



Legislation Text

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Clerk 09/07/2017

AN ORDINANCE relating to credit enhancement for affordable housing, establishing a King County Housing Authority credit enhancement program, replacing outdated references to the housing opportunity fund; amending Ordinance 12808, Section 2, as amended, and K.C.C. 24.28.010, Ordinance 12808, Section 3, as amended, and K.C.C. 24.28.020 and Ordinance 14269, Section 4, as amended, and K.C.C. 24.28.030, adding a new section to K.C.C. chapter 24.28 and repealing Ordinance 14269, Section 5, as amended, and K.C.C. 24.28.040.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. The public interest, welfare and benefit require that the county utilizes all appropriate and available national, state and local resources to aid the poor and infirm of King County. Chief among the needs for very low, low- and moderate-income households, elderly, and disabled persons is suitable and affordable housing. Local government involvement ensuring construction of housing for very low, low-, moderate- and median-income households is needed in the current and foreseeable future of the housing market in King County. It is necessary to develop a variety of tools, incentives, and mechanisms to generate and provide funding for workforce housing.

B. A component of housing price is the cost of financing the construction of the housing and the required repayment of short and long-term loans from private and public resources. The interest rate associated

with loans for any project can greatly affect the overall cost of the housing.

C. Article VIII, Section 7 of the Washington State Constitution allows the county to give money, or property, or loan its money, or credit to or in aid of any individual association, company or corporation when it is for the necessary support of the poor or infirm.

D. King County, in 1995, successfully entered into a contingent loan agreement with the King County Housing Authority, thereby funding an additional nine units of housing affordable to very low-income households.

E. In 1997, Ordinance 12808 established a credit enhancement program and directed the executive to prepare guidelines for program administration.

F. In 2008, Ordinance 16075 increased the total amount of outstanding project debt benefitting from the credit enhancement from King County to two hundred million dollars.

G. Since implementation of the program, nineteen developments comprised of over two thousand one hundred units have been assisted under the program, sixteen of which are owned by the King County Housing Authority.

H. In order to further facilitate additional funding for affordable housing, the total amount of outstanding project debt benefitting from the credit enhancement from King County should be increased by an additional two hundred million dollars as specified in this ordinance.

I. The King County Housing Authority credit enhancement program established by this ordinance is expected to add approximately two thousand two hundred units of rental housing to the workforce housing stock of King County, by allowing the King County Housing Authority to readily access municipal credit markets at the lowest available interest rates in order to move quickly to secure long term rental affordability in multiple properties.

SECTION 2. Ordinance 12808, Section 2, as amended, and K.C.C. 24.28.010 are hereby amended to read as follows:

A. The executive is hereby authorized to implement a project-based credit enhancement program utilizing the county's full faith, credit and resources to make available credit enhancements for workforce housing projects assisting the poor and infirm. For the purposes of this chapter, project-based means that applications will be proposed, reviewed and approved based on the financial viability of each project. The executive is further authorized to enter contingent loan agreements with housing developers ~~((provided that)),~~ but only if the total amount of outstanding ~~((project))~~ debt benefiting from a project-based credit enhancement ~~((from King County through))~~ under this program shall not exceed two hundred million dollars. The project-based credit enhancement program and its associated contingent loan agreements shall ~~((adhere to the parameters defined in))~~ be governed by K.C.C. 24.28.020.

B. The executive is hereby authorized to implement the King County Housing Authority Credit enhancement program utilizing the county's full faith, credit and resources to make available credit enhancement to the King County Housing Authority for workforce housing. The executive is further authorized to enter into contingent loan agreements with the King County Housing Authority, but the total amount of outstanding debt benefiting from a credit enhancement from King County through this program shall not exceed two hundred million dollars. The King County Housing Authority credit enhancement program and its associated contingent loan agreements shall be governed by Section 6 of this ordinance.

