

[3/30/09] Council Meeting

S1

[wsh]

Sponsor: Gossett *J. Gossett*

Proposed No.: 2009-0193

Lg moved. PASSED 9-0

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2009-0193, VERSION**

2 2

3 On page 2, beginning on line 22, strike everything through page 6, line 105, and insert:

4 "BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5 **SECTION 1. Definitions.** Unless the context otherwise requires, the terms
6 defined in this section shall, for all purposes of the ordinance have the meanings
7 specific;

8 A. "Community Development Block Grant (CDBG)" funds means those
9 entitlement monies King County receives through the United States Department of
10 Housing and Urban Development and that are dedicated to the CDBG Fund.

11 B. "CDBG Entitlement Community" means the local community entitled to
12 receive CDBG monies from the United States Department of Housing And Urban
13 Development.

14 C. "Housing and Urban Development Section 108 Loan Guarantee" means the
15 guaranteeing by the United States Department of Housing and Urban Development of
16 loans secured by notes issued by a CDBG Entitlement Community and guaranteed by
17 the CDBG Entitlement Community's future CDBG allocation to finance economic

18 development or other capital facilities projects that directly benefit low income people.

19 D. "HUD Section 108 Loans" means the \$5,250,000 loan and the \$1,000,000
20 loan to King County in accordance with the terms of the Contracts for Loan Guarantee
21 Assistance with HUD.

22 E. "Notes" means the promissory notes guaranteed by HUD required under the
23 Contracts for Loan Guarantee Assistance under Section 108 of the Housing and
24 Community Development Act of 1974 ("Contract") executed between King County and
25 the Secretary of Housing and Urban Development, and includes the Fiscal Agency
26 Agreement and the Trust Agreement defined under the Contract.

27 SECTION 2. The council finds and determines it is necessary and appropriate
28 and in the best interest of the county to contract with the United States Department of
29 Housing and Urban Development for Housing and Urban Development Section 108
30 Loan Guarantees in the amounts not more than \$5,250,000 and \$1,000,000 to fund the
31 development of a multi-tenant retail/office plaza in the White Center business district by
32 a private for profit developer. The project is consistent with the economic development
33 objectives of King County's adopted Consolidated Housing and Community
34 Development Plan; and upon completion, it will provide goods and services to the White
35 Center community and job opportunities for low-to-moderate income persons.

36 SECTION 3. The executive is hereby authorized to enter into Contracts for Loan
37 Guarantee Assistance with HUD, Attachment A to this ordinance, in substantially the
38 form attached and to issue nonrecourse promissory notes ("Notes") guaranteed by HUD,
39 Attachment B to this ordinance, in substantially the form attached, in the aggregate
40 principal amount of not more than \$6,250,000. Under the Contracts for Loan Guarantee

41 Assistance, King County will pledge its future CDBG entitlement as security for the
42 Notes, as well as any other security required by HUD in the Contracts. The executive is
43 also authorized to execute any documents required by HUD to close the HUD Section
44 108 Loans.

45 SECTION 4. As required by the HUD Contracts, the executive is also authorized
46 to execute a loan agreement with the White Center Investment Fund, LLC, Attachment
47 C to this ordinance, in substantially the form attached, to provide the available HUD
48 Section 108 Loan proceeds as equity funding for the a multi-tenant retail/office plaza in
49 the White Center business district. The White Center Investment Fund, LLC is required
50 to execute a promissory note in the amount of \$6,250,000 and execute a Pledge and
51 Security Agreement, Attachment D to this ordinance. The executive is also authorized
52 to execute any documents required in order to close the Investment Fund loan.

53 SECTION 5. As required by the HUD Contracts, the executive is authorized to
54 execute a Collateral Agency Agreement with the NDC New Markets Investments XL,
55 LLC and the White Center Investment Fund, LLC, Attachment E to this ordinance, in
56 substantially the form attached, to allow the county to act as the collateral agent for
57 NDC New Markets Investments XL, LLC to ensure completion of the project and
58 compliance with the HUD Section 108 Loan related requirements. The executive is also
59 authorized to execute any required collateral assignment to HUD required by the
60 Contracts.

