



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

February 19, 2013

Ordinance 17529

Proposed No. 2012-0435.3

Sponsors Phillips and Ferguson

1 AN ORDINANCE relating to the green community
2 program under the Internal Revenue Code; establishing a
3 green community initiative in King County, authorizing the
4 King County executive to sign an interagency cooperation
5 agreement to implement the initiative in King County in
6 partnership with the Washington state Housing Finance
7 Commission and requiring a report on the initiative.

8 **STATEMENT OF FACTS:**

- 9 1. King County government supports environmentally responsible and
10 sustainable development within the county through its policies and
11 practices.
- 12 2. The King County Comprehensive Plan directs the county to advance
13 green building and sustainable development in a number of ways,
14 including pursuing Leadership in Energy and Environmental Design
15 ("LEED") Gold construction of capital projects, and requiring the county
16 to work with its cities and partners to encourage energy and water
17 conservation, and reduce greenhouse gas emissions.
- 18 3. The King County Strategic Plan articulates environmental
19 sustainability goals and an ambitious environmental agenda for

20 safeguarding and enhancing King County's natural resources and
21 environment, including strategies to reduce climate pollution and energy
22 consumption.

23 4. King County's 2010 Energy Plan provides a roadmap for the county,
24 through its operations, to expand its energy efficiency and renewable
25 energy efforts.

26 5. King County's Strategic Climate Action Plan encourages county
27 government to reduce its greenhouse gas emissions and work with the
28 community to address climate change.

29 6. King County's Green Building Ordinance, Ordinance 16044, dictates
30 that the county will, through its capital projects, make investments that
31 reduce resource use and encourage sustainable construction, as well as
32 share information about sustainable development practices countywide.

33 7. The Washington state Housing Finance Commission ("the
34 commission") was established in 1983 pursuant to RCW 43.180.010 to
35 "act as a financial conduit which, without using public funds or lending
36 the credit of the state or local government, can issue nonrecourse revenue
37 bonds and participate in federal, state, and local housing programs and
38 thereby make additional funds available at affordable rates to help provide
39 housing throughout the state."

40 8. In chapter 65, Laws of Washington 2009, the Washington state
41 Legislature authorized the commission to "develop and implement a
42 sustainable energy trust program to provide financing for qualified [energy

43 efficiency and renewable energy] improvement projects;" and in chapter
44 379, Laws of Washington 2009, the state Legislature further charged the
45 commission with "developing and operating energy efficiency finance
46 programs" for "single-family and multifamily housing, commercial
47 properties, agricultural properties, and nonprofit facilities."

48 9. To carry out the initiative, the commission is authorized to "participate
49 fully in federal and other governmental programs and take actions that are
50 necessary and consistent with this chapter [chapter 43.180 RCW] to secure
51 to itself and the people of the state the benefits of programs to promote
52 energy efficiency and renewable energy technologies."

53 10. Section 54D(f)(1)(A)(ii) of the Internal Revenue Code, as amended,
54 provides that capital expenditures for purposes of implementing a "green
55 community program" is a "qualified conservation purpose" and therefore
56 eligible for federal Qualified Energy Conservation Bond ("QECCB")
57 financing, and the commission has received an allocation from the state of
58 Washington for the QECCB program.

59 11. King County approached the commission with the goal of stimulating
60 the issuance of QECCBs to finance resource conservation and other
61 environmentally-beneficial projects in the county through a green
62 community initiative.

63 12. The commission seeks King County's assistance in developing
64 conservation and energy efficiency criteria to be used in the commission's
65 implementation of a loan program to fund projects participating in a green

66 community initiative, which loan program is established under the
67 commission's Sustainable Energy Program.

68 13. The commission and King County desire to work together to further
69 the QECB and other financing of qualifying energy conservation, energy
70 efficiency, and environmental conservation initiatives relating to energy
71 consumption, broadly construed, in King County.

72 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

73 SECTION 1. The executive is hereby authorized to sign an interagency
74 cooperation agreement between King County and the Washington state Housing Finance
75 Commission, substantially in the form of Attachment A to this ordinance, to implement
76 the green community initiative in King County, and take such other actions as are
77 necessary or convenient to implement the initiative in King County.

78 SECTION 2. A. The executive shall prepare a report summarizing the activities
79 of the Green Community Initiative. The report shall include at minimum the following:

80 1. A list of those projects that have applied for financing under the Green
81 Community initiative, a brief description of the project, the amount of financing
82 requested and the status of the application;

83 2. The amount of time executive staff spent on the program; and

84 3. A listing of King County capital improvement projects eligible to apply for
85 the green community initiative.

