

Ordinance No. 122782

Council Bill No. 116306

AN ORDINANCE relating to the termination of the Premises Use and Occupancy Agreement between the City of Seattle and the Professional Basketball Club, LLC; authorizing the Seattle Center Director to take actions related to the termination of the Premises Use and Occupancy Agreement.

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard Conlin  
Councilmember

## Committee Action:

9-8-08 Passed 7-0 (Excused: Conlin, Drago)

CF No. \_\_\_\_\_

Date Introduced: <u>8-18-08</u>		
Date 1st Referred:	To: (committee) <u>Full Council</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage: <u>9-8-08</u>	Full Council Vote: <u>7-0</u>	
Date Presented to Mayor: <u>9-9-08</u>	Date Approved: <u>9-11-08</u>	
Date Returned to City Clerk: <u>9-11-08</u>	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
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# City of Seattle

Gregory J. Nickels, Mayor

## Office of the Mayor

August 12, 2008

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that grants the Seattle Center Director authority to terminate, amend and/or make assignment of agreements related to the Premises Use and Occupancy Agreement between the City of Seattle and the Professional Basketball Club, LLC. With this authority, which extends until December 31, 2009, the Seattle Center Director is authorized to enter into consultant, concession, purchasing and service contracts with terms of up to one year. This will allow Seattle Center to minimize disruptions to the ongoing operation of KeyArena and provide continuous service to KeyArena clients, promoters, and patrons after the departure of the Sonics organization.

The departure of the NBA franchise opens more dates for additional bookings at KeyArena, which remains the primary concert and special event venue in the greater Seattle area. Passage of this Bill will give Seattle Center the ability to support KeyArena's position in the Seattle market and provide its customers with an even wider variety of event programming. Should you have any questions, please contact Robert Nellams at 684-7301.

Sincerely,

A handwritten signature in black ink, appearing to read "Greg Nickels".

GREG NICKELS  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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

Tel: (206) 684-4000, TDD: (206) 615-0476 Fax: (206) 684-5360, Email: [mayors.office@seattle.gov](mailto:mayors.office@seattle.gov)

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**ORDINANCE** 122782

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AN ORDINANCE relating to the termination of the Premises Use and Occupancy Agreement between the City of Seattle and the Professional Basketball Club, LLC: authorizing the Seattle Center Director to take actions related to the termination of the Premises Use and Occupancy Agreement.

WHEREAS, the City brought a lawsuit against the Professional Basketball Club, LLC which currently is pending in Federal District Court, Western District of Washington, under Cause No.C07-1620 MJP; and

WHEREAS, in Ordinance 122736, the Council authorized the termination of the Premises Use and Occupancy Agreement; and

WHEREAS, termination of the Premises Use and Occupancy Agreement will likely cause significant disruption of Key Arena operations; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. The Seattle Center Director is authorized to terminate, amend, and/or take assignment of agreements related to the Premises Use and Occupancy Agreement between the City of Seattle and the Professional Basketball Club, LLC, including, but not limited to those agreements listed in Attachment A. Additionally, notwithstanding the provisions of SMC Chapters 20.50 and 20.60 and with the advice of the Law Department, the Seattle Center Director, until December 31, 2009, is authorized to enter into consultant, concession, purchasing and service contracts with terms of up to one year, in order to minimize disruption to on-going KeyArena operations and provide continuous services to KeyArena licensees and patrons.

Section 2. Any acts pursuant to the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.



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Section 3. 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 8<sup>th</sup> day of September, 2008, and signed by me in open session in authentication of its passage this 8<sup>th</sup> day of September, 2008.

Richard J. McQuinn  
President pro tem of the City Council

Approved by me this 11<sup>th</sup> day of September, 2008.

Gregory J. Nickels  
Gregory J. Nickels, Mayor

Filed by me this 11<sup>th</sup> day of September 2008.

[Signature]  
City Clerk

(Seal)

Attachment A: List of Agreements Related to the Premises Use and Occupancy Agreement between the City of Seattle and the Professional Basketball Club, LLC.



**Agreements Related to the Premises Use and Occupancy Agreement between the  
City of Seattle and the Professional Basketball Club, LLC.**

<b>Sonics KeyArena Agreements</b>	<b>Date</b>
Premises Use and Occupancy Agreement, as amended	March 1994
Practice Facility Ground Lease	March 1994
Key Corp Title Sponsorship Agreement	1995
Food & Beverage Service Agreement (Etc.), as amended	October 2000
Fox Sports Agreement 2004	July 2004
Agreement Regarding Certain Use Areas at KeyArena	September 2007



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Seattle Center	Jill Crary/x47107	Amy Williams/x32651

**Legislation Title:**

AN ORDINANCE relating to the termination of the Premises Use and Occupancy Agreement between the City of Seattle and the Professional Basketball Club, LLC authorizing the Seattle Center Director to take actions related to the termination of the Premises Use and Occupancy Agreement.

• **Summary of the Legislation:**

The Seattle Center will likely experience significant disruption to its KeyArena operations as a result of the termination of the Premises Use and Occupancy Agreement (PUOA) between the Professional Basketball Club, LLC and the City. This ordinance authorizes the Seattle Center Director to terminate, amend, and/or take assignment of agreements related to the PUOA including, but not limited to the PUOA, Key Corp Title Sponsorship Agreement, Practice Facility Ground Lease, and Food & Beverage Agreement, Fox Sports Agreement, and Agreement Regarding Certain Use Areas at KeyArena.

Additionally, the Seattle Center Director is authorized to enter into consultant, concession, purchasing and service contracts until December 31, 2009. The agreements will have terms of up to one year to minimize disruption to KeyArena operations and provide continuous services to KeyArena licensees and patrons.

