



Legislation Details (With Text)

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**Type:** Ordinance (Ord)    **Status:** Passed  
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**On agenda:** 12/9/2019

**Final Action:** 12/13/2019    **Ord. No.** Ord 126015

**Title:** AN ORDINANCE relating to the Central Waterfront Project; authorizing a funding agreement and a future construction agreement between The City of Seattle and the Seattle Aquarium Society for a new aquarium facility to be known as the Ocean Pavilion; finding that the funding and construction agreements authorized by this ordinance meet the intent and purpose of the project development agreement and comprehensive funding plan described under Ordinance 125630; and amending Ordinance 125630 accordingly.

**Sponsors:** Debora Juarez

**Indexes:**

**Attachments:** 1. Att 1 - Ocean Pavilion Funding Agreement, 2. Att 1 Ex A - Ocean Pavilion Site Plan, 3. Att 1 Ex B - Ocean Pavilion Waterfront Related Elements, 4. Att 1 Ex C - Ocean Pavilion Project Budget, 5. Att 1 Ex D - Ocean Pavilion Fundraising Plan Summary, 6. Att 1 Ex E - Ocean Pavilion Anticipated Construction Timeline, 7. Summary and Fiscal Note, 8. Council Central Staff Memo, 9. Presentation, 10. Signed Ordinance 126015, 11. Affidavit of Publication

Date	Ver.	Action By	Action	Result
12/13/2019	1	City Clerk	attested by City Clerk	
12/13/2019	1	Mayor	returned	
12/13/2019	1	Mayor	Signed	
12/13/2019	1	City Clerk	submitted for Mayor's signature	
12/9/2019	1	City Council	passed	Pass
12/4/2019	1	Civic Development, Public Assets, and Native Communities Committee	pass	Pass
11/12/2019	1	City Council	referred	
10/31/2019	1	Council President's Office	sent for review	
10/29/2019	1	City Clerk	sent for review	
10/29/2019	1	Mayor	Mayor's leg transmitted to Council	

CITY OF SEATTLE

ORDINANCE \_\_\_\_\_

COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to the Central Waterfront Project; authorizing a funding agreement and a future construction agreement between The City of Seattle and the Seattle Aquarium Society for a new aquarium facility to be known as the Ocean Pavilion; finding that the funding and construction agreements authorized by this ordinance meet the intent and purpose of the project development

agreement and comprehensive funding plan described under Ordinance 125630; and amending Ordinance 125630 accordingly.

WHEREAS, The City of Seattle (“City”) owns the Seattle Aquarium facility (“Aquarium”), located on Piers 59 and 60 along the Seattle Central Waterfront and recognizes the importance of the Aquarium for its national and regional standing for scientific research, marine conservation education, civic engagement, and tourism. The Seattle Aquarium Society (SEAS) has managed aspects of the Aquarium operations since the 1980s under a series of agreements with the City’s Parks and Recreation Department (SPR), and SEAS assumed full management responsibility in 2010; and

WHEREAS, under SEAS, the Aquarium’s mission is “inspiring conservation of our marine environment.” It is a leader in the conservation research of sea otters, cephalopods, rock fish, and sixgill sharks, and it is the sea turtle rehabilitation facility for the region; and

WHEREAS, the Aquarium is the ninth largest aquarium in the United States by attendance, and it is among the top five paid visitor attractions in the Puget Sound region. Since opening its doors, the Aquarium has hosted more than 27 million visitors, and has provided marine conservation education to more than two million school children. In 2018, the Aquarium hosted more than 850,000 visitors and provided 69,000 free tickets through more than 300 partner organizations; and

WHEREAS, each year, more than 1,200 adult and youth volunteers donate more than 100,000 service hours toward the Aquarium’s mission by engaging with Aquarium programs in the facility and the community; and

