

Ordinance No. 124115

Council Bill No. 117709

AN ORDINANCE related to a settlement agreement between the City of Seattle and Building 11 Investors, LLC; authorizing the Superintendent of Parks and Recreation to implement the terms of the settlement agreement; increasing appropriations in connection thereto; making a cash transfer between various city funds; and ratifying and confirming certain prior acts, all by a 3/4 vote of the City Council.

# The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Boagshaw  
Councilmember

## Committee Action:

2.21.13 Pass 3-0 JG, SB, TR

2/25/13 Full Council 8-0 (excused: Rasmussen) Passed

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

|  |   |   |
|--|---|---|
| Date Introduced: <u>2-11-13</u>                |   |   |
| Date 1st Referred:                             | To: (committee)<br><u>Parks + Neighborhoods</u> |   |
| Date Re - Referred:                            | To: (committee)                                 |   |
| Date Re - Referred:                            | To: (committee)                                 |   |
| Date of Final Passage:<br><u>2/25/13</u>       | Full Council Vote:<br><u>8-0</u>                |   |
| Date Presented to Mayor:<br><u>2/25/13</u>     | Date Approved:<br><u>2.26.13</u>                |   |
| Date Returned to City Clerk:<br><u>2.26.13</u> | Date Published:                                 | T.O. <input checked="" type="checkbox"/><br>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 Dept. Review

OMP Review

City Clerk Review

Electronic Copy Loaded

Indexed

**CITY OF SEATTLE**  
**ORDINANCE** 124115  
**COUNCIL BILL** 117709

AN ORDINANCE related to a settlement agreement between the City of Seattle and Building 11 Investors, LLC; authorizing the Superintendent of Parks and Recreation to implement the terms of the settlement agreement; increasing appropriations in connection thereto; making a cash transfer between various city funds; and ratifying and confirming certain prior acts, all by a 3/4 vote of the City Council.

WHEREAS, on or about February 24, 2009, pursuant to Ordinance No. 122814, the City of Seattle ("City") and Building 11 Investors LLC ("LLC") entered into a Lease for the renovation, development and operation of Building 11 at Magnuson Park; and

WHEREAS, certain disagreements arose between the City and the LLC concerning the Lease that resulted in litigation between them; and

WHEREAS, the City and the LLC have agreed to settle that litigation in a manner that will, among other things, terminate the leasehold interest of the LLC; compensate the LLC for past work on the project, including capital improvements, professional services, and permits; compensate the LLC for future construction work required for code compliance and subsequent planned operation of Building 11 by Parks and Recreation; and resolve all differences between the LLC and the City relating to Building 11; NOW, THEREFORE

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

Section: 1. In order to pay for necessary costs and expenses incurred or to be incurred in 2013 for the purpose of settlement of litigation between Building 11 Investors, LLC and the City (the "Settlement"), but for which insufficient appropriations were made due to causes that could not reasonably have been foreseen at the making of the 2013 budget, appropriations for the following items in the 2013 budget are increased from the funds shown, as follows:

| Item | Fund                      | Department                               | Budget Control Level                    | Amount      |
|------|---------------------------|--|---|-------------|
| 1.1  | Parks and Recreation Fund | Department of Parks and Recreation (DPR) | Policy Direction and Leadership (K390B) | \$7,250,000 |

| Item  | Fund    | Department | Budget Control Level | Amount      |
|-------|---------|------------|----------------------|-------------|
|       | (10200) |            |                      |             |
| Total |         |            |                      | \$7,250,000 |

Section 2. To support the appropriation for item 1.1, cash is hereby transferred as shown in the following table:

| Item  | Fund                              | Amount        | Transferred (In / Out) |
|-------|-----------------------------------|---------------|------------------------|
| 2.1   | Parks and Recreation Fund (10200) | \$5,850,000   | Transferred In         |
|       | Emergency Subfund (00185)         | (\$5,850,000) | Transferred Out        |
| Total |                                   | \$0           |                        |

Section 3. The Superintendent of Parks and Recreation is authorized to implement the Settlement terms negotiated and determined by the City Attorney to be in the best interest of the City, including terminating the Lease between the City and the LLC upon completion of the remaining construction work to be performed by the LLC.

