

## **SeaTac ILA Thoughts and Insight**

by Peter Kwon 12/24/2017

Many people have recently come to me with questions related to the new Inter-Local Agreement (ILA) between the City and the Port. I'm providing my personal comments and insight to hopefully answer these questions and clarify some details in the ILA from my perspective.

A little background: There have been two prior versions of the ILA between the City and Port:

ILA-1: September 4, 1997 (10-year agreement):

<http://docdro.id/q8M0mF7>

ILA-2: February 16, 2006 (10-year agreement):

<http://www.ci.seatac.wa.us/home/showdocument?id=512>

There have been a series of amendments to these two documents, including an extension on December 22, 2015 (2-year agreement):

<http://www.ci.seatac.wa.us/government/city-departments/city-manager/airport/interlocal-agreement>

The latest version (2018 ILA) replaces all prior documents entirely:

<http://www.ci.seatac.wa.us/government/city-council/2018-city-port-ila>

The first two versions over the last 20 years were essentially the same agreement with some tweaks and changes. Because it was obvious the old versions were no longer working today, the 2018 ILA version is a completely new and different document devised from the ground-up.

### **Permitting:**

The biggest concern is, of course, permitting authority as it relates to building and construction on airport property. It is the City's statutory responsibility to control permitting for all construction within City boundaries, including the airport. This is something that the Port has never acknowledged in the past and the original ILA-1 did not address, while the second and extended ILA-2 delegated full permitting authority to the Port. This created a situation where the City had virtually no involvement in any projects going on at the airport and thus, no way to provide direction, to prepare, or to plan for the future.

In the new 2018 ILA the Port acknowledges the City's statutory responsibility for permitting; which is in itself a big step forward. The City designates the Port to act as an agent working on behalf of the City and the Port must provide a monthly report of all permitting data. This not only provides visibility for the City and the general public, it also allows for ongoing dialogue and input before any airport projects are started.

Some have asked why the City doesn't just keep all permitting in-house to prevent airport growth. One key answer is because as long as a permit application follows all laws and regulations, the permit must be approved by the City. Denying a legally allowed permit in a timely manner could find the City liable in a lawsuit. To make this work, this means the City would have to hire-up during

times of airport growth, and lay off during times of stagnation. By delegating this administrative role to the Port, the City is essentially contracting out this service and saving time, money, and reducing liability.

Since the new permitting process is more transparent, this also means surrounding cities and the general public will have every opportunity to be informed, comment, challenge, or appeal any permits or projects during the entire procedure, including the State Environmental Policy Act (SEPA) process. This level of transparency was not available before, and would be exactly the same regardless if the City had retained full permitting.

It doesn't stop there; in addition, the Port will pay the City of SeaTac a minimum of \$226k/year to oversee the permitting process for quality assurance. This is money the City was likely entitled to but never collected before.

### **Parking Tax:**

In the past ILA the City agreed to set a parking tax rate according to a pre-determined formula. The City also agreed to allow the Port to help decide on how a portion of the parking tax revenue would be spent. This limited the City's ability to not only collect money it had full authority to collect, but to also spend the money it had full authority to spend. Since this is obviously ridiculous, it was removed entirely from the new 2018 ILA. The City now has the ability to spend the parking tax money as it sees fit according to state law.

### **Surface Water Management:**

The City is responsible for treating all surface and storm water runoff, and collects a Surface Water Management (SWM) fee from properties in the City to pay for this service. In the past the airport claimed that since they treat all of their own surface water on-site they did not have to pay anything to the City. The City disagreed so the City and Port went to court to sort this out, and in every case so far the Port agreed to pay some fee to avoid going through with the lawsuit.

The old ILA-2 had the Port paying the City around \$400k/year and the new 2018 ILA has the Port paying the City around \$1.3million/year.

What is interesting about the SWM fee is that this is one of the few fees that the FAA verified was appropriate use of aviation revenue, so there may be room for future negotiation here.

