

Ordinance No. 122638

Council Bill No. 116140

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into a Lease Agreement with the Woodland Park Lawn Bowling Club for the purpose of renting rooms and teaching lawn bowling, bocce and croquet to the public at the Department of Parks and Recreation's Woodland Park Lawn Bowling facility.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: *Tom Roemer*
Councilmember

Committee Action:

pass 2-26 TR, RC

MARCH 3, 2008 PASSED FULL COUNCIL 9-0

CF No. _____

Date Introduced:	<u>Feb. 25, 2008</u>	
Date 1st Referred:	To: (committee) <u>Parks and Seattle Center</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>9-0</u>	
Date Presented to Mayor:	Date Approved: <u>3-7-08</u>	
Date Returned to City Clerk:	Date Published: <u>2</u>	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review OMP Review City Clerk Review Electronic Copy Loaded Indexed

ORDINANCE 122638

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into a Lease Agreement with the Woodland Park Lawn Bowling Club for the purpose of renting rooms and teaching lawn bowling, bocce and croquet to the public at the Department of Parks and Recreation's Woodland Park Lawn Bowling facility.

WHEREAS, in 1932 the first lawn bowling green was constructed in Woodland Park; and

WHEREAS, Ordinance 89858, adopted in December 1960, authorized the construction of a second lawn bowling green in Woodland Park, the acceptance of advance concession payments from the Queen City Lawn Bowling Club, and a seven-year concession agreement with said club; and

WHEREAS, Ordinance 90988, adopted in March 1962, appropriated certain moneys deposited in the Park Fund as a result of a donation by Mrs. Emma B. Underhill, for the purchase of a drinking fountain and memorial plaque to be installed at the Woodland Park Lawn Bowling Greens; and

WHEREAS, previous Ordinances 108912 (1980), 111265 (1983), and 115588 (1991) all related to legislation that authorized the Superintendent of Parks and Recreation ("Superintendent") to enter into agreements with the Queen City Lawn Bowling Club, Incorporated, for the use of the City of Seattle ("City") Woodland Park Lawn Bowling facility; and

WHEREAS, Ordinance 118202, adopted in July 1996, increased an expenditure allowance in the 1996 Budget, and made an appropriation from the Emergency Fund to provide for reconstruction of the Lower Woodland Park Lawn Bowling facility and the appropriate allocation for "1% for Art" purposes; and

WHEREAS, the Department of Parks and Recreation ("DPR") desires to continue this relationship with the Woodland Park Lawn Bowling Club (formerly Queen City Lawn Bowling Club, Incorporated); NOW, THEREFORE,



BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Superintendent is authorized to execute, for and on behalf of the City, a Lease Agreement with Woodland Park Lawn Bowling Club in substantially the form attached hereto as Attachment 1, with such minor additions, modifications, or deletions as the Mayor or said Superintendent deems to be in the best interest of the City.

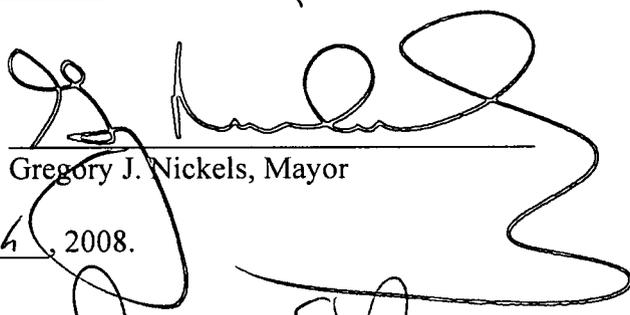
Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 3rd day of March, 2008, and signed by me in open session in authentication of its passage this 3rd day of March, 2008.



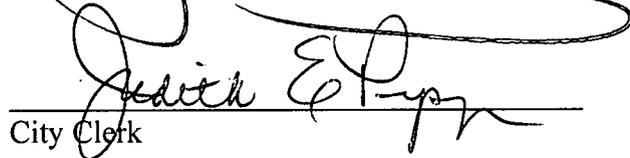
President _____ of the City Council

Approved by me this 7th day of March 2008.



Gregory J. Nickels, Mayor

Filed by me this 7th day of March, 2008.



City Clerk

(Seal)

- Attachment 1: Lease Agreement Between the City of Seattle and the Woodland Park Lawn Bowling Club
- Exhibit A: Legal Description
- Exhibit B: Premises



Attachment 1

WOODLAND PARK LAWN BOWLING CLUB LEASE AGREEMENT
BETWEEN
THE CITY OF SEATTLE
AND
THE WOODLAND PARK LAWN BOWLING CLUB

THIS LEASE ("Lease") is entered into this ____ day of _____, 2008, by and between **THE CITY OF SEATTLE** ("City"), a city of the first class of the State of Washington, acting by and through its Seattle Department of Parks and Recreation ("Parks") and the Superintendent thereof ("Superintendent"), and Woodland Park Lawn Bowling Club ("Lessee") a non-profit corporation organized under the laws of the State of Washington.

AGREEMENT

IN CONSIDERATION of the mutual covenants contained herein, City and Lessee covenant and agree as follows:

1. **Lease Data; Exhibits.** The following terms shall have the following meanings, except as otherwise specifically modified in this Lease:

1.1 **Premises.** Are situated on real property described on Exhibit A in the locations defined and further identified on Exhibit B (the "Premises").

1.2 **Commencement Date.** When signed by the Superintendent.

1.3 **Expiration Date.** The Lease shall expire at 12:00 am December 31, 2012, unless the Term of this Lease is extended pursuant to Section 3.

1.4 **Rent and Additional Charges.**

1.4.1 **Rent.** The Lessee shall pay quarterly the greater of \$250 (two hundred fifty dollars) or 25% (twenty five percent) of all rental sales that do not include lawn bowling, and 10% (ten percent) of all rental sales that include lawn bowling, as more particularly described in Section 4.

1.4.2 **Additional Charges.** Whether or not so designated, all other sums due from Lessee under this Lease shall constitute Additional Charges, payable when specified in this Lease.

1.5 **Security Deposit.** There is no security deposit.

1.6 **Notice Addresses.**

To City: The City of Seattle Department of Parks and
Recreation
Attention: Concessions Coordinator



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Magnuson Park & Business Resources
6310 NE 74th Street #109E
Seattle, WA 98115

To Lessee: Woodland Park Lawn Bowling Club
P. O. Box 31164
Seattle, WA 98103-1164
(206) 782-1515

1.7 Exhibits. The following exhibits are made a part of this Lease:

Exhibit A - Legal Description Premises.

Exhibit B – The Premises.

2. Premises.

2.1 Grant. City hereby leases to Lessee and Lessee hereby leases from City the premises referenced in Section 1.1 (the “Premises”), including the entire fenced exterior and interior spaces at Woodland Park Lawn Bowling Greens and building and the 3 adjacent equipment storage sheds, which are located on the real property described on Exhibit A.

2.2 Condition. City leases the Premises and Lessee accepts the Premises in their "as is" condition.

2.3 License. Lessee shall have reasonable access to the Premises for the Lessee’s routine activities.

2.4 Parking. Parking is available on a non-reserved, non-exclusive basis within public parking areas adjacent to the Premises.

2.5 Permitted Use. Lessee shall use the Premises for Lawn Bowling, Bocce, and Six-Wicket Croquet sport programs open to the public and may use the Premises for competitive, social, and organizational activities for the Club and for Regional and National Lawn Bowling, Bocce, and Croquet Organizations. Lessee may market the facility for private event rentals approved by the City on a short-term basis to organizations and individuals, or other clients (hereinafter called "Renters"). The rights and privileges for the term specified are given in exchange for the Lessee's payment to Parks of specified fees, the provision of certain services to the public for the City, and the performance of maintenance to the Premises, all in accordance with the terms of this Agreement. Lessee shall not use the Premises for any purpose whatsoever other than the uses specifically permitted herein (collectively, the “Permitted Use”).

2.6 Common Areas. During the Term, Lessee and its licensees, invitees and customers shall have the non-exclusive right to use the parking lot, main road, the building’s corridors, public restrooms and other public areas adjacent to the Premises (the



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“Common Areas”) in common with which are open to the public. City shall at all times have exclusive control and management of the Common Areas and no diminution thereof shall be deemed a constructive or actual eviction or entitle Lessee to compensation or a reduction or abatement of rent.

2.7 Alterations. City, in its discretion, may increase, decrease or change the number, locations and dimensions of any hallways, lobby areas, Common Areas and other improvements shown that are not within the Premises. Such increase, decrease, or change shall not materially interfere with Lessee’s activities or business as permitted in Subsection 2.5 Permitted Use. City reserves the right from time to time (i) to install, use, maintain, repair, relocate and replace pipes, ducts, conduits, wires and appurtenant meters and equipment for service to the Premises or to other parts of the Building in areas above the suspended ceiling surfaces, if any, below the floor surfaces, within the walls and elsewhere in the Building; (ii) to alter or expand the Building; and (iii) to alter, relocate or substitute any of the Common Areas.

