

1 6/05/90  
2 RM:sc

INTRODUCED BY Lois North

PROPOSED NO. 90-508

3  
4 ORDINANCE NO. **9495**

5 AN ORDINANCE authorizing the amendment of a  
6 lease with Koll Lake Union Associates L.P.  
7 for a portion of the South Lake Union Dock  
8 Site, making a supplemental appropriation  
9 of \$58,000 to the real property division  
10 from additional lease revenues and authori-  
11 zing the executive to acquire additional  
12 property by forgoing rent thereon, and  
13 amending Ordinance 9221, Section 26, as  
14 amended.

15 PREAMBLE:

16 In accordance with the provisions of K.C.C. 4.56.190,  
17 the King County council may adopt an ordinance  
18 authorizing the King County executive to amend leases  
19 when there are certain substantial changes to leases  
20 having original terms longer than five years. It is  
21 proposed that an existing lease be amended to expand  
22 the leased area by more than twenty percent, and to  
23 modify other provisions of the lease to enable the  
24 property to be used as part of a major development for  
25 the Fred Hutchinson Cancer Research Center. This major  
26 development will require the vacation of Prospect  
27 Street, a portion of the vacated property will be con-  
28 veyed to King County and will be paid for from the  
29 resulting rents. The King County council finds that  
30 the terms of the proposed amendment are favorable to  
31 and in the best interests of King County and that the  
32 agreement and amendment of lease may be granted in ac-  
33 cordance with law.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

22 SECTION 1. The King County executive is hereby  
23 authorized to execute an agreement and amendment of lease  
24 with Koll Lake Union Associates L.P. which will allow: (1)  
25 the leased area and the rent to be expanded in proportion  
26 to the increased size of the leased area due to the vaca-  
27 tion of Prospect Street; (2) a change in use from a sup-  
28 plemental parking lot for a restaurant and marina to a use  
29 for development of a major medical facility for the Fred  
30 Hutchinson Cancer Research Center, and the changes neces-  
31 sary to reflect this change in operation; (3) an amendment  
32 to the rent; and (4) an extension of the term for an addi-  
33 tional five years. The agreement and amendment of lease  
are to be in substantial conformance with the form as at-  
tached.

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SECTION 2. The King County executive is hereby authorized to acquire additional property resulting from the vacation of Prospect Street to be paid for by the Lessee with the Lessee's payment to be reimbursed by King County forgoing rent until the acquisition price is amortized.

SECTION 3. There is hereby approved and adopted a supplemental appropriation of \$58,000 from additional lease revenues to the real property division for expenditures related to the vacation of Prospect Street.

SECTION 4. Ordinance No. 9221, Section 26, as amended, is hereby amended by adding thereto and inserting therein the following:

Real Property \$58,000

INTRODUCED AND READ for the first time this 4<sup>th</sup> day of June, 1990.

PASSED this 12<sup>th</sup> day of June, 1990.

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

Lois North  
Chairman

ATTEST:

Gerald A. Peterson  
Clerk of the Council

APPROVED this 22 day of June, 1990.

Jim Hill  
King County Executive

AGREEMENT AND AMENDMENT OF LEASE

9495

THIS AGREEMENT AND AMENDMENT OF LEASE is made this \_\_\_\_\_ day of \_\_\_\_\_, 1990.

RECITALS

A. King County, a political subdivision of the State of Washington, as "Lessor," has entered into a 35-year lease effective November 1, 1984, with Rusty Pelican Restaurants, Inc. as "Lessee." The premises described in the Lease included two areas. One part is a triangular area, consisting of approximately 8,194 square feet, which is separated from the second part of the Leased Premises by Fairview Avenue North. The second part of the Leased Premises is the property on which a restaurant is located.

B. The Lessee's interest in the Lease has undergone a series of assignments and was assigned to the South Lake Union Limited Partnership, a Washington limited partnership, effective March 20, 1990. King County consented to this assignment.

C. South Lake Union Limited Partnership subsequently partially assigned its interest in the triangular area of the Premises to Koll Lake Union Associates L.P., a California limited partnership ("Koll"), which Partial Assignment was effective as of March 31, 1990. This Partial Assignment was approved by King County. Koll now effectively has a separate lease with King County for the area covered by the Partial Assignment. For purposes of this Agreement and Amendment of Lease, the triangular area shall hereinafter be referred to as the "Partially Assigned Premises." Koll also shall be referred to as "Lessee." This Agreement and Amendment of Lease affects the Partially Assigned Premises only.

D. King County, South Lake Union Limited Partnership and Koll all wish to resolve the amount of rent payable to King County.

