counterparts, including by electronic transmission or facsimile, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**H. Amendments.** The terms and provisions of this ILA may only be modified or amended at any time and from time to time by mutual agreement of the Parties.

**I. Further Assurances.** Each Party shall execute and deliver any additional documents and instruments and perform any additional acts that the Parties determine to be necessary or appropriate to effectuate and perform the provisions of this ILA.

- J. Governing Law.** This ILA shall be governed and construed in accordance with the laws of the State of Washington, without regard to the conflicts of law principles thereof. Generally, in the event of a conflict, the following sources of authority shall prevail in descending order of supremacy: (i) Washington state law and regulation, including the Port Joint Powers statute (RCW 53.08.240), the Port Development Authority, Chapter 53.57 RCW; and this ILA; (ii) any policies of the NWSA; and (iii) any policies of the POS.
- K. Costs, Fees and Expenses.** Each Party shall bear any legal and other costs, fees and expenses incurred by such party in connection with the negotiation and preparation of this ILA and the transactions contemplated hereby.
- L. Waivers.** No waiver of any breach of any of the terms of this ILA shall be effective unless such waiver is made expressly in writing and executed and delivered by the party against whom such waiver is claimed. No waiver of any breach shall be deemed to be a further or continuing waiver of such breach or a waiver of any other or subsequent breach. Except as otherwise expressly provided herein, no failure on the part of any party to exercise, and no delay in exercising, any right, power, or remedy hereunder, or otherwise available in respect hereof at law or in equity, shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power, or remedy by such party preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.
- M. Ratification.** Acts taken in conformity with this ILA prior to its execution are hereby ratified and affirmed.
- N. Assignment.** Other than the Port's right to lease, sublease, license, permit occupancy or otherwise assign its rights in furtherance of the Permitted Use as described in Section 1 above, neither Party to this ILA shall have the right to convey, assign, apportion or otherwise transfer any and all of its rights, obligations, conditions and interests under this ILA, without the prior written approval of the other.
- O. Independent Municipal Governments.** The Parties hereto are independent governmental entities, and nothing herein shall be construed to limit the independent government powers, authority or discretion of the governing bodies of each Party.
- P. Legal Obligations.** This ILA does not relieve either Party of any obligation or responsibility imposed upon it by law.

- Q. Timely Performance.** The requirements of this ILA shall be carried out in a timely manner according to a schedule negotiated by and satisfactory to the Parties.
- R. Records and Audit.** During the term of this ILA, and for a period not less than six (6) years from the date of termination, records and accounts pertaining to the work of this ILA and accounting therefore shall be kept by each Party and shall be available for inspection and audit by representatives of either Party and any other entity with legal entitlement to review said records. 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 six-year (6) retention period. This provision is in addition to and is not intended to supplant, alter or amend records retention requirements established by applicable state and federal laws.
- S. Limits of Financial Obligations/Property Ownership.** Except as provided above, each Party shall finance its own conduct of responsibilities under this ILA. No ownership of property will transfer as a result of this ILA.
- T. Effective Date & Termination.** This ILA shall be effective upon signature by both Parties and a copy being recorded with the respective County Auditors or posted on both Parties' web sites as authorized by RCW.39.34.040 and shall continue indefinitely until terminated by written mutual agreement by the Parties.
- U. Indemnification and Hold Harmless.**
1. The NWSA releases the POS from, and shall defend, indemnify, and hold the POS and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of the NWSA and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the NWSA's performance of its obligations under this ILA, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the POS or its agents, employees, and/or officers.
  2. The NWSA shall defend, indemnify, and hold the POS and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of any third parties and/or their agents, employees, officers, contractors

and/or subcontractors, arising out of or in any way related to the NWSA's performance of its obligations under this ILA, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the POS or its agents, employees, and/or officers.

