

ORDINANCE NO. **11443**

AN ORDINANCE authorizing the executive to enter into an amended loan agreement with the Museum of Flight Authority and increasing the authorized loan principal to a maximum total loan of \$2,300,000.

PREAMBLE

The Museum of Flight Authority requests that the loan agreement on February 15, 1991 between King County and the Museum of Flight authority be amended to allow the first repayment to be made no later than December 15, 1995 instead of August 15, 1994. This loan rescheduling is necessary because the restaurant which will generate income to repay the loan, will not open as soon as originally expected. An increase in the principal amount of the loan of \$300,000 is needed in order to accumulate the interest due as principal for this period of time.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The King County Executive is hereby authorized to enter into an amendment to the loan agreement dated February 15, 1991 between King County and the Museum of Flight Authority in accordance with the amendment to loan agreement included as attachment A.

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AMENDMENT TO LOAN AGREEMENT

THIS AMENDMENT TO THE LOAN AGREEMENT dated February 15, 1991 (the "Amendment") is made as of August 1, 1994 between KING COUNTY, a political subdivision of the State of Washington (the "County"), and the KING COUNTY MUSEUM OF FLIGHT AUTHORITY, a public corporation chartered by the County (the "Authority").

RECITALS

WHEREAS, the County entered into a loan agreement dated February 15, 1991 with the Authority to loan funds, the principal sum not to exceed Two Million Dollars (\$2,000,000) from the Airport Operating Fund of the County to the Authority for construction of a cafe/cafeteria and certain other related improvements herein referred to as "the Agreement"; and

WHEREAS, the Authority was authorized by then King County Executive Tim Hill on September 21, 1993 to issue a bond in the amount of Eight Hundred Thousand Dollars (\$800,000) which was purchased by Pemco Mutual Insurance Company; and

WHEREAS, the Authority has requested an extension from August 15, 1994 to December 15, 1995 for the first principal and interest payment and subsequent scheduled payments of the loan principal and interest; and

WHEREAS, King County has determined that granting such an extension will serve the best interests of the King County International Airport and the citizens of King County;

NOW, THEREFORE, in consideration of the mutual promises made herein, in addition to those of the Agreement, the County and the Authority hereby agree to amend the Agreement as follows:

AGREEMENT

1.0 SECTION 2.3.2 ACCRUED INTEREST of the Agreement is hereby amended by deleting the existing Section 2.3.2 and inserting in its place the following:

SECTION 2.3.2 ACCRUED INTEREST. Beginning from the date of closing, interest will be charged on the actual principal balance of the Loan, from time to time outstanding, at a rate equal to the Interest Rate determined as of Closing. The interest so charged shall be added quarterly to the principal balance of the Loan and shall become a part of such principal balance until the earliest of (i) December 15, 1995, (ii) an optional earlier payment date if chosen pursuant to Section 2.4 hereof, or (iii) until the principal equals the maximum Two Million Three Hundred Thousand Dollars (\$2,300,000) whereupon any further interest will be paid in quarterly payments commencing three months from the date the principal equals the maximum.

2.0 SECTION 2.4 PAYMENTS OF PRINCIPAL AND INTEREST of the Agreement is hereby amended by deleting Section 2.4 and inserting in its place the following:

SECTION 2.4 PAYMENTS OF PRINCIPAL AND INTEREST. Payments of principal and interest will begin on the earliest of (i) December 15, 1995; or (ii) at the sole option of the Authority, any earlier date, and will continue every six (6) months thereafter until the principal balance and interest is paid in full. In the event interest accrues in excess of the Two Million Three Hundred Thousand dollars (\$2,300,000) maximum loan balance, interest only payments shall be made quarterly to avoid exceeding the maximum Loan amount authorized.

3.0 Section 2.11. OBLIGATION OF THE AUTHORITY of the Agreement is hereby amended by deleting Section 2.11. and inserting in its place the following:

SECTION 2.11. OBLIGATION OF THE AUTHORITY. The Loan is a general obligation of the Authority, not subordinate to the PEMCO Bond, and subject to, but not subordinated to the lease agreement between the Authority and the Foundation. Additionally, the Authority may not incur additional indebtedness for major capital projects without County approval, which approval shall not be unreasonably withheld.

Furthermore, the Authority represents and warrants that it has not incurred and will not incur without approval of the County Legislative Authority, additional indebtedness of any kind to which the Loan is subordinated or which would impair payments due pursuant to this Agreement.

4.0 SECTION 5.3. CAFE SINKING FUND of the Agreement is hereby amended by deleting Section 5.3. and inserting in its place the following:

SECTION 5.3. CAFE SINKING FUND. Upon the signing of this Agreement, the Authority shall establish the Cafe Sinking Fund (the "Fund"). Revenues collected for the purpose of paying principal, interest and reserve on the Loan shall be deposited on the Fund no later than the date such funds are required for payment to the County. Without diminishing the Authority's obligation to deposit such funds as are necessary from any revenue source, all revenues from the operation of the cafe/restaurant shall be deposited in the Fund until the amount required for the next payment due of principal, interest and reserve on the Loan are accumulated. Payments on the Loan shall take precedence over payments to any other creditor, including PEMCO. No payments shall be made by the Authority to any other creditor, including PEMCO, that would impair the Authority's ability to service the County's Loan principal and interest payments. After operation of the cafe/restaurant has commenced,

deposits into the Fund shall be increased so that by no later than December 15, 2005, the Fund will have accumulated sufficient deposits to maintain a one year debt service reserve for the Loan. Moneys in the Fund not needed to pay the interest or principal next due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of County funds.

6.0 SECTION 6.8. NO LIENS of the Agreement is hereby amended by deleting Section 6.8. and inserting the following:

SECTION 6.8. NO LIENS. The Authority shall not mortgage, pledge, grant or permit to exist a security interest in or lien upon the Improvements or land without the consent of the County, which consent shall not be unreasonably withheld. This prohibition shall not apply to fixtures, furniture or equipment provided by the cafe/cafeteria operator.

7.0 SECTION 6. BORROWER'S COVENANTS of the Agreement is hereby amended by inserting the following additional Section 6.10:

SECTION 6.10. ACKNOWLEDGMENTS. In order to better inform the public of the substantial support the County has provided toward the establishment, development and operation of the Museum of Flight, the Authority shall cause to be placed and maintained

outside the major entrances to the Museum and in the Museum main lobby in conjunction with other donor recognition tasteful, easily readable, permanent signs bearing the following text:

The Museum of Flight Foundation

and

The Museum of Flight Authority

Gratefully Acknowledge

The Support and Assistance of

King County

in the Establishment, Financing and Operation

of the

Museum of Flight

8.0 Except as set forth in this amendment to the Agreement, all provisions, terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, each of the parties hereto has executed this Agreement on this 17th day of August, 1994.

KING COUNTY
By [Signature]
Title KING COUNTY EXECUTIVE

KING COUNTY MUSEUM OF FLIGHT

AUTHORITY
By [Signature]
Title President