



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

November 12, 2014

Ordinance 17930

Proposed No. 2014-0440.1

Sponsors McDermott

1 AN ORDINANCE relating to capital projects oversight;
2 amending Ordinance 17293, Section 50, and K.C.C.
3 4A.10.265, Ordinance 16764, Section 2, as amended, and
4 K.C.C. 4.04.245, Ordinance 16764, Section 3, and K.C.C.
5 4.04.246, Ordinance 14921, Section 3, and K.C.C. 4.06.010
6 and Ordinance 14921, Section 5, as amended, and K.C.C.
7 4.06.030, adding new sections to K.C.C. chapter 4A.10,
8 adding new chapters to K.C.C. Title 4A, recodifying
9 K.C.C. 4A.10.265, K.C.C. 4.04.245, K.C.C. 4.04.246,
10 K.C.C. 4.06.010 and K.C.C. 4.06.030 and repealing
11 Ordinance 14921, Section 4, and K.C.C. 4.06.020,
12 Ordinance 14921, Section 6, and K.C.C. 4.06.040 and
13 Ordinance 14921, Section 7, and K.C.C. 4.06.050.

14 PREAMBLE:

15 The existing code on revenue and fiscal regulation, K.C.C. Title 4, was
16 created for the most part in the 1970s and 1980s, though some provisions
17 date back to at least the 1940s. The council has directed that the code
18 provisions of Title 4 be updated and consolidated in the new title, K.C.C.

19 Title 4A. This proposed ordinance will fulfill that directive as to the code
20 provisions governing capital projects oversight.

21 The King County capital budget is over one billion dollars for the 2015-
22 2016 biennium. Oversight of capital projects is a priority for the council
23 and includes three distinct mechanisms have been developed to ensure that
24 oversight: the implementation of mandatory phased appropriations, the
25 capital projects oversight program within the King County auditor's office
26 and the real estate and major capital projects review joint advisory group.

27 Regarding mandatory phased appropriations:

28 In July 2009, Motion 13026 included a requirement that the council
29 consider legislation that would provide greater oversight of capital
30 projects, and in particular projects with the potential to be high risk,
31 usually due to the size and scope of the project;

32 Fulfilling its own directive, the council adopted Ordinance 16764, codified
33 at K.C.C. 4.04.245, which established appropriation by phases for projects
34 with characteristics that increase their likelihood of being completed late
35 or over budget at a potentially significant financial cost or other significant
36 impact to the county;

37 The traditional sequencing of capital project phases includes preliminary
38 design, design and acquisition, implementation and closeout. However,
39 even projects that do not follow this traditional sequencing should be
40 subject to phase-related reporting; and

41 Authorizing appropriations for a capital project in phases is one means of
42 ensuring greater oversight. Projects eligible for phased appropriation,
43 identified in K.C.C. 4.04.245, as amended and recodified by this
44 ordinance, will undergo a mandatory phased appropriation determination
45 in accordance with the process identified in this chapter.

46 Regarding the capital projects oversight program:

47 The 2007 budget included the capital projects oversight program within
48 the King County auditor's office. The program was established to mitigate
49 capital project overruns and potential problems, contain costs, and inform
50 decision-making processes through adequate, timely and useful
51 standardized reporting;

52 Since its inception, the capital project oversight program has encompassed
53 oversight and reporting on at least eight major capital projects, such as the
54 Accountable Business Transformation, as well as providing studies and
55 input on individual and countywide capital program activities;

56 The capital projects oversight program was not formally established in the
57 King County Code; and

58 The council has determined that a new title on revenue and fiscal
59 regulation, K.C.C. Title 4A, should be created, and material related to
60 revenue and fiscal matters be codified in that title. The capital projects
61 oversight program should be established in the new title.

