SEATTLE CITY COUNCIL

Legislative Summary

CB 118725

Record No.: CB 118725 **Type:** Ordinance (Ord) **Status:** Passed

Version: 1 **Ord. no:** Ord 125104 **In Control:** City Clerk

File Created: 05/04/2016

Final Action: 08/17/2016

Title: AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to execute for and on behalf of the City an amendment to the existing Seacrest Boathouse Concession Agreement with Marination LLC, originally authorized by Ordinance 124112; authorizing the Superintendent to execute future amendments relating to concession fees as the Superintendent determines to be in the best interest of the City; and ratifying and confirming certain prior acts.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Juarez

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att 1 - First Amendment to Seacrest Boathouse Concession Agreement

Drafter: Charles Ng

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	06/21/2016	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk **Notes:**						
1	City Clerk	06/21/2016	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office **Notes:**						
1	Council President's Office	06/23/2016	sent for review	Parks, Seattle Center, Libraries, and Waterfront Committee			

Action Text: The Council Bill (CB) was sent for review. to the Parks, Seattle Center, Libraries, and Waterfront Committee
Notes:

1	Full Council	07/11/2016	referred	Parks, Seattle Center, Libraries, and Waterfront Committee	

Action Text: The Council Bill (CB) was referred. to the Parks, Seattle Center, Libraries, and Waterfront Committee
Notes:

1	Parks, Seattle Center, Libraries, and Waterfront Committee	08/04/2016	pass		Pass

Action Text: The Committee recommends that Full Council pass the Council Bill (CB).
Notes:

In Favor: 3 Chair Juarez, Vice Chair Bagshaw, Member Harrell

Opposed: 0

1	Full Council	08/08/2016	passed		Pass

Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien

Opposed: 0

1	City Clerk	08/12/2016	submitted for Mayor's signature	Mayor	
1	Mayor	08/16/2016	Signed		

Action Text: The Council Bill (CB) was Signed.
Notes:

1	Mayor	08/17/2016	returned	City Clerk	
1	City Clerk	08/17/2016	attested by City Clerk		

Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:

CITY OF SEATTLE

ORDINANCE 125104

COUNCIL BILL 118725

AN ORDINANCE relating to the Seattle Department of Parks and Recreation; authorizing the Superintendent of Parks and Recreation to execute for and on behalf of the City an amendment to the existing Seacrest Boathouse Concession Agreement with Marination LLC, originally authorized by Ordinance 124112; authorizing the Superintendent to execute future amendments relating to concession fees as the Superintendent determines to be in the best interest of the City; and ratifying and confirming certain prior acts.

WHEREAS, Ordinance 124112, passed in February 2013, authorized the Superintendent of the Department of Parks and Recreation ("Superintendent") to enter into a six-year Concession Agreement ("Concession Agreement") with Marination LLC; and

WHEREAS, under the Concession Agreement, Marination LLC provided over $200,000 in capital improvements to the Seacrest Boathouse and currently manages and operates the Seacrest Boathouse as a restaurant and boat and recreation equipment rental facility for the public; and

WHEREAS, the payment to the Seattle Department of Parks and Recreation (DPR) in the current Concession Agreement requires Marination LLC to pay a monthly concession fee of ten percent of gross sales to DPR; and

WHEREAS, Marination LLC notified DPR that continuing to pay this ten-percent concession fee is unsustainable and will put its business operation at risk going forward and requested the Superintendent lower the concession fee to be more in line with market rates; and

WHEREAS, the Superintendent determined that it would be in the best interest of DPR to amend the Concession Agreement and modify the concession fees to ensure a sustainable

concession remains in the Seacrest location, and determined that the impact of this action will not significantly impact revenues to DPR; and

WHEREAS, the Superintendent and Marination LLC expressly intend that upon authorization from this ordinance and signature by an authorized representative of both parties, certain concession fee terms of the Concession Agreement with Marination LLC shall be changed and retroactively effective as of the dates provided for in such amendment;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Superintendent of Parks and Recreation ("Superintendent") is authorized to execute, for and on behalf of The City of Seattle ("City"), an amendment to the Concession Agreement with Marination LLC, which was originally authorized by Ordinance 124112, substantially in the form of the First Amendment to the Seacrest Boathouse Concession Agreement between The City of Seattle and Marination LLC, attached hereto as Attachment 1.

Section 2. The Superintendent is authorized to negotiate future amendments to the Concession Agreement with Marination LLC for the purpose of adjusting the concession fees due from Marination LLC as the Mayor or Superintendent deems to be in the best interest of the City.

Section 3. Any act consistent with the authority of this ordinance taken before its effective date is hereby ratified and confirmed.

Section 4. 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 8th day of August, 2016, and signed by me in open session in authentication of its passage this 8th day of August, 2016.

