

Ordinance No. 123249

Council Bill No. 116795

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an amendment to the concession agreement between the City of Seattle and Arena Sports Magnuson Park LLC for the renovation and use of Building 27 at Warren G. Magnuson Park.

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Eg Bagshaw  
Councilmember

## Committee Action:

3/4/10 PASS AS AMENDED SB BH JR

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

Date Introduced:	<del>2-17-10</del> <u>3.1.10</u>	
Date 1st Referred:	To: (committee) <u>Parks + Seattle Center</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>3-8-10</u>	<u>9-0</u>	
Date Presented to Mayor:	Date Approved:	
<u>3-9-10</u>	<u>3.11.10</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/>
<u>3.12.10</u>		F.T. <input type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

3-8-10 Passed 9-0

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

*Law Department*

Law Dept. Review

OMP Review

City Clerk Review

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Indexed

ORDINANCE 123249

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an amendment to the concession agreement between the City of Seattle and Arena Sports Magnuson Park LLC for the renovation and use of Building 27 at Warren G. Magnuson Park.

WHEREAS, as authorized by Ordinance 122813, on or about February 2, 2009, the City and Arena Sports Magnuson Park LLC ("Arena Sports") entered into a Concession Agreement (the "Agreement") that allows Arena Sports to renovate, use and occupy Building 27 at Magnuson Park primarily as an indoor soccer facility; and

WHEREAS, Building 27 is located within the Sand Point Historic District, as defined in the deed from the United States; and

WHEREAS, the City has nominated the Sand Point Historic District for designation as a National Register Historic District and has submitted the necessary documentation to the Washington State Historic Preservation Office for consideration; and

WHEREAS, in the designation process, Building 27 was determined to be a contributing historic resource; and

WHEREAS, Arena Sports, with the City's support, wishes to obtain Historic Rehabilitation Tax Credits for the renovation of Building 27, both to assist in financing the renovation and to ensure that the Secretary of the Interior's standards for historic preservation are met; and

WHEREAS, to qualify for an allocation of Historic Rehabilitation Tax Credits, the National Park Service and the Internal Revenue Service, which together make the final determination in allocating Historic Rehabilitation Tax Credits, require an agreement term of at least 39 years and the present Agreement is for a term of 20 years; NOW, THEREFORE,

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

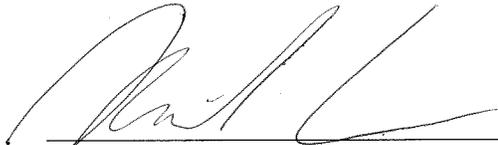
Section 1. The Superintendent of Parks and Recreation is authorized to execute, for and on behalf of the City of Seattle, an amendment to the Concession Agreement with Arena Sports Magnuson Park LLC for the use of Building 27 at Magnuson Park, in substantially the form



1 attached hereto as Attachment 1, or with such minor additions, modifications or deletions as the  
2 National Park Service may require in order to comply with the terms and conditions of the deed  
3 to the property on which Building 27 is located.

4  
5 Section 2. This ordinance shall take effect and be in force thirty (30) days from and after  
6 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days  
7 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

8 Passed by the City Council the 8<sup>th</sup> day of March, 2010, and  
9 signed by me in open session in authentication of its passage this  
10 8<sup>th</sup> day of March, 2010.

11  
12  
13   
14 President \_\_\_\_\_ of the City Council

15 Approved by me this 11<sup>th</sup> day of March, 2010

16  
17   
18 Michael McGinn, Mayor

19  
20 Filed by me this 12<sup>th</sup> day of March, 2010.

21  
22   
23 City Clerk

24 (Seal)

25 Attachment 1: Amendment to Concession Agreement with Arena Sports Magnuson Park LLC  
26  
27  
28



## AMENDMENT TO CONCESSION AGREEMENT

This Amendment to the February 2, 2009, Concession Agreement by and between **THE CITY OF SEATTLE** (“City”) and **ARENA SPORTS MAGNUSON PARK, LLC**, a Washington limited liability company (“Concessionaire”), is effective as of \_\_\_\_\_, 2010 (the “Effective Date”).

### Agreement

In consideration of the mutual promises contained herein, the parties hereby agree to amend the Agreement as follows:

1. Exhibits. Subsection 1.8 of the Agreement is amended to include a new Exhibit F, as indicated below:

1.8 Exhibits. The following exhibits are made a part of this Agreement:

Exhibit A – USA Deed  
Exhibit B – Legal Description  
Exhibit C – Parking Area Depiction  
Exhibit D – Public Benefit Requirements  
Exhibit E – Initial Alterations Plan  
Exhibit F – Floor Plan with Access Towers

2. Term. Section 3 of the Agreement is amended as indicated below:

3.1 Term. This Agreement shall commence on the Effective Date and terminate ~~20~~forty (40) years ~~from~~after the Rent Commencement Date, unless the Agreement is terminated earlier as provided herein. Concessionaire shall have exclusive access to the Premises commencing on the Possession Date in order for Concessionaire to design and construct the Initial Alterations.

~~3.2 Extended Term. If Concessionaire has provided all of the Public Benefits referenced in Section 5 and more particularly described in Exhibit D, and is not otherwise in default under this Agreement, Concessionaire shall have the option to extend this Agreement for two (2) successive terms of five (5) years, each (the “Extended Terms”), on the same terms and conditions set forth herein except that the renewed Agreement shall contain no further renewal options. Concessionaire may extend the Term by giving City written notice of its intention to do so at least one (1) year prior to the beginning of each Extended Term. As used in this Agreement, “Term” means the initial and any Extended Term.~~

3.2 [Reserved].