61 SECTION 6. The executive is authorized to execute a related Subordination and
62 Standstill Agreement with the Vong Brothers, LLC, Attachment F to this ordinance, in
63 substantially the form attached, to increase the security of King County's Loan to the

64 White Center Investment Fund, LLC.

65 SECTION 7. The executive is also authorized to execute an Indenture and
66 Custodial Agreement with the Bank of New York, Attachment G to this ordinance, in
67 substantially the form attached, to manage and account for payments from the White
68 Center Investment Fund, LLC under the loan agreement, or related security, and
69 repayments of the HUD Section 108 Loans.

70 SECTION 8. The executive is also authorized to execute a CDE Interest Control
71 Agreement, Attachment H to this ordinance, in substantially the form attached, to
72 perfect the county's security interest in the collateral pledged to the county for the
73 Investment Fund loan.

74 SECTION 9. The executive is also authorized to execute a Waiver and Consent
75 Agreement, Attachment I to this ordinance, in substantially the form attached, to provide
76 flexibility to the New Market tax credit investors.

77 SECTION 10. The HUD Section 108 Loans shall be repaid to the Fiscal Agent or
78 Trustee of HUD in accordance with the terms and conditions of the HUD Contracts for
79 Loan Guarantee Assistance and the Notes. In the event the funds held by the Bank of
80 New York in the loan repayment account and loan repayment investment account are
81 insufficient to make principal and interest payments, the executive is authorized to use
82 CDBG funds to make the payments to HUD required by the Contracts for Loan
83 Guarantee Assistance and the Notes.

84 SECTION 11. Should any section, subsection, paragraph, sentence, clause or

85 phrase of this ordinance be declared unconstitutional or invalid for any reason, such
86 declaration shall not affect the validity of all remaining portions of this ordinance."
87
88 Delete Attachment A, U.S. Department of Housing and Urban Development, dated
89 March 25, 2009, and insert Attachment A, U.S. Department of Housing and Urban
90 Development, dated March 30, 2009.
91 Delete Attachment C, Loan Agreement between White Center Square Investment Fund,
92 LLC and King County, and Insert Attachment C, Loan Agreement between White Center
93 Investment Fund, LLC and King County, dated March 30, 2009.
94 Delete Attachment D, Pledge and Security Agreement, and insert Attachment D, Pledge
95 and Security Agreement, dated March 30, 2009.
96 Delete Attachment E, Collateral Agency Agreement, and insert Attachment E, Collateral
97 and Security Agreement, dated March 30, 2009.
98 Delete Attachment F, Subordination and Forebearance Agreement, and insert Attachment
99 F, Subordination and Forebearance Agreement, dated March 30, 2009.
100 Delete Attachment H, CDE Interest Control Agreement, and insert Attachment H, CDE
101 Interest Control Agreement, dated March 30, 2009.
102 Delete Attachment I, Waiver and Consent Agreement, and insert Attachment I, Waiver
103 and Consent Agreement, dated March 30, 2009.
104
105 **EFFECT: Removes the term "White Center Square Investment Fund, LLC" from**
106 **the ordinance and attachments A, C, D, E, F, H, and I, and replaces it with "White**
107 **Center Investment Fund, LLC."**

3/30/2009 Council Meeting

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Sponsor: Gossett *J Gossett*

Proposed No.: 2009-0193

Ly MOVED. PASSED 9-0

1 **TITLE AMENDMENT TO PROPOSED ORDINANCE 2009-0193, VERSION 2**

2 On page 1, beginning on line 1, strike everything through page 2, line 20, and insert:

3 "AN ORDINANCE relating to the financing of an economic

4 development and revitalization project in unincorporated

5 South King County; authorizing the King County executive

6 to execute such financing agreements, promissory notes,

7 security arrangements, and related documents for a

8 \$5,250,000 and a \$1,000,000 Section 108 Loan Guarantee

9 with the United States Department of Housing and Urban

10 Development (HUD) for which King County will pledge

11 future Community Development Block Grant funds for the

12 repayment of the principal and interest due the Department

13 of Housing and Urban Development Fiscal Agent or Trustee

14 and other security; and authorizing the executive to reloan

15 the proceeds from the Section 108 Loan to the White Center

16 Investment Fund, LLC and execute such financing

17 agreements, security arrangements and other related

18 documents, to provide equity financing for the construction
19 of a multi-tenant retail/office plaza in unincorporated King
20 County and to provide security for King County's loan to the
21 White Center Investment Fund, LLC."

22 **EFFECT: Amends the title to reflect Striking Amendment S1. Specifically, changes**
23 **the term "White Center Square Investment Fund, LLC" to "White Center**
24 **Investment Fund, LLC."**