• **Background:**

On February 14, 1994, Ordinance 117049 authorized the Seattle Center Director to enter into a Premises Use & Occupancy Agreement (PUOA) with SSI Sports, Inc. ("SSI"), the corporation that then owned the Seattle SuperSonics professional basketball team. Ordinance 117049 provided that the term of the PUOA would commence in October 1995, and would expire on September 30, 2010. The Professional Basketball Club, L.L.C. became a party to the Premises Use & Occupancy Agreement, as amended, through an Instrument of Assumption executed on October 23, 2006.

In 1993, the Seattle City Council approved a contract for the renovation of the Seattle Center Coliseum that included only a 15-year lease term with SSI (rather than 20 years to coincide with the debt financing) because of the cultural, civic and community benefits derived from having the Seattle SuperSonics play their home games in the City of Seattle.

In the fall of 2007, legal action commenced between the Professional Basketball Club, LLC (PBC) and the City of Seattle. A settlement reached in the summer of 2008 permitted the PBC to terminate the PUOA, allowing the Seattle SuperSonics to vacate KeyArena prior to September



30, 2010. The City Council approved Ordinance 122736 in July 2008, authorizing the termination of the PUAO.

- *Please check one of the following:*

**X This legislation does not have any financial implications.**

Although, this legislation does not have direct financial implications, there will likely be budget impacts after the PUAO is final. Seattle Center anticipates that many expenses related to operating KeyArena after the Seattle SuperSonics leave will be offset by new revenues. However, it is anticipated that the Seattle Center will overspend its budget authority as a result of some of the upcoming decisions associated with finalizing the settlement agreement, and to ensure continued successful operations of the KeyArea. The Seattle Center will work closely with the Department of Finance to identify the levels of needed expenditure authority and associated funds to cover these expenses. The Seattle Center plans on submitting year-end supplemental budget legislation to the Department of Finance, recommending sufficient appropriation of funds to cover the expenses incurred as a result of the terminated PUAO that have not yet been identified.

- **What is the financial cost of not implementing the legislation?**

Per the settlement agreement with PBC, the Seattle Center Director is designated to negotiate the final settlement details. There are several intertwining issues to be resolved involving sponsorships, concessions, equipment operation, etc. which necessitate providing the Seattle Center Director with the additional approval authority granted by this Bill. Without this legislation, the Seattle Center Director will not be able to effectively negotiate all of the issues in the agreements related to KeyArena, which would result in major disruption to scoreboard operations and broadcast functions, premium seating usage, sponsorship, and advertising. In addition, without such agreements, the City risks the potential expense of having to acquire new point-of-sale and the telephone switch equipment, as well as equipment related to concessions, seating, locker/dressing rooms, kitchens, the scoreboard and audio visual equipment.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**

None. This is the only efficient process to manage the transition to City management.

- **Is the legislation subject to public hearing requirements:** *(If yes, what public hearings have been held to date, and/or what plans are in place to hold a public hearing(s) in the future.)* No

- **Other Issues** *(including long-term implications of the legislation):*

Without the Seattle Center Director having the authority granted by this Ordinance the City will not be able to reach the required deadline to finalize related agreements by Oct 31, 2008.



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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229188  
CITY OF SEATTLE, CLERKS OFFICE

No.

**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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

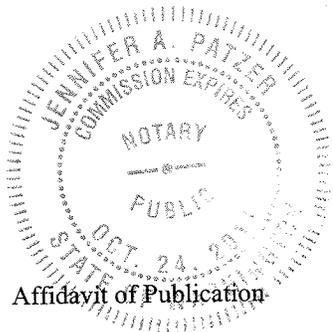
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

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was published on

09/17/08

The amount of the fee charged for the foregoing publication is the sum of \$ 98.35, which amount has been paid in full.



Affidavit of Publication

*[Signature]*  
\_\_\_\_\_  
Subscribed and sworn to before me on  
09/17/08 *[Signature]*  
\_\_\_\_\_  
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 September 8, 2008, and published here by title only, will be mailed, at no cost, on request for two months after this publication. For further information, contact the Seattle City Clerk at 684-8344.

#### ORDINANCE NO. 122786

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

#### ORDINANCE NO. 122785

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

#### ORDINANCE NO. 122784

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

#### ORDINANCE NO. 122783

AN ORDINANCE relating to City employment; authorizing the Mayor to sign and/or execute a memorandum of understanding between the City of Seattle and the Public Service and Industrial Employees, Local 1239 regarding compensation for employees involved in the removal of materials associated with illegal encampments; and providing payment therefor.

#### ORDINANCE NO. 122782

AN ORDINANCE relating to the termination of the Premises Use and Occupancy Agreement between the City of Seattle and the Professional Basketball Club, LLC; authorizing the Seattle Center Director to take actions related to the termination of the Premises Use and Occupancy Agreement.

#### ORDINANCE NO. 122781

AN ORDINANCE authorizing, in 2008, acceptance of funding from non-City sources; authorizing the heads of the Department of Information Technology, the Department of Parks and Recreation, the Department of Department, the Office of Intergovernmental Relations, the Seattle Police Department, and Seattle Public Utilities to accept specified grants and private funding and to execute, deliver, and perform corresponding agreements.

#### ORDINANCE NO. 122780

AN ORDINANCE amending the 2008 Adopted Budget, including the 2008-2013 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; lifting provisions; creating positions, some of which are exempt from the civil service; and abrogating a position; adding new projects, and revising project descriptions and allocations in the 2008-2013 CIP for certain projects; all by a three-fourths vote of the City Council.

Publication ordered by JUDITH PIPPIN,  
City Clerk

Date of publication in the Seattle Daily  
Journal of Commerce, September 17, 2008.

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