Section 4. Any act consistent with the authority taken after passage but prior to the effective date of this ordinance is ratified and confirmed.

Section 5. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Passed by the City Council the 25<sup>th</sup> day of February, 2013, and  
signed by me in open session in authentication of its passage this  
25<sup>th</sup> day of February, 2013.

  
President \_\_\_\_\_ of the City Council

Approved by me this 26<sup>th</sup> day of February, 2013.

  
Michael McGinn, Mayor

Filed by me this 26 day of February, 2013.

  
Monica Martinez Simmons, City Clerk

(Seal)

**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

| <b>Department:</b>                 | <b>Contact Person/Phone:</b> | <b>CBO Analyst/Phone:</b> |
|------------------------------------|------------------------------|---------------------------|
| Department of Parks and Recreation | Eric Friedli/4-8369          | Jeff Muhm/4-8049          |

**Legislation Title:** AN ORDINANCE related to a settlement agreement between the City of Seattle and Building 11 Investors, LLC; authorizing the Superintendent of Parks and Recreation to implement the terms of the settlement agreement; and increasing appropriations in connection thereto; all by a 3/4 vote of the City Council.

**Summary of the Legislation:**

This legislation authorizes the Superintendent of Department of Parks and Recreation (Superintendent) to expend funds necessary to pay for costs associated with implementation of a settlement agreement between the City and the LLC, under which the City has agreed to settle litigation by buying out the LLC's leasehold interest in Building 11 at Magnuson Park, and compensating the LCC for past and future construction work on the building. This legislation also authorizes the Superintendent to undertake steps necessary to implement the terms of the settlement, including terminating the existing lease between the City and the LLC.

**Background:**

In September of 2008, the City Council passed Council Bill No. 116313 and Ordinance No. 122814 authorizing the Superintendent of Parks and Recreation to enter into a 30-year lease agreement with the LLC. The lease was signed in February 2009. Disagreements arose between the City and the LLC concerning the lease, which led to litigation. The City and the LLC have since agreed to settle the litigation in a manner that will, among other things, terminate the leasehold interest of the LLC; compensate the LLC for past work on the project, including capital improvements, professional services, and permits; compensate the LLC for future construction work required for code compliance and subsequent planned operation of Building 11 by Parks and Recreation; and resolve all differences between the LLC and the City relating to Building 11.

Please check one of the following:

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

**This legislation has financial implications.**

**Appropriations:**

| Fund Name and Number | Department | Budget Control Level*                   | 2013 Appropriation | 2014 Anticipated Appropriation |
|----------------------|------------|---|--------------------|--------------------------------|
| Parks Fund (10200)   | Parks      | Policy Direction and Leadership (K2553) | \$7,250,000        | 0                              |
| <b>TOTAL</b>         |            |   | <b>\$7,250,000</b> | <b>\$0</b>                     |

\*See budget book to obtain the appropriate Budget Control Level for your department.

Appropriations Notes:

Parks will use \$5.85 million from the Emergency Subfund and \$1.4 million of Parks Fund balance to pay the LLC the full settlement cost of \$7.25 million.

The 2014 Proposed Budget will include a proposal to repay the Emergency Subfund.

**Anticipated Revenue/Reimbursement Resulting from this Legislation: N/A**

| Fund Name and Number | Department   | Revenue Source        | 2013 Revenue | 2014 Revenue     |
|----------------------|--------------|-----------------------|--------------|------------------|
| <b>TOTAL</b>         | <b>Parks</b> | <b>Rental Revenue</b> | <b>\$0</b>   | <b>\$585,835</b> |

Revenue/Reimbursement Notes:

Please see the note included under "Spending/Cash Flow Notes."

**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 | 2013 Positions | 2013 FTE | 2014 Positions* | 2014 FTE* |
|-------------------------------|-----------------------------------|---------------|-------|----------------|----------|-----------------|-----------|
|                               |                                   |               |       |                |          |                 |           |
|                               |                                   |               |       |                |          |                 |           |
| <b>TOTAL</b>                  |                                   |               |       |                |          |                 |           |

\* 2014 positions and FTE are total 2014 position changes resulting from this legislation, not incremental changes. Therefore, under 2014, please be sure to include any continuing positions from 2013.