### **Traffic Impact Fees:**

Traffic Impact Fees (TIF) is something the City collects whenever there is a new development that is predicted to increase traffic. The purpose of this money is to allow the City to improve roadways and infrastructure to accommodate the increased traffic.

Because the TIF calculation is part of the permitting process, the Port never paid TIF to the City in the past on airport projects. This forced the City to use other funds to improve roadways and infrastructure as the airport-related

traffic continued to increase. To further complicate this issue, the FAA objects to airport revenues paying any fee that is not directly tied to a specific benefit or service for the airport. The City's existing roadways are testimony to over 20 years of neglect due to a shortage of TIF money from the airport.

With the new 2018 ILA, TIF calculations will be a required part of the SEPA review process which will enable the Port to pay the fee without FAA objections, and allow the City to calculate and collect this fee. Since TIF is related to new airport projects, nobody knows what the dollar value will be yet, but this is definitely additional funds the City will be able to collect and utilize which were not available in the past.

#### **Community Relief Fund:**

The Port has finally and gracefully acknowledged that the airport has an immediate and large impact on the City of SeaTac when it comes to general public safety issues. The increase in travelers through the airport have brought with them increased automobile thefts, smash-and-grabs, vandalism, and break-ins. With the increase in airport workers and passengers, residential street parking has virtually disappeared; so many homeowners are no longer able to park in front of their own homes. This has left the City's police force scrambling to keep up with the demand.

With the new 2018 ILA, the Port has agreed to pay the City \$1.4million/year to help deal with some of these impacts. It is my understanding that the City will use this money to increase the police force and establish a traffic unit to deal with many of these issues. Although this is new revenue that the City has never collected before, I think the greater value is that the Port has actually acknowledged they are responsible as a major property owner within the City for some of these issues in the first place, and is willing to help the City work towards a solution.

#### **Minimum Total Dollar Value:**

To summarize, so far the City has guaranteed new revenue paid by the Port over ten years for:

1. \$2,266,000.00 -Permit Oversight
2. \$12,749,228.70 -Surface Water Management
3. \$14,000,000.00 -Community Relief

\$29,015,528.70 -Total (minimum)

This \$29million is the guaranteed minimum the City of SeaTac will collect: if there is additional airport construction there may be additional TIF payments.

Also, since the Port has now agreed to verify every tenant, subtenant, service provider, contractor, and subcontractor at the airport has a City of SeaTac business license, the potential increase in sales tax revenue as a result should be noticeable. This was something the City had no way to enforce since the 9/11 tragedy limited airport access to City inspectors.

### Putting a Price on Value:

So far we have focused on the monetary topics since those seem to be at the top of everyone's concerns. There are several other items in the new 2018 ILA that have no dollar amount but I believe are extremely valuable to the City.

One example is that the Joint Advisory Committee (JAC) made up of three City Councilmembers and two Port Commissioners are required to meet on a quarterly basis at a minimum. In past ILA's this was not required and I quickly found how difficult it was to get a meeting at all. Since the JAC is now required to meet, it will provide an opportunity for elected officials to stay on top of emerging issues before they become emergency issues.

Another example is the 2-year opt-out clause. The new 2018 ILA has the option for either party to terminate the entire agreement with a two-year notice. This, along with the mandatory year 5 check in, should insure that both parties continue to act in good faith to preserve the relationship and the agreement.

Combining these two items, it's also easy to see how there will be ample opportunities for both parties to amend or revise the agreement moving forward. This means future Councilmembers and Port Commissioners will also have opportunities to go back to the table if they choose to do so. How can we put a price on that?

For further reading, here is the presentation at the 11/28/17 council study session:

<http://www.ci.seatac.wa.us/Home/ShowDocument?id=18916>

And a local news article:

<http://seatablog.com/2017/12/14/seatac-council-port-of-seattle-each-approve-a-new-10-year-interlocal-agreement/>

Have a very Merry Christmas and Happy Holidays.

-Peter Kwon