Port of Seattle

AGENDA MEMORANDUM | **Item No.** 7a

BRIEFING ITEM | **Date of Meeting** September 12, 2017

DATE: August 24, 2017

TO: Dave Soike, Interim Executive Director

FROM: R. Borgan Anderson, Director, Aviation Finance & Budget

SUBJECT: Airline Signatory Lease and Operating Agreement – Status Update

EXECUTIVE SUMMARY

The current Signatory Lease and Operating Agreement (SLOA III) between the Port and signatory airlines for the use of facilities at the Airport expires on December 31, 2017. Airport staff and airline representatives have been meeting regularly since February of this year negotiating a successor lease agreement (SLOA IV). Progress has been made on a number of issues, but there remain outstanding issues. Agreement on key business terms is needed in September in order to have the lease drafted, reviewed and executed in time to implement on January 1, 2018.

All outstanding issues are likely resolvable with the exception of one. The Port has expressed a strong interest in incorporating language that would preserve the option for the Port to use non-airline revenues to contribute to a sustainable airline fuels (SAF) program, if such a program is developed, and if state and federal legal issues can be resolved. The airlines hold the view that provisions relating to a SAF program do not belong in a lease agreement. The negotiations are at an impasse over this issue.

BACKGROUND

A signatory lease and operating agreement is a comprehensive agreement that defines airline rights to use the airport, the methods for allocating airport facilities such as gates to airlines, the methodology for charging the airlines for use of airport facilities (e.g., landing fees, terminal rents, etc.), as well as many terms and conditions found in a typical lease document. SLOA III included provisions granting the airlines rights to vote to disapprove capital projects meeting certain criteria, and to share in airport net revenues. Once an agreement is reached with the airline negotiating committee, separate lease documents are prepared for each airline that chooses to sign. An airline choosing not to sign the agreement would pay non-signatory rates (125% of signatory rates per SLOA III) and would be required to sign an operating agreement.

Terms of signatory lease and operating agreements vary, but 5-10 years has been common among airports in recent years. SLOA III has a five year terms (2013 – 2017), while its predecessor, SLOA II, had a term of seven years (2006 – 2012). For SLOA IV , we have narrowed our discussion of term to between seven and nine years.

Compared to the 2012- 2013 time frame when SLOA III was developed, growth at Sea-Tac has consumed much of the availability of gates, particularly at peak periods. Thus, a major focus of the negotiations has been on clarifying how gates are defined and allocated.

SCHEDULE

Milestone	Original Target	Last Possible
Reach agreement on major business terms	August 16	September 27
Drafting and review of lease documents – ready for signature	September	October 13
Commission briefing on agreement	October	October 24
Commission approval	October	November 14
Airlines signed leases received by Port	October - November	November 17
Implement SLOA IV	January 1	January 1

Failure to reach agreement on major business terms in September will likely mean SLOA IV could not be implemented on January 1, 2018. In the absence of a new agreement, there are two alternatives. Either the existing lease agreement could be extended on a month-to-month basis, or the Port could implement rates and charges by resolution. Resolution 3677, establishing a rates and charges methodology for use of facilities at the Airport in accordance with applicable federal Department of Transportation requirements, was approved by the Commission on May 14, in 2013. Staff implemented that resolution on August 1, 2013. Resolution 3677 was suspended in November, 2013, when SLOA III became effective.

MAJOR ISSUES

The following issues are being worked on:

1. Gate definition – clarifying existing ambiguities
2. Gate allocation methodology, including the determination of the number of common use gates
3. Signatory status – change qualifications to sign agreement?
4. Term of agreement – number of years.
5. Airline participation in capital approval process – majority-in-interest provisions (MII) for dollar amount and any exclusions or modifications.
6. Revenue sharing – percent of net airport revenues to share with airlines above 125% of annual debt service (currently share 50%).
7. Sustainable aircraft fuels (SAF or Biofuels) – language in agreement permitting Port to use non-airline revenues up to a specified annual limit.
8. Basis of gate hold room charges – common charge for all gates (SLOA III method), or based on actual square footage of each hold room. The Port would collect the same

total revenues, but the amount collected from individual carriers could vary substantially.

Progress has been made on most of the issues above, with the exception of SAF. On this issue the Port has a strong interest in including SAF language in SLOA IV. The airline view is equally strong in opposition. This has created an impasse that must be resolved in order to reach an agreement.

ALTERNATIVES FOR SAF ISSUE FOR SLOA IV AND IMPLICATIONS CONSIDERED

The following alternatives relate to courses of action to resolve the SAF issue for SLOA IV:

Alternative 1 – Port sticks with current position to include language as drafted relating to SAF. This language as proposed provides the Port with the option to use up to $7 million per year of non-airline revenues towards a SAF program if such a program is developed, and if the state and federal legal concerns can be addressed.