WHEREAS, planning for expansion of the Aquarium has been ongoing for more than 25 years, starting in 1992 when the City initiated a citizens’ effort to develop a long-term vision for the future of the Aquarium. That effort resulted in a December 1994 report titled “the Central Waterfront Master Plan Portal to the Pacific” (“1994 Master Plan”), which recommended replacing the Aquarium facilities on Piers 59/60 with a new over-water facility around Pier 62/63 and developing a new park near Pier 59 at a cost of approximately \$150 million. In 1997 and 2000, the City adopted Resolutions 29423 and 30120, which

respectively approved the 1994 Master Plan and authorized a memorandum of understanding between the City and SEAS for the planning and construction of new aquarium facilities pursuant to the 1994 Master Plan. Planning for new facilities continued through 2003; and

WHEREAS, in 2003, in conjunction with plans for the removal of the Alaskan Way Viaduct (“Viaduct”) and replacement of the aging Elliott Bay seawall, the City began developing a community vision for the Central Waterfront that includes reconnecting downtown Seattle to the Central Waterfront. At the same time, deterioration of Pier 59, on which the main Aquarium is located, resulted in the need for major capital investments to repair the underlying structure; and

WHEREAS, in 2005, the City determined that redevelopment of the Aquarium should occur in phases, rather than with immediate construction of new facilities, beginning with the structural repairs to Pier 59. The City and SEAS partnered to complete the repairs. SEAS raised \$20 million from non-City sources and the City appropriated \$22.5 million to seismically retrofit portions of the Pier 59 structure and rebuild the eastern third of the historic pier shed. SEAS and the City then each contributed \$3.5 million respectively and jointly worked to address other aspects of the aging infrastructure, including replacing the harbor seal exhibit and timber-piled “finger pier” connecting Piers 59 and 60; and

WHEREAS, in 2008, the City Council adopted Resolution 31080, which contains several principles related to future Aquarium development (“Principles”). Principle I states that SEAS should maintain the Aquarium’s primary focus on marine conservation and education. Principle V states that all future phases of Aquarium development should be consistent with the Central Waterfront Master Plan in effect at the time of the proposed development, and Principle VII states that if City resources are required for future Aquarium development, Aquarium development financial plans should clearly state the proposed fiscal responsibilities of SEAS and the City; and

WHEREAS, in 2009, the City Council passed Ordinance 123205, with the Mayor concurring, authorizing SPR to enter into a long-term agreement with SEAS to operate and maintain the Aquarium (“O&M

Agreement”). The O&M Agreement required SEAS to prepare a master plan to guide investments in the physical development of the Aquarium and further required that the SEAS master plan be approved by the City Council by resolution. Under the O&M Agreement, new capital improvements that SEAS develops will be owned by the City, with SEAS owning all animals and maintaining and operating the facility, including providing animal care and programming of the Aquarium. Section 16.1 of the O&M Agreement reiterates Principle V, requiring that SEAS coordinate its planning and development of a future Master Plan with the Committee on Central Waterfront Partnerships, and the Waterfront Planning parameters developed by the City Council. Further, the O&M Agreement requires that the Master Plan be consistent with the City’s adopted Alaskan Way and Seawall Replacement Program, especially as it concerns the seawall replacement component of the program and the redesign of adjacent public spaces at Waterfront Park and Piers 62/63; and

WHEREAS, the Central Waterfront Concept Design and Framework Plan (“Concept Design”), dated July 2012, was developed by City staff and a multi-disciplinary team of consultants under the oversight of the Central Waterfront Committee, building on broad public engagement. SEAS participated in the development of the Concept Design as it began planning to renovate and expand portions of the Aquarium; and

WHEREAS, responding to the Principles, the Concept Design calls for a significant new public pedestrian connection, the “Overlook Walk,” between Pike Place Market and the Central Waterfront near the Aquarium. It also calls for an “Aquarium Plaza” between the Aquarium and relocated Alaskan Way, and redevelopment of Piers 62 and 63 (“Piers 62/63”) and Waterfront Park located to the immediate north and south of the Aquarium; and

WHEREAS, in August 2012, the Seattle City Council adopted Resolution 31399, endorsing the Concept Design and the Central Waterfront Committee’s Strategic Plan (“Strategic Plan”), and encouraging agreements with the Pike Place Market and Aquarium for co-developments that will integrate the

