



## **2005 Interlocal Agreement (ILA-2)**

February 16, 2006



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**EXHIBITS**

- Exhibit A: Land Use
  - 1. Cooperative Comprehensive Planning and Economic Development
  - 2. Zoning/Land Use/Development Regulations
  
- Exhibit B: Surface Water Management (SWM)
  - 1. SWM Fees
  - 2. Water Quality Review
  - 3. Coordinated Comprehensive Drainage Plans and Basin Planning
  - 4. SWM Design Standards
  - 5. Coordinated Project Review & Approval
  
- Exhibit C: Interagency Cooperation & Development Commitments
  - 1. General
  - 2. City Center
  - 3. Sound Transit Light Rail Implementation
  - 4. Economic Development
  - 5. Transportation and Planning
  - 6. Street Vacation
  - 7. Airport Beautification Plan
  - 8. Economic Partnership
  - 9. City/Port Advisory Committee
  - 10. Noise
  - 11. Phase II Tri-Party Agreement
  - 12. Escalation of Financial Commitments; No Revenue Diversion
  
- Exhibit D: Material Hauling Provisions for Port Haul Projects greater than 100,000 cubic yards
  - 1. Operating Conditions and Standards
  - 2. Fees
  - 3. Dispute Resolution
  - 4. Conflict in Provisions

THIS INTERLOCAL AGREEMENT ("Agreement" or "ILA") is entered into effective the 16<sup>th</sup> day of February, 2006 between the PORT OF SEATTLE ("Port"), a Washington municipal corporation, and the CITY OF SEATAC ("City"), a Washington municipal corporation.

### RECITALS

A. WHEREAS, pursuant to RCW 39.34, the Interlocal Cooperation Act, the parties desire to enter into a new agreement with one another in order to jointly establish a mutual and cooperative system for exercising their respective jurisdictional authority to avoid disputes or potential claims and to obtain fair and equitable resolution of any potential disputes or claims.

B. WHEREAS, the Port owns and operates Seattle-Tacoma International Airport ("Sea-Tac Airport"), which is located primarily within the City limits.

C. WHEREAS, as municipal corporations, the City and Port each have statutory authority to address common subjects such as planning, land use and zoning, transportation, surface water management, critical areas, police and other matters. Both parties are governed by the State Environmental Policy Act (SEPA) and have lead agency authority to the extent provided in the SEPA rules.

D. WHEREAS, the parties previously entered into an InterLocal Agreement ("ILA") dated September 4, 1997, along with Amendment #1 dated December 14, 1999, Amendment #2 dated December 15, 1999, Amendment #3 dated December 5, 2000 and Amendment #4 dated December 26, 2001.

E. WHEREAS, the ILA expires on September 4, 2007.

F. WHEREAS, both parties desire to terminate the ILA dated September 4, 1997 and enter into a new ILA in order to continue to develop a cooperative relationship between the parties and to update the ILA to reflect current conditions.

G. WHEREAS, the parties previously entered into other agreements subsequent to the 1997 ILA, which include a settlement agreement dated May 24, 1999 (concerning routing of 911 emergency calls); agreement letter between the Airport Director and City Manager dated July 5, 2000 (concerning implementation of the Port's \$10 million landscape commitment); ILA dated January 1, 2001 (concerning surface water management and building code administration); development agreement dated December 14, 2001 (concerning development of borrow sites #3 and #4); development agreement dated April 23, 2002 (concerning development of 55 acres of Port property adjacent to North SeaTac Park); and an ILA dated September 29, 2004 (concerning building and fire code review for projects located within the jurisdictional boundaries of the Port and the City).

NOW, THEREFORE, for good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Port and City agree as follows:

**1. Cooperation and Implementation of Agreement.** The City and Port each shall take appropriate actions to implement this Agreement. The parties shall use all reasonable good faith efforts to implement this Agreement and avoid disputes.

**2. Land Use and Zoning.** The City and Port adopt the planning, land use and zoning provisions set forth in Exhibit A hereto and shall implement the same. Both parties acknowledge that the Airport's 2005 Comprehensive Development Plan (CDP) is under development, and that mitigation of environmental impacts of the CDP will be addressed in the programmatic and project-specific stages of the CDP environmental process. Both parties further acknowledge that it is important City concerns of CDP implementation be addressed in the earliest stages. The Port agrees to notify the City at least three months prior to the issuance of any environmental documents or determination about any planned construction of any CDP project, and agrees to collaboratively work with the City to identify and resolve City concerns. Where differences may remain regarding the approach to be used in the proposed CDP to minimize ramifications on the City, the Dispute Resolution process described in Section 13 shall apply.

**3. Surface Water Management.** The City and Port adopt the surface water management provisions set forth in Exhibit B hereto and shall implement the same.

**4. Critical Areas.** The City and Port adopt the critical area regulations for application to Port projects as set forth in the Development Standards included as Attachment A-5 to Exhibit A.