3.3 City's Right to Terminate for Public Convenience. The City shall have an option exercisable one time for each five (5) year period during the Term of this Agreement, with the first five (5) year period commencing ~~Commencing~~ on the tenth (10th) anniversary of the Rent Commencement Date, the City shall have an option to terminate this Agreement for public convenience if Concessionaire fails to fully renovate and occupy the northwest and southwest access towers located within the Premises and depicted on Exhibit F hereto, in accordance with all applicable building code and historic preservation requirements. The City may exercise its termination option by delivering written notice to Concessionaire specifying the effective termination date which shall in no event be less than two (2) years from the date of said notice. If the City exercises such option ~~it, the City shall pay Concessionaire the amount of Concessionaire's Capital Improvement Rental Offset~~ its eligible capital expenditures for the Premises to the extent not previously offset, and Concessionaire shall no longer be entitled to any Capital Improvement Rental Offset under this Agreement. Thereafter, this Agreement shall continue in effect ~~on a month-until the effective termination date subject to month-basis, terminable~~ earlier termination by Concessionaire upon thirty (30) days' written notice to the City.

3. Capital Improvement Rental Offset. Subsection 4.3 of the Agreement is amended as indicated below:

4.3 Capital Improvement Rental Offset. ~~Throughout~~ Except as provided below with respect to expenditures eligible for Federal rehabilitation tax credits, throughout the Term, Concessionaire shall be entitled to apply as an offset against up to 77% of each monthly Base Rent payment, the actual remaining unamortized costs incurred by Concessionaire and directly related to the design, permitting and construction of the Initial Alterations and any subsequent capital improvements to the Premises approved by the Superintendent pursuant to Section ~~11, below~~ 11, below. These costs may include hard and soft costs such as, but not limited to, labor, materials, architecture and engineering fees, permits, licensing fees, equipment costs or rental fees, construction or project management fees, sales tax, and consultants' fees, but shall not include interest on construction financing. Prior to commencement of construction of the Initial Alterations or subsequent capital improvement to the Premises, Concessionaire shall submit to the Superintendent a budget for the same (the "Construction Budget"). Within thirty (30) days after receipt of the Construction Budget, the Superintendent, in his or her reasonable discretion, shall certify the total amount of construction costs of the Initial Alterations (or subsequent capital improvement to the Premises) that the Superintendent approves as eligible for Concessionaire's Capital Improvement Rental Offset. Not later than six (6) months after Concessionaire receives a certificate of occupancy for the Initial Alterations (and upon final completion of any later Superintendent-approved capital improvement), Concessionaire shall provide the Superintendent with an accounting of its actual costs associated with the capital improvements completed to the Premises, together with such supporting documentation as the Superintendent may reasonably request. The Superintendent, in his or her reasonable discretion, shall certify the final amount of costs

incurred by Concessionaire in connection with such improvements and this amount shall constitute the amount of Concessionaire's Capital Improvement Rental Offset.

Each month throughout the Term, Concessionaire shall report to the Parks Finance Director, or his or her designee, the dollar amount of Capital Improvement Rental Offset it is applying to such Base Rent. If the aggregate amount of capital expenditures subject to the Capital Improvement Rental Offset exceeds the total Base Rent payable under this Agreement during the Term, Concessionaire shall not have any right to recover from the City the balance. Unless the Superintendent agrees otherwise, upon the termination or expiration of this Agreement or any renewal of this Agreement resulting from negotiations outlined in Section 3.2 above, that authorizes further application of the rental offset, any remaining balance shall be deemed to be donated to the City, and the improvements shall be surrendered with the Premises in accordance with Sections 11.4 and 14.

The parties anticipate that Concessionaire will be applying for Federal historic rehabilitation tax credits pursuant to Internal Revenue Code Section 47 ("Rehabilitation Tax Credit") as part of its financing for the Initial Alterations. If Concessionaire receives any Rehabilitation Tax Credit, then the aggregate amount of costs of the Initial Alterations that Tenant may apply against Base Rent pursuant to this Section 4.3 shall be reduced by an amount equal to seventy-five percent (75%) of the net amount of the Rehabilitation Tax Credit less costs incurred by Tenant in connection with its application and processing necessary to obtain the Rehabilitation Tax Credit. For purposes of illustration, if the costs of the Initial Alterations is \$700,000.00, the amount of the Rehabilitation Tax Credit is \$110,000.00 and Tenant incurs costs of \$10,000.00 in connection with its application for the Rehabilitation Tax Credit, Tenant may apply up to \$625,000.00 against Base Rent in accordance with this Section 4.3, calculated as follows: \$700,000.00 – 75% (\$110,000.00 - \$10,000.00).

4. High Capacity Events. Subsection 8.2 of the Agreement is amended, as indicated below:

8.2 High Capacity Events. Magnuson Park has limited capacity to handle multiple events with large numbers of attendees. Therefore, if the Concessionaire reasonably anticipates that more than ~~250~~ 500 people will attend any event on the Premises at the same time, the Concessionaire shall provide the City with no less than thirty (30) days advance written notice. If the City determines that the event would conflict with other high capacity events that have already been scheduled to take place at the same time, the City shall notify the Concessionaire within five (5) business days after receipt of the Concessionaire's notice. Upon receipt of such notice, the Concessionaire must either reschedule the event or reduce the size of the event to less than ~~250~~ 500 attendees.

5. Conflict. In the event of any conflict between the terms of this Amendment and the terms of the Agreement, the provisions of this Amendment shall control.

6. No Other Modification. Except as modified by this Amendment, the Agreement remains in full force and effect.

7. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which shall constitute part of a single Amendment.
8. Facsimile Signatures. Each party hereto, and their respective successors and assigns, shall be authorized to rely upon the signatures of all of the parties hereto on this Amendment that are delivered by facsimile as constituting a duly authorized, irrevocable, actual, current delivery of this Amendment.

IN WITNESS WHEREOF, the parties hereto have affixed or caused to be affixed their respective signatures with the intent to be bound by the terms hereof as of the Effective Date.