86 B. The executive must file the report by one year after the effective dates of this
87 ordinance, in the form of a paper original and an electronic copy with the clerk of the
88 council, who shall retain the original and provide an electronic copy to all

89 councilmembers, the council chief of staff and the lead staff to the transportation,
90 economy and environment committee or its successor.
91

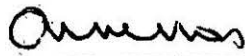
Ordinance 17529 was introduced on 10/29/2012 and passed as amended by the Metropolitan King County Council on 2/19/2013, by the following vote:

Yes: 8 - Mr. Phillips, Mr. von Reichbauer, Mr. Gossett, Ms. Hague,
Ms. Patterson, Mr. Dunn, Mr. McDermott and Mr. Dembowski
No: 0
Excused: 1 - Ms. Lambert

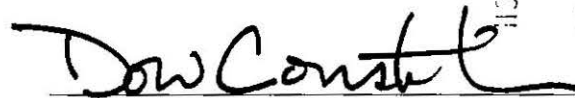
KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Larry Gossett, Chair

ATTEST:


Anne Noris, Clerk of the Council

APPROVED this 1 day of MARCH, 2013.


Dow Constantine, County Executive

RECEIVED
KING COUNTY COUNCIL
MAR 19 1 38 47 PM '13

Attachments: A. Interagency Cooperation Agreement (revised February 19, 2013)

**Interagency Cooperation Agreement
between King County, Washington and
the Washington State Housing Finance Commission**

This Agreement is entered into between **King County**, a legal subdivision of the State of Washington (the “County”) and the **Washington State Housing Finance Commission**, a public body corporate and politic and an instrumentality of the State of Washington (the “Commission”) (collectively, the “Parties”), for the purpose of establishing the roles and responsibilities of the County and the Commission with respect to the implementation of a Green Community Initiative within the Commission’s Sustainable Energy Program.

WHEREAS, the Commission was established in 1983 pursuant to Chapter 43.180 RCW to “act as a financial conduit which, without using public funds or lending the credit of the state or local government, can issue nonrecourse revenue bonds and participate in federal, state, and local housing Program and thereby make additional funds available at affordable rates to help provide housing throughout the state.” RCW 43.180.010.

WHEREAS, in chapter 65, Laws of 2009, the State Legislature authorized the Commission to “develop and implement a sustainable energy trust program to provide financing for qualified [energy efficiency and renewable energy] improvement projects;” and in chapter 379, Laws of 2009, the State Legislature further charged the Commission with “developing and operating energy efficiency finance Program” for “single-family and multifamily housing, commercial properties, agricultural properties, and nonprofit facilities.”

WHEREAS, to carry out the foregoing, the Commission is authorized to “participate fully in federal and other governmental programs and take such actions as are necessary and consistent with chapter 43.180 RCW to secure to itself and the people of the state the benefits of programs to promote energy efficiency and renewable energy technologies.” RCW 43.180.260(2)(b) and 43.330.360(2)(c).

WHEREAS, section 54D(f)(1)(A)(ii) of the Internal Revenue Code, as amended, provides that capital expenditures for purposes of implementing a “green community program” is a “qualified conservation purpose” and therefore eligible for federal Qualified Energy Conservation Bond (“QECB”) financing and the Commission has received an allocation of volume cap from the State of Washington for the QECB program.

WHEREAS, the County approached the Commission with the goal of stimulating the issuance of QECBs to finance projects participating in a green community program.

WHEREAS, the Commission seeks the County’s assistance in developing conservation and energy efficiency criteria to be used in the Commission’s implementation of a loan program to fund projects participating in a green community initiative, which loan program is established under the Commission’s Sustainable Energy Program (the “Program”).

WHEREAS, the County, consistent with its Countywide Planning Policies, Comprehensive Plan Policies, and Strategic Plan, has a strong interest in promoting the goals of the federal QECB program, which are energy conservation, energy efficiency, and environmental conservation initiatives relating to energy consumption, broadly construed.

WHEREAS, the Commission and the County desire to work together to further the QECB financing of qualifying energy conservation, energy efficiency, and environmental conservation initiatives relating to energy consumption, broadly construed, in King County.

NOW, THEREFORE, for the mutual benefits to be derived by both Parties, the Parties enter into the following Agreement:

Section 1. Purpose.