**5. Transportation.** The City and Port adopt the transportation provisions set forth as part of Exhibit C.

**6. State Environmental Policy Act.** The City and Port shall follow the lead agency rules as set forth in the SEPA rules, WAC 197-11-922-948. The parties acknowledge the Port generally will be the lead agency for Port-initiated projects. Any disputes shall be resolved by the Department of Ecology as provided in WAC 197-11-946.

**7. Public Safety.**

**7.1 Police Jurisdiction & Authority.** The City and Port each have their respective authority and jurisdiction to establish police forces. The parties may further agree to joint or individual coverage of Port-owned or operated properties within the City consistent with their respective authority over those properties. E-911 calls will be routed in accordance with the

parties' arbitrated settlement agreement dated May 24, 1999.

**7.2 Police Emergency Planning & Operations.** The parties may also participate in joint emergency planning and operations and related homeland security issues.

**7.3 Fire:** The City and Port have already entered into a number of Mutual and Automatic Aid Agreements which establish their mutual commitments and roles for assisting in fire calls and other emergencies. For purposes of this ILA, the parties desire to identify their existing agreements for convenience only. The parties may mutually agree to amend or enter into new agreements without amending this ILA. The existing agreements are:

- Automatic Mutual Response Agreement, December 31, 1992
- Agreement for Appointment of Agent and Authorization to Enter into Mutual Aid Agreement for Implementation of Mutual Fire Resources Plan, December 1992

**8. Material Haul.** The City and Port adopt the material hauling provisions for Port Haul Projects greater than 100,000 cubic yards as set forth in Exhibit D.

**9. Master Plan & Comprehensive Development Plan (CDP) Interagency Cooperation & Development Commitments.** The parties adopt the interagency cooperation and development commitments set forth in Exhibit C for the projects included in the Port's Airport Master Plan Update adopted August 1, 1996 ("Port Master Plan") and in the Port's Draft Comprehensive Development Plan (CDP) dated on or about September 30, 2005. Project review for the Port's Master Plan and Comprehensive Development Plan Projects (defined in Attachment A-1 to Exhibit A) is covered by Section 2.2 of Exhibit A ("Project Implementation and Development Regulations").

**10. Term of Agreement.** This Agreement shall be binding on the parties for a term of ten (10) years. Either party may request review of the Agreement upon notifying the other party in writing. Upon receipt of such notice, the parties shall promptly and in good faith meet to discuss any revisions to this Agreement desired by either party. The procedures and standards set forth in this Agreement, including all of the Exhibits, shall be applicable during the term of the Agreement. Neither the Port nor City shall modify or add new conditions to those set forth in this Agreement during the term of this Agreement unless either (a) the parties have mutually agreed to those changes, or (b) either party, after discussion with the other party and a public hearing, determines in good faith that changes are required to respond to a serious threat to public health or safety.

**11. Extension of Terms of Agreement of 2001 and 2004 ILAs.** Both parties agree that the terms of the ILAs dated January 1, 2001 (concerning surface water management and building code administration) and September 29, 2004 (concerning building and fire code review

for projects located within the jurisdictional boundaries of the Port and the City) shall be extended to run concurrently with the term of this ILA, subject to the terms and conditions in Exhibit B, “surface water management” and Exhibit A “land use.”

**12. Net Benefit.** The Parties desire to work together to further enhance their partnership and to maximize the regional and local economic benefits of growth in air travel activity at the Airport. It is the intent of both parties that this agreement shall have a net neutral impact on City revenues for items that are addressed herein, including, but not limited to, City parking tax and surface water management (SWM) fees. For general economic development, the parties shall work cooperatively to strive for a net positive impact on City revenues.

**13. Dispute Resolution.** The following Dispute Resolution provisions shall apply to any disputes between the parties concerning Exhibit A (Land Use), Exhibit B (Surface Water Management), Exhibit C (Interagency Cooperation & Development Commitments), or Exhibit D (Material Hauling).

**13.1 Party Consultation.** Either party may invoke the Dispute Resolution procedures of this Agreement. The City Manager (or his/her designee) and the Aviation Division Managing Director (or his/her designee) along with any staff or consultants, shall meet within seven (7) days after request from either party. This seven (7) day time period may be extended for an additional seven (7) days at the request of either party. The parties shall present their proposed resolution of the dispute at a meeting of the Joint Advisory Committee (JAC). The JAC shall consider the recommendation and may adopt the recommendation or propose an alternative means of resolving the dispute. Any solution adopted by the JAC may be adopted by the City Council and Port Commission. If the dispute is not resolved by the elected bodies, the parties may agree to additional meetings or may select an arbitrator to resolve the dispute. (Disputes that are subject to the primary jurisdiction of another tribunal such as the Central Puget Sound Growth Management Hearings Board are not subject to these Dispute Resolution provisions.)

