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Title: AN ORDINANCE related to contracting with commercial banking institutions to provide financial services to the county; amending Ordinance 12076, Section 39, as amended, and K.C.C. 4.14.010, Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020, Ordinance 12076, Section 42, as amended, and K.C.C. 4.14.040, Ordinance 17756, Section 5, and K.C.C. 4.14.048, Ordinance 12076, Section 43, as amended, and K.C.C. 4.14.050, Ordinance 17756, Section 7, as amended, and K.C.C. 4.14.070, and Ordinance 17756, Section 8, and K.C.C. 4.14.080 and repealing Ordinance 17756, Section 4, and K.C.C. 4.14.045 and Ordinance 12076, Section 44, and K.C.C. 4.14.060.

Sponsors: Joe McDermott

Indexes: Banking

Code sections:

Attachments: 1. Ordinance 19637, 2. 2023-0207_SR_Contracting_Banks_County_Financial_Services, 3. 2023-0207 ATT2 KCC 4 14 048 Certification 2022, 4. 2023-0207 ATT3 U.S. Bank 2020 King County Annual Presentation, 5. 2023-0207 ATT4 ATTA to AMD S1 for PM 2023-0137.1, 6. 2023-0207 Amendment 1

| Date | Ver. | Action By | Action | Result |
|-----------|------|--|-----------------------------|--------|
| 6/27/2023 | 1 | Metropolitan King County Council | Passed as Amended | Pass |
| 6/14/2023 | 1 | Budget and Fiscal Management Committee | Recommended Do Pass Consent | Pass |
| 6/6/2023 | 1 | Metropolitan King County Council | Introduced and Referred | |

AN ORDINANCE related to contracting with commercial banking institutions to provide financial services to the county; amending Ordinance 12076, Section 39, as amended, and K.C.C. 4.14.010, Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020, Ordinance 12076, Section 42, as amended, and K.C.C. 4.14.040, Ordinance 17756, Section 5, and K.C.C. 4.14.048, Ordinance 12076, Section 43, as amended, and K.C.C. 4.14.050, Ordinance 17756, Section 7, as amended, and K.C.C. 4.14.070, and Ordinance 17756, Section 8, and K.C.C. 4.14.080 and repealing Ordinance 17756, Section 4, and K.C.C. 4.14.045 and Ordinance 12076, Section 44, and K.C.C. 4.14.060.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. K.C.C. 4.14.020 requires that at least every seven years, the county competitively solicit the financial services required by the county from qualifying commercial banking institutions except during a state of emergency when a banking services agreement can be extended for an additional two years.

B. The current county banking services agreement with U.S. Bank N.A. began on January 1, 2015, and is set to expire on December 31, 2023. That duration includes an extension of two additional years due to the COVID-19 pandemic state of emergency.

C. The executive is planning to seek bids for financial services to the county for the next seven years starting January 1, 2024, through December 31, 2031.

D. K.C.C. 4.14.045 sets the scoring criteria for evaluating proposals from commercial banking institutions as follows: twenty-five percent for the community reinvestment plan; forty percent for pricing; twenty-five percent for qualifications and responses to the request for proposals; and ten percent for small contractor and supplier certification. The current scoring criteria does not account for the financial health of commercial banking institutions. Moreover, having the scoring criteria included in King County Code does not provide the flexibility to modify the scoring criteria, which might be necessary to change over time for the best interest of the county.

E. In March 2023, several banks such as Silicon Valley Bank, Signature Bank, and First Republic Bank collapsed due to liquidity issues and were seized by the federal government. Given those recent events, the council further finds that it is necessary to evaluate the financial health of a commercial banking institution bidding to provide financial services to the county.

F. K.C.C. 4.14.040 requires the council to approve by motion the specifications that would be used to solicit proposals to provide financial services to the county from commercial banking institutions. The council further finds that including the evaluation criteria to be used to score proposals submitted by commercial

banking institutions, along with the specifications, for council approval will provide the necessary flexibility while also maintain council oversight on selection of a commercial banking institution.

G. Technical corrections were necessary to K.C.C. chapter 4.14 to provide clarity.

SECTION 2. Ordinance 12076, Section 39, as amended, and K.C.C. 4.14.010 are hereby amended to read as follows:

A. It is a requirement of Washington state law and the policy of King County that financial services provided to the county by commercial banking institutions be provided as a result of open competitive procurement processes.

B. Financial services provided to the county by commercial banking institutions may only be provided by commercial banking institutions that have a demonstrated history of and ongoing commitment to socially responsible banking practices.