The purpose of this Agreement is to establish the roles and responsibilities of the County and the Commission with respect to the development and implementation of the Program, which will provide loan programs and financing opportunities for energy conservation, energy efficiency, or environmental conservation initiatives relating to energy consumption, broadly construed, to be undertaken by public and private sector applicants.

Section 2. Roles of the Parties.

The Parties contemplate that the County will establish a Green Community Initiative (the "Initiative"), which will set forth criteria for assessing energy conservation, energy efficiency and environmental conservation projects within King County. Projects, including King County government projects, meeting the criteria set forth in the Initiative will be eligible to apply to the Commission's Program for loans and other financing opportunities. No loans or financial support under the Program will be provided by the County to the Commission or to any applicant or Program participant.

Section 3. Responsibilities of the County.

- 3.1 **Scope of Work.** As part of its Initiative, the County shall develop criteria that will be used to identify projects within King County that meet goals for energy conservation, energy efficiency and environmental conservation initiatives relating to energy consumption, broadly construed. Upon approval of these criteria by the Executive Director of the Commission, evidence of satisfaction of these criteria will be used to determine whether a project will be considered by the Commission for participation in the Commission's Program. The criteria shall initially be in substantially the form attached as Exhibit A. The criteria may be amended by mutual agreement of the County and the Executive Director of the Commission, consistent with the goals of the Program and this Agreement.

- 3.2 Project applicant remains responsible for IRS compliance. Assessment and acknowledgment by King County that a project meets applicable criteria shall not relieve any project applicant of its duty to meet all requirements of IRS regulations for Green Community program capital expenditures.
- 3.3 Acknowledgment shall not constitute permit or other project approval. Assessment and acknowledgment by King County that a project satisfies applicable Green Community criteria shall not constitute approval of any permit or other approval required by law for the proposed project.
- 3.4 Coordination with Local Jurisdictions.
- a) For projects located within incorporated areas of King County, the governing city's support or absence of objection will be an additional consideration. King County will notify in writing the executive or top administrative official of the jurisdiction for the geographic location of the project's governing city or jurisdiction. The city will have 14 calendar days to review and provide a letter of support or objection for each application in their jurisdiction, before the application will be considered by King County. Should a city object in writing to a project proposal within its corporate limits, the County will consult with the city before determining whether a project satisfies the applicable criteria.
 - b) For projects located within unincorporated King County, the King County Executive's support or absence of objection will be an additional consideration. The Director of the Department of Natural Resources and Parks will notify in writing the King County Executive and the Councilmember in whose district the project is proposed to be located. The Executive and the Councilmember will each have 14 calendar days to review and provide a letter of support or objection for each application in the unincorporated area of King County, before the application will be considered by King County. Should the Executive or Councilmember object in writing to a project proposal in the unincorporated area of King County, the County will consider those objections before determining whether a project satisfies the applicable criteria.
- 3.5 Coordination with Commission. On behalf of the County, the Director of the Department of Natural Resources and Parks, or his or her designee, shall assess whether or not a project satisfies the applicable criteria and shall provide to each eligible applicant a written determination to that effect and send a letter to the Commission. The County's determination will make an applicant eligible to apply to the Program, but does not guarantee funding through the Commission. A carbon copy of the determination letter will be sent to the councilmember representing the King County Council district where the project is located, as well as to the executive or top administrative official of the incorporated jurisdiction, if any, in which it is located.
- 3.6 Administrative Costs. The County's administrative costs to develop and implement its Initiative shall be borne by the County and may be passed on to program applicants

through fees or absorbed by the County through its conservation programs, at the discretion of the County.

Section 4. Responsibilities of the Commission.

- 4.1 **Scope of Work.** The Commission shall develop and implement one or more loan products or other forms of financing assistance that shall be available to eligible projects involving the development, rehabilitation, or improvement of single-family and multifamily housing, commercial properties, agricultural properties, and nonprofit facilities, and which the County determines meet the Initiative criteria.
- 4.2 **Financing Program Implementation.** The Commission shall have complete discretion as to the development and implementation of any loan program or other financing mechanism developed and offered to Program participants under state and federal law. The Commission shall be under no obligation to provide funding or financing assistance to Program applicants. Financing assistance may include, but is not limited to, use of proceeds of QECBs which may be issued by the Commission. The Commission, in its discretion, may develop additional eligibility criteria for any loan product or other form of financing assistance that is offered through its Program.
- 4.3 **Administrative Costs.** The Commission's administrative costs to develop and implement this Program shall be borne by the Commission and may be passed on to Program applicants through fees or absorbed by the Commission, at the discretion of the Executive Director of the Commission.