City:

THE CITY OF SEATTLE

By its Department of Parks and Recreation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its Superintendent

Concessionaire:

ARENA SPORTS MAGNUSON PARK, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

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



# Exhibit F

## Floor Plan with Access Towers

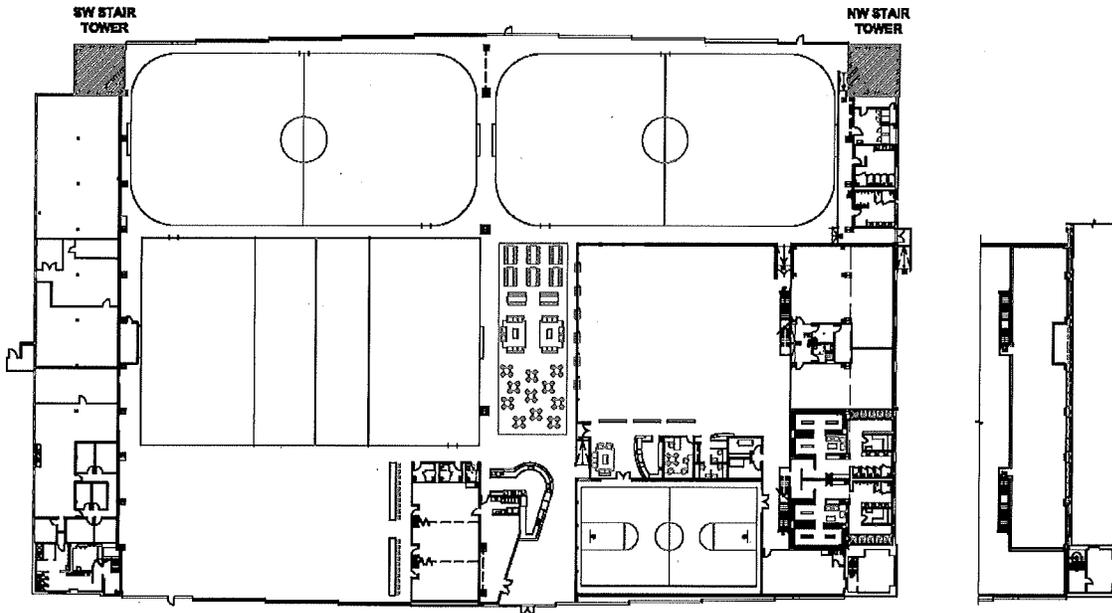


EXHIBIT F 

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Parks and Recreation	Rebecca Salinas/ 684-7279	Jennifer Devore/ 615-1328

**Legislation Title:**

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an amendment to the concession agreement between the City of Seattle and Arena Sports Magnuson Park LLC for the renovation and use of Building 27 at Warren G. Magnuson Park.

• **Summary of the Legislation:**

This legislation authorizes the Superintendent of Parks and Recreation (DPR) to enter into a revised concession agreement with Arena Sports for the renovation of Building 27 at Magnuson Park. The amendment to the lease extends the term from 20 years to 40 years.

• **Background:**

In February 2009, the City and Arena Sports Magnuson Park LLC entered into a concession agreement that allows Arena Sports to renovate and use Building 27 at Magnuson Park for an indoor soccer facility via Ordinance 122813. Since the agreement was signed, the City nominated the Sand Point Historic District, which includes Building 27, for designation as a National Register Historic District. Designation as a National Register Historic District qualifies the buildings within the District for Historic Rehabilitation Tax Credits. In addition to being within the Historic District, a qualifying project must have a lease with a term greater than thirty-nine years. The current agreement between Arena Sports and the City has a 20-year term, plus two five-year option periods. The amendment to the agreement proposed with this legislation extends the term to 40 years to meet the federal tax credit requirement.

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

  X   **This legislation has financial implications.**

*Appropriations: N/A*

Fund Name and Number	Department	Budget Control Level*	2009 Appropriation	2010 Anticipated Appropriation
<b>TOTAL</b>	N/A	N/A	N/A	N/A

*Notes:*



**Anticipated Revenue/Reimbursement: Resulting From This Legislation:**

Fund Name and Number	Department	Revenue Source	2009 Revenue	2010 Revenue
				\$6375
<b>TOTAL</b>				<b>\$6375</b>

*Notes:* Revenue from Arena Sports will begin when a Certificate of Occupancy is received which is expected sometime in fall 2010. Base rent is \$255,000 per annum. They will be allowed to offset up to 77% of the base rent for eligible capital development expenditures. Minimum revenue will be \$25,500 per year. The fall starting point for revenue is an estimate and not reflected in the 2010 Adopted Budget. Because of the tax credits, the City will begin getting full rent earlier than without the tax credits, which will generate \$1.3M, in additional revenue for the City over the life of the lease.

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

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2009 Positions	2009 FTE	2010 Positions*	2010 FTE*
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

*Notes:*

- **Do positions sunset in the future?** N/A

**Spending/Cash Flow:** N/A

Fund Name & #	Department	Budget Control Level*	2009 Expenditures	2010 Anticipated Expenditures
<b>TOTAL</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>	<b>N/A</b>

*Notes:*

- **What is the financial cost of not implementing the legislation?**  
 If this legislation is not implemented, Arena Sports Magnuson LLC will not be eligible for federal tax credits that could provide a significant source of savings for the renovation of Building 27. It is possible that without the federal tax credits the project will be unable to proceed.
- **Does this legislation affect any departments besides the originating department?** No.



- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** There is no alternative to amending the term of the contract that would enable Arena Sports to qualify for the federal tax credit.
- **Is the legislation subject to public hearing requirements:** No
- **Other Issues:** If a federal tax credit is received, Arena Sports will use up the capital offsets faster than anticipated resulting in the City collecting the full rent at an earlier date.

