

Ordinance No. 123544

Council Bill No. 117094

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to amend and restate the existing Operation and Maintenance Agreement between the Seattle Department of Parks and Recreation and the Seattle Art Museum, concerning their roles in operation and maintenance of portions of Alaskan Way Boulevard and Myrtle Edwards Park that are operated as part of the Olympic Sculpture Park.

The City of Seattle - Legislative Department  
Council Bill/Ordinance sponsored by: Sg Bagshaw  
Councilmember

**Committee Action:**

2/17/11 PASS 3-0 SB, TR, BH

2/22/11 Full Council PASSED 9-0

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

Date Introduced:	<u>1-24-11</u>	
Date 1st Referred:	To: (committee) <u>Parks + Sea Center</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: <u>2/22/11</u> 9-0	
Date Presented to Mayor:	Date Approved: <u>2-23-11</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> 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: R 2/17/11  
(Initial/date)

*Law Department*

Law Dept. Review      OMP Review      City Clerk Review      Electronic Copy Loaded      Indexed

ORDINANCE 123544

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to amend and restate the existing Operation and Maintenance Agreement between the Seattle Department of Parks and Recreation and the Seattle Art Museum, concerning their roles in operation and maintenance of portions of Alaskan Way Boulevard and Myrtle Edwards Park that are operated as part of the Olympic Sculpture Park.

WHEREAS, in 2006, the City Council authorized the initial agreement between the Seattle Department of Parks and Recreation (DPR) and the Seattle Art Museum (SAM) by adopting Ordinance 122141; and

WHEREAS, in the 2006 agreement, SAM was responsible, during the plant establishment period, but no longer than three years after plant installation, for routine maintenance of the plantings and vegetation related to the Embayment located in Myrtle Edwards Park, after which time maintenance became the responsibility of DPR; and

WHEREAS, SAM has continued with this effort since establishment of the Embayment and is now requesting to continue their maintenance and planting responsibility for an additional three years from the effective date of this amendment; and

WHEREAS, the amendment would also allow for subsequent extensions of the term, not to exceed the remainder of the twenty-five year term of the Operation and Maintenance Agreement; and

WHEREAS, DPR would like to accept SAM's offer for continuing their maintenance responsibilities for the Embayment in Myrtle Edwards Park; and

WHEREAS, extending this agreement ensures that the new beach in Myrtle Edwards Park will continue to be maintained at its current level; and

WHEREAS, both parties have agreed to the attached amendment; NOW, THEREFORE,

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



1           Section 1. The Superintendent of Parks and Recreation is authorized to execute, for and  
2 on behalf of the City of Seattle, an amended and restated Operation and Maintenance Agreement  
3 with the Seattle Art Museum, in substantially the form attached hereto as Attachment 1, or with  
4 such minor additions, modifications, or deletions as the Mayor or Superintendent deems to be in  
5 the best interest to the City.  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



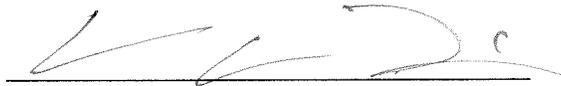
1 Section 2. This ordinance shall take effect and be in force 30 days from and after its  
2 approval by the Mayor, but if not approved and returned by the Mayor within ten days after  
3 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 22<sup>nd</sup> day of February, 2011, and  
5 signed by me in open session in authentication of its passage this  
6 22<sup>nd</sup> day of February, 2011.

8 

9  
10 President \_\_\_\_\_ of the City Council

11  
12 Approved by me this 28<sup>th</sup> day of February, 2011.

13  
14 

15  
16 Michael McGinn, Mayor

17  
18 Filed by me this 28<sup>th</sup> day of February, 2011.

