



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**December 11, 2001**

**Motion 11338**

**Proposed No.** 2001-0478.2

**Sponsors** Sullivan

1           A MOTION approving revised program guidelines for the  
2           credit enhancement program for the development of  
3           affordable workforce housing in cooperation with project  
4           developers and lenders.

5

6

7

          WHEREAS, there is a significant need for workforce housing to serve moderate  
8 income households in King County, and

8

9

          WHEREAS, federal housing resources for housing are in decline and local and  
10 state assistance remain inadequate to meet housing needs, and

10

11

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

14

15

          WHEREAS, Ordinance 12808, as amended, authorizes the executive to  
16 administer a credit enhancement program using the county's full faith, credit and  
17 resources to assist the poor and infirm obtain workforce housing, and

16

17

18           WHEREAS, the council approved program guidelines in Motion 10445 in April  
19           1998, which have been used to approve three subsequent credit enhancement projects,  
20           and

21           WHEREAS, the attached program guidelines contain revisions based on the  
22           experience of implementing the credit enhancement program, and will clarify program  
23           requirements and encourage partnerships with private developers and lenders in the  
24           development of affordable housing;

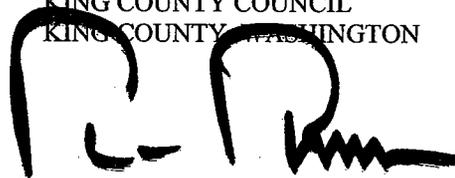
25 NOW, THEREFORE, BE IT MOVED by the Council of King County:

26 The executive is authorized to implement the credit enhancement program for  
27 affordable housing in accordance with the attached revised program guidelines.

28

Motion 11338 was introduced on 9/24/01 and passed by the Metropolitan King County Council on 12/10/01, by the following vote:

Yes: 10 - Mr. von Reichbauer, Ms. Miller, Mr. Phillips, Mr. Pelz, Mr. McKenna, Ms. Sullivan, Mr. Pullen, Mr. Gossett, Mr. Irons and Ms. Patterson  
No: 0  
Excused: 3 - Ms. Fimia, Mr. Nickels and Ms. Hague

KING COUNTY COUNCIL  
KING COUNTY WASHINGTON  


Pete von Reichbauer, Chair

ATTEST:



Anne Noris, Clerk of the Council

Attachments A. Affordable Housing Credit Enhancement Program Guidelines, dated December 4, 2001

**ATTACHMENT A****AFFORDABLE HOUSING CREDIT ENHANCEMENT  
PROGRAM GUIDELINES****December 4, 2001****1. PROGRAM PURPOSE AND DESIGN**

The Affordable Housing Credit Enhancement Program is an initiative to provide assistance for development of workforce housing. Through this program King County will work with housing developers who are either constructing or acquiring and rehabilitating workforce housing for a range of incomes. King County will provide a credit enhancement, which will reduce the financing costs for the housing development. As a result of the project savings, affordable housing units for households with incomes up to 80 percent of the King County median (\$47,250 for a 3-person household in 2001) will be created within the development or at another location.

The program will be implemented through the use of a Contingent Loan Agreement (CLA) between King County and the housing owner. In the CLA, King County will commit to loan funds to the owner in the event that the project runs into cash flow problems that prevent timely bond or mortgage payments. The County's commitment will assure that debt payments to the lender(s) will be met. In the CLA the owner commits to provide affordable housing in the project or makes a payment to King County to fund affordable housing at another location. If the project requires a loan, the project owner commits to repay the loan once the project is stabilized.

Projects intended to benefit from the credit enhancement are those which:

- increase the supply of affordable workforce housing
- are located near urban centers and transit corridors
- are based upon conservative financial assumptions and structured to minimize the County's risk
- assure long-term affordability for eligible households

**2. PROJECT ELIGIBILITY**

Projects must meet the following minimum criteria to be eligible to apply for a credit enhancement.

**Eligible Housing Developers/Owners**

- for-profit developers
- nonprofit developers
- public housing authorities
- public development authorities

Eligible Beneficiaries

- Home buyers with incomes at or below 80 percent of median income adjusted by household size
- Renter households with incomes at or below 60 percent of median income adjusted by household size
- Low-income persons or households with special needs, that is, people with disabilities and others who need supportive services along with affordable housing

Eligible Project Types

- new construction, provided that no more than 20% the approved credit enhancement portfolio is committed to projects which are under construction and have non-recourse CLA's.
- acquisition of housing that results in reduced housing costs and/or preservation of affordable housing that is threatened
- rehabilitation that is necessary to preserve affordable housing
- acquisition and rehabilitation that results in reduced housing costs and/or preservation of affordable housing that is threatened

Term of Affordability

- Home ownership - home ownership projects will be subject to deed restrictions concerning the terms of resale. Upon resale, the home must remain affordable for subsequent buyers or the County will recapture the subsidy provided by the credit enhancement.
- Rental housing - the agreed-upon number of affordable units must be provided for a minimum of 20 years.