3. Lease Term.

3.1 Initial Term. This Lease shall be for a term (“Lease Term” or “Term”) beginning on the Commencement Date specified in Subsection 1.2 and ending on the Expiration Date specified in Subsection 1.3, unless the Lease Term is terminated earlier in accordance with the provisions of this Lease or extended as provided in Subsection 3.2 below.

3.2 Extended Terms. Lessee shall have the option to extend this Lease for up to one successive individual extended term of five (5) years (“Extended Term”) on the same terms and conditions set forth herein. Lessee may extend the Lease Term to include any Extended Term by giving City written notice of its intention to do so at least ninety (90) days prior to the beginning of the Extended Term. As used in this Lease, the “Lease Term” means the original term commencing on the Commencement Date and ending on the Expiration Date specified in Subsection 1.3, and any and all Extended Term established by Lessee hereunder.

4. Rent And Taxes.

4.1 Rent Commencement Date and Installments. Lessee shall commence paying rent on or before the 10th day of the first full month following the Commencement Date (“Rent Commencing Date”), and thereafter in monthly installments to the City at the address and to the account specified by City, without notice or demand or any setoff or deduction whatsoever, in lawful money of the United States (a) the monthly amount of Rent specified in Subsection 1.4 in advance on the 10th day of each month immediately following the end of the quarter; and (b) Additional Charges as and when specified elsewhere in this Lease, but if not specified, then within ten (10) days after written demand. Rent and, if appropriate, as reasonably determined by City, Additional Charges shall be prorated on a daily basis for any partial month within the Lease Term, and for any partial initial month in the Lease Term shall be paid on the first day of the Lease Term.



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4.2 Taxes. Lessee shall pay to Parks quarterly whatever leasehold excise tax is assessed pursuant to Chapter 82.29A RCW as a consequence of Lessee' use and occupancy of the Premises under this Agreement. In addition, Lessee shall pay before their delinquency, all other taxes that may be due and payable with respect to property owned by and the activities of Lessee on the Premises to the extent failure to do so could result in a lien against the Premises.

4.3 Rent and Leasehold Excise Tax Payment Date and Address. Rent and leasehold excise tax due and payable under this Agreement shall be remitted on the tenth (10th) calendar day of the month immediately following the end of each quarter during the term of this Agreement to the City at the address shown in Section 1.6 hereof, or to such other place as Parks may hereafter designate.

5. Late Charge; Interest. If Lessee fails to pay the City any sum when due, such amount shall bear interest at the rate of 12% per annum from the date due until the date paid.

6. Security Deposit. There is no security deposit.

7. Lessee's Operations.

7.1 Use of Premises. Lessee shall use the Premises only for the Permitted Use. As City's willingness to enter into this Lease with Lessee was predicated, in part, on the nature of Lessee's activities, and the compatibility of such activities with the use of the entire Premises, Lessee shall not use or permit the use of the Premises for any other activities, or purpose, or under any other name, without City's prior written consent. Lessee may prohibit the use of any personal equipment or of any methods or techniques of play by any persons using the Premises that, in Lessee's sole judgment, damage the playing surfaces of the Premises. Lessee shall promptly comply, at its sole cost and expense, with such reasonable rules and regulations relating to the use of the Premises, Building and Common Areas as City, from time to time, may promulgate. Any newly promulgated rules and regulations shall not materially interfere with Lessee's business for the Permitted Use. In the event of any conflict between the rules and regulations promulgated by City and the terms of this Lease, the terms of this Lease shall prevail. Lessee shall maintain the Premises in a clean, orderly and neat fashion and to a standard established for other similar Parks properties (provided that Lessee shall not be responsible for maintaining those portions of the Building that are City's responsibility to maintain under terms of this Lease), permitting no objectionable odors to be emitted from the Premises and shall neither commit waste nor permit any waste to be committed thereon. Lessee shall not permit any accumulation of trash on or about the Premises. Lessee shall not create or contribute to the creation of a nuisance in either the Premises or the Building, and Lessee shall not engage in or permit any action that will disturb the quiet enjoyment of any other occupant in the Building.

7.1.1 Staff. The Lessee shall provide qualified personnel or assign volunteers in sufficient numbers to meet the program staffing needs. The Lessee shall



review the conduct of any of its employees whose activities may be inconsistent with the proper administration of the Premises and take such action as is necessary to fully correct the situation. The Lessee shall provide information requested by Parks about the Lessee's personnel who work on Parks' property for the purposes of a background investigation that is required by Washington State RCW for all Lessee staff and subcontractors working in the Building or Park.

7.1.2 Marketing of Rentals. The Lessee will market and process all facility rental requests. This includes handling and responding to all calls and written requests, booking the dates, providing the staffing to set up and supervise these events as appropriate, and ensuring the facility is returned to an acceptable condition. The Lessee will charge rental fees mutually agreed upon by Parks and the Lessee. When alcohol will be served at a rental event, the Lessee will inform Parks staff who will facilitate the review and approval of the request. The Lessee will also obtain or cause to be obtained the necessary permits and additional insurance requirements associated with alcohol being served. The Lessee will collect rental fees, maintain a tracking system for these funds, and make payments to Parks as specified in Section 1.4.1.

7.1.3 Records Management. The Lessee shall maintain books, records, documents, and other evidence of accounting procedures and practices, including a statement of income and expenses for the recent calendar year, which sufficiently and properly reflect all direct and indirect costs of any nature expended and revenues received in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit in King County by personnel duly authorized by Parks, City, the Office of the State Auditor and other officials so authorized by law, rule, regulation or contract.

7.1.4 Reporting. By January 31st of each year during the Term, the Lessee shall provide Parks with a written report detailing the number of free lawn bowling lessons provided to the public, including class attendance sizes, a detailed description of the routine maintenance performed at the building and the bowling greens, and other public benefits provided for the immediately preceding fiscal year ending December 31st. During each quarter of each year during the Term, the Lessee shall also provide Parks with a written report, on a form approved by Parks, detailing the number of rentals, types of rentals, and revenues from these rentals.

7.2 Compliance with Laws; Nondiscrimination.

7.2.1 General Obligation. Lessee shall not use or permit the Premises or any part thereof to be used for any purpose in violation of any municipal, county, state or federal law, ordinance or regulation, or for any purpose offensive to the standards of the community [of which the Building is a part]. Lessee shall promptly comply, at its sole cost and expense, with all laws, ordinances and regulations now in force or hereafter adopted relating to or affecting the condition, use or occupancy of the Premises (provided that Lessee shall not be responsible for maintaining in compliance with laws those



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portions of the Building, including the Premises, that are City's responsibility to maintain under terms of this Lease).

7.2.2 Nondiscrimination. Without limiting the generality of Subsection 7.2.1, Lessee agrees to and shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to Chapters 14.04, 14.10 and 20.42 of the Seattle Municipal Code, as they may be amended from time to time, and rules, regulations, orders and directives of the associated administrative agencies and their officers.

7.3 Liens and Encumbrances. Lessee shall keep the Premises and Building free and clear of, and shall indemnify, defend and hold City harmless from, any and all, liens and encumbrances arising or growing out of any act or omission, or breach of this Lease or its use, improvement or occupancy of the Premises by Lessee or any of its principals, officers, employees or agents or subtenants. Lessee shall inform the City in writing of any lien filed against the Premises within ten (10) days of the filing date of the lien. If any lien is so filed against the Premises or Building, Lessee shall either cause the same to be fully discharged and released of record within ten (10) days after City's written demand therefor or, within such period, provide City with cash or other security acceptable to City in an amount equal to one and one-half (1½) times the amount of the claimed lien as security for its prompt removal. City shall have the right to disburse such security to cause the removal of the lien if City deems such necessary, in City's sole discretion.

7.4 Hazardous Substances. Lessee shall not, without City's prior written consent, keep on or about the Premises or Building any substance designated as, or containing any component now or hereafter designated as hazardous, dangerous, toxic or harmful and/or subject to regulation under any federal, state or local law, regulation or ordinance ("Hazardous Substances"), except customary office, kitchen, cleaning, greens maintenance and other related supplies in normal quantities handled in compliance with applicable laws. With respect to any Hazardous Substances stored with City's consent, Lessee shall promptly, timely and completely comply with all governmental requirements for reporting and record keeping; submit to City true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or are submitted to the appropriate governmental authorities; within five (5) days after City's request therefor, provide evidence satisfactory to City of Lessee's compliance with all applicable governmental rules, regulations and requirements; and comply with all governmental rules, regulations and requirements regarding the proper and lawful use, sale, transportation, generation, treatment and disposal of Hazardous Substances. Any and all costs incurred by City and associated with City's inspections of the Premises and City's monitoring of Lessee's compliance with this Subsection 7.4, including City's attorneys' fees and costs, shall be Additional Charges and shall be due and payable to City within ten (10) days after City's demand therefor, if Lessee's violation of this Subsection 7.4 is discovered as a result of such inspection or monitoring. Lessee shall be fully and completely liable to City for any and all cleanup costs and expenses and any and all other



charges, expenses, fees, fines, penalties (both, civil and criminal) and costs imposed with respect to Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances in or about the Premises or Building. Lessee shall indemnify, defend and hold City harmless from any and all of the costs, fees, penalties, charges and expenses assessed against, or imposed, upon City (as well as City's attorneys' fees and costs) as a result of Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances on or about the Premises or Building. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

8. Utilities.

8.1 General. Lessee shall pay when due all telephone and communications costs. Parks shall pay all charges for utilities for the Premises, including but not limited to, electricity, water and sewer services.

