

AGENDA ITEM

BUSINESS OF THE CITY COUNCIL
City of Des Moines, WA

SUBJECT: Interlocal Agreement for Coordinated SAMP Review and Legal Services

FOR AGENDA OF: November 13, 2025

DEPT. OF ORIGIN: Community Development

ATTACHMENTS:

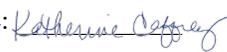
DATE SUBMITTED: November 3, 2025

1. 2025 ILA Between Burien, Des Moines, and SeaTac for Legal and Environmental Review in Connection with the NEPA and SEPA Evaluations of Sea-Tac Airport Sustainable Master Plan

CLEARANCES:

- City Clerk _____
- Community Development 
- Courts _____
- Finance _____
- Human Resources _____
- Legal /s/TG
- Marina _____
- Police _____
- Parks, Recreation & Senior Services _____
- Public Works _____

APPROVED BY CITY MANAGER

FOR SUBMITTAL: 

Purpose and Recommendation

The purpose of this agenda item is for the Council to consider and approve an Interlocal Agreement (ILA) between the Cities of Burien, Des Moines, and SeaTac, to establish a process for coordinated legal services, review, analysis, and response to the environmental process, impacts, and concerns related to the Port of Seattle’s Sea-Tac Airport Sustainable Master Plan (SAMP).

Suggested Motion

Motion: “I move to approve the Interlocal Agreement between the Cities of Burien, Des Moines, and SeaTac for Legal and Environmental Review in Connection with the NEPA and SEPA Evaluations of the Sea-Tac Airport Sustainable Master Plan and authorize the City Manager to sign substantially in the form as attached.”

Background

Beginning in the prior decade, the Port of Seattle began drafting a “Seattle Airport Master Plan” (“SAMP”) that is intended to plan for the future airport growth; growth that could have significant negative impacts on surrounding cities. The plan itself was completed in 2018. Pursuant to the National Environmental Policy Act (“NEPA”) and the Washington State Environmental Policy Act (“SEPA”), the Port is required to prepare for agency and public review and comment on the environmental documents, which is expected to result in the preparation of an Environmental Impact Statement (“EIS”).

In 2017, the cities of Burien, Des Moines, Normandy Park, and SeaTac determined that it was in their best interest to coordinate their review, analysis, and responses concerning the environmental review process and the impacts that are addressed in the environmental documents issued by the Port, resulting in the execution of an interlocal agreement between the cities in 2018.

Discussion

The proposed ILA, (Attachment 1), restates the 2018 ILA, but also adds provisions for the anticipated need for legal services. The proposed ILA also assigns contract management and fiscal management to the City of SeaTac. The term of the new agreement lasts until the end of the SAMP process including any appeals, which is estimated to be completed by December 31, 2028. Normandy Park decided not participate in this ILA and therefore are not included in this agreement. Normandy Park’s proportional share of the cost was less than 6%.

The purpose of the ILA is stated as follows:

The purpose of this Agreement is for the Parties to establish a process for review, analysis, and responding to the environmental process, impacts and concerns related to the SAMP, including those issues raised during the Port’s SEPA and NEPA processes. By coordinating their efforts, the Parties will be in a better position to evaluate and respond to the Port’s environmental review process. The Parties may jointly hire and fund consultants to assist with review and preparation of formal comments regarding the environmental review process and the SAMP’s environmental impacts, as well as legal counsel to support any formal challenge to the outcome of either or both environmental processes. This Agreement establishes a process for the selection and funding of these consultants and legal counsel.

The SEPA Draft Environmental Impact Statement is expected to be released by the Port of Seattle in the first quarter of 2026. They have informed us that we will have 30 days’ notice prior to release.

With the additional of legal services to the ILA the Cities will work with a legal team on both a legal strategy for the SAMP NEPA Finding of No Significant Impact/Record of Decision and the release of the SEPA EIS, including future mitigation. Due to the timing and appeal period related to NEPA we have been working with SeaTac to identify outside counsel should it be approved. The legal team would be Steven Taber with Leech Tishman who specializes in NEPA, environmental law, airport, and airport development law matters and Jennifer Sanscrainte with Ogden Murphy Wallace who specializes in environmental matters including SEPA/NEPA, including Washington’s Model Toxics Control Act, the Clean Water Act, and the Clean Air Act.

