



**STAFF MEMORANDUM**

Date: 09 July 2011 **VERSION #2**  
To: Councilmember Sally Bagshaw, Chair, Parks & Seattle Center Committee  
All other Councilmembers  
From: Kieu-Anh King, Council Central Staff  
CC: Christopher Williams, Parks Superintendent  
Eric Friedli, Deputy Parks Superintendent  
Nathan Torgelson, Parks Department  
Re: Upcoming Council Consideration of Council Bill No. 117196, relating to Building 11 at Magnuson Park

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**INTRODUCTION.**

At the June 16<sup>th</sup> meeting of the Parks & Seattle Center Committee, Councilmembers received a detailed briefing on Council Bill No. 117196, which amends and restates an existing agreement concerning the development of Building 11 in Magnuson Park. For reference purposes, the background materials for that discussion are included in the Committee binders for today's meeting.

At this morning's meeting, the Committee will:

- A. Recap the main items from the Committee's June 16<sup>th</sup> discussion.
- B. Discuss the next steps the legislative process.
- C. Discuss the costs and benefits of the Proposed Agreement.
- D. Provide direction to staff on a number of proposed amendments to the Proposed Agreement.

**SECTION A. PRIOR MEETING RECAP.**

At the Committee's most recent meeting, Councilmembers discussed:

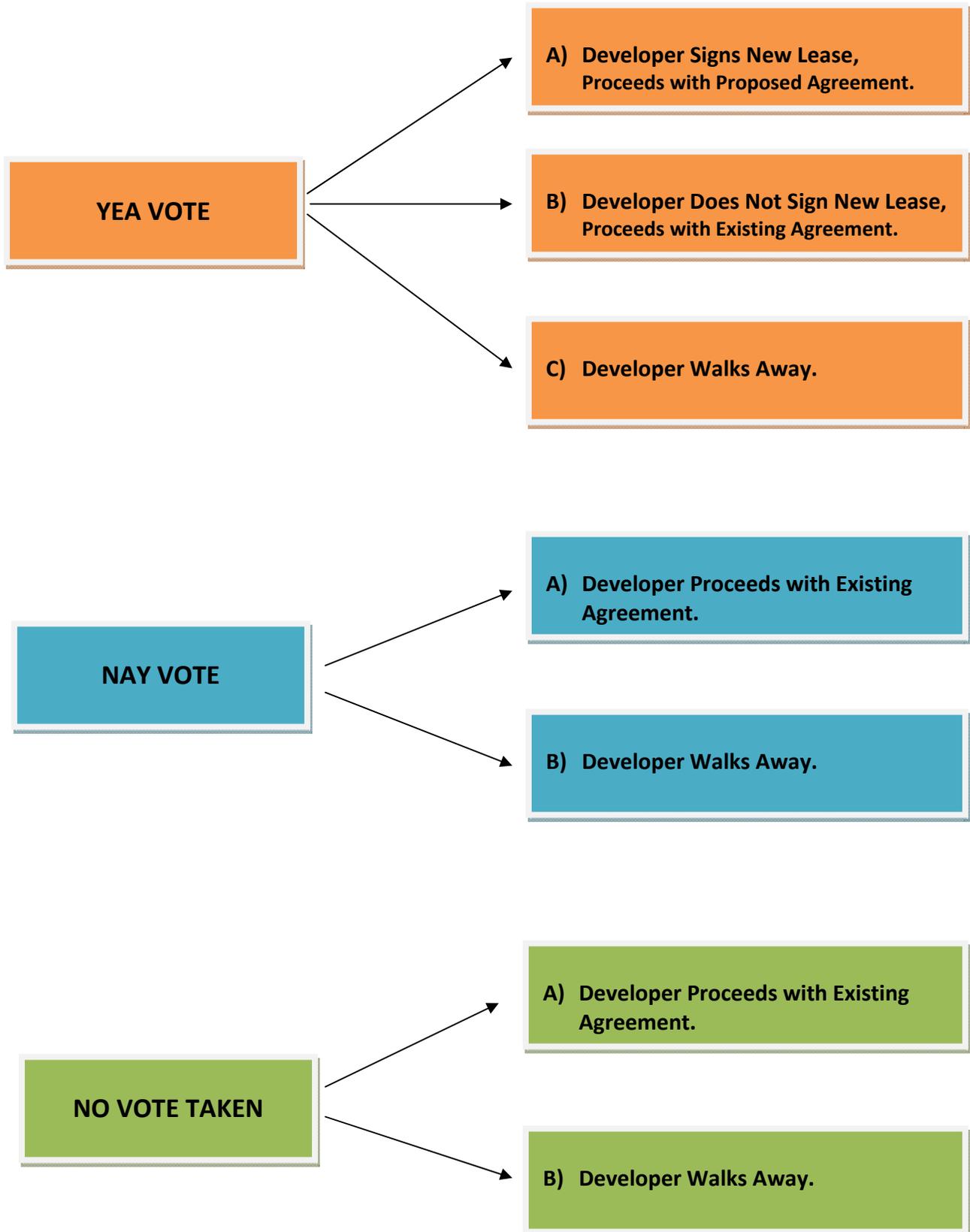
1. The basis for the proposed amendments,
2. The planning and development history of Building 11 and the North Shore Recreation Area at Magnuson Park,
3. The legislative history of Building 11 development proposals, and,
4. The specifics of the Existing and the Proposed Agreement for Building 11 development.