8.2 Refuse Collection; Recycling of Waste Materials. Lessee shall provide all necessary housekeeping and janitorial services for the Premises to a level consistent with other similar Parks facilities and operations and to the Superintendent's reasonable satisfaction. Lessee shall be responsible for proper storage and removal of trash, litter pickup and recycling consistent with City standards.

8.3 Interruption. City shall not be liable for any loss, injury or damage to person or property caused by or resulting from any variation, interruption or failure of services due to any cause whatsoever, including, but not limited to, electrical surges, or from failure to make any repairs or perform any maintenance. No temporary interruption or failure of such services incident to the making of repairs, alterations or improvements or due to accident, strike or conditions or events beyond City's reasonable control shall be deemed an eviction of Lessee or to relieve Lessee from any of Lessee's obligations hereunder or to give Lessee a right of action against City for damages. Lessee acknowledges its understanding that there may be City-planned utility outages affecting the Premises and that such outages may interfere, from time to time, with Lessee's use of the Premises. City shall provide Lessee with not less than 48 hours' prior written notice of any City-planned electricity outage in the Premises. City has no obligation to provide emergency or backup power to Lessee. The provision of emergency or backup power to the Premises or to enable the equipment therein to properly function shall be the sole responsibility of Lessee. If utilities are interrupted at the Premises so as to render them unfit for their permitted uses, then the Rent for the year shall be abated for the duration of the disruption in the proportion that the number of days of the disruption bears to the number of days of the year.

9. Licenses and Taxes. Without any deduction or offset whatsoever, Lessee shall be liable for, and shall pay prior to delinquency, all taxes, license and excise fees and occupation taxes covering the business conducted on the Premises and all personal property taxes and other impositions levied with respect to all personal property located at the Premises; Lessee shall be responsible for, and shall pay prior to delinquency, all fees, charges, or costs, for any governmental inspections or examinations relating to Lessee's



use and occupancy of the Premises, and pay all taxes on the leasehold interest created by this Lease (e.g., leasehold excise taxes).

9.1 Contests. Lessee shall have the right to contest the amount and validity of any taxes by appropriate legal proceedings, but this shall not be deemed or construed in any way as relieving Lessee of its covenant to pay any such taxes. City shall not be subjected to any liability or for the payment of any costs or expenses in connection with any such proceeding brought by Lessee, and Lessee hereby covenants to indemnify and hold City harmless from any such costs or expenses. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

10. Alterations by Lessee. Lessee shall not make any alterations, additions or improvements in or to the Premises without first submitting to City professionally-prepared plans and specifications for such work and obtaining City's prior written approval thereof. Lessee covenants that it will cause all alterations, additions and improvements to the Premises to be completed at Lessee's sole cost and expense by a contractor approved by City and in a manner that (a) is consistent with the City-approved plans and specifications and any conditions imposed by City in connection therewith; (b) is in conformity with first-class, commercial standards; (c) includes acceptable insurance coverage for City's benefit; (d) does not affect the structural integrity of the Premises or the Building or any of the Premises' or Building's systems; and (e) does not invalidate or otherwise affect the construction or any system warranty then in effect with respect to the Premises or the Building. Lessee shall secure all governmental permits and approvals required for the work; shall comply with all other applicable governmental requirements and restrictions; and reimburse City for any and all expenses incurred in connection therewith. Except as provided in Section 14 with regard to concurrent negligence, Lessee shall indemnify, defend and hold City harmless from and against all losses, liabilities, damages, liens, costs, penalties and expenses (including attorneys' fees, but without waiver of the duty to hold harmless) arising from or out of Lessee's performance of such alterations, additions and improvements, including, but not limited to, all which arise from or out of Lessee's breach of its obligations under terms of this Section 10. All alterations, additions and improvements (expressly including all light fixtures; heating and ventilation units; floor, window and wall coverings; and electrical wiring), except Lessee's moveable trade fixtures and appliances and equipment not affixed to the Premises (including without limitation - furniture, computers, point of sale systems and registers) shall become the property of City at the expiration or termination of this Lease without any obligation on its part to pay for any of the same. At City's request, Lessee shall execute a deed or bill of sale in favor of City with respect to such alterations and/or improvements. Notwithstanding the foregoing, Lessee shall remove all or any portion of such alterations and/or improvements on the expiration or termination of this Lease if City specifically so directs, in writing, at the time of City's issuance of its approval thereof. Within ninety (90) days after the completion of any alteration, addition or improvement to the Premises, Lessee shall deliver to City a full set of "as-built" plans of the Premises showing the details of all alterations, additions and improvements made to the Premises by Lessee.



11. Care of Premises.

11.1 General Obligation. Lessee shall take good care of the Premises and shall reimburse City for all damage done to the Premises that results from any act or omission of Lessee or any of Lessee's officers, contractors, agents, invitees, licensees or employees, including, but not limited to, cracking or breaking of glass.

11.2 Custodial Service for Premises. Lessee shall at its own expense, at all times, keep the Premises, except for the public restrooms, in a neat, clean, safe, and sanitary condition; and keep the glass of all windows and doors serving such areas clean and presentable. Lessee shall furnish all cleaning supplies and materials needed to operate such areas in the manner prescribed in this Lease; Lessee shall provide all necessary janitorial service to adequately maintain the inside of such areas using either Lessee's staff and membership or a company reasonably approved by City. Lessee shall be responsible for keeping the areas immediately adjacent to the perimeter of such areas free of litter and clean of spills resulting from Lessee's operations.

If, after City provides written notice to Lessee of Lessee's failure to comply with this Section, Lessee fails to take good care of such areas, City, at its option, may do so, and in such event, upon receipt of written statements from City, Lessee shall promptly pay the entire actual and reasonable cost thereof as an Additional Charge. City shall have the right to enter the Premises for such purposes. City shall not be liable for interference with light, air or view.

All normal repairs necessary to maintain the Building (including the structural aspects and exterior of the Premises including the fencing of the premises and elevated greens floodlighting, the Common Areas, and the heating, ventilation, utility, electric and plumbing and other systems and equipment serving the Building in a reasonably good operating condition, as determined by City, shall be performed by City at its expense. The City will assist Lessee in all aspects of Greens maintenance customarily requiring the use of heavy machinery owned by the City by performing such maintenance. The foregoing sentence does not extend to maintenance occasioned by an act or omission of Lessee or its officers, agents, employees, or contractors. Except in the event of City's gross negligence or intentional misconduct, there shall be no abatement or reduction of rent arising by reason of City's making of repairs, alterations or improvements.

11.3 Prohibition Against Installation or Integration of Any Work of Visual Art on Premises Without City's Consent. City reserves to and for itself the right to approve or disapprove of the installation or integration on or in the Premises of any "work of visual art," as that term is defined in the Visual Artists Rights Act of 1990, as now existing or as later amended, and to approve or disapprove of each and every agreement regarding any such installation or integration. Lessee shall not install on or integrate into, or permit any other person or entity to install on or integrate into, the Premises any such work of visual art without City's prior, express, written consent. City's consent to the installation of any such art work may be granted, granted upon one or more conditions, or withheld in City's discretion.



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11.4 Lessee's Indemnification of City Against Liability under Visual Artists Rights Act of 1990. Lessee shall protect, defend, and hold City harmless from and against any and all claims, suits, actions or causes of action, damages and expenses (including attorneys' fees and costs) arising as a consequence of (a) the installation or integration of any work of visual art on or into the Premises; or (b) the destruction, distortion, mutilation or other modification of the art work that results by reason of its removal; or (c) any breach of Subsection 11.3 of this Lease; or (d) any violation of the Visual Artists Rights Act of 1990, as now existing or hereafter amended; by Lessee or any of its officers, employees or agents. This indemnification obligation shall exist regardless of whether City or any other person employed by City has knowledge of such installation, integration, or removal or has consented to any such action or is not required to give prior consent to any such action. The indemnification obligation of this subsection shall survive the expiration or earlier termination of this Lease.