19  
20 

21 City Clerk

22 (Seal)

23 Attachment 1: Amended and Restated Agreement between the City of Seattle and the Seattle Art  
24 Museum



## AMENDMENT TO OLYMPIC SCULPTURE PARK OPERATION AND MAINTENANCE AGREEMENT

This purpose of this Amendment to the Operation and Maintenance Agreement (the "Agreement") between the City of Seattle Department of Parks and Recreation (the "City") and the Seattle Art Museum ("SAM"), authorized by Ordinance 122141, is to extend the term during which SAM shall operate and maintain portions of Alaskan Way Boulevard and Myrtle Edwards Park that are operated as part of the Olympic Sculpture Park, effective as of February 1, 2011 (the "Effective Date").

### Agreement

In consideration of the mutual promises contained herein, the parties hereby agree to amend the Agreement as follows:

1. SHORELINE EMBAYMENT. Subsection 10 (A) and 10 (B) of the Agreement are amended as follows:

10 (A) The term during which SAM shall be responsible for routine maintenance of the upland vegetation and intertidal plantings related to the Embayment located in Myrtle Edwards Park, shall be extended for a term of three (3) years from the Effective Date of this amendment, with the option to extend the term for subsequent years, not to exceed the remainder of the twenty-five (25) year term of the Operation and Maintenance Agreement, from the date upon which this Agreement takes effect. After the initial three (3) year period of this extension, SAM shall be entitled to terminate the maintenance of the Embayment, at any time, upon furnishing the City with ninety (90) days written notice of its intention to terminate. All other maintenance within the confines of Myrtle Edwards Park shall be the responsibility of the City including but not limited to "beach replenishment" as needed.

10 (B) During the term of this extension, SAM shall maintain and replace any dead or diseased plants with the same type and size and in the same location. SAM and the Department of Parks and Recreation ("DPR") may, in certain situations, reach agreement on plants that DPR should replace and/or maintain.

2. No Other Modification. Except as modified by this Amendment, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have affixed or caused to be affixed their respective signatures with the intent to be bound by the terms hereof as of the Effective Date.



City:

THE CITY OF SEATTLE

By its Department of Parks and Recreation

Date: \_\_\_\_\_

By: \_\_\_\_\_

Christopher Williams  
Acting Superintendent, Seattle Parks and Recreation

SEATTLE ART MUSEUM

Date: \_\_\_\_\_

By: \_\_\_\_\_

Robert Cundall  
Its Chief Operating Office, Seattle Art Museum



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>CBO Analyst/Phone:</b>
Seattle Parks and Recreation	Paula Hoff/615-0368	Jennifer Devore/615-1328

**Legislation Title:**

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to amend and restate the existing Operation and Maintenance Agreement between the Seattle Department of Parks and Recreation and the Seattle Art Museum, concerning their roles in operation and maintenance of portions of Alaskan Way Boulevard and Myrtle Edwards Park that are operated as part of the Olympic Sculpture Park.

**Summary of the Legislation:** This amendment extends the term during which the Seattle Art Museum (SAM) shall be responsible for routine maintenance of the upland vegetation and intertidal plantings in the newly created beach area in Myrtle Edwards Park. The term will be extended for three years from the Effective Date of this amendment, with the option to extend the term for subsequent years, not to exceed the remainder of the 25 year term of the Operation and Maintenance Agreement.

After the initial three-year period of this extension, SAM can terminate the maintenance of the Embayment by giving the City 90 days written notice of its intention to terminate. All other maintenance within the confines of Myrtle Edwards Park shall continue to be the responsibility of the City including but not limited to "beach replenishment" as needed. During the term of this agreement, SAM shall maintain and replace any dead or diseased plants unless SAM and Department of Parks and Recreation (DPR) reach agreement on plants that Parks should replace and/or maintain.

**Background:** The Embayment in Myrtle Edwards Park was established as part of the Olympic Sculpture Park project. The operation and maintenance agreement had a specific section for the beach in Myrtle Edwards Park, assigning SAM maintenance responsibilities during the plant establishment period (not to exceed three years) that expired in July of 2009. SAM has continued to maintain the Embayment and has requested to continue doing so for at least the next three years. This will save DPR an average of \$3,000-\$4,000 annually in maintenance costs.

X  This legislation does not have any financial implications.