The Committee did not have sufficient time to discuss the final two sections of the decision agenda, addressing Costs and Benefits to the City of the Proposed Agreement.

**SECTION B. LEGISLATIVE PROCESS – NEXT STEPS.**

At today's meeting the Committee may provide staff with policy direction on a number of amendments to the Proposed Agreement. Staff will prepare formal amendments to the legislation and the Proposed Agreement, as appropriate, for discussion and possible vote at the Committee's next meeting, on Thursday, 21 July 2011. If the Committee then forwards this legislation for Full Council consideration, this would occur on Monday, 25 July 2011.

**VOTE DIAGRAM – ALL POSSIBLE OPTIONS**



## **SECTION C. COSTS AND BENEFITS TO CITY.**

The Proposed Agreement includes changes to the Existing Agreement intended to satisfy the needs of the developer, the Parks Department and the City. As the Committee continues its review of this new proposal, the Committee may wish to consider the following issues and questions:

- (a) What are the City's obligations under the terms of the Existing Agreement?
- (b) Is the Proposed Agreement better for the City than the Existing Agreement?
- (c) Is this a fair and balanced deal for the City?
- (d) Are the tradeoffs that the City is making (described below) fair and equitable, and do they warrant approval of this Council Bill?

### **COSTS TO CITY:**

#### **1) Initial Lease Term – Extension to 40 Years (ten additional years).**

- Existing Agreement: Initial Lease Term of 30 years.
  - Proposed Agreement: Initial Lease Term of 40 years.
- (Amendment Proposed – Next Section)*

#### **2) Maximum Public Benefits Test.**

In order to qualify for the Extended Term, the LLC must provide Public Benefits of at least 23% of Rent Due, in the aggregate.

- Existing Agreement: Maximum Public Benefits Test conducted at Year 31, 36 and 41.
  - Proposed Agreement: Maximum Public Benefits Test conducted at Year 41.
- (Amendment Proposed – Next Section)*

#### **3) Loss of Water-based Recreation Space.**

The LLC must provide a minimum amount of space dedicated to Water-Based Recreation.

- Existing Agreement: 8,000 SF required.
  - Proposed Agreement: 5,000 SF required
- (Amendment Proposed – Next Section)*

#### **4) Opportunity Cost.**

- City does not have programming control or direct lease revenue for Building 11, for 40 to 45 years.
- City is not able to program 100% of Building 11 for Parks & Recreation Uses.

#### **5) Institutional Use – Virginia Mason.**

Building 11 LLC has proposed a long-term tenancy for Virginia Mason Medical Centers on the second floor of the Building.

- This use was not anticipated during Council review of the Existing Agreement in 2008.
- Council may have reviewed the proposal differently, knowing of this proposed tenancy.

### **BENEFITS TO CITY:**

#### **a) Building 11 Rehabilitation.**

*(Existing Benefit)*

- LLC will invest \$11.3 million to redevelop and maintain Building 11.
- The LLC will pay for all utilities, operations and maintenance.
- City does not have to manage project development.
- City does not have to use scarce debt capacity to finance project development.

