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COMMISSION

AGENDA MEMORANDUM Item No. 8d

ACTION ITEM Date of Meeting November 21, 2023

DATE: November 2, 2023

TO: Stephen P. Metruck, Executive Director

FROM: Thomas Bailey, Police Commander

SUBJECT: SeaTac Municipal Court and Public Defender Funding

Amount of this request: \$ 0

Total estimated project cost: \$ 2,325,000

ACTION REQUESTED

Request Commission authorization for additional costs for services provided by SeaTac Municipal Court and the Public Defender, which were approved in the three-year interlocal agreement approved September 28, 2021.

EXECUTIVE SUMMARY

In September of 2021, the Port of Seattle Commission approved \$1.5 million for a three-year interlocal agreement for court services provided by SeaTac Municipal Court. The original commission approval included Public Defender Services, estimated at \$300,000. The law firm Stewart, Nichols, Harmell, Inc. was hired to fulfill the Public Defender portion of the ILA. Initial approvals, yearly costs, and projected future expenditures are as follows:

	Initial	2021	2022	2023	2024	TOTAL	Additional
approval (projected) fund requested							
SeaTac	\$1,200,000	\$3,091	\$403,513	\$493,396	\$775,000	\$1,675,000	\$475,000
Municipal (projected) Court							
Public	\$300,000	\$7,695	\$105,000	\$168,000	\$292,305	\$650,000	\$350,000
Defender (YTD) /							
\$245,000							
(projected)							
	\$1,500,000	2,325,000	\$825,000				

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COMMISSION AGENDA – Action Item No. 8d Page 2 of 5

Meeting Date: November 21, 2023

BACKGROUND

The ILA was necessary, as booking arrestees at King County Jail was no longer an option due to booking restrictions, which were enacted during the COVID-19 pandemic and have not been reversed to pre-COVID booking guidelines. An ILA was approved and executed with the South Correctional Entity (SCORE). To book at SCORE, however, we had to find court services that were cohesive with SCORE. The City of SeaTac had an existing relationship with SCORE, and once both ILAs were approved, the Port of Seattle Police Department could provide enhanced protection to our community.

The Port hired public defender law firm Stewart MacNichols Harmell, Inc. to represent defendants when a prosecution occurs.

Funds for Public Defender services in the 2024 preliminary budget are \$210,000, and for 2023 the budget was \$150,000. Public Defender services are not part of the ILA with SeaTac. Under the Delegation of Authority (dated June 13, 2017), the legal department has the authority to execute a contract for public defender services for the police department under Section 9. Legal Services, Claims and Other Representation. Costs exceeding the budgeted amounts in 2023 and 2024 will be absorbed in the POSPD budget.

Additionally, of the \$1.5 million original approval, \$1.2 million was estimated for SeaTac Municipal Court Services over the three-year ILA. Cases presented to the court, however, have been higher than anticipated and we expect total expenses since 2021 to reach close to \$900,000 by the end of 2023. After discussions with SeaTac Court, we expect our costs to rise considerably in 2024 with our high caseloads and the introduction of body worn cameras (which also creates additional work for the courts). SeaTac is hiring two additional administrative employees to help

with the caseload specific to our department

Funds for SeaTac Municipal Court in the 2024 preliminary budget are \$400,000 and for 2023 was \$400,000. Costs exceeding the budgeted amounts in 2023 and 2024 budgets will be absorbed in the POSPD budget.

JUSTIFICATION

The Interlocal Agreement continues to support the Century Agenda goals:

1. Goal 2, objective 3: Continuously improve the operational efficiency and customer experience at SEA.
2. Goal 6, Objective 16: Advance the Port's dedication to employee safety.
3. Goal 6, Objective 18: Partner and engage with external stakeholders to build healthy, safe, and equitable communities.

When the Port of Seattle Police Department initially requested approval for the ILA with SeaTac Municipal Court, The Port of Seattle adjudicated misdemeanor cases and infractions utilizing the King County Prosecuting Attorney's Office (KCPAO) and King County District Court. By state

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COMMISSION AGENDA – Action Item No. 8d Page 3 of 5

Meeting Date: November 21, 2023

statute, we can adjudicate misdemeanor and civil infraction cases through the county court system or may do so through a municipal court where the offense occurred. The King County Prosecutor's Office continued to decrease the number of cases they would file due to decreased capacity and prioritization of violent crimes over property and disorder-related crimes. Most crimes committed at SEA properties are property crimes, such as thefts, or disorder crimes such as trespassing. In 2019, pre-COVID, only 48% of cases referred to KCPAO were filed. In 2020, only 21% of cases were filed. As of June 30, 2021, 199 cases were referred to the KCPAO. Only 26 cases, 13%, were filed.