**Please list attachments to the fiscal note below:**

Attachment A: Contract Summary

Attachment B: Arena Sports ProForma – Updated to include Tax Credits

Attachment C: Magnuson Park Map



Seattle Department of Parks and Recreation  
Attachment A

CONTRACT SUMMARY

**Contracting Party/ Lessee/ Concessionaire/Other:** Arena Sports Magnuson LLC

**Contract Title and Contract Type:** Magnuson Park Building 27 Amendment to the February 2, 2009 Concession Agreement

**Non-Profit** \_\_\_\_\_ or **For Profit** X \_\_\_\_\_

**New** \_\_\_ or **Renewal (or extension of existing Lease)** X-by Amendment

**Premises:** Building 27 at Warren G. Magnuson Park.

**Term of Initial Lease:** 20 years from receipt of a Certificate of Occupancy from the Department of Planning and Development

**Term of Amendment:** 40 years from receipt of a Certificate of Occupancy from the Department of Planning and Development

**Purpose of Lease (description of license):** Lessee shall renovate building 27. Lessee shall use the Premises for an indoor participant sports facility including, but not limited to, programs in soccer, basketball and volleyball and a health and fitness facility; and such incidental purposes as storage, offices, limited food and beverage service, locker rooms, and meeting rooms (collectively, the "Permitted Use").

**Purpose of Amendment:** Lessee plans to apply for Federal rehabilitation tax credits which will require a 40-year lease.

**Rent:** \$21,250 monthly (\$255,000 annually) plus 10% of Lessee's gross receipts from short-term rentals of the Premises to third parties for corporate conferences, meetings, promotions and similar events ("Commercial Events").

**Adjustments to Rent (if any):** A possible reduction of up to 77% of the rent, based on capital improvement off-sets allowed in the lease agreement.

**Public Benefit (e.g., description of permitted use):** Preservation of a contributing building in the Sand Point Historic District; public programs, including soccer, basketball and volleyball and a health and fitness facility; and other purposes such as limited food and beverage service, locker rooms, and meeting rooms.

**Maintenance:** Lessee shall be responsible for all minor and major maintenance of the Premises during the term of this lease including but not limited to repairs of cracked or broken glass, regular exterior painting and masonry maintenance, roof repairs and replacement, and HVAC repair and replacement.

**Other Pertinent Information:** The Lease is contingent upon a list of other actions being accomplished as outlined in Section 6 of the lease. These include zoning code amendments, resolution of shoreline zoning issues, a new entrance, and approval of a sign plan.



# Arena Sports - Building #27 Redevelopment Proposal ProForma

Facility:	85,000 sq. ft.	Base Rent \$ 3.00 per sq. ft.
CPI adjustment	3.0% annual CPI	Base Rent Escalation 3.0% annual CPI
Minimum Rent per month	4,888	Maximum Capital rental offset 77%
Estimated Additional Gross Revenue	25,500	annual revenue from non-parks, non-recreation activities
Percentage of Gross	10.0%	applied to commercial events only
<b>Total Capital Contribution</b>	<b>4,760,000</b>	<b>REVISED BASE AFTER TAX CREDITS</b>

	REVISIED - 40 Year Term	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6
Eligible Gross Revenue	1,922,732	25,500	26,265	27,053	27,865	28,700	29,561
<b>REVENUES</b>							
Base Rent	26,418,480	255,000	262,650	270,530	278,645	287,005	295,615
Percentage Rent	192,273	2,550	2,627	2,705	2,786	2,870	2,956
Rent offset - Actual	(3,665,200)	(196,350)	(202,241)	(208,308)	(214,557)	(220,994)	(227,623)
Public Program Offset	0						
<b>NET Rent</b>	<b>22,945,553</b>	<b>61,200</b>	<b>63,036</b>	<b>64,927</b>	<b>66,875</b>	<b>68,881</b>	<b>70,948</b>
	646,800	<i>Benefit to City - (Net Change - w/ Tax Credits):</i>					
	473,200	<i>Benefit to Arena Sports - (Tax Credit Amount LESS Add'l Rent):</i>					
City Administration	1,131,019	15,000	15,450	15,914	16,391	16,883	17,389
<b>NET TO CITY</b>	<b>21,814,535</b>	<b>46,200</b>	<b>47,586</b>	<b>49,014</b>	<b>50,484</b>	<b>51,999</b>	<b>53,558</b>

Interest/discount rate	7.5%
<b>NET PRESENT VALUE</b>	
Base Rent	5,558,753
Percentage Rent	46,422
Rent offset	(2,079,005)
Public Program Offset	0
NET Rent	3,526,171
City Administration	273,073
<b>NET TO CITY</b>	<b>3,253,097</b>

5,600,000	initial base amount
1,120,000	tax credits @ 20%
75%	SHARE TO CITY
840,000	REDUCTION FROM BASE
822,760	Net NPV Benefit to City - Increased Term:
204,346	Net NPV Benefit to City - Due to Tax Credits:

**Arena Sports - Building #27 Redevelopment Proposal ProForma**

	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13
Eligible Gross Revenue	30,448	31,362	32,303	33,272	34,270	35,298	36,357
<b>REVENUES</b>							
Base Rent	304,483	313,618	323,026	332,717	382,625	394,103	405,927
Percentage Rent	3,045	3,136	3,230	3,327	3,427	3,530	3,636
Rent offset - Actual	(234,452)	(241,486)	(248,730)	(256,192)	(294,621)	(303,460)	(312,563)
Public Program Offset							
<b>NET Rent</b>	<b>73,076</b>	<b>75,268</b>	<b>77,526</b>	<b>79,852</b>	<b>91,431</b>	<b>94,174</b>	<b>96,999</b>
City Administration	17,911	18,448	19,002	19,572	20,159	20,764	21,386
<b>NET TO CITY</b>	<b>55,165</b>	<b>56,820</b>	<b>58,525</b>	<b>60,281</b>	<b>71,272</b>	<b>73,410</b>	<b>75,612</b>