**b) Public Benefits.**

*(Existing Benefit)*

- LLC will ensure Public Benefits worth 10% to 23% of Rent Due, over the life of the lease.
- Worth \$2.2 million to \$5.2 million, over 45 years.

*(Amendments Proposed – Next Section)*

**c) Increased Rent to City.**

- If Tax Credits received, City may receive \$1.15 to \$1.3 million in additional rent.
- Add'l rent expected in 2041, 2042, 2043 and 2044.
- If LLC invests in building upgrades or rehabilitation before 2041, City may receive less than this amount (possibly nothing).

*(Amendment Proposed – Next Section)*

**d) Guaranteed Artist Studio Space.**

- Existing Agreement: No minimum requirement for Artist Studios and Workshop Space.
- Proposed Agreement: 5,000 SF required to be leased for Artist Studios and Workshop Space, for the duration of Agreement.

**e) Outdoor Public Spaces.**

- Existing Agreement: No provision for outdoor public spaces.
- Proposed Agreement: Includes three outdoor public / private spaces.
  - (1) Restaurant Deck – 2,000 SF.
  - (2) East Play Area – 10,000 SF.
  - (3) West Play Area – 1,000 SF.

*(Amendment Proposed – Next Section)*

**f) Elimination of “Good Faith” Lease-up Clause for Water-Related Tenant Space.**

- Existing Agreement: All Water-Related Space (8,000 SF) includes good faith clause, allowing this space to revert to other “Primary Parks & Recreation Use” if the LLC and the Parks Department cannot find suitable water-related tenants.
- Proposed Agreement: Eliminates this provision.

*(Amendment Proposed – Next Section)*

**g) New Childcare Center.**

*(Existing Benefit)*

The Agreement allows for the establishment of a new childcare center in an area with an established need.

*(Amendment Proposed – Next Section)*

**h) Subsidized Long-Term Leases for Water-Related Tenants.**

*(Existing Benefit)*

The Agreement allows for the establishment of long-term leases for subsidized space for Water-Related Recreation tenants.

*(Amendment Proposed – Next Section)*

**i) Subsidized Long-Term Leases for Artist Studios and Workshop Space.**

- Existing Agreement: Allows for subsidized space rental for Artist and Workshop Space.
- Proposed Agreement: Requires subsidized space rental for Artist and Workshop Space.

*(Amendment Proposed – Next Section)*

*An equal opportunity employer*

## SECTION D: POSSIBLE AMENDMENTS AND OPTIONS FOR COUNCIL ACTION

### ITEM A. TRADEOFF BETWEEN TAX CREDITS AND INITIAL TERM.

The Proposed Agreement includes changes to the Existing Agreement designed to assist Building 11 LLC (“the LLC”) in obtaining Federal Historic Rehabilitation Tax Credits, expected to be worth \$1.5 to \$1.8 million. In consideration for extending the Initial Term from thirty to forty years (the term required to receive the credits), the City will receive 75% of the tax credit value (\$1.15 to \$1.3 million) from Year 30 to Year 33 of the Agreement.

#### *Options for Council Consideration:*

**A1. Immediate Tax Credit to City and Revision of Lease Term.** Amend the Proposed Agreement to require that the LLC remit to City, within six months of receipt, one half (50%) of any tax credits received, and, if tax credits are not received, to return to a thirty-year Initial Term, with three five-year Extended Terms.

**A2. No Further Changes.** Accept 75% of tax credit value, if tax credits received, from Year 30 to Year 33. Retain forty-year Initial Term, with one five-year Extended Term.

### ITEM B. PUBLIC BENEFITS.

The Proposed Agreement requires the LLC to ensure that building tenants provide public benefits, defined as free or discounted services provided to any member of the public, equal to at least ten percent (10%) of the Rent Due during each year of the Agreement. Unlike typical Public-Private partnerships, the Proposed Agreement allows the LLC to obtain rental offsets, of up to 23% of the Rent Due in each year, based on public benefits the LLC does not directly provide.

#### *Options for Council Consideration (Not Mutually-Exclusive):*

**B1. Eliminate Rental Offset for Public Benefits.** Amend the Proposed Agreement to eliminate public benefits rental offsets, but maintain minimum public benefits requirements. This would increase net rent to the City by 23% per year for the duration of the Agreement.