For additional context, the below stats compare SeaTac Municipal Court filings and declines and show the large increase in cases charged between 2022 and 2023 year-to-date.

In 2022, there were 495 referrals with 44 declines. So far in 2023, there have been 567 referrals and 44 declines. Comparing similar periods (January through September), there were 344 referrals with 33 declines in 2022. This represents a 40% increase in referrals from 2022 to 2023. Lastly, declines represent 7.7% of referred cases, compared to an 87% decline rate by King County in 2021.

Additionally, when referring in-custody cases to KCPAO we were required to book the defendant into the King County Jail. Due to King County Jail policy changes enacted during 2020 and 2021, we were severely limited in when we could book an in-custody arrest. Therefore, many offenders at SEA are arrested, escorted off property, released, and returned soon thereafter to the airport. Some offenders have over 40, 50 or even 60 trespass admonishments. Some have returned after leaving and have committed more serious crimes.

An interlocal agreement with SeaTac Municipal Court enabled the Police Department to refer misdemeanor cases for prosecutorial and court services and will enable the department to book in-custody arrests into South Correctional Entity (SCORE).

SeaTac contracts with SCORE. The Commission approved a contract with SCORE in 2020. Unlike King County Jail, SCORE will accept and then hold most defendants until their first appearance, and officers will not have to release arrestees where they can walk right back onto Port properties. Since we contract with SeaTac for court services, we must also pay for defense attorney services. Those costs have increased by \$100 per case to \$400 and in the frequency of use with increased arrests at SEA.

Safety and security of all those at the airport is our highest priority. This recommendation aligns with, and compliments strategies being implemented by SEA Cares and is thus supported by the Steering Committee and Aviation Director Lance Lyttle.

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COMMISSION AGENDA – Action Item No. 8d Page 4 of 5

Meeting Date: November 21, 2023

DETAILS

Due to higher costs and usage of public defender services, we request authorization of an additional \$825,000 to get us through the remainder of our ILA with SeaTac Municipal Court and Public Defender services.

Scope of Work

Scope of work for which we are requesting additional funds is for Public Defender services via Stewart MacNichols Harmell, Inc, and court/ prosecution services from SeaTac Municipal Court.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

The alternative is to resume filing cases at the King County Prosecuting Attorney's Office and utilize the King County Public Defender's Office. This alternative is not recommended as we would no longer be able to book individuals at SCORE jail, and we would have no options for booking repeat offenders at SEA, as King County Jail booking restrictions continue to be in effect. This option does not further the Century Agenda and Aviation Division Goals regarding customer experience and public safety.

Alternative 1 – Continue utilizing King County Prosecuting Attorney's Office

Cost Implications: There is no budgetary cost to this alternative.

Pros:

(1) No cost

Cons:

(1) Low rate of prosecution

(2) Limited ability to book in-custody and repeat offenders

(3) Less officer productivity as they continue to respond to repeat offenders

(4) Higher rate of criminal activity at SEA properties

(5) Decreased Customer Experience

(6) Decreased safety at SEA

This is not the recommended alternative.

Alternative 2 – Continue ILA with SeaTac for prosecutorial, public defender, and court services

Cost Implications: Approximate average \$775,000/year for services.

Pros:

(1) Ability to maintain higher rate of prosecution

(2) Ability to book in-custody misdemeanor offenders into SCORE

(3) Reduction of repeat offenses from the same offenders

(4) Increase in officer productivity

(5) Improved customer experience at SEA

(6) Improved public safety at SEA

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COMMISSION AGENDA – Action Item No. 8d Page 5 of 5

Meeting Date: November 21, 2023

Cons:

(1) Cost of services

This is the recommended alternative.

FINANCIAL IMPLICATIONS

As this request is only for additional funds for public defender services, we are requesting authorization to spend an additional \$825,000 to fulfill our current ILA, which expires September 2024.

In 2024, the Public Defender budget has been increased to \$210,000 to account for the increased arrests. If additional costs are accrued, the department will absorb the increase.

Cost Estimate/Authorization Summary Capital Expense Additional Request

AUTHORIZATION

Current request for authorization

SeaTac Municipal Court \$1,200,000 \$475,000

Public Defender \$300,000 \$350,000

Total authorizations, including this request \$0 \$1,500,000 \$825,000

Remaining amount to be authorized \$0 \$825,000

Annual Budget Status and Source of Funds

The funds for the services have been approved or will be absorbed in the 2024 budget.

ATTACHMENTS TO THIS REQUEST

(1) Interlocal Agreement Between the Port of Seattle and the City of SeaTac for the

Provision of Municipal Court and Prosecutorial Services

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

September 28, 2021 – The Commission authorized an Interlocal Agreement Between the Port of Seattle and the City of SeaTac for the Provision of Municipal Court and Prosecutorial Services

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