SUMMARY and FISCAL NOTE

Department:	Contact Person/Phone:	Executive Contact/Phone:
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1. BILL SUMMARY

Legislation Title: AN ORDINANCE relating to the ground lease between The City of Seattle and Experience Music Project authorized under Ordinance 118336; authorizing the Seattle Center Director to execute a second amendment to the ground lease.

Summary and background of the Legislation:
This legislation authorizes execution of a second amendment to the Ground Lease between the City of Seattle and Experience Music Project (EMP), a non-profit organization formed in 1992. Under this amendment EMP will pay rent with cash and measureable public benefits pursuant to the Seattle Center Non-Profit Long Term Lease Guidelines and will release its exclusive right to liquor sales in full service restaurants on City-owned property at Seattle Center. In addition, EMP will make good faith efforts to avoid work stoppages or labor disputes in its food service operations.

In late 1996, Seattle City Council enacted Ordinance 118336 authorizing Seattle Center to execute a Memorandum of Understanding (MOU) with Experience Music Project regarding the development of the Experience Music Project facility and related parking at Seattle Center as well as related detailed agreements, including a ground lease, consistent with the MOU. The ordinance required that the ground lease and the related agreements be consistent with the approved MOU. The MOU included specific items such as the rent, lease term, parking revenue sharing, compatibility with the Seattle Center Master Plan, and exclusive rights granted to EMP. Those exclusive rights are related to EMP's programming, use, and retail operations and included the right to be the only facility on City-owned property, with the exception of the KeyArena, the Mercer Arena, a restaurant in the Armory and future development of the site that was sold to the Bill and Melinda Gates Foundation, to operate a full service restaurant with a Class H liquor license. A Class H liquor license allowed the sale of liquor in addition to beer and wine. The ground lease was completed and was effective June 1, 1997.

Fully funded by EMP, the original Experience Music Project was opened to the public in 2000. The Science Fiction Museum, which opened in 2004, was also funded by EMP. The City invested $500,000 for utilities and infrastructure development for EMP, which was less than the tax benefits received by the City from construction of the facility.

In May 2010, the lease was amended to clarify which party was responsible for maintenance and repair of specific items and areas and to modify EMP's payment schedule from an annual rent payment to a monthly payment. That amendment was consistent with the terms of the MOU approved by Ordinance 118336, and so did not require City Council approval.

In 2014, the Seattle Center Advisory Commission approved Non-profit Long Term Lease Guidelines to help provide consistency in lease terms for non-profit tenants at Seattle Center. Those guidelines identified general terms that might affect the value of a lease and addressed the payment of rent through methods other than cash, including public benefits. The guidelines state:

> The public "…benefit provided must be measurable and needs to occur on the Seattle Center campus. If included, the public benefits will be required to be documented on an annual basis and are subject to the approval of the Seattle Center Director. The value of the item must be net of donations or subsidies provided by other entities to support the identified program. No rent credit or rent carry forward is given for the provision of benefits above the specified amount."

In addition to requiring a true value accounting of public benefits, the guidelines note that cash needs to be equal to, or larger than, any other component of the tenant's rent payments. To date, three Seattle Center tenants have rental terms consistent with the guidelines. Those tenants are Cornish College of the Arts, and the terms for the lease extensions of both Seattle Children's Theatre and Pacific Northwest Ballet's lease of the Phelps Center.

Under the ground lease, EMP's rent in 1997 was $301,963 per year. Every five years a CPI adjustment is made to the rent. For the first twenty years of the initial 40 year term, the CPI adjustment cannot exceed 20% of the then current basic rent. For the balance of the initial 40 year term, the CPI adjustment cannot exceed 5% of the then current rent. EMP's current rent is $443,087 and the next CPI adjustment, which is capped at 5%, will occur in 2017. The lease also includes two additional ten-year option terms, exercised at EMP's option. Rent during the option terms will be 8% of the fair market value of the land.

The amendment authorizes EMP to pay up to one-half of the annual rent, or $221,543 in the 2015/2016 lease year, in measureable public benefits. Public benefits include the value of free or discounted tickets for admission to the museum provided for and used by:

1. Preschool, elementary, and secondary children and their teachers;
2. Department of Social and Health Services Medical Card holders;
3. Foster children and their foster families through foster care organizations;
4. Homeless individuals through organizations for the homeless;
5. Food stamp card holders and their dependent children; and
6. Seattle community based organizations

In addition, the cost to EMP of busing school children to EMP programs at Seattle Center, use of portions of the Museum by other non-profit organizations, and other programs approved by the Seattle Center Director may be counted toward payment of the public benefit portion of the rent.

The public benefits must occur at Seattle Center and the City's role in provision of the benefits must be recognized. Prior to the beginning of each lease year, the Seattle Center Director will review and approve the proposed value of benefits EMP will be providing in the following year.

Throughout that lease year, the public benefit rent will be credited against the annual rent for up to 50% of the annual rent. At the end of the lease year EMP will provide a report documenting the benefits provided. If the value of the benefits provided is less than proposed, EMP will pay the difference in cash. EMP will only receive rent credit for up to half the rent and if the value of public benefits exceeds that amount, EMP will not receive rent credit for the excess value, either in that year or future lease years. The proposed public benefit lease terms are all consistent with the Non-profit Long Term Lease Guidelines.

EMP will release its rights with respect to liquor sales, in part, in consideration of the City's willingness to accept payment of rent in cash and public benefits. The ground lease includes the right for EMP to be the sole facility on City-owned property at Seattle Center to operate a full service restaurant with a Class H liquor license, with the exception of KeyArena, Mercer Arena, one Armory restaurant, and the property that was sold by the City to the Bill and Melinda Gates Foundation. These liquor sales rights limit the City's options for attracting new investment and a mix of tenants consistent with the Century 21 Master Plan and negotiations regarding those rights and the value associated with them have been ongoing for a number of years.