12. Signs and Advertising.

12.1 Signs, Generally. Lessee shall not inscribe, post, place, or in any manner display any sign, notice, picture, poster, or any advertising matter whatsoever anywhere in or about the Premises, without the Superintendent's prior written consent. Lessee shall remove all signage at the expiration or earlier termination of this Lease and repair any damage or injury to the Premises.

12.2 On-Premises Signs. Lessee may install approved permanent exterior signage. Temporary signs or banners not more than 24 square feet in size may be displayed on or about the Premises to advertise a special event beginning two weeks immediately before the event advertised, through the conclusion of such event. Exterior signage shall include the Premises' name, Lessee's name and the Parks logo and shall be constructed in a style and size consistent with the Parks sign policy.

12.3 Recognition. Lessee shall include a statement and the Parks logo in its printed materials stating, in effect, that: "We would like to thank Seattle Parks and Recreation for providing a location for the Woodland Park Lawn Bowling Club."

13. Surrender of Premises.

13.1 General Matters. At the expiration or sooner termination of the Lease Term, Lessee shall return the Premises to City in the same condition in which received on the Commencement Date (or, if altered, then the Premises shall be returned in such altered condition unless otherwise directed by City pursuant to Section 10), reasonable wear and tear, casualty and condemnation damages not resulting from or contributed to by negligence of Lessee, excepted. Prior to such return, Lessee shall remove its moveable trade fixtures and appliances and equipment that have not been attached to the Premises, and shall repair any damage resulting from their removal. In no event shall Lessee remove floor coverings; heating or ventilating equipment; lighting equipment or fixtures;

or floor, window or wall coverings unless otherwise specifically directed by City in writing at the time when City's approval of their installation is issued. Lessee's obligations under this Section 13 shall survive the expiration or termination of this Lease. Lessee shall indemnify City for all damages and losses suffered as a result of Lessee's failure to remove voice and data cables, wiring and communication lines and moveable trade fixtures and appliances and to redeliver the Premises on a timely basis.

13.2 Cable and Wiring. Notwithstanding any provision to the contrary in this Lease and if the City so directs, on or by the Expiration Date, or if this Lease is terminated before the Expiration Date, within fifteen (15) days after the effective termination date, whichever is earlier, Lessee shall remove all voice and data communication and transmission cables and wiring installed by or for Lessee to serve any telephone, computer or other equipment located in that portion of the Premises, which wiring and cabling shall include all of the same located within the interior and exterior walls through or above the ceiling, through or below the floor, vertical or horizontal riser, raceway, conduit, channel, or connection openings of such portion of the Premises to be vacated and surrendered to City as of such Expiration Date or earlier termination date. Lessee shall leave the mud rings, face plates and floor boxes in place.

14. Waiver; Indemnification.

14.1 Lessee's Indemnification. Except as otherwise provided in this section, Lessee shall indemnify, defend (using legal counsel reasonably acceptable to City) and save City, City's officers, agents, employees and contractors, harmless from all claims, suits, losses, damages, fines, penalties, liabilities and expenses (including City's actual and reasonable personnel and overhead costs and attorneys' fees and other costs incurred in connection with claims, regardless of whether such claims involve litigation) resulting from any actual or alleged injury (including death) of any person or from any actual or alleged loss of or damage to, any property arising out of or in connection with (i) Lessee's occupation, use or improvement of the Premises, or that of any of its employees, agents or contractors, (ii) Lessee's breach of its obligations hereunder, or (iii) any act or omission of Lessee or any subtenant, licensee, assignee or concessionaire of Lessee, or of any officer, agent, employee, guest or invitee of any of the same in or about the Premises/Building. Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees. This indemnity with respect to acts or omissions during the Lease Term shall survive termination or expiration of this Lease. The foregoing indemnity is specifically and expressly intended to constitute a waiver of Lessee's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the extent necessary to provide City with a full and complete indemnity from claims made by Lessee and its employees, to the extent of their negligence. Lessee shall promptly notify City of casualties or accidents occurring in or about the Premises. **CITY AND LESSEE ACKNOWLEDGE THAT THEY SPECIFICALLY NEGOTIATED AND AGREED UPON THE INDEMNIFICATION PROVISIONS OF THIS SECTION 14.**



14.2 Lessee's Release of Claims. Lessee hereby fully and completely waives and releases all claims against City to the extent a loss or damage is covered by insurance for any losses or other damages sustained by Lessee or any person claiming through Lessee resulting from any accident or occurrence in or upon the Premises, including but not limited to any defect in or failure of Building equipment; any failure to make repairs; any defect, failure, surge in, or interruption of Building facilities or services; any defect in or failure of Common Areas; broken glass; water leakage; the collapse of any Building component; or any act, omission or negligence of co-tenants, licensees or any other persons or occupants of the Building.

14.3 Limitation of Lessee's Indemnification. In compliance with RCW 4.24.115 as in effect on the date of this Lease, all provisions of this Lease pursuant to which City or Lessee (the "Indemnitor") agrees to indemnify the other (the "Indemnitee") against liability for damages arising out of bodily injury to persons or damage to property relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, road, or other structure, project, development, or improvement attached to real estate, including the Premises[/Building], (i) shall not apply to damages caused by or resulting from the sole negligence of the Indemnitee, its agents or employees, and (ii) to the extent caused by or resulting from the concurrent negligence of (a) the Indemnitee or the Indemnitee's agents or employees, and (b) the Indemnitor or the Indemnitor's agents or employees, shall apply only to the extent of the Indemnitor's negligence; PROVIDED, HOWEVER, the limitations on indemnity set forth in this section shall automatically and without further act by either City or Lessee be deemed amended so as to remove any of the restrictions contained in this section no longer required by then applicable law.

14.4 City's Release of Claims. City hereby fully and completely waives and releases all claims against Lessee to the extent a loss or damage is caused by City's negligence, willful misconduct or breach of this Lease.

15. Insurance.

15.1 Minimum Insurance to be Secured and Maintained. Prior to the Commencement Date, Lessee shall secure and shall thereafter maintain (or cause its Subtenant(s) to secure and maintain) in full force and effect, at no expense to City, and throughout the entire Lease Term, insurance as specified below:

15.1.1 Commercial General Liability Insurance including:

- Premises/Operations Liability
- Products/Completed Operations Liability
- Personal/Advertising Liability
- Contractual Liability
- Independent Contractors Liability
- Liquor Liability/Host Liquor Liability
- Fire/Tenant Legal Liability



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Such insurance must include the City of Seattle as an additional insured for primary and non-contributory limits of liability as provided in Subsection 15.3.1.2 hereof and provide the following minimum limits:

\$1,000,000 each Occurrence Combined Single Limit
Bodily Injury and Property Damage

\$1,000,000 each Offense Personal and Advertising
Injury

\$ 500,000 each Occurrence Fire/Tenant Legal Liability

\$1,000,000 each Accident/ Disease

15.1.2 **Business Automobile Liability** including coverage as applicable for owned, non-owned, leased or hired vehicles with a minimum limit of \$1,000,000 each Occurrence Combined Single Limit Bodily Injury and Property Damage.

15.1.3 **Workers' Compensation** securing Lessee's liability for industrial injury to its employees in accordance with the provisions of Title 51 of the Revised Code of Washington; and

15.1.4 **Property Insurance** under which the Lessee's furniture, fixtures, equipment and inventory and all alterations, additions and improvements that Lessee makes to the Premises are insured throughout the Lease Term in an amount equal to the replacement cost thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (ii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; (iii) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises; (iv) loss from business interruption or extra expense, with sufficient coverage to provide for the payment of rent and other fixed costs during any interruption of Lessee's business. City shall be named as a loss payee subject to a standard mortgagee clause as respects property insurance covering alterations, additions and improvements under such policy.



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City shall insure and/or self-insure the Building, Premises and City's furniture, fixtures, equipment and inventory (exclusive of Lessee's furniture, fixtures, equipment and inventory and all alterations, additions and improvements that Lessee makes to the Premises) in an amount equal to the replacement cost thereof, against the following hazards: (i) loss from the perils of fire and other risks of direct physical loss, not less broad than provided by the insurance industry standard "Causes of Loss - Special Form (ISO form CP 1030 or equivalent); (ii) loss or damage from water leakage or sprinkler systems now or hereafter installed in or on the Premises; and (iii) loss or damage by explosion of steam boilers, pressure vessels, oil or gasoline storage tanks or similar apparatus now or hereafter installed on the Premises.

15.2 General Requirements Regarding Lessee's Insurance.

15.2.1 The insurance required by Subsections 15.1.1 and 15.1.2 shall be endorsed to include the City of Seattle as an additional insured for primary and non-contributory limits of liability and shall provide that such coverage shall not be canceled without forty-five (45) days' prior written notice to City, (except ten (10) days prior written notice to City with respect to non-payment of premium), at its address as specified in Subsection 1.6 hereof.