SECTION 3. Ordinance 12808, Section 3, as amended, and K.C.C. 24.28.020 are hereby amended to read as follows:

A. The project-based credit enhancement program will add to the stock of workforce housing aiding the poor and infirm of King County. The program is intended to create an incentive to develop new types of housing, increased affordability for residents, and realization of multiple growth management goals. Extension of credit enhancements to housing developers to secure favorable financing terms for housing projects ~~((shall))~~ should result in tangible benefits to the direct beneficiaries ~~(()),~~ who are poor and infirm residents of the

proposed housing~~(s)~~, and other public benefits, as appropriate. Project-based ~~(€)~~ credit enhancements may be utilized ~~(when)~~ for one or more of the following:

1. ~~(e)~~ Enabling the development of needed housing that would not otherwise have been built were the project-based credit enhancement unavailable; ~~(and/or)~~

2. ~~(i)~~ Increasing the affordability of individual units that are targeted for lower income households within workforce housing projects; ~~(or)~~ and

3. ~~(p)~~ Providing a payment to King County in lieu of additional project affordability for the purpose of developing affordable housing at another location.

B. Eligible applicants may include public housing authorities, ~~(non-profit)~~ nonprofit organizations, for-profit organizations, local governments, public agencies~~(s)~~ and public development authorities.

C. Eligible beneficiaries must be the poor and infirm of King County. These persons are commonly recognized as households earning eighty percent or less of the county median income and persons or households with special needs.

D. Project-based ~~(€)~~ credit enhancements are to be used to assist the development of mixed-income projects that add to the stock of workforce housing units in King County, including homeownership opportunities for eligible beneficiaries. Owned housing must remain affordable for subsequent buyers who are eligible beneficiaries or upon resale to an ineligible buyer the county shall recapture the subsidy provided by the credit enhancement. Rental projects must guarantee long term affordability to eligible beneficiaries. Eligible activities shall include new construction and acquisition and/or rehabilitation of existing housing when the final product will yield additional workforce housing units.

E. Projects assisted through the project-based credit enhancement program must be located in urban centers or within close proximity to transit hubs or corridors. Projects proposed to be sited elsewhere may be considered when there are unique opportunities to aid eligible beneficiaries. These projects shall nevertheless demonstrate access to employment, transportation and human services, and adequate infrastructure to support

housing development.

F. Applications for project-based credit enhancements should be accepted year round to accommodate timely approval of final financial arrangements for projects. Proposed projects must detail the financial benefit of the project-based credit enhancement over the life of the project and how that benefit will be realized by eligible beneficiaries residing in the project.

G. All projects shall undergo rigorous ~~((internal))~~ review for financial, legal and policy compliance by staff ~~((housing and))~~ from appropriate county agencies, including the community ((development)) services division, the finance and business operations division and the office of the prosecuting attorney ((-review and underwriting for financial, legal and policy compliance. In addition, projects shall undergo external underwriting by the county's economic development consultant and bond counsel when merited. Where needed, opinions from a bond rating service shall be required)). When determined necessary by staff, review by the county's economic development consultant and bond counsel, as well as opinions from a bond rating service, shall be required. Project-based ((€))credit enhancements shall be used to improve the credit worthiness of the housing developer, but shall never be used as a sole source of credit worthiness of an applicant. Developers and developer teams shall be competent, experienced and financially stable. Minimum standards for developers and projects shall be established by the executive.

H. Projects shall conform with applicable county requirements for contracting services.

I. All contingent loan agreements resulting in a project based credit enhancement for a project shall be structured to minimize the county's financial risk and shall ensure the county's right to review all project records and direct corrective measures deemed necessary to prevent financial instability, material or technical default. All agreements shall be reviewed and approved by appropriate county ~~((staff (housing and))~~ agencies, including the community ((development)) services division, the finance and business operations division, the office of the prosecuting attorney((;)) and the office of risk management, and shall be reviewed by the county's economic development consultant and bond counsel, as appropriate.

J. Projects receiving project-based credit enhancements shall have the option to make a payment in lieu of providing additional project affordability. The payment shall be allocated to the housing ~~((opportunity))~~ and community development fund for the sole purpose of funding development of affordable low-income housing.

K. Projects will vary in financial risk to the county. While financial risks are to be minimized, the county may extend project-based credit enhancements where risks exist, provided the county has adequate financial reserves to cover county credit enhancement obligations.

L. The executive is authorized to collect an application fee between 0.2 and 0.4 percent of the amount of project debt that is credit-enhanced under the project-based credit enhancement program. The application fee shall be payable at the time that a contingent loan agreement is approved. The proceeds of the application fee shall be deposited in the credit enhancement reserve account described in K.C.C. 24.28.030.A. In establishing the level of the fee, the executive shall give primary consideration to the costs incurred by the county for processing an application for a project-based credit enhancement.

