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01-04-10

1-11-10 Council  
mtg

at

Sponsor:

Gossett

Proposed No.:

2009-0637

dy MOVED 9-0

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2009-0637, VERSION**

2 **1**

3 On page 1, beginning on line 5, strike everything through page 4, line 66, and insert:

4 **"SECTION 1. Findings:**

5 A. King County is the owner of the land at 401 Fifth Avenue, Seattle, in King  
6 County, Washington. Goat Hill Properties, a Washington nonprofit corporation, is  
7 leasing the land from King County under a Ground Lease dated as of January 1, 2005.

8 Goat Hill Properties has developed a building on that land known as the Chinook  
9 Building through issuance of tax-exempt bonds, and has leased the Chinook Building  
10 back to King County under a Project Lease Agreement dated as of January 1, 2005, as  
11 amended by a First Amendment to Project Lease and to Memorandum of Project Lease  
12 dated October 2005.

13 B. The Chinook Building has been developed pursuant to a Master Use Permit  
14 issued by the Seattle Department of Planning and Development, Project 2401763, which  
15 includes an allowance for certain bonus floor area based in part upon the voluntary  
16 agreement to provide approximately nine hundred eighty square feet of child care space  
17 pursuant to Seattle Municipal Code ("SMC") 23.49.012, using the "performance option"

18 as described therein, and as set forth in that certain Covenant Regarding Bonus Floor  
19 Area recorded under King County recording no. 20070223002398 (DPD Covenant).

20 C. Wright Runstad Associates Limited Partnership, a Washington limited  
21 partnership and the developer of the Chinook Building, has represented in writing to King  
22 County that all other requirements of the Covenant Regarding Bonus Floor Area besides  
23 the child care space have been met.

24 D. The county has determined that it is in the public interest to have child care  
25 service provided in the Chinook Building, and to have that child care service set aside  
26 twenty percent of its available capacity for low income families.

27 E. Wright Runstad Associates Limited Partnership, as the developer of the  
28 Chinook Building and in cooperation with the county, rigorously solicited prospective  
29 child care providers and the county carefully selected the Northwest Center, a  
30 Washington non-profit corporation, as the most qualified candidate to provide child care  
31 services in the Chinook Building.

32 F. Northwest Center, consistent with the desires of the county, has negotiated an  
33 agreement with the city of Seattle human services department to receive funding for a  
34 substantial portion of the capital costs for tenant improvements for a child care facility in  
35 the Chinook Building. The funding from the city of Seattle is derived from cash option  
36 payments made with respect to permits for other properties under SMC 23.49.012. These  
37 cash option payments are required to be spent by the city of Seattle to fund capital  
38 expenditures for child care facilities.

39 G. The city of Seattle has approved its funding of the child care tenant  
40 improvements in the Chinook Building subject to various conditions required under SMC

41 23.12.012, including the granting of a twenty year covenant by the county in favor of the  
42 city of Seattle that requires that the portion of the Chinook Building to be improved for  
43 child care remain in that use for a period of twenty years and that the child care operator  
44 set aside twenty percent of its available capacity for low-income families (hereinafter  
45 "covenant").

46 H. In order to complete satisfaction of conditions to bonus floor area under SMC  
47 23.49.012 and in order to induce the city to provide the funding to Northwest Center for  
48 tenant improvements for the child care facilities in the Chinook Building, the county is  
49 willing to execute and record the covenant.

50 I. The county desires to sublease to Northwest Center for twenty years  
51 approximately nine thousand eight hundred sixty square feet in the Chinook Building to  
52 be used by Northwest Center to operate a child care facility consistent with the  
53 requirements of the covenant and Northwest Center's agreement with the city of Seattle.

54 J. The sublease is an agreement for the use of county property with a bona fide  
55 nonprofit organization that will make improvements to county property and will provide  
56 services that will benefit the public in conformance with K.C.C. 4.56.150.E.