	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
Eligible Gross Revenue	37,448	38,571	39,728	40,920	42,148	43,412	44,714
<b>REVENUES</b>							
Base Rent	418,104	430,648	495,245	510,102	525,405	541,167	557,402
Percentage Rent	3,745	3,857	3,973	4,092	4,215	4,341	4,471
Rent offset - Calculation		1.15					1.15
Rent offset - Actual	(321,940)	(181,683)	0	0	0	0	0
Public Program Offset							
<b>NET Rent</b>	<b>99,909</b>	<b>252,822</b>	<b>499,217</b>	<b>514,194</b>	<b>529,620</b>	<b>545,508</b>	<b>561,874</b>
City Administration	22,028	22,689	23,370	24,071	24,793	25,536	26,303
<b>NET TO CITY</b>	<b>77,881</b>	<b>230,133</b>	<b>475,848</b>	<b>490,123</b>	<b>504,827</b>	<b>519,972</b>	<b>535,571</b>

**Arena Sports - Building #27 Redevelopment Proposal ProForma**

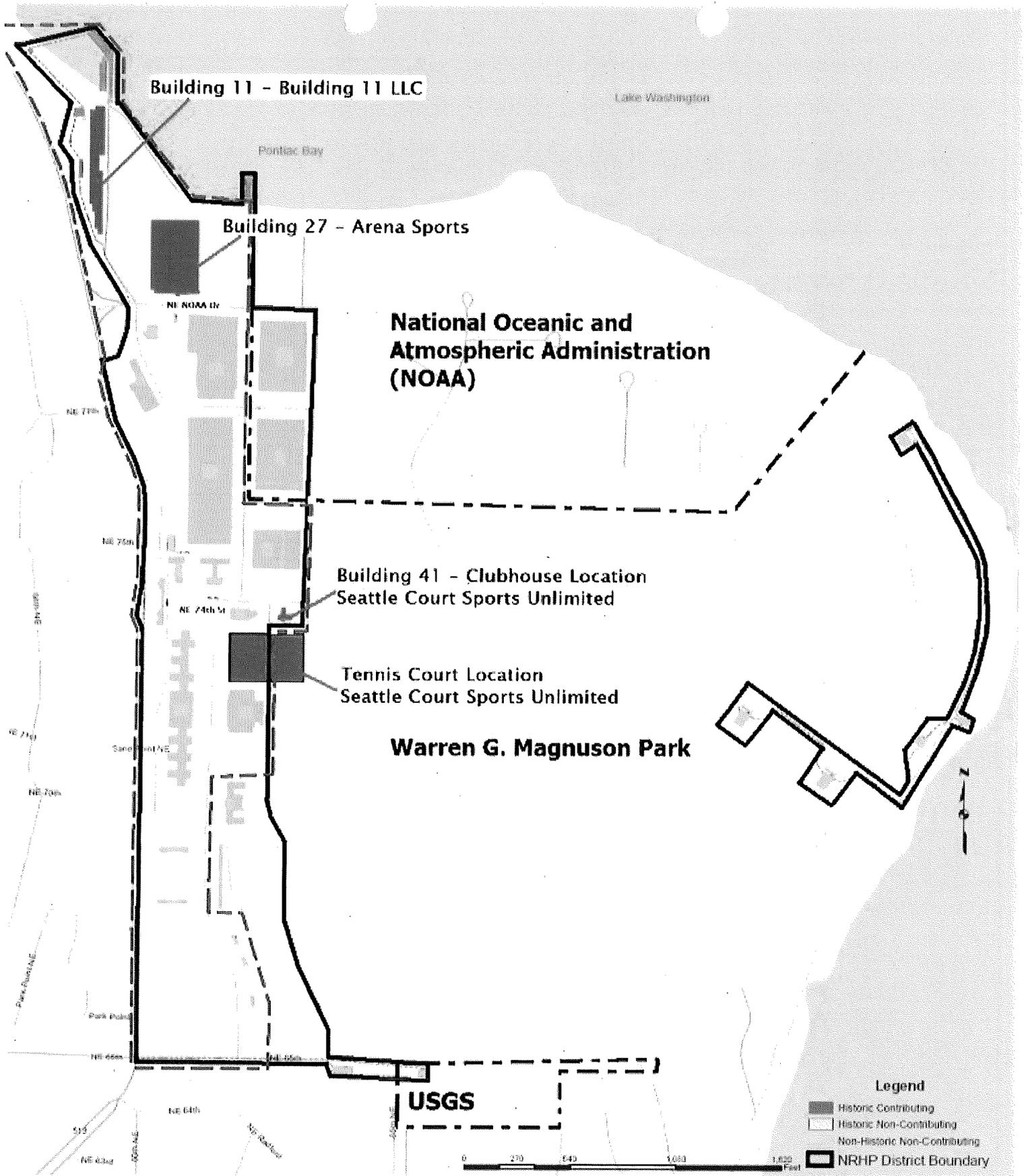
	Year 21	Year 22	Year 23	Year 24	Year 25	Year 26	Year 27
Eligible Gross Revenue	46,056	47,438	48,861	50,326	51,836	53,391	54,993
<b>REVENUES</b>					1.15		
Base Rent	641,013	660,243	680,050	700,452	721,465	829,685	854,576
Percentage Rent	4,606	4,744	4,886	5,033	5,184	5,339	5,499
Rent offset - Calculation							
Rent offset - Actual	0	0	0	0	0	0	0
Public Program Offset							
<b>NET Rent</b>	<b>645,618</b>	<b>664,987</b>	<b>684,936</b>	<b>705,484</b>	<b>726,649</b>	<b>835,024</b>	<b>860,075</b>
City Administration	27,092	27,904	28,742	29,604	30,492	31,407	32,349
<b>NET TO CITY</b>	<b>618,526</b>	<b>637,082</b>	<b>656,195</b>	<b>675,881</b>	<b>696,157</b>	<b>803,618</b>	<b>827,726</b>