E. Koll is assembling a large amount of property adjacent to and in the vicinity of the Partially Assigned Premises, as part of a major development for Fred Hutchinson Cancer Research Center ("FHCR"). The Partially Assigned Premises were an optional portion of the original RFP, and no use or improvements were specified therein. This Amendment will establish a use and improvements for the Partially Assigned Premises.

F. A portion of the Partially Assigned Premises has frontage along Prospect Street. Koll has an interest in the other properties along Prospect Street which is a street one block long connecting Eastlake Avenue East with Fairview Avenue North. Koll wishes to and has applied for a vacation of Prospect Street. If Prospect Street is vacated, the Partially Assigned Premises will be enlarged by approximately 3,815 square feet which is approximately 46.6% of the current size of the Partially Assigned Premises.

G. The portion of Prospect Street bordering the Partially Assigned Premises that will be vacated and thereafter will revert to King County's ownership will require payments to the City of Seattle of some fees together with 50% of the appraised

value of the property to be vacated. Koll is willing to advance the necessary funds for the vacation of the portion of Prospect Street adjacent to the Partially Assigned Premises as prepaid rent to King County.

H. Koll in conjunction with FHCRC is incorporating the Partially Assigned Premises into a major development and wishes at least a five (5) year extension of the Lease term.

NOW, THEREFORE, King County and Koll hereby agree as follows with respect to the Partially Assigned Premises only:

1. Provision 1. LEASED PREMISES of the Lease is amended in full to read as follows:

King County hereby leases to Lessee, and Lessee takes and leases in an "as is" condition from King County for the term and upon the covenants and conditions herein, that area described as follows:

Lot 5, Block 11, Supplementary Plat of D.T. Denny's Second Addition to North Seattle, as recorded in Volume 3 of Plats, page 80, records of King County, Washington, and

Lots 27 and 28, Block 68, Lake Union Shorelands, as shown on the official map of Lake Union Shorelands, filed in the office of the Commissioner of Public Lands, at Olympia, Washington July 1, 1907.

Upon the vacation of Prospect Street, the applicable area vacated and reverting to ownership by King County shall be added automatically to the Partially Assigned Premises.

2. Provision 2. TERM of the Lease is amended in full to read as follows:

The term of this Lease shall be thirty-four years and seven months commencing April 1, 1990 and terminating October 31, 2024.

3. Provision 3. RENT of the Lease shall be amended in full to read as follows:

Effective April 1, 1990 Lessee shall pay each month in advance the sum of \$2,500 as rent together with the Washington state leasehold excise tax, which is presently at the rate of 12.84% of rental payments, made in cash and/or in kind, which calculates to an amount for leasehold excise tax of \$381.00 per month for an aggregate payment of \$2,821.00 per month, provided that if Prospect Street is vacated, the portion of the area in Prospect Street reverting to King County's ownership will be added automatically to the Partially Assigned Premises and the rent and leasehold excise tax will increase in direct proportion to the

increase in area resulting from the vacation, but further provided that funds advanced by the Lessee for the vacation of King County's portion of Prospect Street shall be considered as prepaid rent. These funds advanced shall be in an amount equal to that required to be paid to the City of Seattle for the vacation of the portion of Prospect Street that will revert to King County's ownership upon vacation. Lessee's rent shall be offset in full against the funds paid by Lessee to the City of Seattle for this vacation until that sum is amortized in full.

Failure to pay rent as specified herein constitutes default by Lessee. A five percent (5%) late rent payment charge shall be compounded monthly on the rent in arrears.

The acceptance of rent by King County for any period or periods after a default by Lessee will not be considered a waiver of the default unless King County gives Lessee written notice that the acceptance is a waiver. No waiver by King County of any default by Lessee will be construed to be or act as waiver of any subsequent default by the Lessee.

4. Provision 4. RENT ADJUSTMENT of the Lease. The first paragraph is amended in full to read as follows:

To ensure for the Partially Assigned Premises a fair rent based upon the fair market value of the land, King County may adjust the rent to the current fair market rental value every three (3) years, with the first adjustment to occur on April 1, 1993, with subsequent adjustments, if any, to occur at three (3) year intervals thereafter. Also, the security deposit shall be adjusted at these intervals.