M. The executive is authorized to impose an annual monitoring fee between 0.05 and 0.10 percent of the amount of project debt that is credit enhanced under the project-based credit enhancement program. The proceeds of the monitoring fee shall be deposited in the housing and community development fund and used for program administrative costs.

SECTION 4. Ordinance 14269, Section 4, as amended, and K.C.C. 24.28.030 are hereby amended to read as follows:

A. The executive shall establish a project-based credit enhancement reserve account within the ~~((housing opportunity))~~ housing and community development fund. Interest income generated by the reserve account shall be retained in the reserve account to increase the amount of project-based credit enhancement reserve funds. ~~((Funds))~~ Moneys contained in the project-based credit enhancement reserve account shall be used if, under the terms of a contingent loan agreement, the county is obligated to make a loan to a housing development that has received project-based credit enhancement.

B. ~~((The executive is authorized to collect an application fee between 0.2 and 0.4 percent of the amount of project debt that is credit enhanced. The application fee shall be payable at the time that a contingent loan agreement is approved. The proceeds of this fee shall be deposited in the credit enhancement reserve account. In establishing the level of the application fee authorized in this section, the executive shall give primary consideration to the costs incurred by the county for processing an application for a credit enhancement.~~

C.)) The project-based credit enhancement reserve account shall not exceed an amount equal to one percent of the total ~~((outstanding))~~ credit-enhanced project debt outstanding under the project-based credit enhancement program. Reserve account funds in excess of the required credit enhancement reserve shall be transferred to the housing ~~((opportunity))~~ and community development fund, and used for program administrative costs.

SECTION 5. Ordinance 14269, Section 5, as amended, and K.C.C. 24.28.040 are each hereby repealed.

NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 24.28 a new section to read as follows:

- A. The King County Housing Authority credit enhancement program is hereby created.
- B. The King County Housing Authority shall be the only eligible user of the program.
- C. All projects financed under the program shall satisfy the requirements of state housing authority law, chapter 35.82 RCW, which requires a minimum of fifty percent of the units in a project be made available to and affordable to eligible beneficiaries, which are households with income at or below eighty percent of the area median income.
- D. Credit enhancement under the program will be utilized by the King County Housing Authority to assist in the acquisition, new construction or rehabilitation, or any combination of acquisition, new construction and rehabilitation, of housing that adds to the stock of workforce housing units in King County. The purpose of the King County Housing Authority credit enhancement program is to provide long term affordability to eligible beneficiaries consistent with the requirements of state housing authority law.

E. All properties developed or acquired under the program must be located in areas with access to high capacity transit, schools, jobs or other social amenities that support upward economic mobility.

F. The King County Housing Authority may submit requests to commit credit enhancement under the program on a rolling basis until December 31, 2022, at which time no new credit enhancement commitments shall be made.

G. Credit enhancement under the program shall be provided and underwritten to the financial strength, legal and policy compliance of the King County Housing Authority and not based on an individual project viability review. Credit enhancements shall be used to provide the King County Housing Authority with ready access to municipal credit markets at the lowest available interest rates.

H. All financial instruments utilized by the King County Housing Authority with credit enhancement under the program shall comply with all state and federal law.

I. All contingent loan agreements resulting in credit enhancement under the program shall be structured to minimize the county's financial risk, and the county shall have recourse to the King County Housing Authority's general revenues as security for its contingent loan agreements.

J. The King County Housing Authority shall provide to the community services division its annual audited financial statements within ten days of receipt and participate in an annual credit review by the appropriate county agencies, including community services division, the finance and business operations division and the office of the prosecuting attorney, with review by the county's economic development consultant and bond counsel, as appropriate.

K. The executive is authorized to collect an application fee up to 0.3 percent of the amount of credit enhancement committed under the program. The application fee shall be payable on the effective date of each commitment of county credit enhancement under the program. The proceeds of the application fee shall be deposited in the housing and community development fund and used for program administrative costs.

L. The executive is authorized to impose an annual monitoring fee of up to 0.1 percent of the amount

committed under the program's credit enhancement. The proceeds of the monitoring fee shall be deposited in the housing and community development fund and used for program administrative costs.