Project Location

Projects must be located in King County outside the City of Seattle. Projects must be located within urban centers or in close proximity to transit hubs or corridors. Projects in other locations will be considered if they provide a unique residential development opportunity that supports other King County priorities as identified in King County adopted plans.

Financial Feasibility

Projects must provide evidence of lender-approved financing with the loan being in conformance with the lender's standard loan approval guidelines, without use of the King County credit enhancement, to demonstrate that the project is financially viable and poses an acceptable level of risk. **The purpose of the program is to lower the costs of project development, not to provide essential project financing that allows an otherwise infeasible project to go forward.** Projects may employ conventional bank, pension fund or bond financing (tax exempt or taxable).

### 3. ADDITIONAL APPLICATION REQUIREMENTS

#### Development Budget

Applicants must provide a development proforma that is realistic and reflective of the current construction environment. Proforma information should be based upon conservative assumptions and time frames. The basis for the assumptions in the development proforma must be stated and justified.

#### Operating Budget

Operating costs for rental projects should reflect actual project history in the case of acquisition projects. Operating cost assumptions for both new construction and existing projects must be in line with industry standards as compiled by real estate research firms, such as Dupree+Scott. A debt service reserve equal to one year's debt service and a sustainable debt coverage ratio of 1.20 is required. Homeownership projects do not need to submit an operating budget.

#### Management Plan

The management plan will be required of all applicants proposing rental housing. The management plan should include but is not limited to the following components:

- applicant's management philosophy
- process for determining rent increases and procedures for dealing with concerns, complaints, or issues raised by tenants or neighbors
- procedures for handling late payment of rent or damage to units
- long-term property maintenance plan
- operating budget that capitalizes sufficient operating and replacement reserves

#### Market Study/Title Report

The applicant must submit a copy of the market study for the proposed project and a title report and disclosure of all liens and obligations affecting the project. Demand, absorption rate, sales price, rent level projections, vacancy factor, comparable projects and locational factors should be key components of the market study.

#### Seismic Hazard Evaluation

For projects involving acquisition of existing buildings, King County will require an engineering study, such as a Probable Maximum Loss (PML) Assessment, to evaluate the seismic safety risk of the property due to construction type, age of structure(s) and site characteristics. King County will require life safety upgrades to the property if necessary to ensure that the seismic risk does not exceed lending industry standards. If an acceptable level of seismic risk cannot be achieved, credit enhancement will not be approved.

#### Financial Capacity of Applicant

Applicants must demonstrate their financial strength and stability including financial statements and audits. In addition, where partnerships have been formed for the purpose of developing the specific project, a copy of the partnership agreement must be submitted along with the financial information of all partners.

Experience of the Applicant

Applicants must have experience that indicates that they have the ability to successfully complete the type of project (scope, market, size) for which they are requesting the credit enhancement. Documentation of successfully completed projects must accompany the application.

Scope of Work and Schedule

Applicants must provide a complete scope of work detailing all major items related to project development, including the resources committed to the project by the various members of the development team and a realistic schedule for completion and occupancy of the project.

Prevailing Wage Rates

Washington State prevailing wage rates as applicable will also apply to all construction elements in the project.

#### **4. DETERMINING THE AMOUNT OF CREDIT ENHANCEMENT AND AFFORDABLE HOUSING BENEFIT**

In general, the amount of project savings that can be achieved through a credit enhancement, and therefore the number of affordable housing units that will be created, will depend on the amount and duration of the project financing. For example, a project with a \$5 million debt paid over 30 years will achieve greater savings from a credit enhancement than a project with a \$5 million debt over a 3-year construction period.

For each project seeking a credit enhancement, the CLA between King County and the project developer will establish (1) the portion of project debt to be credit enhanced and (2) the amount of affordable housing to be provided within the project or payment in lieu of units to be made to King County.

Credit Enhancement Limit

The maximum amount of credit enhancement any one project may receive is limited to \$10 million unless there is a clear benefit to the County to exceed this limit. Limiting the amount of debt credit enhanced in any given project will allow the program to assist a larger number of projects and spread the risk over a larger number of projects.

Allocation of Project Savings

As an incentive for developers to participate in the program, a portion of the project savings achieved by the credit enhancement, not to exceed 25%, may be retained by the project developer. The proportion of project savings allocated to the project's owner/developer will be lower in large projects where the savings achieved is relatively high. Other factors affecting the allocation of project savings include: interest rate and other financing terms, the total amount of credit enhancement savings, the level of affordability provided, and the length of time additional affordability is guaranteed.

