

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
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Legislation Title: AN ORDINANCE relating to the Seattle Center Department; authorizing execution of an agreement with Horton Street, LLC to operate and manage KeyArena and utilize it for the playing of professional basketball games.

Summary of the Legislation:

This legislation authorizes an agreement with Horton Street, LLC (“ArenaCo”) for the playing of National Basketball Association (“NBA”) home games in KeyArena and for the use, management, and operation of the building. The agreement is for two years, covering the 2013-14 and 2014-15 NBA seasons.

Background:

ArenaCo has petitioned the NBA to acquire a basketball team and relocate it to Seattle, beginning with the 2013-14 season. If the NBA approves ArenaCo’s request, ArenaCo intends to use KeyArena for the Seattle team’s home games for a period of two to three years. The NBA will require that ArenaCo make permanent improvements to KeyArena in order for that facility to be suitable for professional basketball.

The agreement authorized by this legislation, execution of which is contingent on ArenaCo securing an NBA franchise that will play in Seattle beginning with the 2013-2014 NBA season and also upon execution of a construction agreement for initial improvements that is satisfactory to the Seattle Center Director, outlines the terms and conditions under which ArenaCo would cause the Seattle team to play its home games in KeyArena and assume overall responsibility for management and operation of the arena.

Agreements Terms:

1. Term – July 1, 2013 – June 30, 2015, with a one year extension through June 30, 2016, at ArenaCo’s option. Either party may terminate the agreement after June 30, 2015 with reasonable notice if ArenaCo stops playing NBA home games at KeyArena.

2. Management and Operation – ArenaCo will assume responsibility for management and operation of KeyArena, including exclusive control of all sales, advertising, marketing and operations. It will retain all revenues earned at KeyArena and be responsible for paying all direct KeyArena operating expenses except capital maintenance and repair work on the building shell or the infrastructure of building systems. The City will continue to provide administrative personnel, event services and routine maintenance and repairs at KeyArena and ArenaCo will reimburse the City for the cost of those direct services. The City will continue to provide indirect administrative and operational services for KeyArena and the City staff working in

KeyArena, such as payroll, human resource management, management of the Center's parking facilities, and grounds maintenance. ArenaCo will not reimburse the cost of these indirect services. These indirect services have not been budgeted in or allocated to the KeyArena Operating Fund in prior years and this practice will be continued.

3. City Employees – All KeyArena services currently being performed by City employees will continue to be performed by City employees, and ArenaCo will reimburse Seattle Center for the salary and benefit costs of those employees as well as any increased costs due to the increased work associated with an NBA team. ArenaCo may direct and supervise the day-to-day activities of the City employees assigned to work in KeyArena through coordination with the City's KeyArena Manager. All City employees working in KeyArena will continue to receive the benefits of City employment and ArenaCo will work with the City to ensure that all collective bargaining obligations are fulfilled.

4. Use Fee – ArenaCo will pay an annual Use Fee of \$1.5 Million. In addition ArenaCo will collect and pay to the City a Patron Use Fee of \$1.00 per ticket sold for all ticketed events, other than NBA, NHL and Seattle Storm events, for tickets priced \$25.00 and lower, and \$2.00 per ticket for all tickets priced \$25.01 and above, with a guaranteed annual minimum payment to the City of \$500,000. This type of Patron Use fee is already charged at KeyArena and is collected by event promoters and paid to Seattle Center for ticketed events except the Seattle Storm. In addition, if National Hockey League ("NHL") games are played at KeyArena, ArenaCo will pay an additional Use Fee of \$750,000 annually.

5. Capital Investment – ArenaCo will invest a minimum of \$3 Million in capital improvements in KeyArena and upon their departure, will leave behind improvements with an original cost of at least \$3 Million. The specific improvements will be identified in a separate Construction Agreement. To the extent possible, the parties will agree at the time of installation which improvements will remain with KeyArena and which will be removed, with the intent that KeyArena be left in an intact, fully functional state, suitable for its future intended use. If ArenaCo wants to make additional capital improvements during the term of this Agreement, ArenaCo would pay for them and the capital improvements would be subject to the Seattle Center Director's approval.