57 K. It is in the best interests of the county to enter into the sublease for a twenty  
58 year term, and the property to be leased complies with the requirements of K.C.C.  
59 4.56.180.A.

60 L. Immediate action by the council approving the covenant and sublease is  
61 necessary for the successful completion of the project because the funding agreement  
62 between the city of Seattle and Northwest Center requires that the council authorize the  
63 execution and recording of a covenant committing to child care space in the Chinook

64 Building for twenty years, with the covenant to be executed and recorded by the county  
65 and then the city before January 15, 2010. If this deadline is not met, the city of Seattle  
66 or Northwest Center could terminate their agreement. In addition, there is a maximum  
67 project budget that the contractor has orally agreed to honor, but the price could change if  
68 there were a delay in starting the project. This ordinance must be enacted as an  
69 emergency ordinance to allow the covenant to be recorded before January 15, 2010 as  
70 required by the agreement between Seattle and Northwest Center.

71 SECTION 2. The King County executive is hereby authorized to execute and  
72 record a twenty year covenant for child care space in the Chinook Building in  
73 substantially the form of Attachment A to this ordinance, and is further authorized to  
74 execute a twenty year sublease for child care in the Chinook Building in substantially the  
75 form of Attachment B to this ordinance.

76 SECTION 3. The appropriate county officials, agents and employees are hereby  
77 authorized to take all actions necessary to implement the covenant and the sublease.

78 SECTION 4. Ordinance 14509, Section 36, as amended, and K.C.C. 4.56.180 are  
79 each hereby amended to read as follows:

80 A. The county may lease real property for a term of years and upon such terms  
81 and conditions as may be deemed in the best interests of the public and the county. A  
82 lease shall not be for a longer term in any one instance than ten years, except as follows:

83 1. If the county determines it to be in the best interest of the county, real  
84 property necessary to the support or expansion of an adjacent facility may be leased to  
85 the lessee of the adjacent facility for a term to expire simultaneously with the term of the  
86 lease of the adjacent facility, but not to exceed thirty-five years;

87           2. If the county determines it to be in the best interest of the county, if the  
88 property to be leased is improved or is to be improved and the value of the improvement  
89 is or will be at least equal to the value of the property to be leased, the county may lease  
90 the property for a term not to exceed thirty-five years;

91           3. If the property to be leased is to be used for public recreation and police  
92 training purposes, for parks and recreation purposes, for a hospital or a medical training  
93 and research facility, for a childcare facility to be improved with full or partial funding  
94 from a government-sponsored childcare bonus program, for the county's own use in  
95 accordance with a lease or leaseback arrangement entered into under K.C.C. 4.56.160 E  
96 or for major airport, industrial, office or other commercial purposes or transit-oriented  
97 development, requiring extensive improvements, the county may lease the property for a  
98 term equal to the estimated useful life of the improvements, but not to exceed fifty years;  
99 unless the property is leased to a public housing authority or nonprofit organization in  
100 accordance with RCW 36.34.135, in which case the term may extend to seventy-five  
101 years; and

102           4. Leases entered into under K.C.C. 4.56.160 D may extend for the period of  
103 years necessary to amortize the special purpose funds, not to exceed twenty-five years.

104           B. The lessee shall not improve or alter the leased property in any manner  
105 without the prior written consent of the county, but shall, before making improvements or  
106 alterations, submit plans and designs for the improvement or alteration to the county for  
107 approval. If the plans and designs are disapproved, the improvements or alterations shall  
108 be made only with such changes as may be required by the county. Unless otherwise  
109 stipulated, all improvements or alterations erected or made on the leased property shall,

110 on expiration or sooner termination of the lease, belong to the county without  
111 compensation to the lessee, but the county shall have the option, to be exercised on  
112 expiration or sooner termination of this lease, to require the lessee to remove any or all of  
113 the improvements or alterations. If the lessee fails substantially to make the  
114 improvements or alterations required by the lease, the lease shall be terminated and all  
115 rentals paid shall be forfeited to the county.

116 C. Except for lease or leaseback arrangements entered into under K.C.C.  
117 4.56.160 E, any lease made for a period longer than five years shall contain provisions  
118 requiring the lessee to permit the rents to be adjusted and fixed by the county every five  
119 years, but any lease may provide for more frequent readjustments. If the lease permits  
120 the county to adjust the rent, the county shall give the lessee written notice of the adjusted  
121 rent, in accordance with the terms of the lease. The rent as adjusted shall take effect  
122 thirty days after the date of the notice unless the lessee, within thirty days following the  
123 receipt of the notice from the county, gives the county written notice of the lessee's  
124 rejection of the adjusted rent. If the lessee and the county cannot agree upon the rental  
125 readjustment, the rent shall be adjusted by arbitration. For arbitration, the lessee and the  
126 county shall each select one disinterested arbitrator and the two selected arbitrators shall  
127 select a third. If the two arbitrators have not selected a third arbitrator within thirty days  
128 after the selection of the last selected of the two, either the lessee or the county shall  
129 apply to the presiding judge of the superior court for King County for the appointment of  
130 a third arbitrator. Each arbitrator must be a member of the American Institute of Real  
131 Estate Appraisers, the Society of Real Estate Appraisers or other appraisal society or  
132 association having equivalent ethical and professional standards. If a licensing

133 requirement for real estate appraisers is imposed by any legislative body, each arbitrator  
134 shall also be so licensed. The three arbitrators shall determine a fair rent for the premises  
135 based upon the fair market rental value of the property, as defined in K.C.C. 4.56.010.  
136 The decision of a majority of the arbitrators shall bind both the lessee and the county. At  
137 the conclusion of the arbitration, the arbitrators shall submit written reports to the lessee  
138 and the county. The cost of the arbitration shall be divided equally between the lessee  
139 and the county.

140 D. Except as provided in K.C.C. 4.56.150 D and E and 4.56.160 D, the rent of all  
141 leases of county real property shall be based upon fair market rental value, as defined in  
142 K.C.C. 4.56.010.

143 E. No lease shall be assigned or subleased without the assignment or sublease  
144 being first authorized by the county in writing. All leases, when drawn, shall contain this  
145 provision.

146 F. Notwithstanding the other provisions of this chapter and following such  
147 procedures as may be determined appropriate by the council, the executive may enter into  
148 long-term master leases of county property under which developers: would develop the  
149 property into office and other space required or approved by the county; would lease  
150 some of space back to the county and may lease space unneeded by the county to private  
151 or public entities for private or public uses as approved by the county council; and would  
152 convey all leasehold improvements to the county at the expiration or termination of the  
153 master leases. A master lease shall be subject to approval by the council.

154 SECTION 5. The county council finds as a fact and declares that an emergency  
155 exists and that this ordinance is necessary for the immediate preservation of public peace,

156 health or safety or for the support of county government and its existing public

157 institutions.

158 "

159 **EFFECT: Clarifies language, makes findings supporting an emergency, declares an**

160 **emergency, adds an exception to K.C.C. 4.56.180 pertaining to childcare, and**

161 **removes an unnecessary provision.**

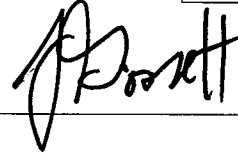


**T1**

1-04-2010

1-11-10 Council Mtg.

Sponsor: Gossett



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Proposed No.: 2009-0637

Lg MOVED PASSED: 9-0

1 **TITLE AMENDMENT TO PROPOSED ORDINANCE 2009-0637, VERSION 1**

2 On page 1, beginning on line 1, strike everything through page 1, line 3, and insert:

3 "AN ORDINANCE authorizing the executive to execute  
4 documents for the improvement and leasing of a child care  
5 facility in the Chinook Building; amending Ordinance  
6 14509, Section 36, as amended, and K.C.C. 4.56.180; and  
7 declaring an emergency."

8 **EFFECT: Inserts the correct title for the ordinance as amended.**