Concept Design with related major projects proposed by both; and

WHEREAS, Resolution 31399 also states that the City's continuing financial participation in the development of the Aquarium will depend upon the City's success in securing funding as a component of the Central Waterfront Project funding outlined in the Strategic Plan. Resolution 31399 also affirms the importance of continuing work on the Central Waterfront Project, as well as Aquarium facilities, as the funding plans for the projects are achieved; and

WHEREAS, in February 2013, the Seattle City Council adopted Ordinance 124121, to authorize execution of a Memorandum of Understanding Concerning Renovation and Expansion of the Seattle Aquarium and Development of the Central Waterfront Project between the City and SEAS ("2013 MOU"). The 2013 MOU referred to a conceptual design for renovation and expansion of Aquarium facilities consisting of four elements: Pier 59 west end renovation, Pier 60 renovation and a new shed roof, a new structure on the Aquarium Plaza and partially under the Overlook Walk, and a new south wing over water ("Aquarium Expansion Project"). The 2013 MOU satisfied the requirements of Resolution 31399 with regard to an agreement between the City and SEAS and served as a basis for both the City and SEAS to proceed with consideration of a potential design for the Aquarium Expansion Project; and

WHEREAS, the 2013 MOU committed the City to compensate SEAS for 50 percent of its expenditures for design, engineering, and related services for the Aquarium Expansion Project incurred beginning January 2, 2013, to a maximum payment of \$1,000,000, provided that no more than \$500,000 would be payable in either 2013 or 2014. The 2013 MOU set out mutual goals for the Project, including the goal to increase the Aquarium's impact and extend beyond Piers 59/60 to provide new programming and visitor capacity in keeping with the vital new Waterfront public spaces and the region's growing population, and to further develop the Aquarium as an effective leader in marine conservation education, especially as a window on Puget Sound itself. The 2013 MOU also described a process whereby a future "Project Development Agreement" would be negotiated prior to attaining 30 percent

design of the Aquarium Expansion Project, with such Agreement to include a project design and phasing plan, comprehensive funding plan, project schedule, City requirements for SEAS's construction of the Aquarium Expansion Project, and other requirements regarding responsibility for cost overruns and decision-making regarding design changes; and

WHEREAS, by letter dated July 14, 2014, from Goran Sparrman, Interim Director of the Seattle Department of Transportation, to Robert Davidson of SEAS, the City clarified the mutual understanding of the 2013 MOU that the funding for design and planning costs for Aquarium renovation and expansion was available beyond 2013 and 2014. Both parties recognized that additional planning and design time was necessary to coordinate the Aquarium Expansion Project with the Central Waterfront Project; and

WHEREAS, in 2014 and 2015, with public engagement, SEAS prepared a master plan, dated July 2015, required by Ordinance 123205 ("2015 Master Plan"). The 2015 Master Plan defined three proposed capital projects for further assessment: Pier 59 west end renovation, Pier 60 replacement and expansion, and a new on-land "Ocean Pavilion." The new Ocean Pavilion building would take the place of the previously considered expansion over water south of Pier 59. The parties agreed that the design of the expanded Pier 60 should increase overwater coverage by no more than 7,000 square feet; and

WHEREAS, in 2015, the City Council enacted Resolution 31603, approving the 2015 Master Plan for the purpose of allowing the advancement of the design of a potential on-land Aquarium expansion building, so that sufficient information would be available for conducting further review and analysis, including environmental review, of that proposal; and

WHEREAS, in 2015, the City Council passed Ordinance 124908, authorizing an amendment to the 2013 MOU to increase the City's maximum compensation to SEAS from \$1,000,000 to \$1,800,000 for Aquarium Expansion Project engineering, design, and consultant services; and

WHEREAS, in 2017, the City Council passed Ordinance 125422, authorizing a second amendment to the 2013 MOU that reaffirmed the City's commitment to the Ocean Pavilion concept, outlined the design process

to reach 30 percent schematic design, required SEAS to fund 30 percent schematic design, and committed the City and SEAS to develop a funding plan and new memorandum of understanding to be brought to the City Council for consideration; and