15.2.2 All insurance policies required hereunder shall be subject to reasonable approval by City's Risk Manager as to company, form and coverage. All policies shall be issued by a company rated A-:VII or higher in the then-current A. M. Best's Key Rating Guide and licensed to do business in the State of Washington or issued as a surplus line by a Washington surplus lines broker.

15.2.3 Any deductible or self-insured retention in excess of \$10,000 must be disclosed to, and shall be subject to reasonable approval by, City's Risk Manager. The cost of any claim payments falling within the deductible shall be the responsibility of Lessee.

15.2.4 Coverage and/or limits may be reasonably altered or increased as necessary to reflect type of or exposure to risk. City shall have the right to periodically review the appropriateness of such coverage and limits in view of inflation and/or changing industry conditions and to require an increase in such coverage or limits upon ninety (90) days' prior written notice.

15.3 Evidence of Insurance. The following documents must be delivered to City at its address as specified in or pursuant to Subsection 1.6 hereof, as evidence of the insurance coverage secured and maintained by Lessee:

15.3.1 On or before the Commencement Date, and thereafter, not later than five (5) days prior to the expiration or renewal date of each such policy:

15.3.1.1 A copy of the policy's declarations pages and the Schedule of Forms and Endorsements;



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15.3.1.2 A copy of the endorsement naming the City of Seattle as an additional insured (whether on ISO Form CG 20 26 or an equivalent additional insured or blanket additional insured policy wording);

15.3.1.3 A copy of an endorsement stating that the coverages provided by such policy to City or any other named insured shall not be terminated, reduced or otherwise materially changed without providing at least forty-five (45) days prior written notice to City, except ten (10) days prior written notice to City with respect to non-payment of premium, at its address as specified in or provided pursuant to Subsection 1.6 hereof; and

15.3.1.4 For the Commercial General liability and Business Automobile insurance to be secured and maintained pursuant to Subsection 15.1.1 and 15.1.2 hereof, a copy of the "Separation of Insureds" or "Severability of Interests" clause in such policy.

15.3.2 Pending receipt by Lessee of the documentation specified above, Lessee may provide an insurance binder evidencing compliance with this Section 15. An ACORD certificate of insurance will not be accepted in lieu thereof.

15.4 Reconstruction Following Loss. Lessee shall proceed with reasonable diligence as soon as sufficient funds are available therefor, to prepare plans and specifications for, and thereafter to carry out, all work necessary to repair and restore the alterations, additions and improvements that Lessee made to the Premises that is at least equivalent to, or more suitable than, the alterations, additions and improvements that were damaged or destroyed.

15.5 Waiver of Subrogation. City and City's insurer(s) shall waive subrogation for damage to or destruction of the Building, Premises and City's furniture, fixtures, equipment and inventory in favor of Lessee, except with respect to losses of City's aforesaid property of up to \$500,000 that are attributable to Lessee's negligence and to which Lessee's Fire Legal Liability insurance responds. Lessee and Lessee's insurer(s) shall waive subrogation for damage to or destruction of Lessee's alterations, additions and improvements, furniture, fixtures, equipment and inventory in favor of City; however, in the event of a loss to Lessee's aforesaid property attributable to City's negligence, City agrees to reimburse Lessee for the amount of its property insurance deductible up to \$100,000.

15.6 Assumption of Risk. The placement and storage of its personal property in the Premises shall be the responsibility, and at the sole risk, of Lessee.

16. Assignment or Sublease. Lessee shall not sublet or encumber the whole or any part of the Premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court or otherwise without the prior written consent of City, whose consent shall be given or withheld in its sole discretion. The granting of consent to a given transfer shall not constitute a waiver



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of the consent requirement as to future transfers. Any assignment or sublease, without City's prior written consent, at City's option, shall be void. No assignment or sublease shall release Lessee from primary liability hereunder. Each assignment and sublease shall be by an instrument in writing in form satisfactory to City. If Lessee is a corporation, then any transfer of this Lease by merger, consolidation or liquidation, or any direct or indirect change, in the ownership of, or power to vote the majority of, Lessee's outstanding voting stock, shall constitute an assignment for the purposes of this Lease. If Lessee is a partnership, then a change in general partners in or voting or decision-making control of the partnership shall also constitute an assignment.

17. Assignment by City. If City sells or otherwise transfers the Premises/Building, or if City assigns its interest in this Lease, such purchaser, transferee, or assignee thereof shall be deemed to have assumed City's obligations under this Lease arising after the date of such transfer, and City shall thereupon be relieved of all liabilities under this Lease arising thereafter, but this Lease shall otherwise remain in full force and effect. Lessee shall attorn to City's successor, which assumes and agrees to perform all of City's obligations under this Lease.

18. Destruction. If the Premises are rendered partially or totally untenantable by fire or other casualty, and if the damage is repairable within twenty-four (24) months from the date of the occurrence, then if insurance proceeds or self-insurance coverages are available to pay the full cost of the repairs (except for the deductible amounts) City shall repair the Premises with due diligence; otherwise City may elect to terminate this Lease. Rent and Additional Charges shall be abated in the proportion that the untenantable portion of the Premises bears to the whole thereof, as the City determines, for the period from the date of the casualty to the completion of the repairs. If the damage to the Premises is uninsured or cannot be repaired within twenty-four (24) months from the date of the occurrence, City or Lessee may terminate this Lease upon sixty (60) days' written notice to the other. If thirty percent (30%) or more of the Building is destroyed or damaged, then regardless of whether the Premises are damaged or not, Lessee may elect to terminate this Lease upon written notice to City. City shall advise Lessee of City's election to terminate by giving notice to Lessee thereof within thirty (30) days after the occurrence. In the event of damage by casualty, Lessee shall, at its sole cost and expense, repair all damage to its own personal property. Except in the event of City's gross negligence, intentional misconduct or breach of this Lease, City shall not be liable to Lessee for damages, compensation or other sums for inconvenience, loss of business or disruption arising from any repairs to or restoration of any portion of the Building or Premises.

19. Eminent Domain.

19.1 Taking. If all of the Premises are taken by Eminent Domain, this Lease shall terminate as of the date Lessee is required to vacate the Premises and all Rent and Additional Charges shall be paid to that date. The term "Eminent Domain" shall include the taking or damaging of property by, through or under any governmental or statutory authority, and any purchase or acquisition in lieu thereof, whether the damaging or taking



is by government or any other person. If a taking of any part of the Premises by Eminent Domain renders the remainder thereof unusable for the business of Lessee, in the reasonable judgment of City, the Lease may, at the option of either party, be terminated by written notice given to the other party not more than thirty (30) days after City gives Lessee written notice of the taking, and such termination shall be effective as of the date when Lessee is required to vacate the portion of the Premises so taken. If this Lease is so terminated, all Rent and Additional Charges shall be paid to the date of termination. Whenever any portion of the Premises is taken by Eminent Domain and this Lease is not terminated, City, at its expense, shall proceed with all reasonable dispatch to restore, to the extent of available proceeds and to the extent it is reasonably prudent to do so, the remainder of the Premises to the condition they were in immediately prior to such taking, and Lessee, at its expense, shall proceed with all reasonable dispatch to restore its personal property and all improvements made by it to the Premises to the same condition they were in immediately prior to such taking, to the extent award is available therefor. The Rent and Additional Charges payable hereunder shall be reduced from the date Lessee is required to partially vacate the Premises in the same proportion that the Rentable Area taken bears to the total Rentable Area of the Premises prior to taking.

19.2 Award. Except as otherwise provided below, City reserves all right to the entire damage award or payment for any taking by Eminent Domain, and Lessee waives all claim whatsoever against City for damages for termination of its leasehold interest in the Premises or for interference with its business. Lessee hereby grants and assigns to City any right Lessee may now have or hereafter acquire to such damages and agrees to execute and deliver such further instruments of assignment as City, from time to time, may request. Lessee, however, shall have the right to claim from the condemning authority all compensation that may be recoverable by Lessee on account of any loss incurred by Lessee in moving Lessee's merchandise, furniture, trade fixtures and equipment and the cost of restoring its personal property and improvements made by it to the Premises.

20. Default by Lessee.

20.1 Definition. If Lessee violates, breaches, or fails to keep or perform any term, provision, covenant, or any obligation of this Lease; or if Lessee files or is the subject of a petition in bankruptcy, or if a trustee or receiver is appointed for Lessee's assets or if Lessee makes an assignment for the benefit of creditors, or if Lessee is adjudicated insolvent, or becomes subject to any proceeding under any bankruptcy or insolvency law whether domestic or foreign, or liquidated, voluntarily or otherwise; then Lessee shall be deemed in default ("Default").

