

**SUMMARY and FISCAL NOTE\***

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>Executive Contact/Phone:</b>
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*\* Note that the Summary and Fiscal Note describes the version of the bill or resolution as introduced; final legislation including amendments may not be fully described.*

**1. BILL SUMMARY**

**Legislation 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.

**Summary and background of the Legislation:** The proposed amendment modifies the methodology for calculating the concession fee required under the six-year Seacrest Boathouse Concession Agreement with Marination LLC (Marination) which operates the Seacrest Boathouse as a restaurant and boat and recreation equipment rental facility.

Ordinance 124112, approved in February 2013, authorized a six-year Concession Agreement (including options to extend) with Marination to manage and operate the Seacrest Boathouse as a restaurant and boat and recreation equipment rental facility. Marination opened in October 2012 and completed improvements to the facility at a cost to them of over \$200,000. During the first 17 months of operation (October 2012 through February 2014), Marination built a great reputation and fostered positive relationships with the local community. Gross sales through December 2013 were \$1.6 million and Marination paid DPR a concession fee of \$123,797 in 2013 based on the concession contract requirement that Marination pay the City 10% of gross receipts.

By mid-2013, Marination realized that this 10% payment of the gross receipts is much more than they expected to pay per month and that continuing to pay at this rate would put Marination in the red at this very popular location. Marination requested in the fall of 2013 that DPR consider lowering the concession fee and changing the payment methodology from the current assessment of a percentage of gross sales to assessing the market rental rate for restaurants, as a way of ensuring the business remains feasible. In late 2013, Marination met with DPR staff to discuss the issue and provided documentation demonstrating that the concession fee methodology resulted in Marination paying over 200% more than the market average that would be due for rent.

DPR staff analyzed Marination’s revenues and expenses reports for the first 17 months of operation, their comparable market analysis, and conducted a site visit to review documentation to support the financial data provided. Also, in late 2013, DPR’s Property Management staff

provided comparable square footage data relating to Seattle retail rental rates to verify the information. Attachment A displays the rental rate information gathered by DPR staff in 2013.

The data collected by DPR staff was consistent with Marination's assertion that the 10% of gross payment fee exceeds the average amount of retail rent paid in Seattle. Also, given the seasonal nature of the food business at Seacrest Park, changing the methodology to one that includes a base payment establishes a more consistent revenue stream to DPR even during non-peak months of the year or during a summer with poor weather.

Therefore, the proposed legislation ratifies and confirms the fee payment change effective October 2013. The revised fee payment to Marination comprises a base concession fee of \$32 per square foot per year (paid monthly), plus additional monthly payments of 2% of the gross receipts beginning June 2014. This change in payment terms allow DPR to collect at least \$71,500 per year as a base payment. The gross receipts portion is conservatively estimated to bring in at least an additional \$18,500 per year (based on gross receipts of \$925,000).

This legislation was initially postponed by the City Council, so that the revised agreement could benefit from a City Council commissioned review of DPR's leasing practices. The Council hired Jones Lang LaSalle (JLL) to perform an assessment of DPR's leases and pricing structures as compared to industry best business practices and standards; this analysis included review of the Seacrest/Marination concession lease. JLL found that, on average, retail rent in Seattle is generally 6% to 8% of gross sales. The report noted that due to rising food costs, local restaurants are pressing for 5%.

JLL completed their review in September 2015, with the study formally transmitted to the Council in December. Since then, DPR Property Management staff updated the retail rent rate information through an evaluation of comparable properties. This update (Attachment B) found that the proposed base concession fee in the amendment is valid. Additional delay in bringing the amendment to Council resulted from changes in both Council and DPR staff.

Under the approach outlined in this amendment, Marination's base payment to DPR is approximately 6% of anticipated gross sales of \$1.2M. The new total rental amount exceeds the amount estimated in the original fiscal note (based on experience with the previous concessionaire). In addition, the proposed ordinance authorizes the Superintendent to negotiate future amendments for the purpose of adjusting the concession fees which could be informed by the new information learned from the JLL report.

## **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.** (If the legislation has direct fiscal impacts)

<b>Budget program(s) affected:</b>				
<b>Estimated \$ Appropriation change:</b>	<b>General Fund \$</b>		<b>Other \$</b>	
	<b>2016</b>	<b>2017</b>	<b>2016</b>	<b>2017</b>
<b>Estimated \$ Revenue change:</b>	<b>Revenue to General Fund</b>		<b>Revenue to Other Funds</b>	
	<b>2016</b>	<b>2017</b>	<b>2016</b>	<b>2017</b>
			<b>\$90,000</b>	<b>\$90,000</b>
<b>Positions affected:</b>	<b>No. of Positions</b>		<b>Total FTE Change</b>	
	<b>2016</b>	<b>2017</b>	<b>2016</b>	<b>2017</b>
<b>Other departments affected:</b>				

**3.a. Appropriations**

     This legislation adds, changes, or deletes appropriations.

**3.b. Revenues/Reimbursements**

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

**Anticipated Revenue/Reimbursement Resulting from this Legislation:**

<b>Fund Name and Number</b>	<b>Dept</b>	<b>Revenue Source</b>	<b>2016 Revenue</b>	<b>2017 Estimated Revenue</b>
Park and Recreation Fund (10200)	Parks and Recreation	Revenue from concession fee payment	\$90,000	\$90,000
<b>TOTAL</b>				

Revenue/Reimbursement Notes:

This legislation changes the methodology for revenue calculation from one concessionaire operating on park property. The agreement with Marination adopted by ordinance 124112 based the revenue due to the City on a strictly gross receipts calculation. The fiscal note for that legislation estimated that this operation would provide over \$300,000 (or \$50,000 per year) in revenue over the term of the six-year agreement.

This legislation adjusts the methodology to a combined base concession fee (of \$32 per square foot per year) plus gross receipts percentage fee (2% of monthly gross sales). Based on actual experience with the concession operation, the concessionaire could not sustain the straight gross sales methodology. Under this new calculation, the City estimates revenues of at least \$90,000 per year.

### 3.c. Positions

**\_\_\_\_\_ This legislation adds, changes, or deletes positions.**

### 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 changes the methodology of calculating the concession fee at Seacrest Park from a strictly gross receipts methodology to a combined base concession fee (square footage calculation based on market rents) plus percentage of gross receipts methodology.

DPR believes the new methodology is both a fair concession fee to the City and meets the needs of the concessionaire to ensure a sustainable operation. In addition, the revenues received through this adjustment still exceed the expectations set forth in the fiscal note accompanying the 2013 agreement.

**b) Is there financial cost or other impacts of not implementing the legislation?**

Without modifying the required concession fee as proposed in this legislation, there is the potential of Marination requesting DPR release it from the Concession Agreement because the current fee is not sustainable. DPR would then have to conduct a new RFP process which would ostensibly result in a similar fee consideration with a successful respondent. In the interim, DPR would lose revenue while a new concessionaire is found.

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

No.

**d) Is a public hearing required for this legislation?**

No.

**e) Does this legislation require landlords or sellers of real property to provide information regarding the property to a buyer or tenant?**

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?**

This legislation does not affect a piece of property, it affects a concession agreement at the Seacrest Park Boathouse.

**h) 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 continues to support opportunities for a small business and WMBE to partner and do business with the City. Marination is a WMBE and is thriving beyond its food truck operations because of its success at the Seacrest Boathouse.

- i) **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.**

Not applicable.

- j) **Other Issues:**

None.

**List attachments/exhibits below:**

Attachment A: 2014 Comparative Rental Information

Attachment B: 2016 Comparative Rental Information