**City of Seattle**  
Office of the Mayor

January 18, 2011

Honorable Richard Conlin  
President  
Seattle City Council  
City Hall, 2<sup>nd</sup> Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that amends the Operation and Maintenance Agreement between the Department of Parks and Recreation (DPR) and the Seattle Art Museum (SAM), to extend the term during which SAM maintains the beach in front of the Olympic Sculpture Park at Myrtle Edwards Park. The proposed amendment extends SAM's maintenance of the beach for three years.

In June 2006, the City Council passed legislation adopting the Operation and Maintenance Agreement between DPR and SAM. SAM was assigned responsibility for routine maintenance of the beach and upland plantings for the plant establishment period, not to exceed three years after plant installation. Since the initial three years, SAM has continued maintaining the beach area and is requesting to continue their maintenance and planting responsibility for an additional three years. The amendment would also allow for subsequent extensions of SAM's maintenance responsibilities, not to exceed the remainder of the twenty-five year term of the Operation and Maintenance Agreement.

Extending this agreement ensures that the beach in Myrtle Edwards Park will continue to be maintained at its current level without costs to the City. Thank you for your consideration of this legislation. Should you have questions, please contact Paula Hoff at 615-0368.

Sincerely,

Michael McGinn  
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Michael McGinn, Mayor  
Office of the Mayor  
600 Fourth Avenue, 7<sup>th</sup> Floor  
PO Box 94749  
Seattle, WA 98124-4749

Tel (206) 684-4000  
Fax (206) 684-5360  
TDD (206) 615-0476  
mike.mcgin@seattle.gov



FILED  
CITY OF SEATTLE  
11 MAR -7 AM 10:08  
CITY CLERK

---

STATE OF WASHINGTON – KING COUNTY

--SS.

---

267917  
CITY OF SEATTLE, CLERKS OFFICE

No. 123542,43,44,45

**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.

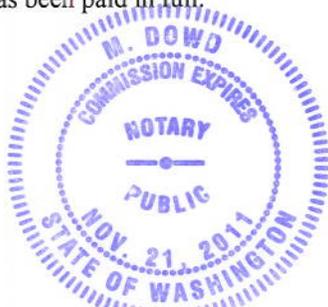
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:TITLE ONLY ORDINANCE

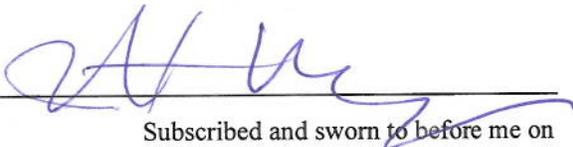
was published on

03/03/11

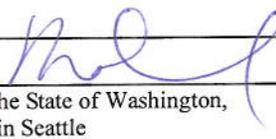
The amount of the fee charged for the foregoing publication is the sum of \$ 54.60, which amount has been paid in full.



Affidavit of Publication

  
Subscribed and sworn to before me on

03/03/11

  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### TITLE-ONLY PUBLICATION

The full text of the following ordinances, passed by the City Council on February 22, 2011, and published here by title only, will be mailed upon request, or can be accessed at <http://clerk.seattle.gov>. For further information, contact the Seattle City Clerk at 684-8344.

#### ORDINANCE NO. 123542

AN ORDINANCE relating to the State Route 99 Alaskan Way Viaduct and Seawall Replacement Program; entering into certain agreements with the State of Washington as provided in RCW 39.34.080, RCW Chapter 47.12, and other applicable law; and ratifying and confirming certain prior acts.  
ORDINANCE NO. 123543

AN ORDINANCE relating to land use and zoning and signs in the Seattle Municipal Code amending Sections 23.55.014 and 23.72.004 and adding a new Section 23.55.032 relating to signs within the Sand Point Overlay District.

#### ORDINANCE NO. 123544

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent to amend and restate the existing Operation and Maintenance Agreement between the Seattle Department of Parks and Recreation and the Seattle Art Museum, concerning their roles in operation and maintenance of portions of Alaskan Way Boulevard and Myrtle Edwards Park that are operated as part of the Olympic Sculpture Park.

#### ORDINANCE NO. 123545

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 3, 2011.

**3/3(267917)**