6. City's Responsibility/City Costs for Capital Maintenance and Repair Work – The City will continue to be responsible, at City cost, for maintaining the KeyArena building shell, including the roof, walls, rafters and structural supports of the building, the permanent risers and the infrastructure for all mechanical electrical, plumbing, HVAC, fire alarm and other systems and components. ArenaCo will be responsible for maintaining any portions of the building or building systems that they upgrade or replace as part of their capital improvements. The City's anticipated capital maintenance and repair responsibilities during the term are consistent with the adopted Seattle Center 2013 and 2014 CIP.

7. City's Responsibility/ArenaCo's Reimbursement of Routine Maintenance and Repairs – The City will continue to be responsible for, and ArenaCo shall reimburse the City for all costs associated with routine maintenance and repair of KeyArena.

8. Advertising/Sponsorship and Naming Rights – ArenaCo will have exclusive control of advertising, sponsorship and naming rights for the Arena, including the right to rename KeyArena. Unless otherwise agreed, at the end of the term, ArenaCo will remove the new name and all associated signage from the building.

9. Existing Agreements – There are a number of existing agreements related to KeyArena. They include sponsorship, suite, club, facility use, licensing, and vendor and service provider agreements. ArenaCo will assume all of the City’s liability under these agreements. The City, where possible, will assign the agreements to ArenaCo. ArenaCo will honor all of the event agreements the City has for events scheduled to occur after July 1, 2013, or, with the agreement of the other party, may renegotiate the terms of those agreements. Event agreements include the current contracts with the Seattle Storm, Seattle University, 2013 and 2014 Rat City Roller Girls LLC, the NCAA, PAC 12, Live Nation, and the Seattle Sports Commission as well as a variety of other events. ArenaCo may terminate the other (non-event) agreements, unless the agreements also address other facilities at Seattle Center, in which case Seattle Center and ArenaCo will work together to ensure that services continue to be provided at the Center. ArenaCo cannot enter into any new agreements whose term will extend past ArenaCo’s occupancy of KeyArena without written approval of the City.

10. Americans with Disabilities Act. The City is responsible for complying with the Americans with Disabilities Act of 1990 (“ADA”) for the permanent structural features of KeyArena and for all improvements, other than those improvements made by ArenaCo. ArenaCo is responsible for ensuring that all non-structural and non-permanent ADA requirements comply with the applicable ADA provisions.

11. Parking – Seattle Center will provide 500 parking permits for the First Avenue North Parking Garage for each NBA or NHL game and up to 500 parking permits each for other NBA and NHL events.

12. Bumbershoot – The City will continue to use KeyArena rent free for Bumbershoot and will receive the net concession revenues earned in the building during the festival. Bumbershoot will continue to be responsible for reimbursement of the event expenses related to production of the festival.

In 2012 KeyArena operating revenues exceeded expenses by \$637,658. In 2013 KeyArena is budgeted to generate net revenue of \$711,044. Assuming that the City’s responsibility for capital maintenance and repair of the Arena continues to be addressed by the adopted 2013 and 2014 CIP as planned, and that the annual Patron Use Fee is only the \$500,000 minimum and there are no NHL games, under the terms of this agreement, the annual net revenue earned by KeyArena would increase by at least \$1.3 Million over budget on an annual 12 month basis. Note that the Agreement term is based on the NBA season and runs from July 1 to June 30 of the following year rather than the calendar year used for the City’s accounting, so the financial impact shown on the chart below is based on a conceptual twelve month period. Since the Agreement will not commence until July 1, 2013, the actual net financial impact in 2013 will be less, but over the 12 month period beginning July 1, 2013 the annual net financial impact of the Agreement would be in the range estimated. It should also be noted that the operating expenses

included in the conceptual chart below do not reflect the anticipated addition of Seattle Center expenses related to 41 or more NBA games per season, but those expenses, when determined, will be reimbursed by ArenaCo and will not impact the estimated net revenue to the City.