**B2. Restrict Public Benefits to Recreation and Park Improvement-Related Items.** Amend the Agreement to more strictly define public benefits as free or discounted Recreation-Related services provided to specific groups of people, or Park Improvement-Related items, such as enhanced landscaping and historic lighting improvements.

**B3. Require Maximum Public Benefits Test at Year 31.** Amend the Agreement to restore the requirement that the LLC provide public benefits worth at least 23% of Rent Due, in the aggregate, to continue the lease beyond the end of Year 30. This provision is already in place at the end of Year 40.

**B4. No Further Changes.** Make no further changes to any public benefits provisions.

**ITEM C. WATER-RELATED RECREATION SPACE.**

The Proposed Agreement reduces the minimum amount of space required to be set aside for Water-Related Recreational Uses from 8,000 to 5,000 Square Feet, and eliminates an existing “good faith clause” that allows the LLC, if both it and the Parks Department cannot find suitable Water-Related tenants, to lease the space for other Parks & Recreation Uses. This space reduction was made, in part, to accommodate increased requirements for Artist and Workshop Space at Building 11.

*Options for Council Consideration.*

**C1. Restore Water-Related Recreation Space.** Amend the Agreement to restore the minimum space allotted to Water-Based Recreation to 8,000 SF, and restore the “good faith clause” to 3,000 SF of that space.

**C2. No Further Changes.** Accept proposed reduction of 3,000 SF of Water-Related Recreation space.

**ITEM D. PERMITTED COMMERCIAL USES.**

The Proposed Agreement includes a change to the Permitted Commercial Uses related to a proposed medical tenancy by Virginia Mason Medical Center. This change would specifically allow a range of medical uses at the site, subject to the site’s underlying land-use restrictions, which specifically exclude Hospital uses, but allow Medical uses. Staff recommends returning to the language of the Existing Agreement, which allows any use authorized under applicable land-use codes and by the Dept of Planning and Development at the site, without specific mention of medical use.

**D1. Eliminate Specific Discussion of Medical Use.** Amend the Agreement to eliminate medical references under the Permitted Commercial Uses subsection.

**D2. No Further Changes.** Accept the provisions regarding Medical Use, as proposed.

**ITEM E. ARTIST SPACE.**

The Proposed Agreement:

- (i) Requires that at least 16,890 SF be used for “Primary Parks and Recreation Uses,” like the Existing Agreement, and,
- (ii) Allows that up to 18,890 SF be used for “Other Parks and Recreation Uses,” an increase of 2,000 SF,
- (iii) Reclassifies “Studio and Workshop Space” for Artists from “Other Park and Recreation Uses” to become “Primary Park and Recreation Uses,” and,
- (iv) Requires a minimum of 5,000 SF to be subleased for Studio and Workshop Space at all times during the lease.

Studio and Workshop Space, while allowed and encouraged under the Existing Lease, are required under the Proposed Lease, thereby displacing an equivalent amount of “Primary Parks and Recreation” activities at Building 11.

*Options for Council Consideration.*

**E1. Restore Artist Studio and Workshop Space to “Other Park and Recreation Use” Designation.** Amend the Agreement to classify Studio and Workshop Space as “Other Park and Recreation Use.” Maintain 5,000 SF minimum requirement for Studio and Workshop Space.

**E2. No Further Changes.** Do not amend Agreement and declare “Artist Studio and Workshop Space” to be Primary Parks and Recreation Uses.

**ITEM F. RENTAL RATE – WATER-RELATED AND ARTIST SPACE.**

The Proposed Agreement provides that rent levels for Water-Related and Artist be no greater than 75% of the remaining rents (“Market Rent”) in the building. Therefore, as Market Rent rises, rents for Water-Related and Artist spaces also rise. Building 11 LLC currently expects to lease space for Water-Related Recreation at an average of \$13.50 per SF and Artists at \$13.00 per SF.

*Options for Council Consideration.*

**F1. Establish Maximum Rental Rates for Water-Related and Artist Uses.** Amend the Agreement to establish a maximum average rental rate of \$13.50 per year per SF for Water-Related Recreation and \$13.00 per year per SF for Artist space, with annual adjustments for inflation.