President _____ of the City Council

Approved by me this 16th day of August, 2016.

Edward B. Murray, Mayor

Filed by me this 17 day of August, 2016.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:
Attachment 1 – First Amendment to the Seacrest Boathouse Concession Agreement between The City of Seattle and Marination LLC

Attachment 1

First Amendment to
Seacrest Boathouse Concession Agreement
Between
The City of Seattle
and
Marination, LLC

This First Amendment to the Seacrest Boathouse Concession Agreement ("First Amendment") between The City of Seattle ("City") and Marination, LLC ("Concessionaire") amends the Seacrest Boathouse Concession Agreement between the parties dated February 20, 2013 (the "Agreement").

For good and valuable consideration, the receipt of which is hereby acknowledged, the parties agree to amend the Agreement as follows:

1. Part A-5 Concession Fee
From the Commencement Date through August 31, 2013, Concessionaire's obligation to pay Concession Fees shall remain in full force as required under the original Agreement without amendment. Effective September 1, 2013, Part A-5 is deleted in its entirety and replaced with the following:

5.1 Base Concession Fee. Beginning on or before September 1, 2013 and thereafter monthly throughout the Term, Concessionaire shall pay the City a monthly fee in the amount of $5,954.67 (the "Base Concession Fee"). The Base Concession Fee shall be paid in advance, without demand, set-off or deduction of any kind, and in the time and manner provided under Section 5.3.

5.2 Percentage Fee. Beginning on or before September 1, 2013 and thereafter monthly throughout the Term, in addition to the Base Concession Fee, Concessionaire shall pay the City two percent (2%) of Concessionaire's Gross Receipts (the "Percentage Fee"). Concessionaire shall pay the Percentage Fee monthly in arrears based on the Gross Receipts received in the prior month, and in the time and manner provided under Section 5.3. Notwithstanding the foregoing, no Percentage Fee shall be due from October 1, 2013 through June 30, 2014. As used in this Agreement, "Gross Receipts" shall have the meaning provided in Part B-1 and all references to the "Concession Fee" shall mean and include both the Base Concession Fee and the Percentage Fee.

5.3 Time and Manner of Payment. On or before the 15th day of each month during the Term, Concessionaire shall pay the City (i) the Base Concession Fee, (ii)

the Percentage Fee, and (iii) the monthly amount of Leasehold Excise Tax required under Part B-7. All payments to the City under this Agreement shall be paid to City of Seattle, Department of Parks and Recreation, Magnuson Park and Business Resources, Attention: Charles Ng, Parks Concessions Coordinator, and 800 Maynard Avenue S, Suite 300, Seattle, WA 98134. All Concession Fee payments shall be accompanied by a written statement prepared by Concessionaire on a monthly report form approved by the Superintendent and detailing the Gross Receipts received in the prior month, including any amounts excluded from Gross Receipts as provided under Part B-1, and the calculation of the Percentage Fee.

2. The City and Concessionaire expressly intend that so long as this First Amendment is signed by an authorized representative of both parties, the amendment to Part A-5 shall be retroactively effective as of the dates provided in Section 1 of this First Amendment.

3. All references to the "Agreement" shall mean and include the original Seacrest Boathouse Concession Agreement described above and this First Amendment. All capitalized terms that are not defined in this First Amendment shall have the meaning given in the original Agreement. All terms and conditions of the original Agreement that have not been modified by this First Amendment shall remain in full force and effect.

For the City of Seattle:	For Marination, LLC:
_____	_____
Jesús Aguirre, Superintendent Seattle Department of Parks and Recreation	Roz Edison, Member Marination, LLC

Next page for Acknowledgements

STATE OF WASHINGTON)
) ss. (Acknowledgement for City)
COUNTY OF KING)

On this _____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared **Jesús Aguirre,** known to me to be the **Superintendent** of the Department of Parks and Recreation of **THE CITY OF SEATTLE**, the party that executed the foregoing instrument as City, and acknowledged said instrument to be the free and voluntary act and deed of said party, for the purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year in the certificate above written.

_____ _____
[Signature] *[Printed Name]*

NOTARY PUBLIC in and for the State of Washington residing at _____
_____.
My commission expires _____.

STATE OF WASHINGTON)
) ss. (Acknowledgement for Marination, LLC
COUNTY OF KING)

On this _____ day of _____, 20__, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared , to me known to be the _____of _____, the entity that executed the foregoing instrument as _____; and acknowledged to me that he signed the same as the free and voluntary act and deed of said entity for the uses and purposes therein mentioned and that he was authorized to execute said instrument for said entity.

WITNESS my hand and official seal the day and year in this certificate above written.

_____ _____
[Signature] *[Printed Name]*

NOTARY PUBLIC in and for the State of Washington residing at _____.
My commission expires _____.