	Year 28	Year 29	Year 30	Year 31	Year 32	Year 33	Year 34
Eligible Gross Revenue	56,643	58,342	60,092	61,895	63,752	65,665	67,635
<b>REVENUES</b>							
Base Rent	880,213	906,619	933,818	961,832	990,687	1,020,408	1,051,020
Percentage Rent	5,664	5,834	6,009	6,190	6,375	6,566	6,763
Rent offset - Calculation							
Rent offset - Actual	0	0	0	0	0	0	0
Public Program Offset							
<b>NET Rent</b>	<b>885,877</b>	<b>912,453</b>	<b>939,827</b>	<b>968,022</b>	<b>997,063</b>	<b>1,026,974</b>	<b>1,057,784</b>
City Administration	33,319	34,319	35,348	36,409	37,501	38,626	39,785
<b>NET TO CITY</b>	<b>852,558</b>	<b>878,135</b>	<b>904,479</b>	<b>931,613</b>	<b>959,561</b>	<b>988,348</b>	<b>1,017,999</b>



Arena Sports - Building #27 Redevelopment Proposal ProForma

	Year 35	Year 36	Year 37	Year 38	Year 39	Year 40
Eligible Gross Revenue	69,664	71,753	73,906	76,123	78,407	80,759
<b>REVENUES</b>						
Base Rent	1,082,551	1,115,027	1,148,478	1,182,932	1,218,420	1,254,973
Percentage Rent	6,966	7,175	7,391	7,612	7,841	8,076
Rent offset - Calculation						
Rent offset - Actual	0	0	0	0	0	0
Public Program Offset						
<b>NET Rent</b>	<b>1,089,517</b>	<b>1,122,203</b>	<b>1,155,869</b>	<b>1,190,545</b>	<b>1,226,261</b>	<b>1,263,049</b>
City Administration	40,979	42,208	43,474	44,778	46,122	47,505
<b>NET TO CITY</b>	<b>1,048,539</b>	<b>1,079,995</b>	<b>1,112,395</b>	<b>1,145,766</b>	<b>1,180,139</b>	<b>1,215,544</b>



# Sand Point Peninsula Map

National Register of Historic Places Boundary ———

Sand Point Historic District Boundary - - - - -





# City of Seattle

Michael Patrick McGinn, Mayor

## Office of the Mayor

January 19, 2010

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 extends the lease term for the concession agreement between the City and Arena Sports for the use of Building 27 at Magnuson Park. Extension of the lease term from twenty years to forty years enables Arena Sports to qualify for Historic Rehabilitation Tax Credits that will help with the financing of the Building 27 renovation and will ensure that historic preservation standards are met.

In February 2009 Arena Sports signed a concession agreement with the City allowing for the renovation and use of Building 27 for an indoor sports facility (authorized by Ordinance 122813). The current twenty-year agreement includes provisions for public benefits including free programs for youth at risk and developmentally disabled youth and space for community events. Since the agreement was signed, the City nominated the Sand Point Historic District, which includes Building 27, for designation as a National Register Historic District. The designation requires adherence to historic preservation standards and makes the renovation project eligible for Historic Rehabilitation Tax Credits. As the tax credits can only be applied to projects with lease terms of more than thirty-nine years, the proposed Council Bill authorizes an extension of the Concession Agreement term to forty years.

Extending the term of the Arena Sports Concession agreement achieves the dual purpose of ensuring adherence to historic preservation standards and contributing to the financing of the renovation project. Thank you for your consideration of this legislation. Should you have questions, please contact Rebecca Salinas at 684-7279.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael McGinn".

Michael McGinn  
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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## AMENDMENT TO CONCESSION AGREEMENT

This Amendment to the February 2, 2009, Concession Agreement by and between **THE CITY OF SEATTLE** ("City") and **ARENA SPORTS MAGNUSON PARK, LLC**, a Washington limited liability company ("**Concessionaire**"), is effective as of \_\_\_\_\_, 2010 (the "**Effective Date**").

### Agreement

In consideration of the mutual promises contained herein, the parties hereby agree to amend the Agreement as follows:

1. Exhibits. Subsection 1.8 of the Agreement is amended to include a new Exhibit F, as indicated below:

1.8 Exhibits. The following exhibits are made a part of this Agreement:

Exhibit A – USA Deed  
Exhibit B – Legal Description  
Exhibit C – Parking Area Depiction  
Exhibit D – Public Benefit Requirements  
Exhibit E – Initial Alterations Plan  
Exhibit F – Floor Plan with Access Towers

2. Term. Section 3 of the Agreement is amended as indicated below:

3.1 Term. This Agreement shall commence on the Effective Date and terminate ~~20~~forty (40) years ~~from~~after the Rent Commencement Date, unless the Agreement is terminated earlier as provided herein. Concessionaire shall have exclusive access to the Premises commencing on the Possession Date in order for Concessionaire to design and construct the Initial Alterations.

~~3.2 Extended Term. If Concessionaire has provided all of the Public Benefits referenced in Section 5 and more particularly described in Exhibit D, and is not otherwise in default under this Agreement, Concessionaire shall have the option to extend this Agreement for two (2) successive terms of five (5) years, each (the "Extended Terms"), on the same terms and conditions set forth herein except that the renewed Agreement shall contain no further renewal options. Concessionaire may extend the Term by giving City written notice of its intention to do so at least one (1) year prior to the beginning of each Extended Term. As used in this Agreement, "Term" means the initial and any Extended Term.~~

3.2 [Reserved].