Pros:
(1) Preserves Port's option to contribute to SAF program if state and federal legal issues can be resolved.
(2) This could be seen an important market signal for a prospective local SAF producer.

Cons:
(1) The airline position, as communicated by Airlines for America (A4A) in letter to the Port on August 25, 2017, is that such a provision does not belong in an airport lease agreement.
(2) Airline representatives on the SLOA IV negotiations team have indicated they could not sign SLOA IV with this language included. This would likely preclude the possibility of reaching agreement on SLOA IV in 2017.

Alternative 2 – Port modifies proposed language in to include a statement of joint support for furthering progress towards a SAF program without specific financial commitments.

Pros:
(1) Would demonstrate support for furthering SAF program at Sea-Tac.
(2) The Port and the airlines (per A4A letter) appear to share an interest in making progress on SAF, so agreement on this "softer" language may be possible.
(3) Port may be able to contribute to a SAF program regardless of language in SLOA IV if state and federal legal concerns can be addressed.

Cons:
(1) May not be seen as a sufficiently strong market signal to stimulate local SAF development.

Alternative 3 – Agree to remove SAF from SLOA IV and strive to achieve Memorandum of Understanding (MOU) with major airline fuel user at Sea-Tac. Approval of SLOA IV would be dependent on reaching agreement on this MOU.

Pros:

(1) Demonstrates partnership and mutual commitment to moving forward with SAF.
(2) Could be an important signal to market
(3) Allows Port to press other corporations and airlines as SAF program gets underway in future.
(4) Port may be able to contribute to SAF program regardless of language in SLOA IV if state and federal legal concerns can be addressed.

Cons:

(1) If SLOA is dependent on the MOU, may stall or delay SLOA IV.
(2) Missed opportunity to include SAF in SLOA IV.

Alternative 4 – Agree to remove SAF language from SLOA IV.

Pros:

(1) Could likely reach agreement on other SLOA IV terms by September 21st, which would permit implementation by January 1, 2018.
(2) Could still pursue MOU with major airline fuel user at Sea-Tac as a way to send a market signal.
(3) Avoids "fight" on an issue that will require partnership to realize long-term success.
(4) Port may be able to contribute to SAF program regardless of language in SLOA IV if state and federal legal concerns can be addressed.

Cons:

(1) Missed opportunity to include SAF in SLOA IV
(2) No MOU with major airline fuel user at Sea-Tac in near term.

ALTERNATIVES FOR SLOA AND IMPLICATIONS CONSIDERED

The Port's approach to the SAF issue is impacting the ability of the negotiating team to reach agreement on the key business terms of SLOA IV. If agreement on SLOA IV cannot be reached, the Port has two alternatives:

Alternative 1 – Extend SLOA III on month-to-month basis, continue negotiations on SLOA IV

Pros:

(1) Provides more time to negotiate over SAF.
(2) Port is satisfied with terms of SLOA III in near term.

Cons:

(1) SLOA IV, as currently proposed, includes agreed upon new gate definition and new gate allocation methodology – would not be able to implement in 2018.
(2) Uncertainty over future lease terms and rates and charges provisions from external perspective (e.g., holders or prospective buyers of Port revenue bonds).
(3) Port staff and airline representatives will continue to spend significant time on SLOA negotiations, precluding progress on other issues.

Alternative 2 – Port Implements rates by resolution

Pros:

(1) Avoids need for holdover month-to-month for SLOA III.
(2) No revenue sharing with airlines.
(3) No MII for capital approval.
(4) Port has previously implemented rates by resolution (5 months in 2013). Could be implemented again.

Cons:

(1) Higher airline costs could trigger frequent lobbying by multiple airlines to port leaders for various changes. Most major airport hubs have lease agreements.
(2) We know from 2013 experience that major airlines at Sea-Tac do not like terms of resolution.
(3) Will be seen as a public indication that Port and airlines are at impasse on key issues.
(4) Lack of agreement on SLOA could interfere with progress on other initiatives. Long-term success for implementing the Sustainable Airport Master Plan (SAMP) and SAF each requires airport and airline partnership.
(5) Cost per enplaned passenger (CPE) will increase (no revenue sharing).

Staff seeks commission guidance on the SAF alternative to pursue.

ADDITIONAL BACKGROUND

None

ATTACHMENTS

None

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

September 13, 2013 – Authorized Managing Director, Aviation Division to execute SLOA III and suspend resolution 3677 if signatory threshold is met by November 15, 2013 (it was)

May 14, 2013 – Commission passed resolution 3677 establishing the methodology for rates and charges