SECTION 3. Ordinance 12076, Section 40, as amended, and K.C.C. 4.14.020 are hereby amended to read as follows:

~~((Competitive procurement processes by banking institutions to provide those services shall occur at least once every seven years except for banks serving the needs of special districts as set forth in K.C.C. 4.14.080 and during a state of emergency declared under chapter K.C.C. 12.52.030.))~~ Except for banks serving the needs of special districts as set forth in K.C.C. 4.14.080 and during a state of emergency declared under chapter K.C.C. 12.52.030, in accordance with this chapter, at least every seven years, the county shall competitively solicit the financial services required by the county from qualifying commercial banking institutions. Any extension of a ((banking)) financial services ((agreement)) contract due to a state of emergency shall be no longer than two years unless approved by ordinance.

SECTION 4. Ordinance 12076, Section 42, as amended, and K.C.C. 4.14.040 are hereby amended to read as follows:

A. The manager of the finance and business operations division shall develop the financial services

specifications, stating the ~~((financial service))~~ county's needs and the responsible banking qualification requirements of the county, and the evaluation criteria to be used to score proposals submitted by commercial banking institutions.

B. The specifications and evaluation criteria shall be reviewed and approved by the council by motion before ~~((formally seeking))~~ the manager may solicit proposals to provide financial services to the county from ~~((banks))~~ commercial banking institutions. The executive shall electronically file the motion to approve the specifications and evaluation criteria no later than March 31, with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, the chief policy officer, and the lead staff for the budget and fiscal management committee, or its successor.

C. Each commercial banking institution submitting a proposal will be evaluated for its financial health in accordance with the specifications and evaluation criteria.

D. The specifications shall include a minimum requirement that the ~~((bank))~~ commercial banking institution has a current Community Reinvestment Act rating of "outstanding" from the U.S. Office of the Comptroller of the Currency, the U.S. Board of Governors of the Federal Reserve ~~((Bank or another applicable federal regulatory agency))~~ System, and the Federal Deposit Insurance Corporation. The "outstanding" rating shall apply to a rating assessment area that includes the geographical boundaries of King County.

~~((D-))~~ E. Each ~~((bank))~~ commercial banking institution submitting a proposal is required to submit a community reinvestment plan describing past performance and proposed initiatives within King County related to lending, investing, and providing community banking services to traditionally underserved and disadvantaged communities. The community reinvestment plan shall be part of the evaluation process for awarding a contract.

~~((E-))~~ F. A community reinvestment plan should summarize, as well as supplement, information that each ~~((bank))~~ commercial banking institution is required to submit to ~~((a designated federal agency))~~ the U.S. Office of the Comptroller of the Currency, the U.S. Board of Governors of the Federal Reserve Bank, and the

Federal Deposit Insurance Corporation as part of its most-recent ((e))Community ((f))Reinvestment Act rating process for an assessment area that includes King County. All data and reporting within the plan shall focus on actions the ((bank)) commercial banking institution is taking, or planning to take, to improve access to bank services and to increase opportunities for building assets and providing credit in low-income and racially diverse areas throughout King County.

((F-)) G. A community reinvestment plan should highlight performance over the previous three years and include goals for the duration of the contract period that fall into three categories: lending, investing and services. The plan shall also describe the approach used by the ((bank)) commercial banking institution to determine the geographic and socioeconomic distribution of its lending, investing, and services. Following are other specific components of the community reinvestment plan required by the county:

1. Lending. The plan shall provide information about:

a. mortgage-lending efforts and products, including innovative loan products with more flexible terms, and how these efforts and products are meeting the credit needs of low and moderate income individuals and geographies;

b. community development lending, by the ((bank)) commercial banking institution, that helps develop affordable housing and helps nonprofit organizations and private facilities expand job creation and support services for working families, with the goal of increasing economic stability; and

c. small business lending, by the ((bank)) commercial banking institution, to establish businesses and create jobs, particularly those in low-income and minority census tracts that foster and support minority and women owned businesses; and

d. lending, by the ((bank)) commercial banking institution, to finance improvements to public infrastructure within the county;

2. Investing. The plan shall provide information about:

a. tax credit investments, grants, corporate giving activities and nonprofit sponsorships, by the ((bank

)) commercial banking institution, that provide and promote affordable housing, encourage self-sufficiency, and foster economic development; and

b. grants and corporate giving activities, by the ((bank)) commercial banking institution, that provide or promote improvements to public infrastructure within the county; and

3. Services. The plan shall provide information about:

a. programs and community partnerships of the ((bank)) commercial banking institution that provide small-business development, workforce development, capacity building and asset development;

b. community services involving ((bank)) commercial banking institution employees, including participation in consumer training or seminars, home-buyer seminars, tax-preparation services, and financial education for students and serving on nonprofit boards and committees;

c. branch networks, including a record of opening and closing of branch offices and information about whether these changes have had a positive or negative effect, particularly in low- and moderate-income geographies; and

d. services and efforts of the ((bank)) commercial banking institution that address the credit needs of low- and moderate-income individuals and geographies, including, but not limited to, affordable check cashing, alternatives to payday loans and prepaid debit cards, and other outreach and education opportunities aimed at assisting distressed home mortgages.