Position Notes:

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

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

| Fund Name & #      | Department   | Budget Control Level*                   | 2013 Expenditures | 2014 Anticipated Expenditures |
|--------------------|--------------|---|-------------------|-------------------------------|
| Parks Fund (10200) | Parks        | Policy Direction and Leadership (K2553) | 0                 | \$194,652                     |
| <b>TOTAL</b>       | <b>Parks</b> |   | <b>0</b>          | <b>\$194,652</b>              |

\* See budget book to obtain the appropriate Budget Control Level for your department.

Spending/Cash Flow Notes:

It is estimated that Parks will receive \$585,835 in rental revenue annually and incur \$194,652 annually in maintenance and operations costs (based on Parks' experience at Magnuson Park's Building 30). The annual net revenue to Parks is estimated to be \$391,273. This revenue will be used to repay the settlement costs of \$5.85 million over 15 years. The \$585,835 in rental revenue is based on an assumption that the building will rent at \$12 per square foot.

**Other Implications:**

- a) Does the legislation have indirect financial implications, or long-term implications?**

Parks will use rental revenue from Building 11 to repay the settlement costs over an estimated 15 year period.

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

If the legislation (and thus the settlement) is not implemented, it could lead to additional litigation.

- c) Does this legislation affect any departments besides the originating department?**

No.

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

There are no alternative ways to fulfill the City's obligations in the settlement.

- e) Is a public hearing required for this legislation?**

No.

- f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle***

***Times required for this legislation?***

No.

**g) Does this legislation affect a piece of property?**

The settlement agreement returns Building 11 at Magnuson Park to Parks' control.

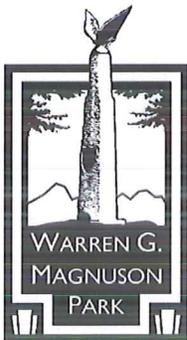
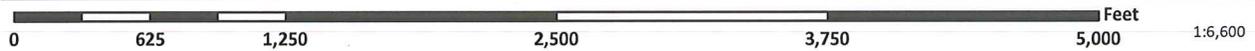
**h) Other Issues:**

**List attachments to the fiscal note below:**

**Attachment A: Map showing Building 11 at Magnuson Park**

# Warren G. Magnuson Park

7400 Sand Point Way NE



### Legend

|  |                               |  |                           |
|--|-------------------------------|--|---------------------------|
|  | Parking Lot                   |  | Open Space                |
|  | Restroom                      |  | Baseball Infield          |
|  | Sanican                       |  | Turf Ballfield            |
|  | Picnic Shelter                |  | Artificial Turf Ballfield |
|  | Environmental Learning Center |  | P-Patch                   |
|  | Dog Off Leash Area            |  | Parking                   |
|  | Play Area                     |  | Road                      |
|  | Ballfield                     |  | Park Boundary             |
|  | Building                      |  | University of Washington  |





**City of Seattle**  
Office of the Mayor

January 29, 2013

Honorable Sally J. Clark  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Clark:

I am transmitting the attached proposed Council Bill that authorizes the Superintendent of Parks and Recreation to enter into an agreement with Building 11 Investors, LLC (LLC) to buy out the LLC's leasehold interest in Building 11 and to terminate the lease.

In September of 2008, the City Council passed Council Bill No. 116313 and Ordinance No. 122814 authorizing the Superintendent of Parks and Recreation to enter into a 30-year lease agreement with the LLC. The lease was signed in February 2009. Disagreements arose between the City and the LLC concerning the lease, which led to litigation. The City and the LLC have since agreed to settle the litigation in a manner that will, among other things, terminate the leasehold interest of the LLC; compensate the LLC for past work on the project, including capital improvements, professional services, and permits; compensate the LLC for future construction work required for code compliance and subsequent planned operation of Building 11 by Parks and Recreation; and resolve all differences between the LLC and the City relating to Building 11.