With the release of EMP's current liquor exclusivity, Seattle Center will have both immediate and long-term revenue opportunities that currently do not exist. For example, the McCaw Hall restaurant concessionaire and a few food service providers in the Armory have expressed interest in expanding their offerings to include liquor sales while another Armory merchant has suggested creating a lounge area adjacent to their location. Additional near-term opportunities to enhance revenues could emerge through the solicitation the Center is preparing to attract proposals for the use of several Center facilities, one or more of which could be used for food service or the new café envisioned at the Northwest Rooms could also be authorized to serve spirits. Release of the liquor exclusivity also expands the longer-term opportunities envisioned in the Century 21 Master Plan as well as potential future redevelopment of the current site of KCTS which could include food service. Further, if the Center is successful in attracting more and varied food and beverage tenants, secondary and tertiary benefits can start to accrue such as increased visitors which can impact parking revenue and on-site spending. The estimated impact of releasing the liquor exclusivity on just these listed examples increases Seattle Center's potential revenue by an estimated $110,000 to $275,000/year as shown in Attachment A. The greatest opportunity created by release of the liquor exclusivity is that over the remaining 42 years of the EMP lease there will be many options, as yet unimagined, to create exceptional experiences and environments at Seattle Center and those options will no longer be limited by EMP's exclusive liquor rights.

In addition, EMP will make good faith efforts to avoid any work stoppages or labor disputes in its food service operations, which may include requiring new or incoming food service operators to sign labor peace agreements with labor organizations representing or seeking to represent food service employees at EMP.

2. CAPITAL IMPROVEMENT PROGRAM

____ **This legislation creates, funds, or amends a CIP Project.**

3. SUMMARY OF FINANCIAL IMPLICATIONS

_X_ This legislation has direct financial implications.

Budget program(s) affected:				
Estimated $ Appropriation change:	**General Fund $**		**Other $**	
	2015	**2016**	**2015**	**2016**
Estimated $ Revenue change:	**Revenue to General Fund**		**Revenue to Other Funds**	
	2015	**2016**	**2015**	**2016**
			($129,234)	($221,544)
Positions affected:	**No. of Positions**		**Total FTE Change**	
	2015	**2016**	**2015**	**2016**
Other departments affected:				

3.a. Appropriations

____ This legislation adds, changes, or deletes appropriations.

Fund Name and number	Dept	Budget Control Level Name/#*	2015 Appropriation Change	2016 Estimated Appropriation Change
TOTAL				

Appropriations Notes:

3.b. Revenues/Reimbursements

__X__ This legislation adds, changes, or deletes revenues or reimbursements.

Anticipated Revenue/Reimbursement Resulting from this Legislation:

Fund Name and Number	Dept	Revenue Source	2015 Revenue	2016 Estimated Revenue
SC Operations & Maintenance – 11410	CEN	Lease	($129,234)	($221,544)
TOTAL			($129,234)	($221,544)

Revenue/Reimbursement Notes:
This legislation will modify the method of EMP's rent payment from cash to measureable public benefits for up to half of the annual rent. The EMP lease year runs from June 1 through May

31st. The annual rent beginning June 1, 2015 will be $443,087, and effective that date, the annual rent will be $221,543.50 in cash and an equal amount in measureable public benefits. The reduction in cash rent is $129,234 in 2015 and $221,544 in 2016. The amendment does not change the amount and timing of rent adjustments. The total rent amount will next increase by 5% in 2017 and by a maximum of 5% every 5 years thereafter through the end of the lease term in 2037. Release of the liquor exclusivity creates the opportunity for new or increased revenues from both existing and potential tenants. As shown in Attachment A, the potential incremental revenue from the identified opportunities ranges from an estimated $110,000 to $275,000 per year.

3.c. Positions

____ This legislation adds, changes, or deletes positions.

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

Position # for Existing Positions	Position Title & Department*	Fund Name & #	Program & BCL	PT/FT	2015 Positions	2015 FTE	Does it sunset? (If yes, explain below in Position Notes)
TOTAL							

* *List each position separately*

Position Notes:

4. OTHER IMPLICATIONS

a) Does the legislation have indirect or long-term financial impacts to the City of Seattle that are not reflected in the above?
This legislation will result in greater flexibility and potentially higher returns from food service providers at Seattle Center. Due to EMP's exclusive rights, food service providers that weren't in the excepted locations could only serve beer and wine. With EMP's release of the exclusive rights, existing and future food service providers will also be able to serve liquor and this will provide significant near- and long-term revenue opportunities to Seattle Center.

b) Is there financial cost or other impacts of not implementing the legislation?
If the legislation is not implemented, the current limits on where liquor may be served at Seattle Center will remain in effect and the potential for increased revenues from food service providers will not be possible. Not implementing the legislation will also leave unresolved the current dispute surrounding EMP's exclusive right to serve liquor.

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

No

d) Is a public hearing required for this legislation?
No

e) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?
No

f) Does this legislation affect a piece of property?
No

g) Please describe any perceived implication for the principles of the Race and Social Justice Initiative. Does this legislation impact vulnerable or historically disadvantaged communities?
This legislation creates opportunities for historically disadvantaged communities to visit the Experience Music Project through the distribution of free or discounted tickets to disadvantaged populations.

h) If this legislation includes a new initiative or a major programmatic expansion: What are the long-term and measurable goals of the program? Please describe how this legislation would help achieve the program's desired goals.
No

i) Other Issues:
None

List attachments below:
Attachment A: Potential Revenues to Seattle Center from Release of Liquor Exclusivity