**13.2 Selection of an Arbitrator.** The parties may agree upon an arbitrator to hear the dispute. If the parties cannot agree upon an arbitrator within seven (7) days after the conclusion of Party Consultation as stated in Section 13.1, then either party may seek appointment of a single arbitrator pursuant to RCW 7.04.050. The arbitrator shall be experienced in the particular subject matter of the dispute and shall not be an employee or a consultant of either party. Potential providers of arbitration services include, but are not limited to the following: the Judicial Arbitration and Mediation Service (JAMS), Judicial Dispute Resolution (JDR), and Washington Arbitration and Mediation Services (WAMS).

**13.3 Arbitration Rules.** The rules shall be the King County Local Rules for Mandatory Arbitration, unless the parties agree to alternative rules.

**13.4 Arbitration Procedure and Decision.** The arbitrator shall establish the

procedures and allow presentations of written or oral materials. The arbitrator shall render his or her decision within thirty (30) days of the date when the parties select the arbitrator. The parties may agree to extend the time period for the arbitrator's consideration and issuance of a decision concerning the dispute. The arbitrator's decision shall be in writing, shall provide findings and conclusions for resolution of the dispute and shall be binding. Judgment on the arbitrator's award may be entered by the King County Superior Court. The parties shall share equally the costs of the arbitration, but each party shall pay its own attorney's fees and costs.

**13.5 Other Disputes.** If a dispute arises between the parties that is not subject to these Dispute Resolution procedures, then either party may enforce this Agreement by legal action filed before an appropriate legal tribunal.

**14. General Provisions.**

**14.1 Binding Agreement; Authority.** The terms and conditions of this Agreement are binding on both parties. Each party represents and warrants it has the authority and has undertaken all actions necessary to authorize this as a binding agreement.

**14.2 Amendment.** Any amendment to this Agreement shall be in writing signed by both parties.

**14.3 Governing Law.** This Agreement shall be governed by the laws of the State of Washington.

**14.4 Interpretation; Severability; Changes in Law.** This Agreement is intended to be interpreted to the full extent authorized by law as an exercise of each party's authority to enter into agreements. If any provisions of this Agreement are declared unenforceable or invalid by a court of law, then the parties shall diligently seek to modify this Agreement (or seek the court's determination of whether and how the Agreement is to be modified if the parties cannot reach agreement) consistent with the parties' intent to the maximum extent allowable under law and consistent with the court decision. If there are changes in applicable law, court decisions, or federal regulations or interpretations that make either party's performance of this Agreement impossible or infeasible, then the parties shall diligently seek to modify this Agreement consistent with the parties' intent and consistent with the good faith obligations set forth in Section 16.

**14.5 Coordination; Notice.** Each party shall designate in writing a contact person for implementation of this Agreement. Any notice or demand under this Agreement shall be in writing and either (a) delivered personally, (b) sent by facsimile transmission with confirmation and an additional copy mailed first class, or (c) deposited in the U.S. mail, certified mail, postage prepaid, return receipt requested, and addressed to the designated contact person.



**14.6 Cooperation.** The parties shall seek in good faith and reasonably to reach agreements and otherwise implement this Agreement.

**14.7 Time of Essence.** Time is of the essence of this Agreement in every provision hereof. Unless otherwise stated, "days" shall mean calendar days. If any time for action occurs on a weekend or legal holiday, then the time period shall be extended automatically to the next business day.

**14.8 Headings.** The headings are inserted for reference only and shall not be construed to expand, limit or otherwise modify the terms and conditions of this Agreement.

**14.9 Exhibits.** Exhibits A through D attached hereto are incorporated herein by this reference.

**15. Relationship of City Code to this Agreement.** The parties acknowledge this Agreement is generally intended to govern land use, surface water management, transportation, and material haul, and that the city codes and ordinances do not govern these matters during the term of this Agreement, unless the Agreement otherwise provides for the application of specific City or Port standards.

**16. Good Faith.** Each party will use good faith in implementing and maintaining the other party's interests as reflected in this Agreement. If, notwithstanding such good faith, there is a change in law, then the provisions of Section 14.4 shall apply.

**17. Shared Legislative Strategies.** Each party will share proposed legislative strategies in advance of state and federal legislative sessions in order to consider opportunities for mutual support.

DATED effective on the last signature below.


Dated: 2/16/06

PORT OF SEATTLE, a Washington municipal corporation

By:   
M.R. Dinsmore

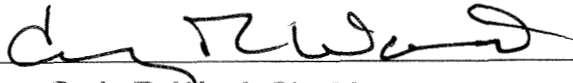
Its: Chief Executive Officer

Approved as to Form:

  
Port of Seattle Counsel

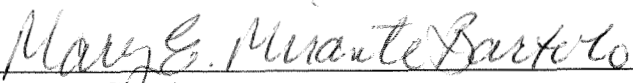
Dated: 2/9/06

CITY OF SEATAC, a Washington municipal corporation

By:   
Craig R. Ward, City Manager

Its: \_\_\_\_\_

Approved as to Form:

  
SeaTac City Attorney