3.3 City's Right to Terminate for Public Convenience. ~~The City shall have an option exercisable one time for each five (5) year period during the Term of this Agreement, with the first five (5) year period commencing~~ Commencing on the tenth (10th) anniversary of the Rent Commencement Date, the City shall have an option to terminate this Agreement for public convenience, if Concessionaire fails to fully renovate and occupy the northwest and southwest access towers located within the Premises and depicted on Exhibit F hereto, in accordance with all applicable building code and historic preservation requirements. The City may exercise its termination option by delivering written notice to Concessionaire specifying the effective termination date which shall in no event be less than two (2) years from the date of said notice. If the City exercises such option ~~it, the City shall pay Concessionaire the amount of Concessionaire's Capital Improvement Rental Offset~~ its eligible capital expenditures for the Premises to the extent not previously offset, and Concessionaire shall no longer be entitled to any Capital Improvement Rental Offset under this Agreement. Thereafter, this Agreement shall continue in effect ~~on a month- until the effective termination date subject to month-basis, terminable~~ earlier termination by Concessionaire upon thirty (30) days' written notice to the City.

3. Capital Improvement Rental Offset. Subsection 4.3 of the Agreement is amended as indicated below:

4.3 Capital Improvement Rental Offset. ~~Throughout~~ Except as provided below with respect to expenditures eligible for Federal rehabilitation tax credits, throughout the Term, Concessionaire shall be entitled to apply as an offset against up to 77% of each monthly Base Rent payment, the actual remaining unamortized costs incurred by Concessionaire and directly related to the design, permitting and construction of the Initial Alterations and any subsequent capital improvements to the Premises approved by the Superintendent pursuant to Section 11, below. ~~11, below.~~ These costs may include hard and soft costs such as, but not limited to, labor, materials, architecture and engineering fees, permits, licensing fees, equipment costs or rental fees, construction or project management fees, sales tax, and consultants' fees, but shall not include interest on construction financing. Prior to commencement of construction of the Initial Alterations or subsequent capital improvement to the Premises, Concessionaire shall submit to the Superintendent a budget for the same (the "Construction Budget"). Within thirty (30) days after receipt of the Construction Budget, the Superintendent, in his or her reasonable discretion, shall certify the total amount of construction costs of the Initial Alterations (or subsequent capital improvement to the Premises) that the Superintendent approves as eligible for Concessionaire's Capital Improvement Rental Offset. Not later than six (6) months after Concessionaire receives a certificate of occupancy for the Initial Alterations (and upon final completion of any later Superintendent-approved capital improvement), Concessionaire shall provide the Superintendent with an accounting of its actual costs associated with the capital improvements completed to the Premises, together with such supporting documentation as the Superintendent may reasonably request. The Superintendent, in his or her reasonable discretion, shall certify the final amount of costs



incurred by Concessionaire in connection with such improvements and this amount shall constitute the amount of Concessionaire's Capital Improvement Rental Offset.

Each month throughout the Term, Concessionaire shall report to the Parks Finance Director, or his or her designee, the dollar amount of Capital Improvement Rental Offset it is applying to such Base Rent. If the aggregate amount of capital expenditures subject to the Capital Improvement Rental Offset exceeds the total Base Rent payable under this Agreement during the Term, Concessionaire shall not have any right to recover from the City the balance. Unless the Superintendent agrees otherwise, upon the termination or expiration of this Agreement or any renewal of this Agreement resulting from negotiations outlined in Section 3.2 above, that authorizes further application of the rental offset, any remaining balance shall be deemed to be donated to the City, and the improvements shall be surrendered with the Premises in accordance with Sections 11.4 and 14.

The parties anticipate that Concessionaire will be applying for Federal historic rehabilitation tax credits pursuant to Internal Revenue Code Section 47 ("Rehabilitation Tax Credit") as part of its financing for the Initial Alterations. If Concessionaire receives any Rehabilitation Tax Credit, then the aggregate amount of costs of the Initial Alterations that Tenant may apply against Base Rent pursuant to this Section 4.3 shall be reduced by an amount equal to seventy-five percent (75%) of the net amount of the Rehabilitation Tax Credit less costs incurred by Tenant in connection with its application and processing necessary to obtain the Rehabilitation Tax Credit. For purposes of illustration, if the costs of the Initial Alterations is \$700,000.00, the amount of the Rehabilitation Tax Credit is \$110,000.00 and Tenant incurs costs of \$10,000.00 in connection with its application for the Rehabilitation Tax Credit, Tenant may apply up to \$625,000.00 against Base Rent in accordance with this Section 4.3, calculated as follows: \$700,000.00 - 75% (\$110,000.00 - \$10,000.00).

4. High Capacity Events. Subsection 8.2 of the Agreement is amended, as indicated below:

~~8.2 — High Capacity Events. Magnuson Park has limited capacity to handle multiple events with large numbers of attendees. Therefore, if the Concessionaire reasonably anticipates that more than 250 people will attend any event on the Premises at the same time, the Concessionaire shall provide the City with no less than thirty (30) days advance written notice. If the City determines that the event would conflict with other high capacity events that have already been scheduled to take place at the same time, the City shall notify the Concessionaire within five (5) business days after receipt of the Concessionaire's notice. Upon receipt of such notice, the Concessionaire must either reschedule the event or reduce the size of the event to less than 250 attendees.~~

8.2 [Reserved].

5. Conflict. In the event of any conflict between the terms of this Amendment and the terms of the Agreement, the provisions of this Amendment shall control.