3. The POS releases the NWSA from, and shall defend, indemnify, and hold the NWSA and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of the POT and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the POS's performance of its obligations under this ILA, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the NWSA or its agents, employees, and/or officers.
4. The POS shall defend, indemnify, and hold the NWSA and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of any third parties and/or their agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the POS's performance of its obligations under this ILA, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the NWSA or its agents, employees, and/or officers.
5. Each Party specifically assumes liability for actions brought by its own employees against the other Party and for that purpose each Party specifically waives, as respects the other parties only, any immunity under the Worker's Compensation Act, RCW Title 51.
6. The Parties recognize that this waiver was the subject of mutual negotiation. In the event any Party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this ILA against the other Party, all such fees, costs and expenses shall be recoverable by the substantially prevailing Party.
7. No liability shall attach to any of the Parties by reason of entering into this ILA except as expressly provided herein.
8. The provisions of this Section U.(1)-(8) shall survive any termination or expiration of this ILA.

THE NORTHWEST SEAPORT  
ALLIANCE:

By \_\_\_\_\_  
John Wolfe, CEO

Date \_\_\_\_\_

THE PORT OF SEATTLE:

By *for SM. David R. Seely*  
Stephen Metruck, Executive Director

Date 5-11-21



THE NORTHWEST SEAPORT  
ALLIANCE:

By   
\_\_\_\_\_  
John Wolfe, CEO

Date 5/13/2021

THE PORT OF SEATTLE:

By *for SM*   
\_\_\_\_\_  
Stephen Metruck, Executive Director

Date 5-11-21

## EXHIBIT A

### LEGAL DESCRIPTION OF TERMINAL 106W

T-106 WEST COMMENCING AT THE INTERSECTION OF THE EASTERLY LINE OF THE DUWAMISH WATERWAY AS ESTABLISHED BY THE COMMERCIAL WATERWAY DISTRICT NO. 1 AND THE NORTHERLY RIGHT OF WAY MARGIN OF SOUTH OREGON STREET;

THENCE SOUTH 90°00'00" EAST ALONG SAID NORTHERLY MARGIN A DISTANCE OF 253.38 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 00°00'00" WEST A DISTANCE OF 29.26 FEET;

THENCE NORTH 72°55'10" WEST A DISTANCE OF 157.13 FEET;

THENCE NORTH 19°29'35" WEST A DISTANCE OF 424.00 FEET;

THENCE NORTH 00°08'51" WEST A DISTANCE OF 163.98 FEET;

THENCE NORTH 08°35'51" EAST A DISTANCE OF 441.46 FEET;

THENCE SOUTH 90°00'00" EAST A DISTANCE OF 225.81 FEET;

THENCE SOUTH 00°00'00" WEST A DISTANCE OF 165.59 FEET TO THE CENTER LINE OF SOUTH NEVADA STREET AS PRODUCED WEST;

THENCE SOUTH 90°00'00" EAST ALONG SAID PRODUCED CENTER LINE A DISTANCE OF 50.70 FEET TO THE WESTERLY RIGHT OF WAY MARGIN OF VACATED 8TH AVENUE SOUTH AND THE WESTERLY RIGHT OF WAY MARGIN OF SOUTH NEVADA STREET;

THENCE SOUTH 00°00'00" WEST ALONG SAID WESTERLY MARGIN A DISTANCE OF 35.00 FEET TO THE SOUTHERLY RIGHT OF WAY MARGIN OF SOUTH NEVADA STREET;

THENCE SOUTH 90°00'00" EAST ALONG SAID SOUTHERLY MARGIN A DISTANCE OF 76.50 FEET;

THENCE SOUTH 00°00'00" WEST AND PARALLEL WITH THE WESTERLY RIGHT OF WAY MARGIN OF VACATED 8TH AVENUE SOUTH A DISTANCE OF 455.43 FEET;