WHEREAS, in 2018, the City Council passed Ordinance 125630, authorizing a new memorandum of understanding between the City and SEAS to supersede and replace the 2013 MOU. The 2018 MOU increased the maximum amount of City funding for design and development of the Ocean Pavilion project from \$1.8 million to \$4.7 million to reimburse up to 50 percent of the SEAS eligible design, engineering and consultant services for the project; and

WHEREAS, the 2018 MOU provided that if the 60 percent design development and detailed cost estimates for the Ocean Pavilion were approved by the parties, the City and SEAS would negotiate a Project Development Agreement (“PDA”) to address project scope, funding, construction and coordination; and

WHEREAS, construction of the Ocean Pavilion is expected to increase the Aquarium’s attendance to 1.2 million visitors a year, and the City believes an expanded aquarium facility will better serve the needs of City residents and visitors and will be a significant draw to anchor the north end of the future Waterfront Park; and

WHEREAS, the Ocean Pavilion will include the construction of specialized exhibits which will be funded, operated and maintained by SEAS and which must be supported by the building infrastructure; and

WHEREAS, the design of the Ocean Pavilion provides for public access and open space amenities as part of the roof and the exterior entry ways; and

WHEREAS, it will be efficient and in the public interest to have the Ocean Pavilion building infrastructure, exhibits and public access amenities all constructed as one project to be delivered by SEAS; and

WHEREAS, the City and SEAS recognize that SEAS’ efforts to secure funding commitments from private individuals, corporations, foundations and governments sources other than the City of Seattle are, in part, supported by a funding commitment from the City before it is feasible to negotiate some of the

elements of the PDA that were anticipated under the 2018 MOU; and

WHEREAS, in order to support SEAS' fundraising efforts while ensuring that the anticipated elements of the PDA are achieved, the City and SEAS recognize it is desirable to enter into this Funding Agreement that identifies additional design and financial feasibility review and approval processes while requiring a future construction agreement that includes specific details regarding construction scope, coordination with City projects, a term sheet describing future amendments to the O & M Agreement, and other conditions that must be met before actual disbursement of City funding for the project consistent with the elements of the PDA envisioned in the 2018 MOU; NOW, THEREFORE,

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

Section 1. The Director of Office of the Waterfront and Civil Projects (the Director) and the Superintendent of Parks and Recreation (Superintendent) are authorized to execute, for and on behalf of The City of Seattle (City), the Ocean Pavilion Funding Agreement between the City and the Seattle Aquarium Society, substantially in the form attached to this ordinance as Attachment 1 (Funding Agreement).

Section 2. The Director and the Superintendent are authorized to negotiate and execute, for and on behalf of the City, a construction agreement that includes the material terms outlined in the Funding Agreement. The City shall not disburse any City funding for construction of the Ocean Pavilion until the City and the Seattle Aquarium have executed the construction agreement.

Section 3. The City Council finds that the Funding Agreement, along with the construction agreement that includes the terms and conditions in Section 5 of the Funding Agreement, together satisfy the intent and purpose of the project development agreement described under Ordinance 125630 and the 2018 Memorandum of Understanding. Accordingly, Ordinance 125630 is amended by deleting Section 2 as follows:

~~Section 2. Any project development agreement (PDA) for a proposed Ocean Pavilion shall be executed only after completion of 60 percent design development, including cost estimates. Prior to execution of a PDA, SEAS shall provide the Director of the City Budget~~

~~Office with a cost estimate and comprehensive funding plan identifying, with reasonable specificity, the principal sources of funding sufficient to complete development and construction of the proposed project. A report on the feasibility of the comprehensive funding plan shall be provided to the City Council along with the ordinance to authorize execution of the PDA.~~

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 \_\_\_\_\_ day of \_\_\_\_\_, 2019, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Jenny A. Durkan, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Attachment 1 - Ocean Pavilion Funding Agreement

Exhibit A - Ocean Pavilion Site Plan

Exhibit B - Ocean Pavilion Waterfront Related Elements

Exhibit C - Ocean Pavilion Project Budget

Exhibit D - Ocean Pavilion Fundraising Plan Summary

Exhibit E - Ocean Pavilion Anticipated Construction Timeline