At the October 13 Airport Advisory Committee meeting, the committee voted to recommend Council approve adding legal services to the existing ILA.

Alternatives

The Council may:

1. Approve the ILA

**INTERLOCAL AGREEMENT BETWEEN THE CITIES OF BURIEN, DES MOINES, ~~NORMANDY PARK,~~
AND SEATAC FOR LEGAL AND ENVIRONMENTAL REVIEW IN CONNECTION WITH THE NEPA AND
SEPA EVALUATIONS OF THE SEA-TAC AIRPORT
SUSTAINABLE AIRPORT MASTER PLAN**

Pursuant to RCW 39.34, the Interlocal Cooperation Act, this Agreement is entered into between the City of Burien, a municipal corporation, hereinafter referred to as "Burien," the City of Des Moines, a municipal corporation hereinafter referred to as "Des Moines," ~~the City of Normandy Park, a municipal corporation hereinafter referred to as "Normandy Park,"~~ and the City of SeaTac, a municipal corporation hereinafter referred to as "SeaTac," and all ~~four~~three cities collectively referred to as the "Parties" or "Cities," for the purpose of review and commenting on, and as necessary, taking legal action in connection with the environmental review process, analysis, and documents prepared for the Port of Seattle's the Sea-Tac Airport Sustainable Airport Master Plan.

1. Background. The Port of Seattle ("Port") operates the Sea-Tac International Airport ("Airport" or "Sea-Tac"). The Port is currently drafting a "Sustainable Airport Master Plan" ("SAMP") that will plan for airport growth over the next 20 years; growth that could have significant negative impacts on surrounding cities. Pursuant to the National Environmental Policy Act ("NEPA") and the Washington State Environmental Policy Act ("SEPA"), the Port may prepare, for agency and public review and comment, environmental documents, up to and including an Environmental Impact Statement. The Parties have determined that it is in their best interest to coordinate their review, analysis, and responses concerning the environmental review process and the impacts that are addressed in environmental documents issued by the Port. Furthermore, the Parties have determined that it may be in their common interest to coordinate any legal action that they feel is appropriate in response to the Federal Aviation Administration (FAA) decisions on an environmental assessment (EA) prepared according to the requirements of the National Environmental Policy Act (NEPA) and the Port of Seattle's decisions on an environmental impact statement (EIS) prepared according to the requirements of the Washington State Environmental Policy Act (SEPA).

2. Purpose. The purpose of this Agreement is for the Parties to establish a process for review, analysis, and responding to the environmental process, impacts and concerns related to the SAMP, including those issues raised during the Port's SEPA and NEPA processes. By coordinating their efforts, the Parties will be in a better position to evaluate and respond to the Port's environmental review process. The Parties may jointly hire and fund consultants to assist with review and preparation of formal comments regarding the environmental review process and the SAMP's environmental impacts, as well as legal counsel to support any formal challenge to the outcome of either or both environmental processes. This Agreement establishes a process for the selection and funding of these consultants and legal counsel.

3. Review and Commenting. The environmental review process will include opportunities for the Parties to provide formal comments to the Port and the FAA. This could include commenting on the Port's and FAA's selected environmental review process and any documents which may be issued as part of that

process. The Parties agree to coordinate their comments at each of these steps and to issue a single comment letter signed by each Party's designated representative.

4. Legal Counsel. It may be in the best interest of the Parties to jointly hire legal counsel with expertise in environmental law to support a legal challenge to either the NEPA conclusions, the SEPA conclusions, or both. If it is agreed to hire legal counsel, the Parties will work cooperatively and collaboratively on every aspect of the legal challenge(s) and shall be in mutual agreement prior to moving forward with any step in the legal process.