6. No Other Modification. Except as modified by this Amendment, the Agreement remains in full force and effect.
7. Counterparts. This Amendment may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which shall constitute part of a single Amendment.
8. Facsimile Signatures. Each party hereto, and their respective successors and assigns, shall be authorized to rely upon the signatures of all of the parties hereto on this Amendment that are delivered by facsimile as constituting a duly authorized, irrevocable, actual, current delivery of this Amendment.

IN WITNESS WHEREOF, the parties hereto have affixed or caused to be affixed their respective signatures with the intent to be bound by the terms hereof as of the Effective Date.

City:

THE CITY OF SEATTLE

By its Department of Parks and Recreation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its Superintendent

Concessionaire:

ARENA SPORTS MAGNUSON PARK, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_\_\_, 2010, before me personally appeared \_\_\_\_\_, to me known to be the Superintendent of The City of Seattle, Department of Parks and Recreation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument on behalf of said party.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Signature  
Notary Public in and for the State of Washington,  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_ day of \_\_\_\_\_, 2010, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of Arena Sports Magnuson Park, LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument on behalf of said limited liability company.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Notary Signature  
Notary Public in and for the State of Washington,  
residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_



**Exhibit F**

**Floor Plan with Access Towers**

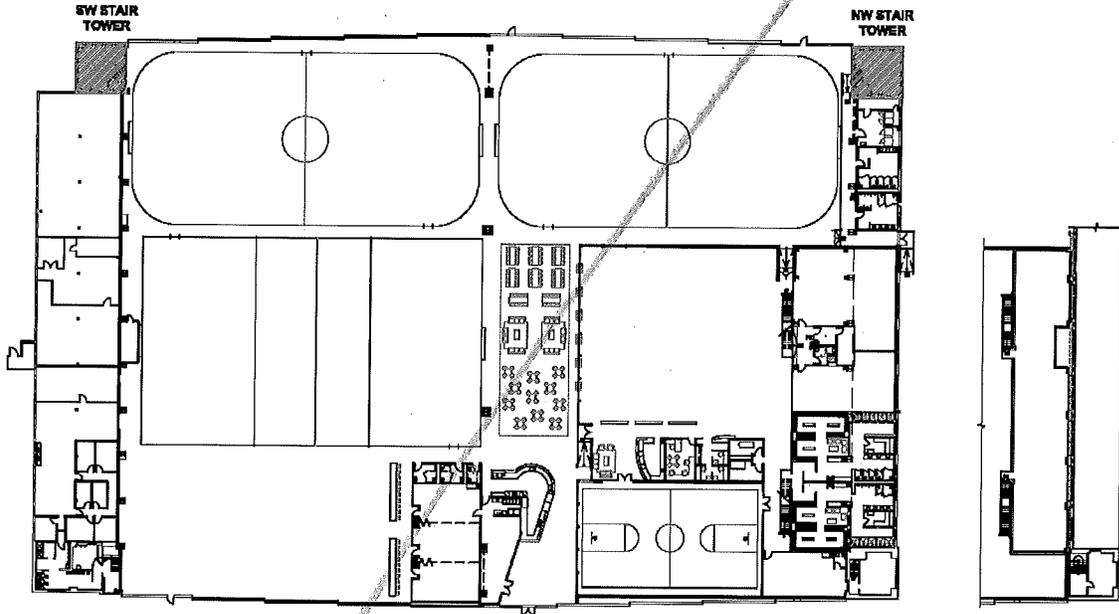


EXHIBIT F 



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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252210  
CITY OF SEATTLE, CLERKS OFFICE

No. 123248, 123249, 123250

**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.

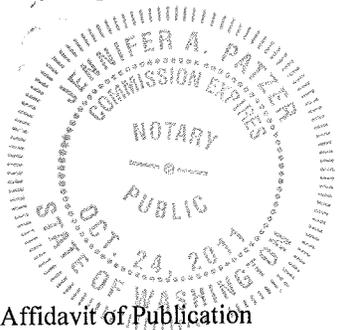
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT: TITLE ONLY ORDINANCE

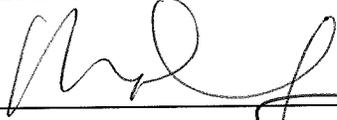
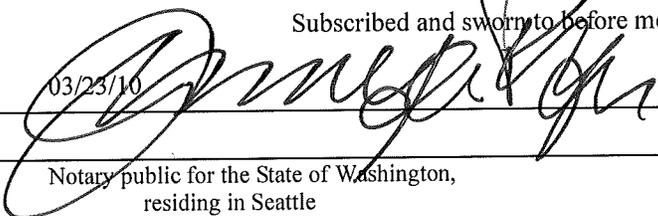
was published on

03/22/10

The amount of the fee charged for the foregoing publication is the sum of \$ 54.60, which amount has been paid in full.



Affidavit of Publication

  
\_\_\_\_\_  
Subscribed and sworn to before me on  
03/23/10   
\_\_\_\_\_  
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 8, 2010, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.ci.seattle.wa.us>. For further information, contact the Seattle City Clerk at 684-8344.

#### ORDINANCE NO. 123248

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of a conservation easement on property located in the Maple Leaf neighborhood and commonly known as Waldo Woods; authorizing acceptance of the deed of conservation easement for open space purposes; increasing appropriations to the Department of Parks and Recreation in the 2010 Budget; all by a three-fourths vote of the City Council.

#### ORDINANCE NO. 123249

AN ORDINANCE authorizing the Superintendent of Parks and Recreation to execute an amendment to the concession agreement between the City of Seattle and Arena Sports Magnuson Park LLC for the renovation and use of Building 27 at Warren G. Magnuson Park.

#### ORDINANCE NO. 123250

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

#### RESOLUTION NO. 31190

A RESOLUTION urging the U.S. Department of Defense to select The Boeing Company to build the next mid-air refueling tanker.

Date of publication in the Seattle Daily Journal of Commerce, March 22, 2010.

3/22(252210)