5. Provision 5. SECURITY DEPOSIT of the Lease shall be amended in full to read as follows:

At the time of the signing of this Lease as amended, the Lessee shall pay the first (1st) month's rent and leasehold tax. In addition, the Lessee shall deposit with King County a security deposit in cash or in the form of a certificate of deposit with principal payable to King County, in the amount of Five Thousand Six Hundred Forty-Two and No/100 Dollars (\$5,642.00) as a security for the payment of rent and tax. A cash security deposit need not be held in any special account and no interest will be paid thereon. The security deposit will be increased in proportion to any increases in rent that may periodically occur. At the end of the Lease term, the security deposit shall be returned or rebated to Lessee provided that Lessee has performed each and every provision of the Lease.

6. Provision 7. REQUIRED AND OPTIONAL SERVICES AND USES of the Lease shall be amended in full to read as follows:

The Lessee shall use the Partially Assigned Premises, in conjunction with surrounding properties, for the construction and operation of a major development.

7. Provision 8. IMPROVEMENTS TO BE CONSTRUCTED BY LESSEE of the Lease is amended in full to read as follows:

Lessee will construct improvements on the Partially Assigned Premises consistent with the use in Provision 7 of the Lease. Prior to construction the Lessee will submit conceptual plans and drawings to King County for approval, which approval shall not be unreasonably withheld or delayed. The value of the improvements shall equal or exceed \$245,820.00.

8. Provision 10. MAINTENANCE of the Lease is amended to the extent of deleting the third paragraph of the provision (addressing remodeling at five year intervals).

9. Provision 15. NON-DISCRIMINATION of the Lease is amended in full to read as follows:

In all services or activities, and all hiring or employment made possible by or resulting from this Lease there shall be no discrimination against any employee or applicant for employment because of sex, age (except minimum age and retirement provisions), race, color, creed, national origin, marital status, sexual orientation, or the presence of any sensory, mental, or physical handicap, unless based upon a bona fide occupational qualification. This requirement shall apply to but not be limited to the following: employment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Lessee shall not violate any of the terms of R.C.W. 49.60, Title VII of the Civil Rights Act of 1964, or any other applicable federal, state, or local law or regulations regarding non-discrimination. Any violation of this provision shall be considered a violation of a material provision of this lease and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the Lease by King County and may result in ineligibility for further King County agreements. The Lessee will also comply with other anti-discrimination laws or requirements of any and all jurisdictions having authority.

10. Provision 16, ASSIGNMENT OR SUBLEASE, is amended in part to add the following language:

King County may charge the lessee a reasonable fee for administrative costs including attorney's fees incurred reviewing and processing any amendment, modification, assignment or sublease. Lessee may assign this lease to any wholly owned subsidiary without obtaining King County's consent or payment of fees.

11. Provision 34. NOTICES of the Lease is amended in full to read as follows:

Required notices except legal notice shall be given in writing to the following respective address:

TO LESSOR: Manager  
Real Property Division  
500A King County Administration Bldg.  
500 Fourth Avenue  
Seattle, Washington 98104

TO LESSEE: Koll Lake Union Associates, L.P.  
11133 N.E. 33rd Place  
Bellevue, Washington 98004  
Attn: William J. Justen

12. Provision 37. ATTACHMENTS TO LEASE of the Lease is deleted.

Except as specifically amended herein with respect to the Partially Assigned Premises, said Lease shall, in all other respects, be and remain in full force and effect.

IN WITNESS WHEREOF, this Agreement and Amendment of Lease is executed in duplicate on behalf of Lessor and Lessee of the Partially Assigned Premises, by their duly authorized officers.

LESSEE OF PARTIALLY ASSIGNED PREMISES:

KOLL LAKE UNION ASSOCIATES L.P.,  
a California limited partnership

By: Its General Partner  
The Koll Company, a  
California corporation

LESSOR:

KING COUNTY, WASHINGTON

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

Title: \_\_\_\_\_

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

By: \_\_\_\_\_  
William J. Justen, P.E.  
Vice President

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

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Approved as to form:

By: \_\_\_\_\_  
Deputy Prosecuting Attorney

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



STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this \_\_\_\_ day of \_\_\_\_\_, 1990, before me personally appeared WILLIAM J. JUSTEN, to me known to be the Vice-President of The Koll Company, the General Partner of KOLL LAKE UNION ASSOCIATES, L.P., a California limited partnership, the partnership that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said partnership, for the uses and 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 first above written.

\_\_\_\_\_  
Notary Public in and for the State  
of Washington, residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_\_ day personally appeared before me \_\_\_\_\_ to me known to be the \_\_\_\_\_ County Executive of King County, Washington, the person who signed the above and foregoing instrument for King County for the uses and purposes therein stated and acknowledged to me that \_\_\_\_ signed the same as the free and voluntary act and deed of King County and that he was so authorized to sign.

GIVEN under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 1990.

