



## Legislation Text

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**File #:** 2009-0546, **Version:** 2

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Clerk 02/10/2010

AN ORDINANCE relating to transit-oriented development of a portion of the county-owned park-and-ride lot in the city of Burien; approving a ground lease of the site from the county to Alliance Wasatch I, LLC, and a lease by Alliance Wasatch I, LLC, back to the county of a parking garage to be constructed on the site; authorizing the county executive to execute final forms of the ground lease and project lease; and approving certain other provisions of the lease-leaseback transaction.

### PREAMBLE:

By its request for proposals issued in December 2007, the county has sought to promote transit-oriented development on a portion of a site in downtown Burien currently used as a Metro park-and-ride surface lot. The county has constructed a new transit center on the remaining portion of the site. In accordance with the request for proposals, the county accepted the proposal of Alliance Wasatch I, LLC ("Alliance") to develop mixed income housing and to expand the park-and-ride facility by building a parking garage that the county would lease back upon completion pursuant to a project lease with an option to purchase the garage. Current market conditions have delayed Alliance's plans for the mixed income housing project, but provide an attractive bid climate for Alliance to build the parking garage for lease-back by the county. Alliance has committed to a maximum construction price of \$20,518,000, which would be payable as rent over a long-term lease commencing upon satisfactory completion of the parking garage. The

county has agreements with Sound Transit, the Federal Transit Authority and the United States Department of Energy to provide design and construction costs of the parking garage, including internal county staff time and consultants, totaling \$20,826,386, including a county grant match of \$55,942 from the transit capital account.

To permit timely completion of the project in accordance with goals set forth in the county's request for proposals, the county wishes to enter into a lease-leaseback transaction for its acquisition of the parking garage, as authorized by RCW 36.34.205 and K.C.C. 4.56.160, which incorporate by reference RCW 35.42.070 through 35.42.080 (the "Municipal Leasing Act"). The county will ground lease the site to Alliance and Alliance will enter into a project lease with the county for the parking garage, to be built in accordance with design criteria agreed to by the county. In accordance with the Municipal Leasing Act, the county may make no rent payments to Alliance under the project lease until the parking garage is completed to the county's satisfaction. After completion of the parking garage, the county may, at its option, use the money provided by Sound Transit, Federal Transit Authority and United States Department of Energy to prepay the project lease and acquire clear title to the parking garage. Terms of the ground lease and project lease have been negotiated, and the county wishes to approve the ground lease and project lease.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

**SECTION 1. Findings:**

A. The county hereby finds that the public interest, welfare and benefit require the county to lease with an option to purchase a parking garage to provide expanded park-and-ride facilities and to serve future mixed income housing, to be built on the site owned by the county at 14900 4th Avenue South, in the city of Burien, adjacent to the site of the new county transit center. The county further finds that a lease-leaseback transaction, as authorized by the Municipal Leasing Act, would be consistent with the county's request for proposals to

develop the site, facilitate transit-oriented development of the site consistent with the planning expectations of the city of Burien and Sound Transit, and shift the risk of construction cost liability to Alliance. The county further finds that the proposal by Alliance is the most efficient proposal for developing the Project. Unless otherwise defined in this ordinance, capitalized terms used in this ordinance have the meanings given such terms in the Lease Agreement With Option to Purchase (as hereinafter defined).

B. The county further finds that Monthly Rent payable under the Project Lease in the amount of 68 cents per square foot does not exceed prevailing rental rates for space comparable to the Project.

C. The county further finds that funds expected to be available to the county from Sound Transit, Federal Transit Authority and the United States Department of Energy will be sufficient to prepay the project lease when the county is able to exercise its option to purchase under the project lease.

**SECTION 2. Approval of Ground Lease and Project Lease.** Subject to section 4 of this ordinance, the county executive is authorized to sign the Ground Lease, the Lease Agreement (With Option to Purchase) and the Exclusive Negotiating Agreement in substantially the forms set forth as Attachments A, B and C to this ordinance, respectively; provided, however, that (i) the term of the Ground Lease shall commence no earlier than the effective date of this ordinance and shall expire no later than December 31, 2027, and (ii) the term of the Lease Agreement (With Option to Purchase) shall commence no earlier than the effective date of this ordinance and shall expire no later than December 31, 2027, nor shall the amount of Monthly Rent payable under the Project Lease exceed the monthly rental rate of 68 cents per square foot. When fully executed, copies of the Ground Lease and Lease Agreement (With Option to Purchase) shall be filed with the clerk of the council.

**SECTION 3. Pledge of Taxation and Credit.** The county's obligation to pay rent under the Project Lease will be a limited tax general obligation of the county. The county hereby irrevocably covenants and agrees that it will include in its annual budget and levy taxes annually on all taxable property within the county, within and as a part of the tax levy permitted to the county without a vote of the electors, in amounts sufficient,

together with all other money legally available and to be used therefor, to pay the Monthly Rent and any Additional Rent due under the Project Lease as the same shall become due. The full faith, credit and resources of the county are irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such amounts.

**SECTION 4. Agreement with Sound Transit.** The county executive may not execute the Ground Lease or Project Lease until Sound Transit and King County enter into a binding agreement authorizing payment by Sound Transit to King County of \$14,730,000 for the Project.

**SECTION 5. Severability.** If any one or more of the provisions of this ordinance shall be declared by any court of competent jurisdiction to be contrary to law, then such provision or provisions shall be null and void and shall be deemed separable from the remaining provisions of this ordinance and shall in no way affect the validity of the other

provisions of this ordinance, the Ground Lease, the Project Lease or the Exclusive Negotiating Agreement.

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