4.5. Consultant Selection. ~~Should the~~ ~~It may be in the best interest of the~~ Parties decide to jointly hire a consultant and/or legal counsel ~~to assist with review and commenting on the SAMP's environmental review and impacts. If it is agreed to hire a consultant,~~ the Parties will work cooperatively and collaboratively on every aspect of the consultant selection process and shall be in mutual agreement prior to moving to the next step. It is anticipated that only one consultant will be retained, and if needed, only one legal representative will be retained, with the understanding that the retained consultant or legal counsel may use sub-consultants to complete specific tasks. Generally, the steps will be as follows:

- a. Determine what consultant and/or legal expertise is needed;
- b. Determine which Party will be the lead for contract administration;
- c. Determine project budget and contribution amount from each Party;
- ~~d. Drafting a Request for Qualifications (RFQ);~~
- de. Publish/Circulate Notice Requesting Statement of Qualifications;
- ef. Review ~~of~~ statements and determine selection for interviews;
- fg. ~~Conducting~~ interviews, with interested Parties represented;
- gh. ~~Make f~~Final consultant/legal counsel selection;
- hi. ~~Developing~~ a final Scope of Work;
- ij. ~~Negotiat~~ion ~~of~~ consultant/legal counsel contract;
- jk. Approval of Consultant Contract by the lead City in accordance with its contract approval procedures.

6. Consultant Funding.

- a. If consultants and/or legal counsel are hired as contemplated in Section 54 of this Agreement, the Parties will individually commit to a level of funding to be provided. These funds ~~should~~must be committed prior to ~~requesting Statements of Qualifications~~approval of consultant contract as noted above. The management of these funds will be as

described in Section 8. Such funding determinations shall be documented in writing. Funding percentages shall be proportionally split among the Parties based on population and shall be reviewed and updated administratively annually based on the Office of Finance Management population numbers.

- b. To expedite the review of relevant information and preparation of legal documents by the legal counsel, SeaTac will engage / has engaged with legal counsel as contemplated in Section 5. To the extent SeaTac has incurred costs from legal counsel following issuance of the Record of Decision / Finding of No Significant Impact, which also benefits the other Parties, the other Parties shall pay a proportionate share of that cost as described in Section 6.a.

5.7. Joint Roles and Responsibilities. Each Party shall be responsible for the following:

a. Each Party shall assign a representative(s) ("Party Representative(s)") to help prepare and/or participate in review of draft work products. The Party Representative administering any consultant contract will communicate any changes to schedules, budgets, and any other pertinent information in a timely manner ~~so as to~~ keep each jurisdiction apprised of the status of the consultant's or legal counsel's work.

b. Time is of the essence for the review of environmental documents. The Parties shall work expeditiously and in good faith to achieve the smooth progress of review and commenting. This includes allocating adequate staff time and providing all necessary data and other information or materials needed for timely review and commenting.

c. The Party Representatives shall receive copies of consultant invoices. All concerns with consultant billing shall be communicated to the contract administrator in a timely manner.

d. ~~Should any Party wish to file an appeal of any Port environmental decision, the Party Representatives shall discuss whether such an appeal should be pursued jointly.~~ If an individual jurisdiction takes legal action - appeal is filed, the appeal shall notify be immediately transmitted to all Parties, so that the Parties can decide whether to intervene in the appeal in order to or provide assistance.

e. The Parties shall work together in good faith to assure comments are made within the deadlines prescribed by law.

8. Decision-making for legal counsel services. The Parties share the goal of consensus decision-making when providing direction to legal counsel or engaging in legal action. The Parties also recognize that their respective City Councils, leadership, and communities may differ in their desire to engage in legal challenges and have different financial constraints.

- a. Unanimous agreement by all three cities is required to proceed with the filing of a joint

appeal by the legal counsel retained under this ILA.

b. A majority of the three cities (i.e. two cities) is required to continue appeals at each stage of the appeal process. Any party may withdraw from pending litigation subject to Section 14 below.

~~6.~~ **Contract Management and Fiscal Management.** Contracts for consultant(s) and legal counsel shall be administered by the City of ~~Des Moines~~ SeaTac. These responsibilities include monitoring of work of the consultant in terms of content and timeliness; coordinating with ~~all Parties the City of Burien~~ regarding the consultant invoices and payments; arrangement of meetings to address the comments of the Parties; etc.