\_\_\_\_\_  
Notary Public in and for the State  
of Washington, residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_



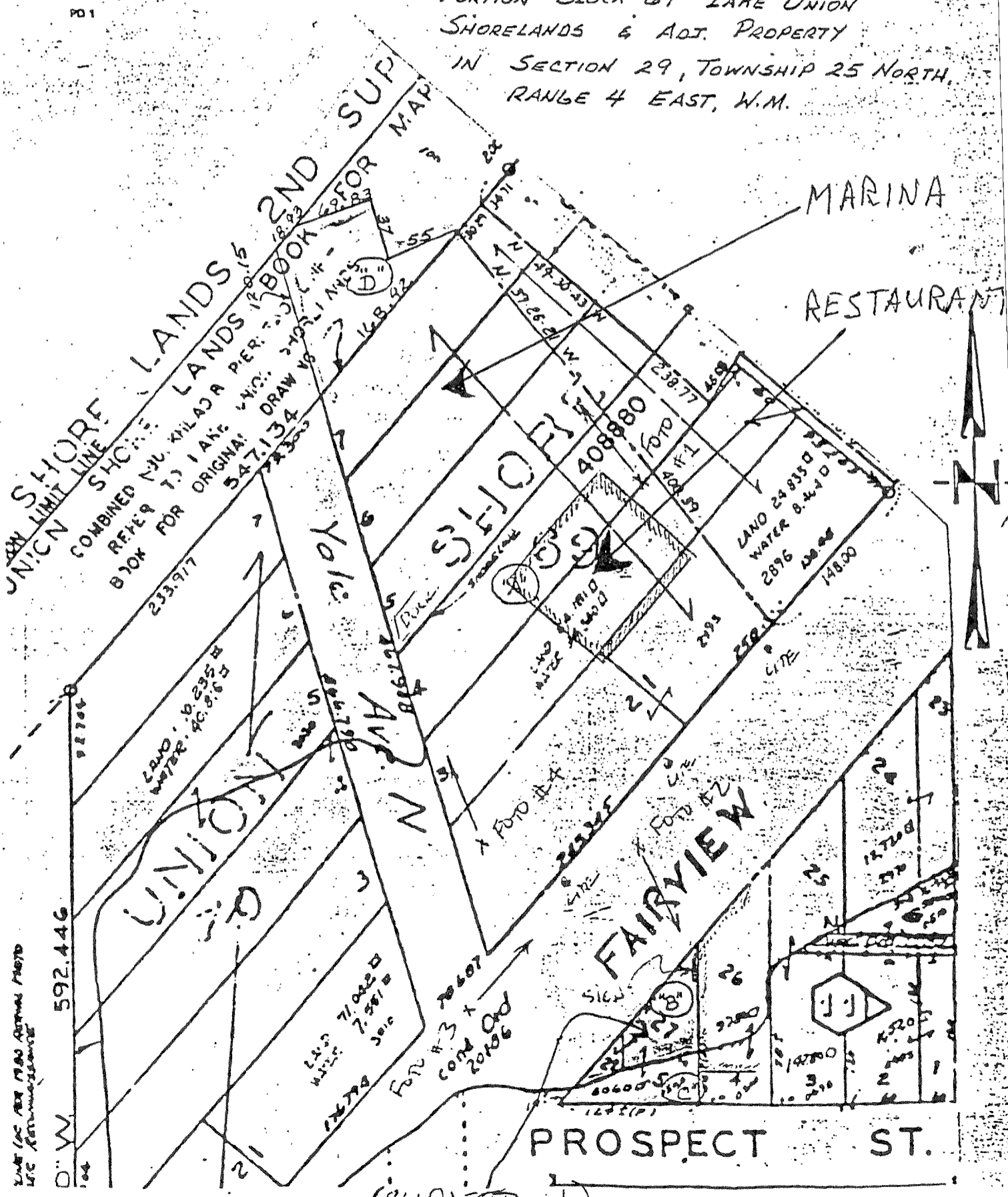
STEWART TITLE COMPANY  
of Washington, Inc.

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ORDER NO. 92195-6 2nd Report

IMPORTANT: This is not a Plat of Survey. It is furnished as a convenience to locate the land indicated hereon with reference to streets and other land. No liability is assumed by reason of reliance hereon.

PORTION BLOCK 69 LAKE UNION  
SHORELANDS & ADJ. PROPERTY  
IN SECTION 29, TOWNSHIP 25 NORTH,  
RANGE 4 EAST, W.M.



DATE OF SURVEY 1940  
BY ST. T. COMPANY