CITY OF SEATTLE

ORDINANCE _____

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.

Passed by the City Council the ____ day of _____, 2013, and signed by me in open session in authentication of its passage this _____ day of _____, 2013.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2013.

_____

Michael McGinn, Mayor

Filed by me this ____ day of _____, 2013.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Form revised: December 12, 2012

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
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.**

_X___ **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
TOTAL			**$7,250,000**	**$0**

**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
TOTAL	**Parks**	**Rental Revenue**	**$0**	**$585,835**

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*
TOTAL							

** 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
TOTAL	**Parks**		**0**	**$194,652**

** 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:

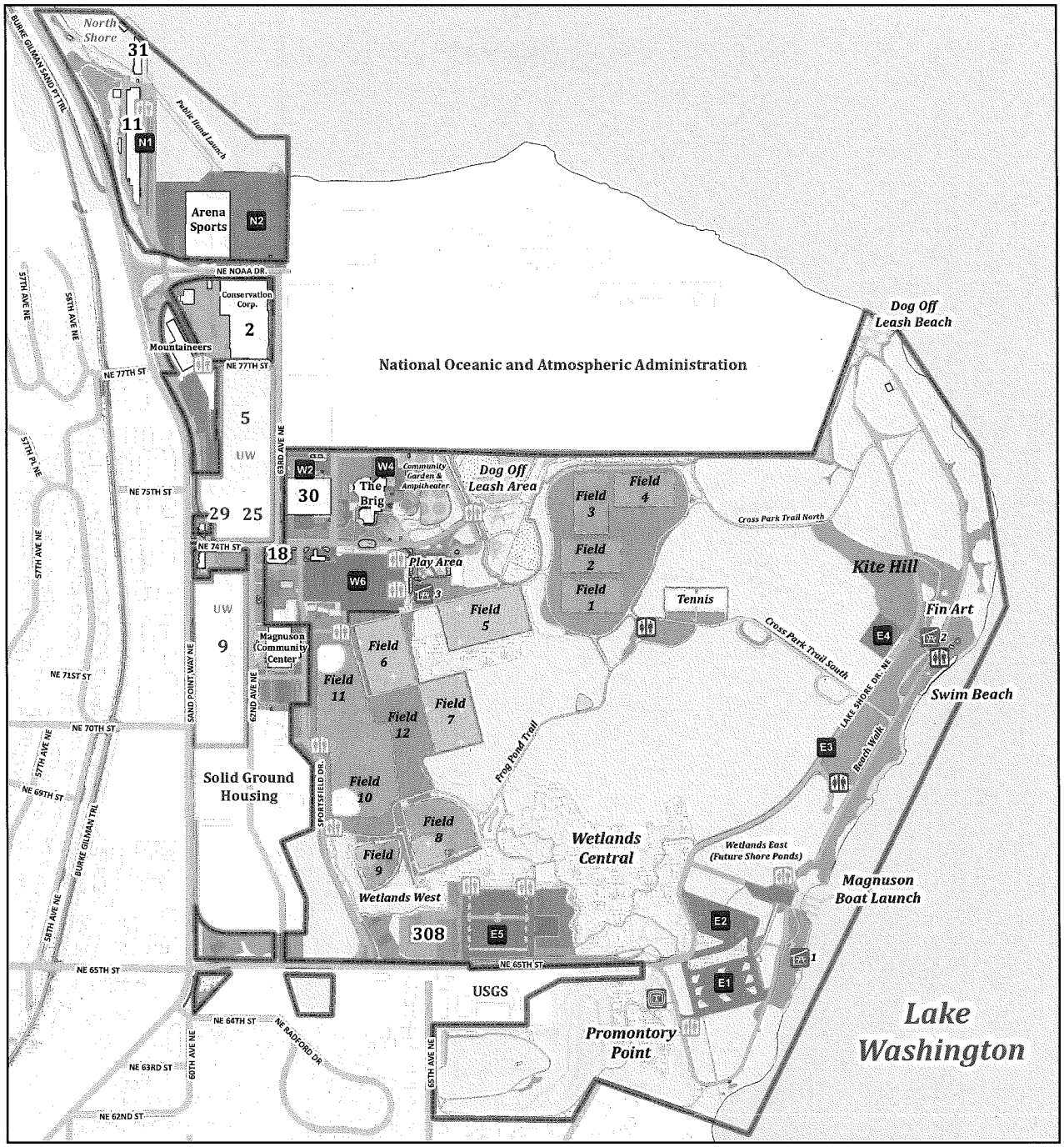
List attachments to the fiscal note below:

Attachment A: Map showing Building 11 at Magnuson Park

Eric Friedli
DPR Bulding 11 Settlement Agreement ATT A
January, 28, 2013
Version #1

Warren G. Magnuson Park

7400 Sand Point Way NE



Feet
0 625 1,250 2,500 3,750 5,000
1:6,600

Legend

- P# Parking Lot
- Restroom
- Sanican
- Picnic Shelter
- Environmental Learning Center
- Dog Off Leash Area
- Play Area
- Ballfield
- No. Building
- Open Space
- Baseball Infield
- Turf Ballfield
- Artificial Turf Ballfield
- P-Patch
- Parking
- Road
- Park Boundary
- University of Washington

N W E S

WARREN G. MAGNUSON PARK

SEATTLE PARKS AND RECREATION

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City of Seattle
Office of the Mayor

January 29, 2013

Honorable Sally J. Clark
President
Seattle City Council
City Hall, 2nd 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,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor
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