20.2 City Remedies. If Lessee has defaulted and such Default continues or has not been remedied to the reasonable satisfaction of the Superintendent within thirty (30) days after written notice thereof has been provided to Lessee, then City shall have the following nonexclusive rights and remedies at its option: (i) to cure such default on Lessee's behalf and at Lessee's sole expense and to charge Lessee for all actual and reasonable costs and expenses incurred by City in effecting such cure as an Additional

Charge; (2) to terminate this Lease; provided, however, that if the nature of Lessee's obligation (other than monetary obligations and other than vacation or abandonment of the Premises) is such that more than thirty (30) days is required for performance, then Lessee shall not be in default if it commences performance within such thirty (30) day period and thereafter diligently prosecutes the same to completion.

20.3 Reentry by City Upon Termination. Upon the termination of this Lease, City may reenter the Premises, take possession thereof, and remove all persons therefrom, for which actions Lessee shall have no claim thereon or hereunder. Lessee shall be liable and shall reimburse City upon demand for all actual and reasonable costs and expenses of every kind and nature incurred in retaking possession of the Premises. If City retakes the Premises, City shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at any place selected by City, including a public warehouse, at the expense and risk of Lessee. City shall have the right to sell such stored property, after reasonable prior notice to Lessee or such owner(s), after it has been stored for a period of thirty (30) days or more. The proceeds of such sale shall be applied first, to the cost of such sale; second, to the payment of the charges for storage, if any; and third, to the payment of any other sums of money that may be due from Lessee to City; the balance, if any, shall be paid to Lessee.

20.4 Vacation or Abandonment. If Lessee vacates or abandons the Premises in their entirety and fails to reoccupy them within thirty (30) days after City (1) delivers a notice to Lessee's notice address set forth in Section 1.6 above demanding such reoccupancy and (2) mails by certified or registered mail a copy of the notice to any forwarding address given by Lessee to City in writing, Lessee shall be in default under this Lease.

20.5 City's Non-exclusive Remedies upon Termination due to Default of Lessee. Notwithstanding any reentry by City and anything to the contrary in this Lease, in the event of the termination of this Lease due to the Default of Lessee, the liability of Lessee for all sums due under this Lease provided herein shall not be extinguished for the balance of the Term of this Lease. Lessee shall also be liable to City for any other amount (excluding consequential or specific damages) necessary to compensate City for all the detriment proximately caused by Lessee's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom, including but not limited to, any costs or expenses incurred in maintaining or preserving the Premises after such Default, and any costs incurred in authorizing others the use and occupancy of the Premises and in preparing the Premises for such use and occupancy, and such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of Washington. The provisions of this Subsection 20.5 shall survive the expiration or earlier termination of this Lease.

21. City's Remedies Cumulative; Waiver. City's rights and remedies hereunder are not exclusive, but cumulative, and City's exercise of any right or remedy due to a default or breach by Lessee shall not be deemed a waiver of, or alter, affect or prejudice any other right or remedy that City may have under this Lease or by law or in equity. Neither the



acceptance of rent nor any other act or omission of City at any time or times after the happening of any event authorizing the cancellation or forfeiture of this Lease shall operate as a waiver of any past or future violation, breach or failure to keep or perform any covenant, agreement, term or condition hereof or to deprive City of its right to cancel or forfeit this Lease, upon the written notice provided for herein, at any time that cause for cancellation or forfeiture may exist, or be construed so as to estop City at any future time from promptly exercising any other option, right or remedy that it may have under any term or provision of this Lease.

22. Default by City. City shall be in default if City fails to perform its obligations under this Lease within thirty (30) days after its receipt of notice of nonperformance from Lessee; provided, that if the default cannot reasonably be cured within the thirty (30) day period, City shall not be in default if City commences the cure within the thirty (30) day period and thereafter diligently pursues such cure to completion. Upon City's default, Lessee may pursue any remedies at law or in equity that may be permitted from time to time by the laws of the State of Washington.

23. Termination for Convenience. Notwithstanding anything else in this Lease to the contrary, the City may, at any time and without liability of any kind to Lessee, terminate this Lease upon thirty (30) days' written notice to Lessee if the City determines that the Premises are required for a different public purpose.

24. Attorneys' Fees. If either party retains the services of an attorney in connection with enforcing the terms of this Lease, each party agrees to bear its own attorneys' fees and costs.

25. Access by City. City and its agents shall have the right to enter the Premises at any reasonable time to examine the same, and to show them to prospective purchasers, lenders or tenants, and to make such repairs, alterations, improvements, additions or improvements to the Premises or Building as City may deem necessary or desirable. If Lessee is not personally present to permit entry and an entry is necessary in an emergency, City may enter the same by master key or may forcibly enter the same, without rendering City liable therefor, except in the event of City's gross negligence or intentional misconduct. Nothing contained herein shall be construed to impose upon City any duty of repair or other obligation not specifically stated in this Lease. Lessee shall change the locks to the Premises only through City and upon paying City for all actual and reasonable costs related thereto.

26. Holding Over. Unless otherwise agreed in writing by the parties hereto, any holding over by Lessee after the expiration of the Lease Term, whether or not consented to by City, shall be construed as a tenancy from month-to-month on the terms and conditions set forth herein. Either party may terminate any holdover tenancy by written notice delivered to the other party not later than twenty (20) days prior to the end of the final month. If Lessee fails to surrender the Premises upon the expiration or termination of this Lease without City's written consent, Lessee shall indemnify, defend and hold harmless City from all losses, damages, liabilities and expenses resulting from such



failure, including, without limiting the generality of the foregoing, any claims made by any succeeding tenant arising out of such failure. Lessee's obligations under this paragraph shall survive expiration or termination of this Lease.

27. Notices. Any notice, demand or request required hereunder shall be given in writing to the party's address set forth in Subsection 1.6 hereof by any of the following means: (a) personal service; (b) commercial or legal courier; or (c) registered or certified, first class mail, postage prepaid, return receipt requested. Such addresses may be changed by notice to the other parties given in the same manner as above provided. Notices shall be deemed to have been given upon the earlier of actual receipt, as evidenced by the deliverer's affidavit, the recipient's acknowledgment of receipt, or the courier's receipt, except in the event of attempted delivery during the recipient's normal business hours at the proper address by an agent of a party or by commercial or legal courier or the U.S. Postal Service but refused acceptance, in which case notice shall be deemed to have been given upon the earlier of the day of attempted delivery, as evidenced by the messenger's affidavit of inability to deliver stating the time, date, place and manner in which such delivery was attempted and the manner in which such delivery was refused, or on the day immediately following deposit with such courier or, if sent pursuant to subsection (c), forty-eight (48) hours following deposit in the U.S. mail.

28. Successors or Assigns. All of the terms, conditions, covenants and agreements of this Lease shall extend to and be binding upon City, Lessee and, subject to the terms of Sections 16 and 17, their respective heirs, administrators, executors, successors and permitted assigns, and upon any person or persons coming into ownership or possession of any interest in the Premises by operation of law or otherwise.

29. Authority and Liability. Lessee warrants that this Lease has been duly authorized, executed and delivered by Lessee, and that Lessee has the requisite power and authority to enter into this Lease and perform its obligations hereunder. Lessee covenants to provide City with evidence of its authority and the authorization of this Lease upon request. All persons and entities named as Lessee herein shall be jointly and severally liable for Lessee's liabilities, covenants and agreements under this Lease.

30. Brokers' Commission. No brokers' commissions are applicable to this Lease.

31. Partial Invalidity. If any court determines that any provision of this Lease or the application hereof to any person or circumstance is, to any extent, invalid or unenforceable, the remainder of this Lease, or application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each other term, covenant or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

32. Force Majeure. Neither City nor Lessee shall be deemed in default hereof nor liable for damages arising from its failure to perform its duties or obligations hereunder if such is due to any cause beyond its reasonable control, including, but not limited to an act of Nature, act of civil or military authority, fire, flood, windstorm, earthquake, strike or



labor disturbance; civil commotion, delay in transportation, governmental delay, or war; provided, however, that the foregoing shall not excuse Lessee from the timely payment of Rent and Additional Charges due hereunder, when due.

33. **Counterparts.** This parties may execute this Lease in counterparts, which, taken together, constitute the entire Lease.

34. **Headings.** The section headings used in this Lease are used for purposes of convenience and do not alter in any manner the content of the sections.

35. **Context.** Whenever appropriate from the context, the use of any gender shall include any other or all genders, and the singular shall include the plural, and the plural shall include the singular.

36. **Execution by City and Lessee; Effective Date.** Neither City nor Lessee shall be deemed to have made an offer to the other party by furnishing the other party with a copy of this Lease with particulars inserted. No contractual or other rights shall exist or be created between City and Lessee until all parties hereto have executed this Lease and the appropriate legislative authority approves it. This Lease shall become effective on the date (the "Effective Date") on which this Lease is executed by City and Lessee and approved by the Seattle City Council. City shall have no liability to Lessee and shall have the right to terminate this Lease upon written notice to Lessee if this Lease is legislatively disapproved.