Conceptual Financial Impact of Agreement			
KeyArena	12 Month – Status Quo	12 Month - Impact of Agreement	Variance
Operating Revenue	\$7,008,000	0	(\$7,008,000)
Use Fee		\$1,500,000	\$1,500,000
Patron Use Fee		\$ 500,000	\$ 500,000
ArenaCo Reimbursement of City Expense		\$6,297,000	\$6,297,000
Total Revenue	\$7,008,000	\$8,297,000	\$1,289,000
Operating Expense	\$6,297,000	\$6,297,000	0
Estimated Net Revenue to City	\$711,000	\$2,000,000	\$1,289,000

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
TOTAL				

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

Appropriations Notes:

No additional appropriation has been requested to implement this legislation. Seattle Center will incur additional expenses related to presentation of the NBA games, but all of these expenses will be reimbursed by ArenaCo. Because information regarding the staffing needed to produce the potential NBA events is not available at this time, no additional appropriation authority is being requested at this time. Additional budget authority will be requested later in 2013 when this information is available.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Department	Revenue Source	2013 Revenue	2014 Revenue
11420 KeyArena Operating Fund	Seattle Center	Use Fee	\$ 750,000	\$1,500,000
11420 KeyArena Operating Fund	Seattle Center	Patron Use Fee	\$ 250,000	\$ 500,000
11420 KeyArena Operating Fund	Seattle Center	ArenaCo Reimbursement of City Expense	\$ 3,148,696	\$6,613,284
TOTAL			\$ 5,148,696	\$8,613,284

Revenue/Reimbursement Notes:

As a result of this legislation, ArenaCo will receive all revenues generated by KeyArena and will pay Seattle Center an annual Use Fee of \$1.5 Million and a minimum of \$500,000 of the Patron Use Fee earned from ticketed events in KeyArena. If an NHL team is secured by ArenaCo to play at KeyArena, an additional \$750,000 would be received annually by the city. The 2013 adopted revenue budget is \$7,008,436. ArenaCo will also reimburse all direct KeyArena operating expenses. The 2013 KeyArena adopted expenditure budget is \$6,297,392. Assuming ½ of the annual budget will be expensed from July 1, 2013 through year end, ArenaCo would reimburse \$3,148,696 in 2013 and in 2014 would fully reimburse the \$6,613,284 budgeted expense.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2013 Positions	2013 FTE	2014 Positions*	2014 FTE*
TOTAL							

Position Notes:

This legislation does not create or abrogate positions.

Do positions sunset in the future?

Not applicable

Other Implications:

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

NBA events at KeyArena will likely result in additional Seattle Center revenue through increased parking and patronage of the Armory. These additional revenues are not included in the estimates provided above.

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

ArenaCo wishes to use KeyArena for NBA games while a proposed new \$490 million basketball and hockey arena is being considered and, potentially, constructed. For the NBA to approve acquisition and relocation of an NBA team to Seattle, the team must be able to play their games in the Seattle area while the new arena is being built. Use of KeyArena will achieve ArenaCo's objectives and in addition, will result in increased revenue to Seattle Center and the surrounding community.

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

While this legislation does not directly impact other departments, NBA events at Seattle Center could require contract services with the Seattle Police Department for traffic control and the Seattle Fire Department for emergency medical personnel. Those costs would be reimbursed separately by ArenaCo.

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

If authorized by the NBA, the team could play at an alternate facility in another city in the region.

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?

This legislation authorizes the short term use of KeyArena at Seattle Center by ArenaCo, and requires that at least \$3 million in capital improvements funded by ArenaCo remain with the building. KeyArena must be left fully functioning at the end of the term.

h) Other Issues:

List attachments to the fiscal note below: