

Legislation Text

File #: 2014-0273, **Version:** 2

AN ORDINANCE relating to lease terms; and amending Ordinance 12045,
Section 17, as amended, and K.C.C. 4.56.180.

STATEMENT OF FACTS:

1. Offering lease terms of up to twenty-five years is consistent with commercial retail leasing practices.
2. Longer lease terms allow King County to be competitive in securing retail tenants, especially national, credit tenants.
3. Longer leases enable retail tenants to amortize tenant improvement investments over a longer term.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 12045, Section 17, as amended, and K.C.C. 4.56.180 are each hereby amended to read as follows:

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

1. If the county determines it to be in the best interest of the county, real property necessary to the support or expansion of an adjacent facility may be leased to the lessee of the adjacent facility for a term to expire simultaneously with the term of the lease of the adjacent facility, but not to exceed thirty-five years;
2. If the county determines it to be in the best interest of the county, if the property to be leased is improved or is to be improved and the value of the improvement is or will be at least equal to the value of the

property to be leased, the county may lease the property for a term not to exceed thirty-five years;

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

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

5. Leases and subleases for retail uses in county buildings, including those originally developed in accordance with K.C.C. 4.56.160.E., may be leased for a term not to exceed twenty-five years.

B. The lessee shall not improve or alter the leased property in any manner without the prior written consent of the county, but shall, before making improvements or alterations, submit plans and designs for the improvement or alteration to the county for approval. If the plans and designs are disapproved, the improvements or alterations shall be made only with such changes as may be required by the county. Unless otherwise stipulated, all improvements or alterations erected or made on the leased property shall, on expiration or sooner termination of the lease, belong to the county without compensation to the lessee, but the county shall have the option, to be exercised on expiration or sooner termination of this lease, to require the lessee to remove any or all of the improvements or alterations. If the lessee fails substantially to make the improvements or alterations required by the lease, the lease shall be terminated and all rentals paid shall be forfeited to the county.

C. Except for lease or leaseback arrangements entered into under K.C.C. 4.56.160.E., any lease made for a period longer than five years shall contain provisions requiring the lessee to permit the rents to be adjusted and fixed by the county every five years, but any lease may provide for more frequent readjustments. If the lease permits the county to adjust the rent, the county shall give the lessee written notice of the adjusted rent, in accordance with the terms of the lease. The rent as adjusted shall take effect thirty days after the date of the notice unless the lessee, within thirty days following the receipt of the notice from the county, gives the county written notice of the lessee's rejection of the adjusted rent. If the lessee and the county cannot agree upon the rental readjustment, the rent shall be adjusted by arbitration. For arbitration, the lessee and the county shall each select one disinterested arbitrator and the two selected arbitrators shall select a third. If the two arbitrators have not selected a third arbitrator within thirty days after the selection of the last selected of the two, either the lessee or the county shall apply to the presiding judge of the superior court for King County for the appointment of a third arbitrator. Each arbitrator must be a member of the American Institute of Real Estate Appraisers, the Society of Real Estate Appraisers or other appraisal society or association having equivalent ethical and professional standards. If a licensing requirement for real estate appraisers is imposed by any legislative body, each arbitrator shall also be so licensed. The three arbitrators shall determine a fair rent for the premises based upon the fair market rental value of the property, as defined in K.C.C. 4.56.010. The decision of a majority of the arbitrators shall bind both the lessee and the county. At the conclusion of the arbitration, the arbitrators shall submit written reports to the lessee and the county. The cost of the arbitration shall be divided equally between the lessee and the county.

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

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

F. Notwithstanding the other provisions of this chapter and following such procedures as may be

determined appropriate by the council, the executive may enter into long-term master leases of county property under which developers: would develop the property into office and other space required or approved by the county; would lease some of space back to the county and may lease space unneeded by the county to private or public entities for private or public uses as approved by the county council; and would convey all leasehold improvements to the county at the expiration or termination of the master leases. A master lease shall be subject to approval by the council.