Section 5. General Provisions.

- 5.1 **Notice.** All contact and notifications between the Parties will be between the following designated representatives of each party, as follows:

County: David Broustis, Energy Manager
King County Department of Natural Resources and Parks
Director's Office
201 S. Jackson St., Suite 700
Seattle, WA 98104
david.broustis@kingcounty.gov

Commission: David Clifton, Multifamily Housing & Community Facilities
Washington State Housing Finance Commission
1000 Second Avenue, Suite 2700

Seattle, WA 98104
david.clifton@wshfc.org

- 5.2 Compliance with Laws. The County and the Commission shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations applicable to the performance of this Agreement.
- 5.3 No Indemnification. Each party to this agreement shall be solely responsible for its own acts and/or omissions and those of its officers, employees and agents. No party to this agreement shall be responsible for the acts and/or omissions of entities or individuals not a party to this agreement. Subcontracts, if any, shall include a comprehensive indemnification clause holding harmless the County, the Commission, the State of Washington, and their officers, employees and authorized agents. The provisions in this section shall survive the termination of this Agreement.
- 5.4 No Rights Created in Third Parties. The terms of this Agreement are not intended to establish or to create any rights in any persons or entities other than the Parties.
- 5.5 Term and Effective Date. The term of this Agreement shall begin on the later date of the execution of this Agreement by either Party and shall continue in effect until terminated, with or without cause, upon 60 days written notice given by either Party.
- 5.6 Authorized Signatures. The undersigned acknowledge that they are authorized to execute this Agreement and bind their respective agencies to the obligations set forth herein.

KING COUNTY

WASHINGTON STATE HOUSING
FINANCE COMMISSION

By: _____
Its: _____
Date: _____

By: _____
Its: _____
Date: _____

Exhibit A

King County Green Community Initiative

The Green Community Initiative (GCI) will assess applications for those pursuing Qualified Energy Conservation Bond projects that provide energy and other environmental benefits in King County, for referral to the Washington State Housing Finance Commission (WSHFC). The WSHFC will then work with GCI applicants that meet the eligibility criteria, to facilitate financing for their projects. The financing may be in the form of Qualified Energy Conservation Bonds (QECBs) or other financial mechanisms appropriate to the project and dollar amount. For projects under \$1,000,000, King County will work with interested parties to connect them directly with WSHFC and its non-QECB financing programs.

Application Process

- Applicant determines their project funding support request is over \$1,000,000 and the project meets one or more of the King County Green Community Initiative categories.
- Applicant fills out a Green Community Initiative application, indicating the assessment criteria that are met by the proposed project.
 - a) For projects located within incorporated areas of King County, the governing city's support or absence of objection will be an additional consideration. King County will notify in writing the executive or top administrative official of the jurisdiction for the geographic location of the project's governing city or jurisdiction. The city will have 14 calendar days to review and provide a letter of support or objection for each application in their jurisdiction, before the application will be considered by King County. Should a city object in writing to a project proposal within its corporate limits, the County will consult with the city before determining whether a project satisfies the applicable criteria. .
 - b) For projects located within unincorporated King County, the King County Executive's support, or absence of objection will be an additional consideration. The Director of the Department of Natural Resources and Parks will notify in writing the King County Executive. The Executive will have 14 calendar days to review and provide a letter of support or objection for each application in the unincorporated area of King County, before the application will be considered by King County. Should the Executive object in writing to a project proposal in the unincorporated area of King County, the County will consider those objections before determining whether a project satisfies the applicable criteria.
- King County staff will review the proposed project against the criteria for the Green Community Initiative. If it deems the project meets the assessment criteria, the King County Department of Natural Resources and Parks (DNRP) Director or designee will provide to each eligible applicant a written acknowledgement to that effect and send a

letter to the WSHFC. A carbon copy of the determination letter will be sent to staff of the King County Council district where the project is located, as well as to the executive or top administrative official of the jurisdiction. *Assessment and acknowledgment by King County that a project satisfies applicable Green Community criteria shall not constitute approval of any permit or other approval required by law for the proposed project.* The WSHFC will have complete discretion over working with the recommended project applicants to determine credit worthiness and identify the appropriate financing mechanism that will offer the most advantageous financing structure. Projects over \$1,000,000 will be considered for Qualified Energy Conservation Bonds (QECCBs). Projects under that amount will be considered for other WSHFC programs, including tax-exempt financing options, the Energy Efficiency Credit Enhancement Program and the Sustainable Energy Trust lending program. Projects under \$1,000,000 do not need to go through the GCI application process, and can work directly with WSHFC to access their programs.