37. **Time of Essence; Time Calculation Method.** Time is of the essence with respect to this Lease. Except as otherwise specifically provided, any reference in this Lease to the word "day" means a "calendar day"; provided, however, that if the final day for any action required hereunder is a Saturday, Sunday or City holiday, such action shall not be required until the next succeeding day that is not a Saturday, Sunday or City holiday. Any reference in this Lease to the word "month" means "calendar month."

38. **Continuous Operation.** Lessee shall keep the Premises available for lawn bowls, bocce, and/or croquet daily except Monday, which will be used for greens maintenance day, and scheduled Competitive events. Lessons at no charge are available to the Public at any time by appointment or by walk in, if Club Members are present. Contact information for making appointments and dates of scheduled Competitive events shall be posted on a suitable Bulletin Board at the Premises and used to transact business with the public daily during hours as designated below or as otherwise may be designated by the Superintendent. Subject to the Superintendent's prior reasonable approval, Lessee may, upon posting a written notice to the public of not less than one (1) week in duration prior to any approved closure, close the Premises or a portion thereof for a reasonable period for repairs or any approved remodeling. Lessee shall close to accommodate reasonable operational requirements of City's business, upon thirty (30) days' prior written notice to Lessee, and Lessee shall immediately close in the case of any emergency as determined by the Superintendent; provided, however, that if Lessee shall close pursuant to this sentence at the direction of City, and if Lessee remains closed at the direction of City for



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more than three (3) days, then Lessee's Rent and Additional Charges shall be prorated for the duration of the closure in the proportion that the number of days of the closure bears to the number of days of the month. Lessee shall furnish an approved sign at the Premises entrance advising the public of any approved closure, unless closed at the Direction of City.

Minimum hours of availability of Greens and Building on the Premises are as follows:

	Open	Close
Daily--Tuesday through Sunday, —Days, Greens available, weather permitting	10:00 am	5:00 pm
Daily--Monday through Sunday for facility rentals by arrangement	9:00 am	10:00 pm
Daily--Tuesday through Sunday —Evenings, Greens available, weather permitting	5:00 pm	Sunset

39. Standards. Lessee recognizes that, although it is operating its facilities as an independent operator, Seattle Parks and Recreation is organized and exists for the purpose of maintaining park and recreation facilities for the use and enjoyment of the general public. Lessee, its agents and employees, will devote their efforts toward rendering courteous service to the public as though they were employees of the City, with a view of adding to the enjoyment of the patrons of this recreational facility.

Lessee shall operate and conduct the facilities on the Premises in a businesslike manner, and will not permit any conduct on the part of Lessee's employees, which would be detrimental to City's operations.

40. City's Control of Premises and Vicinity. All common and other facilities provided by City in or about the Premises are subject to the City's exclusive control and management by City. Accordingly, City may do any and all of the following (among other activities in support of Parks or other municipal objectives), all without incurring any liability whatsoever to Lessee:

40.1 Change of Vicinity. City may increase, reduce, or change in any manner whatsoever the number, dimensions, and locations of the walks, buildings, landscaping, exhibit, service area, and parking areas in the vicinity of the Premises.

40.2 Traffic Regulation. City may regulate all traffic within and adjacent to the Premises, including the operation and parking of vehicles of Lessee and its invitees, employees, and patrons.



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40.3 Display of Promotional Materials. City may erect, display, and remove promotional exhibits and materials and permit special events on property adjacent to and nearby the Premises.

40.4 Promulgation of Rules. City may promulgate, from time to time, reasonable rules and regulations regarding the use and occupancy of any Department property including, but not limited to, the Premises.

40.5 Change of Businesses. City may change the size, number, and type and identity of concessions, stores, businesses and operations being conducted or undertaken in the vicinity of the Premises.

41. Lessee's Records. Lessee shall keep true, full, and accurate books of account setting forth Lessee's receipts, together with any other information that will affect the determination of Rent and Additional Charges. City shall be allowed after five (5) days' prior written notice to Lessee to inspect Lessee's books of account at Lessee's office and to procure audits thereof by an auditor at City's sole cost and expense (except as provided below). If in the reasonable judgment of such auditor Lessee's books of account are incomplete or improperly reflect the information necessary for an accurate determination of the Rent, or if the audit shall show that the reports submitted by Lessee understated Lessee's receipts by more than three percent (3%) thereof for any year covered by the audit, the costs and fees for such audit shall be paid by Lessee to City. If an audit discloses any willful or intentional effort to understate Lessee's receipts, then, at City's option, Lessee may be required to surrender possession of the Premises under the provisions of Section 20 of this Lease. Lessee shall retain all books of accounting and any other information that will affect the determination of Rent and Additional Charges for a period of six (6) years after the expiration or termination of this Lease, and Lessee shall make them available for inspection at Lessee's office within ten (10) days of City's prior written demand therefor. Lessee's obligations under this paragraph shall survive expiration or termination of this Lease.

42. Miscellaneous.

42.1 Entire Lease; Applicable Law. This Lease and the Exhibits attached hereto, and by this reference incorporated herein, set forth the entire agreement of City and Lessee concerning the Premises, and there are no other agreements or understanding, oral or written, between City and Lessee concerning the Premises. Any subsequent modification or amendment of this Lease shall be binding upon City and Lessee only if reduced to writing and signed by them. This Lease shall be governed by, and construed in accordance with the laws of the State of Washington.

42.2 Negotiated Lease. The parties to this Lease acknowledge that it is a negotiated agreement, that they have had the opportunity to have this Lease reviewed by their respective legal counsel, and that the terms and conditions of this Lease are not to be construed against any party on the basis of such party's draftsmanship thereof.



Attachment 1

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year indicated below.

CITY:

LESSEE:

THE CITY OF SEATTLE

Woodland Park Lawn Bowling Club

By: _____
Print Name: Timothy A. Gallagher
Title: Superintendent
Department of Parks and Recreation

By: _____
Print Name: _____
Title: President
Woodland Park Lawn Bowling Club



Attachment 1

STATE OF WASHINGTON)
) ss. (Acknowledgement for City)
COUNTY OF KING)

On this ____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared _____, known to me to be the _____ of the Department of Parks and Recreation of **THE CITY OF SEATTLE**, the party that executed the foregoing instrument as City, and acknowledged said instrument to be the free and voluntary act and deed of said party, for the purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

[Signature] *[Printed Name]*
NOTARY PUBLIC in and for the State of Washington residing at _____
My commission expires _____.

STATE OF WASHINGTON)
) ss. (Acknowledgement for _____)
COUNTY OF KING)

On this ____ day of _____, 20__, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, the entity that executed the foregoing instrument as _____; and acknowledged to me that he signed the same as the free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he was authorized to execute said instrument for said entity.

WITNESS my hand and official seal the day and year in this certificate above written.

[Signature] *[Printed Name]*
NOTARY PUBLIC in and for the State of Washington residing at _____
My commission expires _____.



Exhibit A

Legal Description

WOODLAND PARK LAWN BOWLING

That part of NE1/4NW1/4 of Section 7, Township 25N, Range 4E lying easterly of Aurora Avenue North, westerly of West Green Lake Way North, northerly of North 59th Street extended and southerly of North 65th Street extended.

Part of Tax Parcel No. 072504 9002



Exhibit B

Premises

Are defined as the interior spaces of the Woodland Park Lawn Bowling Greens, consisting of three parts:

1. A fenced area containing one Bowling Green and the Clubhouse Building,
 2. A fenced area containing a second Bowling Green, and
 3. Three small equipment storage sheds adjacent to the Clubhouse Building
- and not including the public restrooms, which are part of the Clubhouse Building, all located at 6098 Aurora Avenue North, Seattle, WA 98103



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Parks and Recreation	Charles Ng / 684-8001 Rita Hollomon / 684-8008	Jennifer Devore / 615-1328

Legislation Title:

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into a Lease Agreement with the Woodland Park Lawn Bowling Club for the purpose of renting rooms and teaching lawn bowling, bocce and croquet to the public at the Department of Parks and Recreation's Woodland Park Lawn Bowling facility.

• **Summary of the Legislation:**

The proposed legislation authorizes the Superintendent of Parks and Recreation (Superintendent) to execute a five-year lease agreement with the Woodland Park Lawn Bowling Club (Club) for the purpose of renting rooms and teaching lawn bowling, bocce and croquet to the public at the Woodland Park Lawn Bowling facility. The proposed agreement also includes an option for a five-year extension.

• **Background:**

Ordinances 108912, 111265, and 115588 all related to legislation which authorized the Superintendent to enter into executed agreements with the Queen City Lawn Bowling Club, Incorporated (now known as Woodland Park Lawn Bowling Club), for the use of the City of Seattle (City)'s Woodland Park Lawn Bowling facility. The Department of Parks and Recreation (DPR) has been authorizing the Club to operate through a series of annual permits.