~~7.~~

~~9.~~ **Fiscal Management.** Management of fiscal matters associated with this Agreement shall be administered by the City of ~~Burien~~SeaTac, ~~also~~. These responsibilities include processing consultant invoices and payments on a monthly basis; invoicing other Parties to the agreement; periodic fiscal reports to the Parties; etc. Each Party will require a separate letter of engagement with legal counsel in order to ensure attorney client privilege of communications under this ILA, although work will be done and billed under a single primary contract.

~~8-10.~~ **Communication with Consultant.** Communication with hired legal team shall include a point person from the City who is administering the contract. If staff at the City who is administering the contract needs to communicate with the legal team, they shall include an additional appointed person from a different city as agreed upon by the cities. Any communication outside of the prescribed process or group authorization may be considered individual communication with legal counsel and may be billed directly to the associated City and not part of the ILA.

~~9-11.~~ **Additional Consultant Services.** Each Party retains the right to hire their own consultants and legal counsel at their own expense to complete work necessary for the project, so long as the work does not conflict with the Project. In such cases, the results of any consultant work will be shared with the other Parties. Nothing herein shall be construed as an affirmative duty to share work product prepared by legal counsel for a Party with the other Parties.

~~10-12.~~ **Administration of Agreement.** Supervision and administration of this Agreement shall be the responsibility of each Parties' City Manager or his/her respective designee.

~~11-13.~~ **Duration.** This Agreement shall be effective upon execution by each Party and shall remain in full force and effect through the completion of the SAMP environmental review process and any appeals, anticipated to be completed by December 31, 2027. ~~This Agreement may be extended upon mutual agreement of all Parties.~~

~~12-14.~~ **Termination.** Any Party may withdraw from this Agreement, effective upon thirty (30) days written notice to the other Parties. However, the withdrawing Party shall still be responsible for the payment of any costs incurred prior to the effective date of withdrawal.

~~13-15.~~ Modification. This Agreement may be modified by further written agreement upon mutual acceptance by all Pparties.

~~14-16.~~ Alternative Dispute Resolution. If a dispute arises from or relates to this Agreement or the breach thereof and if the dispute cannot be resolved through direct discussions, the Pparties agree to endeavor first to settle the dispute in an amicable manner by mediation administered by a mediator under JAMS Alternative Dispute Resolution service rules or policies before resorting to arbitration. The mediator may be selected by agreement of the Pparties or through JAMS.

~~15-17.~~ Written Notice. All communications regarding this Agreement shall be sent to the Pparties at the addresses listed on the signature page of the Agreement, unless notified to the contrary. Any written notice hereunder shall become effective three (3) business days after the date of transmittal and shall be deemed sufficiently given if sent to the addressee at the address stated in this Agreement or such other address as may be hereafter specified in writing.

~~16-18.~~ Hold Harmless. Each Pparty to this Agreement shall defend, indemnify, and hold the other Pparty(ies), its appointed and elected officers and employees, harmless from claims, actions, injuries, damages, losses or suits including attorney fees, arising or alleged to have arisen directly or indirectly out of or in consequence of the performance of this Agreement to the extent caused by the fault or negligence of the indemnitor, its appointed or elected officials, employees, officers, agents, assigns, volunteers, or representatives.

~~17-19.~~ Non-Discrimination. The Parties shall not discriminate in any manner related to this Agreement on the basis of race, color, national origin, sex, sexual orientation, religion, age, marital status or disability in employment or the provision of services.

~~18-20.~~ Severability. If any provision of the Agreement shall be held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to serve the purposes and objectives of ~~both all~~ Pparties.

~~19-21.~~ Entire Agreement. This Agreement constitutes the entire agreement between the Pparties. Any modifications or amendments to this Agreement shall be in writing and shall be signed by each party.

Dated this ____ day of November 20254.

CITY OF BURIEN

CITY OF DES MOINES

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APPROVED AS TO FORM

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