### Affordable Housing Benefit

The remaining amount of project savings must be used to provide affordable housing within the development. Negotiations will be handled on a case by case basis to establish the length and level of affordability and the number of units provided in the project. As an alternative, the developer may propose to make a payment to King County of the remaining amount of project savings to fund affordable housing at another location.

## **5. PROJECT SELECTION PROCESS**

Housing developers may apply for a credit enhancement throughout the year. Applications materials are available at:

King County Housing and Community Development Program  
Housing Finance Section  
821 Second Avenue, Suite 500  
Seattle, WA 98104-1598

### Preliminary Proposal

Applicants will be requested to submit a preliminary proposal that provides the required application information, evidence of approved financing for the project, title report, and disclosure of any liens and obligations which already exist on the project. The preliminary proposal will also include the amount of credit enhancement requested and affordable housing benefit. The proposal will be screened for conformance with minimum program requirements and reviewed by HCD staff. HCD staff will meet with the applicant to discuss the credit enhancement amount requested and the proposed affordable housing benefit, as well as any questions that arise regarding the preliminary proposal. Based on this evaluation, the applicant will submit a final application, and County staff will negotiate a draft CLA.

### Final Application

Final proposals will be underwritten by HCD staff and a report will be submitted to a Credit Enhancement Credit Committee that will include staff from the County's Department of Community and Human Services, the Finance and Business Operations Division of the Department of Executive Services, the Budget Office, and private industry professionals lender. Outside financial and legal advisors may also be consulted as needed. The CLA will also be reviewed and approved by the King County Prosecuting Attorney's Office. The Credit Enhancement Credit Committee will make a recommendation to the Director of the Department of Community and Human Services and to the County Executive.

## **6. RESERVES AND FEES**

Fees will be charged at the time of credit enhancement approval and for on-going project performance monitoring.

Application Fee

An application fee equal to 0.2% of the credit enhanced debt is due prior to the signing of the CLA. The application fee will be deposited in a credit enhancement reserve account, held by King County. The reserve funds will be used if the County is obligated to make a loan to a project that has received credit enhancement.

Annual Monitoring Fee

An annual monitoring fee of 0.05% of credit enhanced debt will be due on January 30<sup>th</sup> of each year during the term of the CLA. The funds will be used to pay the County's administrative costs of on-going monitoring of project performance.

Credit Enhancement Reserve Funds

King County has established a target for reserve funds of 1% of total credit enhanced project debt. A portion of this reserve will be held in a credit enhancement reserve account. The remaining reserve will be ensured via a minimum balance of unexpended carryforward funds in the Housing Opportunity Fund. The minimum balance will be adjusted each year, taking into consideration the current reserve account balance and total credit enhanced project debt.

**7. CONTINGENT LOAN AGREEMENT TERMS**

A CLA will be tailored to meet the specific project requirements. The following components must be in place or completed prior to the enactment of a CLA.

Reporting Requirements

Recipients of the CLA will be required to submit quarterly reports consisting of but not limited to: vacancies, financial statements, operating budgets and replacement expenditures. The CLA recipient will be required to inform the County at any time they perceive a chance that the County will be required to make a loan.

Restrictive Land Use Covenant

A restrictive land use covenant will be placed upon the project property to ensure that the increased affordability of certain units is maintained over the specified period. The covenant will be duly recorded in King County and become part of the permanent public record. A covenant will not be applicable in projects where payment in lieu of units is employed.

When a King County Loan is Triggered

King County's CLA obligation will be triggered when project revenues and project reserves are insufficient to maintain minimum required debt service reserves or make debt payments. In the case where recourse obligations are in place, the project owner must document inability to maintain debt service reserves or make debt payments before the County's obligation is triggered. The owner must provide the most recent project financial information; including but not limited to audits, financial statements, project records and the most current operating budget projections. Any funds that King County loans to the project under the CLA will go directly to the lender or bond trustee.

King County Remedies

King County shall retain the right to have input into project operations should periodic financial review indicate potential problems with the project's financial performance or owner's financial ability to perform. If it is possible that King County's CLA obligation will be triggered, King County shall have the right to:

- Change the property management company
- Amend project operating policies
- Amend budgeted line items
- Require all cash flow to stay in the project until the operation shortfall is rectified
- Call upon any recourse obligations

Default Provisions and Cure Timeline

The CLA will define under what conditions the County can declare a default of the CLA and the timeline for a cure. A default as defined by the CLA will occur when there is no reasonable expectation that the project can financially stabilize within a time period defined in the CLA. Should default occur, the County shall have the ability to direct the project owner to sell the property. Any proceeds from sale will be used to pay off all underlying debt that the County has enhanced. Should proceeds be insufficient to cover the total enhanced debt, the County will provide funds to the project lender or bond trustee to pay off the underlying enhanced debt.