**F2. No Further Changes.** Make no further adjustments to rent levels for Water-Related or Artist Space.

**ITEM G. PLAY AREAS.**

The Proposed Agreement grants the LLC’s childcare lessee, Bright Horizons Daycare, exclusive right to use 11,000 SF of outdoor space as children’s play areas, during any and all times the childcare center is in operation. At all other hours, this space will be open to the public. The Proposed Agreement does not include any additional financial consideration.

*Options for Council Consideration.*

**G1. Establish Minimum Public Hours at Outdoor Play Areas.** Amend the Agreement to require that play areas be open to the public on weekday evenings starting no later than 7:00 PM and all day Weekends and Holidays.

**G2. No Further Changes.** Make no changes to public hours at Building 11 outdoor play areas.

**ITEM H. CHILDCARE SLOTS.**

The Proposed Agreement allows up to 18,890 SF at Building 11 to be used for childcare or restaurants (defined as “Other Parks and Recreation Uses”) and provides no further guidance to childcare operators.

*Options for Council Consideration.*

**H1. Require Slots for “Drop-off” Childcare at Building 11.** Amend the Agreement to require the childcare operator to make good faith efforts to provide slots for “drop-off” childcare, at market rates, for Magnuson Park users.

**H2. No Further Changes.** Make no further changes to childcare provisions in the Proposed Agreement.

**ITEM I. CHAIN RESTAURANT BAN.**

The Proposed Agreement allows up to 10,000 SF of restaurant space at the site, with no restaurant larger than 2,500 SF, and provides no further restriction or guidance on restaurant operations or operators.

*Options for Council Consideration.*

**I1. Restrict National Restaurant Chains.** Amend the Agreement to prohibit the sublease of any space to restaurants with more than fifty locations nationally.

**I2. No Further Changes.** Do not make a policy declaration regarding restaurant providers at Building 11.

**ITEM J. RESTAURANT EXCLUSIVITY PROVISIONS.**

The Proposed Agreement grants exclusive license to Building 11 LLC to operate restaurants, of greater than 1,000 SF and/or more than 20 seats, within the boundaries of Magnuson Park, for a period of ten years. The Agreement allows Building 27 (Arena Sports) to maintain up to 50 seats at their facility.

*Options for Council Consideration.*

**J1. Eliminate Exclusivity Provision.** Amend the Agreement to eliminate all provisions regarding restaurant exclusivity.

**J2. No Further Changes.** Make no changes to restaurant exclusivity provisions.

**ITEM K. MAGNUSON PARK ARTISTS.**

The Parks Department has negotiated agreements with ten Building 11 artists to continue leases at the renovated facility. Mr. Eric Friedli, Deputy Parks Superintendent, will discuss details of this arrangement with the Committee.

**ADDENDUM:**

- 1) Potential Lease Revenue at Building 11, July 2011.

**Addendum #1. Possible Lease Revenue at Building 11**

Item	Use	Square Feet	Lease Rate - LOW	Revenue	Lease Rate - HIGH	Revenue
1	Artist Studios	5,300	\$ 13.00	\$ 68,900	\$ 13.00	\$ 68,900
2	Water-Related Recreation	5,400	\$ 13.50	\$ 72,900	\$ 13.50	\$ 72,900
3	Active Dry Recreation	9,700	\$ 18.00	\$ 174,600	\$ 20.00	\$ 194,000
4	Restaurant / Food Service	5,740	\$ 20.00	\$ 114,800	\$ 25.00	\$ 143,500
5	Childcare	11,893	\$ 23.00	\$ 273,539	\$ 23.00	\$ 273,539
6	Office / Medical	19,056	\$ 20.00	\$ 381,120	\$ 30.00	\$ 571,680
<b>TOTAL:</b>		<b>57,089</b>		<b>\$ 1,085,859</b>		<b>\$ 1,324,519</b>

**Expenses Not Listed:**

- 1) Building Operations and Maintenance.
- 2) Tenant Vacancy.
- 3) Taxes.
- 4) Debt-Service.
- 5) Marketing.
- 6) Opportunity Cost - Owner Equity.
- 7) Utilities.

Source: Kieu-Anh King, City Council Central Staff