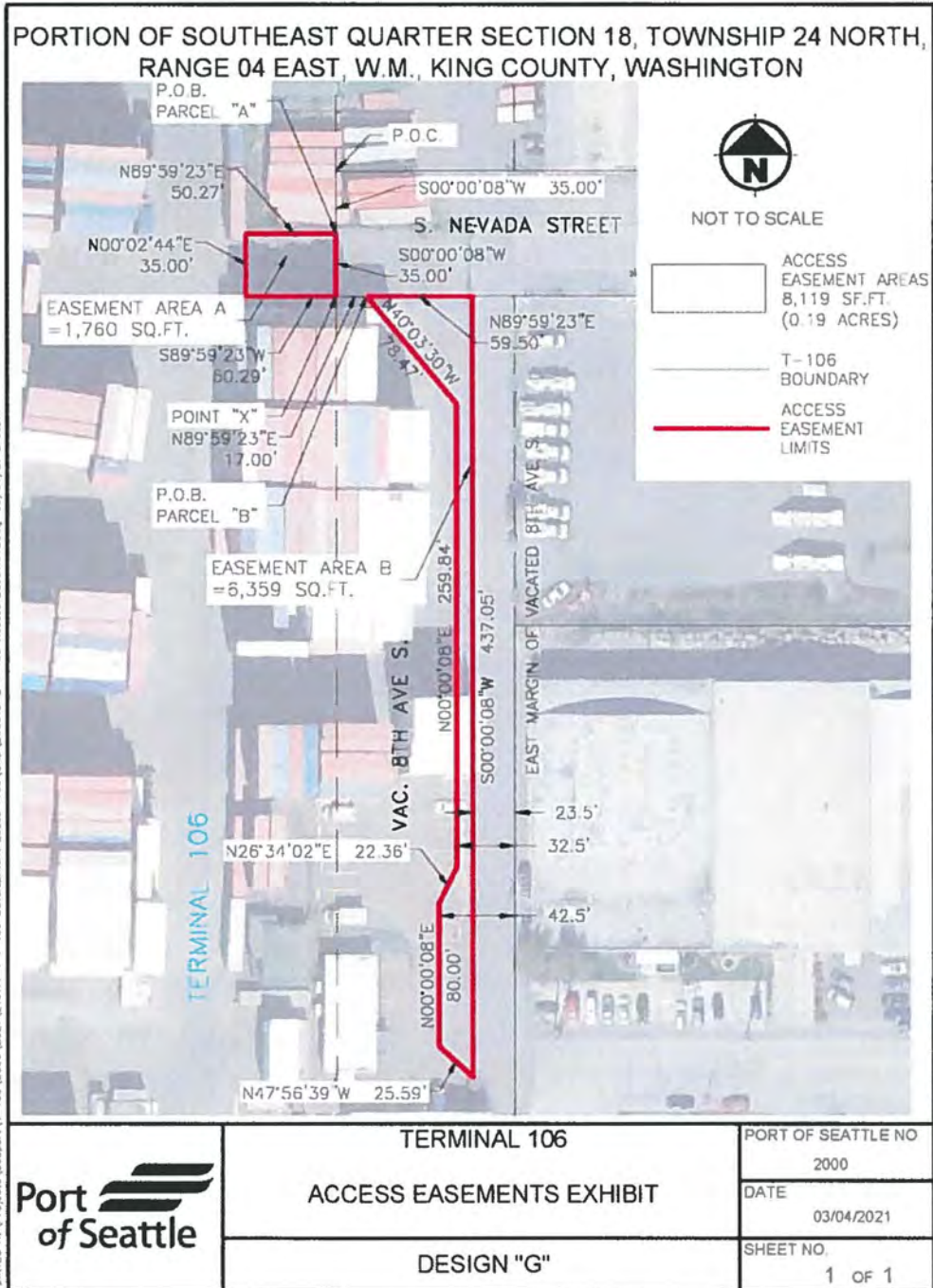
THENCE SOUTH 90°00'00" EAST A DISTANCE OF 23.50 FEET PERPENDICULAR TO THE EASTERLY RIGHT OF WAY MARGIN OF VACATED 8TH AVENUE SOUTH;

THENCE SOUTH 00°00'00" WEST ALONG SAID EASTERLY MARGIN A DISTANCE OF 419.57 FEET TO THE NORTHERLY RIGHT OF WAY MARGIN OF SOUTH OREGON STREET;

THENCE NORTH 90°00'00" WEST ALONG SAID NORTHERLY MARGIN A DISTANCE 150.39 FEET TO THE POINT OF BEGINNING. TOGETHER WITH: DEPARTMENT OF TRANSPORTATION STREET USE PERMIT NO. 34821. ALL CONTAINING 378,026 SQUARE FEET OR 8.7 ACRES MORE OR LESS.