The lawn bowling facility at Woodland Park provides a unique recreational activity for individuals and groups who are active in the game of lawn bowling. The objective and purpose of the Club is to promote the game of lawn bowling, bocce and croquet and foster sportsmanship. The City desires to maintain a stable lawn bowling program. It also hopes to expand the program and develop greater use of its facilities by promoting the facility and programs through advertising on the website, offering free instruction to the public, and with the assistance of the Club, participating in local and national organized lawn bowling activity.

• *Please check one of the following:*

This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. (Please complete all relevant sections that follow.)



Appropriations:

Fund Name and Number	Department	Budget Control Level*	2008 Appropriation	2009 Anticipated Appropriation
TOTAL	N/A			

Notes: There is no appropriation authority requested as a result of this legislation.

Anticipated Revenue/Reimbursement: Resulting From This Legislation:

Fund Name and Number	Department	Revenue Source	2008 Revenue	2009 Revenue
Parks and Recreation Fund (10200)	Parks and Recreation	Income from Concession Fee Payments	\$ 750	\$ 1,000
TOTAL			\$ 750	\$ 1,000

Notes: Historically, the Club has provided significant in-kind maintenance services and lawn bowling programs to the public at the Woodland Park Lawn Bowling facility. The Club will continue to provide such services and programs and operate the facility for DPR. Prior to this agreement, the Club was not required to make payments to DPR, and consequently no revenues were projected in the 2007 and 2008 Budget. However, this new agreement is expected to commence on April 1, 2008 and the Club will pay a minimum quarterly payment to DPR that is the greater of (either) \$250.00 or 25% (twenty five percent) of all rental sales that do not include lawn bowling and 10 % of all rental sales that include lawn bowling. The Club pays a higher percent on the rentals without lawn bowling, since they don't incur the cost of staffing the rental. The management use fee was negotiated with the Club and reflects the market rate and similar DPR contracts for this type of service.



Total Regular Positions Created, Modified, Or Abrogated Through This Legislation, Including FTE Impact: N/A

Position Title and Department*	Position Number for Existing Positions	Fund Name and Number	Part-Time/ Full Time	2008 Positions	2008 FTE	2009 Positions **	2009 FTE*
TOTAL	NA						

Notes: There is no staffing request as a result of this legislation.

Do positions sunset in the future? Not Applicable.

Spending/Cash Flow:

Fund Name and Number	Department	Budget Control Level*	2008 Expenditures	2009 Anticipated Expenditures
TOTAL				

Notes: Not Applicable.

- **What is the financial cost of not implementing the legislation?** The financial cost of not implementing this legislation would be that DPR would forego at least \$1,000 per year of income and a loss of lawn bowling programming services to the public at this facility. DPR would need to operate the facility and the program itself or contract out with another organization wanting to operate the site. The latter is very difficult since this is a unique sport and there are very few operators with the expertise to provide this service.
- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** DPR could operate the facility entirely with City staff, but lacks the expertise, capability, and funding to do so.
- **Is the legislation subject to public hearing requirements:** No.
- **Other Issues:** This legislation will enable DPR to continue to provide lawn bowling services at the facility, receive income, and support programs and services to the public.

Please list attachments to the fiscal note below:

Attachment 1: Contract Summary



CONTRACT SUMMARY

Contracting Party / Lessee / Other: Woodland Park Lawn Bowling Club.

Contract Title and Contract Type: Woodland Park Lawn Bowling Club Management Lease.

Non-Profit or For Profit

New or Amendment (to existing Lease)

Premises: A fenced area containing one Bowling Green and the Clubhouse Building; a fenced area containing a second Bowling Green, and three small equipment storage sheds adjacent to the Clubhouse Building and not including the public restrooms, which are part of the Clubhouse Building, all located at 6098 Aurora Avenue North, Seattle, WA 98103.

Term of Lease: 5 years with a 5 year extension at DPR's option.

Purpose of Lease (description of license): To operate Lawn Bowling Programs for the public, managing the facility, and marketing it for facility rentals approved by the City.

Rent: Lessee shall pay a minimum quarterly payment to DPR that is the greater of (either) \$250.00 or 25% (twenty five percent) of all rental sales that don't include lawn bowling and 10% of all rental sales that include lawn bowling.

Adjustments to Rent (if any): Not applicable.

Public Benefit (e.g., description of permitted use): Lawn Bowling instruction for the public. Lessee shall perform regular indoor janitorial cleaning of the facility. The Lessee shall be responsible for minor repairs and maintenance including all lights and the ground areas of the building Premises and maintenance of the Bowling Greens.

Maintenance: The City of Seattle will provide and be responsible for all major maintenance of structural elements and systems. Lessee will be responsible for general cleaning and janitorial services as well as other minor maintenance as needed.

Other Pertinent Information: _____





City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

February 12, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

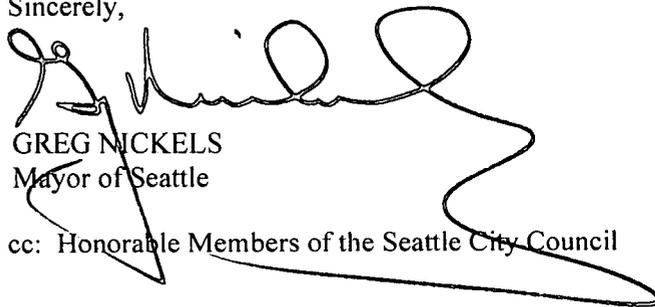
Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that authorizes the Superintendent of Parks and Recreation to execute a five-year lease agreement with the Woodland Park Lawn Bowling Club for the purpose of renting rooms and teaching lawn bowling, bocce, and croquet at the Woodland Park Lawn Bowling facility. The proposed agreement also includes an option for a five-year extension.

The Woodland Park Lawn Bowling Club, which has provided instruction in lawn bowling, bocce and croquet to the public for more than 40 years, is a respected and successful non-profit organization. Passage of this legislation will ensure the Club will continue to provide services and programs for the next five years, and be responsible for scheduling all rentals and special events at the Woodland Park facility. In exchange for the right to manage the facility, the Club will provide routine maintenance, required insurance, lawn bowling instruction, and a financial payment to the City of a minimum of \$250 per quarter or a percentage of all rental sales, to equal a minimum of \$5,000 over the five-year term of the agreement.

Thank you for your consideration of this legislation. Should you have questions, please contact Eric Friedli at 684-8369.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels", written over a large, stylized flourish that extends across the page.

GREG NICKELS
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov

An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.



STATE OF WASHINGTON – KING COUNTY

--SS.

221668
CITY OF SEATTLE, CLERKS OFFICE

No. TITLE ONLY

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

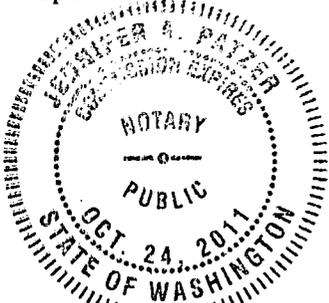
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122636,638&639

was published on

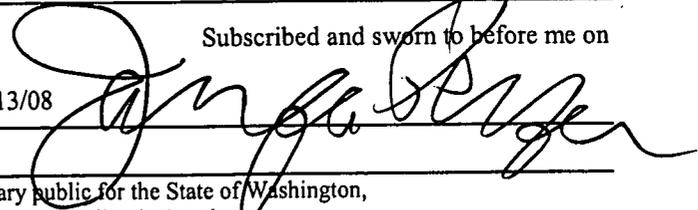
03/13/08

The amount of the fee charged for the foregoing publication is the sum of \$ 63.23, which amount has been paid in full.



Affidavit of Publication



Subscribed and sworn to before me on
03/13/08 

Notary Public for the State of Washington,
residing in Seattle

State of Washington, King County

City of Seattle

TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on March 3, 2008, and published here by title only, will be mailed upon request, or can be accessed electronically at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

ORDINANCE NO. 122639

AN ORDINANCE appropriating money to pay certain audited claims, and ordering the payment thereof.

ORDINANCE NO. 122638

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to enter into a Lease Agreement with the Woodland Park Lawn Bowling Club for the purpose of renting rooms and teaching lawn bowling, bocce and croquet to the public at the Department of Parks and Recreation's Woodland Park Lawn Bowling facility.

ORDINANCE NO. 122636

AN ORDINANCE relating to City employment; authorizing the execution of a Memorandum of Understanding by and between the City of Seattle and the United Association of Journeymen and Apprentices of the Plumbing & Pipe Fitting Industry, Local 32, amending the current Collective Bargaining Agreement, Appendix A; establishing new titles and new salaries, some retroactive to 2006; designating positions as exempt from Civil Service status; changing the vacation allowance for certain employees by adding a new section to Seattle Municipal Code Chapter 4.34; all by a 2/3 vote of the City Council.

Publication ordered by JUDITH PIPPIN,
City Clerk

Date of publication in the Seattle Daily
Journal of Commerce, March 13, 2008.

3/13(221666)