((G.)) H. The community reinvestment plan shall include clear and measurable performance goals or standards to demonstrate that the ((bank)) commercial banking institution is making good faith efforts to follow through on commitments and elements of the plan referenced in subsection F. of this section.

((H.)) I. The ((director)) manager of finance and business operations division shall reject a bid as nonresponsive for failure to include every component of this section in the community reinvestment plan submitted by a ((bank)) commercial banking institution.

((I.)) J. The ((bank)) commercial banking institution awarded the financial services contract shall

provide a plan for reaching out to individuals with limited English proficiency and to provide such individuals with lending, investing, and community banking services (~~to individuals with limited English proficiency~~).

SECTION 5. Ordinance 17756, Section 5, and K.C.C. 4.14.048 are hereby amended to read as follows:

A. The manager of the finance and business operations division shall annually certify to the (~~county~~) council that the county's commercial banking institution has:

1. Made good-faith efforts to comply with all goals and commitments contained within the community reinvestment plan. If the (~~bank~~) commercial banking institution and the manager agree that an element cannot reasonably be achieved, the (~~county~~) council shall be notified within seven days of the agreement that the element cannot reasonably be achieved;

2. Maintained its "outstanding" Community Reinvestment Act rating under K.C.C.4.14.040.C; and

3. Complied with all provisions of the (~~banking~~) financial services contract.

B. The certification, and any notice that an agreement that an element cannot be reasonably achieved as determined under subsection A.1. of this section, shall be (~~made to the council in the form of a paper original and an electronic copy~~) electronically filed with the clerk of the council, who shall retain the (~~paper~~) original and (~~forward~~) provide an electronic (~~copies~~) copy to all councilmembers, the council chief of staff, the chief policy officer, and the lead staff for the budget and fiscal management committee or its successor.

SECTION 6. Ordinance 12076, Section 43, as amended, and K.C.C. 4.14.050 are hereby amended to read as follows:

The approved specifications shall be forwarded to all commercial banking institutions capable of serving the county's financial service needs and shall be made available to any (~~bank~~) commercial banking institution or individual interested in providing the services and that also qualifies as a Washington state public depository under RCW 36.48.060. A conference shall be arranged before submission of formal proposals to receive input from the commercial banking institution community on the approved specifications and answer any questions related to the approved specifications.

SECTION 7. Ordinance 17756, Section 7, as amended, and K.C.C. 4.14.070 are hereby amended to read as follows:

Except for ~~((banking))~~ financial services contracts authorized by K.C.C. 4.14.080 or as otherwise provided by this chapter, the manager of the finance and business operations division may not waive the requirements in this chapter for the county ~~((banking))~~ financial services contract. In administering the program, the manager shall:

A. Have the option to extend the existing ~~((banking))~~ financial services contract~~((s))~~ by up to one calendar year should no ~~((banks))~~ commercial banking institutions meet the ~~((county's requirements))~~ specifications through the request for proposals process. ~~((In this instance, t))~~he manager shall notify the council ~~((immediately,))~~ seven days after extending the financial services contract. ~~((The director shall identify any recommended changes to these requirements and seek council approval of the changes, which approval shall be made by ordinance.))~~ The ~~((notice))~~ executive shall ~~((be))~~ electronically file~~((d))~~ the notification as required in this subsection A. of this section with the clerk of the council, who shall retain the ~~((electronic copy))~~ original and provide an electronic copy to all councilmembers, the council chief of staff, the chief policy officer, and the lead staff of the budget and fiscal management committee, or its successor. Any changes to the financial services specifications and the evaluation criteria shall follow the process as required by K.C.C. 4.14.040;

B. Include a clause in ~~((all banking))~~ the financial services contract~~((s))~~ allowing the county to terminate the contract with one hundred eighty days' notice should the ~~((bank))~~ commercial banking institution, at any time during the contract, lose its "outstanding" Community Reinvestment Act rating under K.C.C. 4.14.040.C;