# EXHIBIT B

## PREMISES SITE PLAN





**FIRST ADDENDUM TO INTERLOCAL AGREEMENT  
BETWEEN THE PORT OF SEATTLE & THE NORTHWEST SEAPORT ALLIANCE  
REGARDING THE PORT OF SEATTLE’S USE OF A PORTION OF  
TERMINAL 106 WEST**

This First Addendum is made to the Interlocal Agreement by and between the Port of Seattle, a public port district organized under the laws of the State of Washington (“**POS**”) and The Northwest Seaport Alliance, a Washington state port development authority (“**NWSA**”), (cumulatively, “Parties”).

**RECITALS**

WHEREAS, the Parties entered into the Interlocal Agreement, identified herein above, with the effective date of May 13, 2021 (the “ILA”) under the authority of Washington State Interlocal Cooperation Act, RCW 39.34 and the Port Joint Powers authority (RCW 53.08.240); and

WHEREAS, the redevelopment noted in the ILA was commenced by POS to redevelop a portion of Terminal 106 West (“T-106W”), and included widening of the roadway connecting S. Nevada Street to Idaho Street running adjacent to the eastern boundary of the Premises (the “Project”). The Project resulted in removal of 10,797 square feet from ConGlobal Industries, LLC (“ConGlobal”) Premises and resetting of the fence. The ILA provides that the initial improvement and repair cost required to restore the T-106W premises currently under a leasehold agreement to the same or better pre-Project condition shall be the sole cost and responsibility of POS.

WHEREAS, the Parties acknowledge that due to the relocation of the new fence, ConGlobal’s shop building will become inaccessible for truck deliveries required for its operation without relocation of the adjacent mobile office building, resulting in the Premises not being restored to the same or better condition of the Premises prior to the commencement of the Project.

WHEREAS, the NWSA seeks to reimburse ConGlobal for the relocation costs of the mobile office (the “Move”) incurred by ConGlobal to make it whole in accordance with a separate agreement, and the NWSA will subsequently be reimbursed by POS as part of the overall Project costs.

NOW THEREFORE, in consideration of the Premises contained in this ILA, POS and the NWSA agree as follows:

The ILA is further defined to include the following agreed upon terms and conditions:

**1. Reimbursement.** POS agrees to reimburse the NWSA for reasonable and

appropriate cost to reimburse ConGlobal to move its mobile office (inclusive of project design, permitting, materials, labor and other costs associated with the Move) in an amount not to exceed \$159,000.00 plus applicable Washington State sales tax. The NWSA shall submit a copy of ConGlobal's contract, scope of work and any plans for POS review and approval prior to commencing the work. All work shall be performed at Prevailing Wage in accordance with all prevailing wage laws in the State of Washington, as set forth in RCW 39.12 as amended; Chapter 39.12 of the Revised Code of Washington, as amended; and the rules and regulations of the Department of Labor and Industries as a condition of reimbursement.

- A. Upon substantial completion of the Move, the NWSA shall submit an invoice together with back-up documentation of the work completed (inclusive of project design, permitting, materials, labor and other costs associated with the Move) to POS, and POS shall reimburse the NWSA within 30-days of receipt of the invoice.
2. Except as stated herein, all other terms and conditions of the ILA are unchanged and continue to be of full force and effect.

THE NORTHWEST SEAPORT  
ALLIANCE:

By: \_\_\_\_\_  
John Wolfe, CEO

Date: \_\_\_\_\_

THE PORT OF SEATTLE:

By: \_\_\_\_\_  
Stephen Metruck, Executive Director

Date: \_\_\_\_\_