Approval of this legislation will allow the City to regain operational management of Building 11 thus allowing the City to manage tenants and benefit from revenues. If you have any questions, please contact Erik Freidli at 648-8369.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael McGinn", written over a horizontal line.

Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Received  
APR 04 2013  
City of Seattle  
Office of the City Clerk

---

**STATE OF WASHINGTON – KING COUNTY**

--SS.

---

295003  
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 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:124115,119-124126

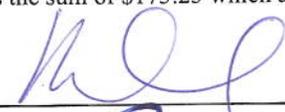
was published on

03/14/13

The amount of the fee charged for the foregoing publication is the sum of \$173.25 which amount has been paid in full.



Affidavit of Publication

  
\_\_\_\_\_  
Subscribed and sworn to before me on  
03/14/2013   
\_\_\_\_\_  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

The full text of the following legislation, passed by the City Council on February 25, 2013, and published below by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For information on upcoming meetings of the Seattle City Council, please visit <http://www.seattle.gov/council/calendar>. Contact: Office of the City Clerk at (206) 684-8344.

### ORDINANCE NO. 124115

AN ORDINANCE related to a settlement agreement between the City of Seattle and Building 11 Investors, LLC; authorizing the Superintendent of Parks and Recreation to implement the terms of the settlement agreement; increasing appropriations in connection thereto; making a cash transfer between various city funds; and ratifying and confirming certain prior acts, all by a 3/4 vote of the City Council.

### ORDINANCE NO. 124119

AN ORDINANCE relating to the Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of Lake Washington Boulevard located beneath, adjacent to, and across Lake Washington Boulevard South from a parking lot at 53rd Avenue South, from the Department of Parks and Recreation to Seattle Public Utilities for maintenance, repair and operation of a combined sewer overflow underground storage tank, associated underground pipes and electrical lines, and limited surface ancillary facilities; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

### ORDINANCE NO. 124120

AN ORDINANCE relating to the Department of Parks and Recreation and Seattle Public Utilities; transferring partial jurisdiction of a portion of Lake Washington Boulevard South located beneath and adjacent to a parking lot between 48th Avenue South and 49th Avenue South, from the Department of Parks and Recreation to Seattle Public Utilities for maintenance, repair, and operation of a combined sewer overflow underground storage tank, associated underground pipes and electrical lines, and limited surface ancillary facilities; and finding that transfer of partial jurisdiction meets the requirements of Ordinance 118477, which adopted Initiative 42.

### ORDINANCE NO. 124121

AN ORDINANCE relating to the Central Waterfront Project, authorizing execution of a Memorandum of Understanding Concerning Renovation and Expansion of the Seattle Aquarium and Development of the Central Waterfront Project between the City of Seattle and the Seattle Aquarium Society.

### ORDINANCE NO. 124122

AN ORDINANCE relating to the Central Waterfront Project, authorizing execution of a Memorandum of Understanding Concerning Redevelopment of the PC-1 North Site within the Pike Place Market Historical District.

### ORDINANCE NO. 124123

AN ORDINANCE relating to the Pacific Place Garage; authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool, or its participating funds, to the Downtown Parking Garage Fund; and providing for repayment.

### ORDINANCE NO. 124124

AN ORDINANCE relating to the Department of Finance and Administrative Services; authorizing the Director of Finance and Administrative Services to execute a three-year extension to a lease agreement under which the City leases warehouse space at Federal Center South, 4735 East Marginal Way South in Seattle, from the U.S. General Services Administration.

### ORDINANCE NO. 124125

AN ORDINANCE relating to contracting indebtedness; authorizing and providing for the issuance and sale of unlimited tax general obligation bonds and bond anticipation notes, and authorizing the loan of funds from various City funds, to pay all or part of the costs of the design, construction, renovation, improvement and replacement of the Alaskan Way seawall and associated public infrastructure, as authorized at the November 6, 2012 election, and to pay the costs of issuing and selling the bonds and the notes; providing for terms and sale of the bonds and the notes; creating a project fund; and ratifying and confirming certain prior acts.

### ORDINANCE NO. 124126

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

Date of publication in the Seattle Daily Journal of Commerce, March 14, 2013.

3/14(295003)