- Applications will be accepted beginning 60 days after Council enactment of the Ordinance establishing the Green Community Initiative. After 60 days, applications will be accepted and considered on an on-going basis.

Assessment Criteria

For all projects, estimated savings are to be based on standard engineering and design practices and calculations. Savings must be verified by the applicant, per the applicant's chosen Professional Engineer or other qualified professional.

An individual project can aggregate work in two or more categories to meet the \$1,000,000 QECCB funding threshold, as long as the project meets the reduction thresholds for each category (e.g. \$600,000 from Energy Conservation and Generation, and \$400,000 from Water Conservation).

Five categories of environmental benefit have been identified. Applicant projects will be assessed based on their ability to meet one or more of the categories of energy and environmental benefit:

- Energy Conservation and Generation
- Greenhouse Gas Emission Reduction
- Green Building
- Water Conservation
- District Energy

Energy Conservation and Generation

Energy conservation projects shall have a total project cost of \$1,000,000 or more. Projects shall result in a total energy consumption reduction of 10% or more. Energy savings across multiple fuel sources (e.g. electricity and natural gas) may be aggregated based on a common unit such as

British Thermal Units (BTUs) to achieve the 10% minimum energy savings. Energy conservation measures may include, but are not limited to:

- Improvements to mechanical systems in buildings and facilities that install new energy-efficient equipment, either replacing old equipment (e.g. condensing boiler to replace a conventional boiler) or installing new equipment (e.g. heat recovery).
- Improvements to building envelopes (i.e. walls, ceiling, etc.) that reduce heat loss and/or heat gain through conservation measures such as installing better insulation, replacing inefficient windows and installing reflective roofing
- Installation of more efficient lighting
- Installation or expansion of building control systems
- Renewable energy generation projects: Photovoltaic and wind projects of 5 kW or larger, and solar hot water projects of 250,000 BTU/day or higher.

Greenhouse Gas Emission Reduction

This includes building and sustainable development practices that reduce greenhouse gas emissions. Projects must reduce greenhouse gas emissions by 10% and 250 metric tons or more of Carbon Dioxide equivalent per year. Projects can include building and transportation projects and equipment that reduce greenhouse gas emissions compared to the existing baseline energy use and related emissions, specific to the baseline fuel type. Cost requests for QECB financing will consider incremental costs related to efficient equipment and labor necessary to reduce greenhouse gas emissions, as compared to standard equipment, and must be over \$1,000,000.

Green Building

This includes green building projects that are pursuing a LEED Gold or Platinum Certification, Living Building certification, Built Green 4-Star or higher, or Passive House standards. Other equivalent third party sustainable design standards will be considered on a case-by-case basis. Priority will be given to retrofits of existing buildings. Cost requests for QECB financing will consider the incremental life cycle cost above a current local building code design necessary to meet the designated standard, and must be over \$1,000,000.

Water Conservation

Water conservation projects shall have a total project cost of \$1,000,000 or more. Projects shall result in a total facility water consumption reduction of 10% or more. Water conservation measures can include the installation of efficient plumbing fixtures, high efficiency irrigation and irrigation control systems, water reuse systems or other technologies that either reduce the consumption of potable domestic water or replace potable water use with reclaimed water, grey water, or rainwater harvesting use where local laws allow. Applications for QECB financing will be considered based on costs related to efficient equipment and labor necessary to achieve the estimated consumption reduction.

District Energy

District energy projects shall have a total project cost of \$1,000,000 or more. District energy projects shall provide environmental benefits by capturing energy efficiencies, reclaiming waste heat for beneficial use and reducing energy use through shared heating and/or cooling. Examples can include: Efficient distribution of energy provided by central heating and/or

cooling plants, utilizing heating and/or cooling from sources outside of the facility (e.g. tapping into the relatively stable temperatures of wastewater in pipelines) or sharing excess heating and/or cooling among nearby facilities. Criteria will include efficiency of technology with regard to energy and water use, innovative use of emerging technologies, and collaboration with public agencies in establishing new norms for green building and innovative energy use. District energy projects on a facility, neighborhood or community scale will be considered. For projects within a facility, applications for QECB financing will be considered based on equipment and labor costs within the facility related to district energy infrastructure and/or connection to a district energy system.