C. Exercise the county's option to terminate under subsection B. of this section if the ~~((bank))~~ commercial banking institution fails to cure as specified in the contract or subsection D. of this section, and notify the council within seven days of sending the notice to the commercial banking institution should ~~((any))~~

the commercial banking institution under contract with the county lose its "outstanding" Community Reinvestment Act rating under K.C.C. 4.14.040.C. during the course of the contract. The executive shall electronically file the notification required in this subsection C. of this section with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff, the chief policy officer, and the lead staff of the budget and fiscal management committee, or its successor;

D. If the ~~((bank))~~ commercial banking institution does not comply with any provision of the ~~((banking))~~ financial services contract:

1. Upon finding a first breach of the ~~((banking))~~ financial services contract, immediately inform the ~~((bank))~~ commercial banking institution of the breach and offer the ~~((bank))~~ commercial banking institution ninety days to cure the breach~~((; provided that))~~. However, if the bank receives a Community ~~((Reinvestments))~~ Reinvestment Act rating from ~~((a federal regulator agency))~~ the U.S. Office of the Comptroller of the Currency, the U.S. Board of Governors of the Federal Reserve Bank, and the Federal Deposit Insurance Corporation that is below "outstanding" for the assessment area that includes the geographical boundaries of King County, the manager of the finance and business operations division has the discretion to allow the ~~((bank))~~ commercial banking institution to cure ~~((this))~~ that problem by requesting that the ~~((bank))~~ commercial banking institution immediately update its community reinvestment plan to address specific deficiencies noted in the rating process; reinstated by ~~((a federal regulator agency))~~ the U.S. Office of the Comptroller of the Currency, the U.S. Board of Governors of the Federal Reserve Bank, and the Federal Deposit Insurance Corporation within two years from the date of the rating downgrade;

2. After ninety days after a first breach, if the ~~((bank))~~ commercial banking institution has not corrected the breach, issue a one-hundred-eighty-day termination notice;

3. If the ~~((bank))~~ commercial banking institution breaches the contract a second time during the term, immediately inform the ~~((bank))~~ commercial banking institution of a second breach and require of the ~~((bank))~~ commercial banking institution a payment to the county equal to five percent of the previous year's total

commercial banking fees incurred by the county. The ((bank)) commercial banking institution then has ninety days to correct the breach. The county may then use the penalty funds to contract with a nonprofit organization or organizations to provide services increasing access to consumer credit, subject to appropriation;

4. If, after ninety days of a second breach, the ((bank)) commercial banking institution has not corrected the breach, issue a one-hundred-eighty-day termination notice;

5. If ((a bank)) the commercial banking institution breaches the contract a third time during the term, immediately inform the ((bank)) commercial banking institution of a second breach and require from the ((bank)) commercial banking institution a payment equal to ten percent of the previous year's total commercial banking fees incurred by the county. The county may then use the penalty funds to contract with a nonprofit organization or organizations increasing access to consumer credit, subject to appropriation. The ((bank)) commercial banking institution then has ninety days to correct the breach;

6. If, after ninety days of a third breach, the ((bank)) commercial banking institution has not corrected the problem that led to the breach, issue a one-hundred-eighty-day termination notice; and

7. If ((a bank)) the commercial banking institution breaches the contract for a fourth time during the term, immediately issue a one-hundred-eighty-day termination notice. ~~((; and~~

~~8. Issue any notices required under this section))~~ The manager shall notify the council of any breach of contract and the action taken by the county as required in this subsection D. of this section within seven days of the breach of contract. The executive shall ((be)) electronically file((d)) the notifications with the clerk of the council, who shall retain the ((electronic copy)) original and provide an electronic copy to all councilmembers, the chief of staff, the chief policy officer, and the lead staff of the budget and fiscal management committee or its successor; and

E. Arrange for the ((bank)) commercial banking institution to make a presentation to the county's executive finance committee, at least once a year that includes an update of the community reinvestment plan and a report on the progress of fulfilling commitments in the community reinvestment plan.

SECTION 8. Ordinance 17756, Section 8, and K.C.C. 4.14.080 are hereby amended to read as follows:

The county may enter into a (~~(banking)~~) financial services contract with another (~~(bank)~~) commercial banking institution that is not the county's main (~~(banking)~~) financial services (~~(provider)~~) commercial banking institution for the convenience of one or more local governments for which the county serves as treasurer. In these circumstances, the (~~(contractual banking)~~) financial services contract shall be paid for by the local government or governments and the manager of the finance and business operations division may waive portions of the(~~(se))~~) requirements contained within this chapter to provide a convenience to the (~~(other))~~) local government or governments.

SECTION 9. The following are hereby repealed:

- A. Ordinance 17756, Section 4, and K.C.C. 4.14.045; and
- B. Ordinance 12076, Section 44, and K.C.C. 4.14.060.