62 Regarding the real estate and major capital projects review joint advisory
63 group:

64 The King County council established the properties expert review task
65 force ("PERT") in Ordinance 14106 and tasked that body with the
66 proposal of criteria for decision making with regard to county owned real
67 property and capital asset management. The PERT review covered asset
68 acquisition, management, disposition as well as recommendations about
69 King County Code changes, staffing resources and potential contracting
70 that might help the county implement an improved asset management
71 system;

72 The PERT report recommended the creation of a real estate cabinet that
73 would include members from the executive and legislative branches that
74 would make policy level decisions regarding real estate;

75 The King County Charter provides for the separation of powers between
76 the executive and legislative branches, stating that the council is the policy
77 determining body and that the executive branch implements those policies
78 under direction of the county executive, who serves as the chief executive
79 officer of the county;

80 Due to the separation of powers provided for in the King County Charter
81 the PERT recommendation to make policy level decisions through a real
82 estate cabinet could blur the division of the branches;

83 Ordinance 14199 reiterated asset management concerns in and directed
84 that capital asset management be an integral part of a requested study of
85 the facilities management division organization structure;

86 The King County council subsequently approved in Motion 11819 and
87 Motion 11732 the facilities management division reorganization reports,
88 including a recommended method for providing the council timely
89 information for policy-level discussion on major real estate and capital
90 project decisions;

91 The council requested in Motion 11819 that legislation be formally
92 adopted to create a countywide real estate and major capital projects
93 oversight committee that would be structured to provide coordination and
94 policy-level discussion between the executive and legislative branches of
95 government regarding real estate asset management and major capital
96 projects;

97 In 2004, Ordinance 14921 established the real estate and major capital
98 projects review joint advisory group that was structured to provide
99 coordination and policy-level discussion between the executive and
100 legislative branches of government regarding real estate asset management
101 and major capital projects; and

102 The joint advisory group is codified in the existing code on revenue and
103 fiscal regulation, K.C.C. Title 4.06. The council has determined that a
104 new title on revenue and fiscal regulation, K.C.C. Title 4A, should be
105 created, and material related to revenue and fiscal matters be codified in
106 that title. Therefore, the joint advisory group section will be updated and
107 moved to the new title and will reflect the group's current practices.

108 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

109 SECTION 1. K.C.C. 4A.10.265, as amended by this ordinance, is hereby
110 recodified as a new section in K.C.C. chapter 4A.10.

111 SECTION 2. Ordinance 17293, Section 50, and K.C.C. 4A.10.265 are hereby
112 amended to read as follows:

113 "~~((Final d))~~Design phase" means the time during which design is completed,
114 permits and other permissions are secured so that the project, or staged elements of the
115 project consistent with the project ~~((management))~~ plan, can proceed to implementation.
116 ~~((Final d))~~Design phase also includes development of a final cost estimate, plans,
117 specifications and a bid package.

118 NEW SECTION. SECTION 3. There is hereby added to K.C.C. chapter 4A.10 a
119 new section to read as follows:

120 "Earned value management" means an analysis of how much has been
121 accomplished on a capital project to date compared to the project's planned scope,
122 schedule and cost. "Earned value management" includes a plan that identifies work to be
123 accomplished, a valuation of planned work and predefined earning rules that quantify
124 how to measure the accomplishment of work.

125 NEW SECTION. SECTION 4. There is hereby added to K.C.C. chapter 4A.10 a
126 new section to read as follows:

127 "Estimate at completion" means a forecast of cost and time to complete a project.
128 The estimate at completion includes the amount of cost and time incurred on the project
129 and the remaining forecasted cost and time.

130 NEW SECTION. SECTION 5. There is hereby added to K.C.C. chapter 4A.10 a
131 new section to read as follows:

132 "Lease-based project" means a project in which a lease-purchase or lease-
133 leaseback agreement is proposed under chapter 35.42 RCW that transfers construction
134 risk to a developer or not-for-profit intermediary and provides the contractual basis for
135 obtaining funding from a third party to finance construction of the project.

136 NEW SECTION. SECTION 6. There is hereby added to K.C.C. chapter 4A.10 a
137 new section to read as follows:

138 "Project baseline" means the scope, schedule and budget of a capital project that
139 are set by the implementing agency at the conclusion of a project's preliminary design
140 phase, which is after the preferred alternative has been selected and design has progressed
141 adequately to make reasonable and informed commitments at thirty to forty percent
142 design.

143 NEW SECTION. SECTION 7. There is hereby added to K.C.C. chapter 4A.10 a
144 new section to read as follows:

145 "Risk register" means a document that identifies potential events that could
146 impact cost, schedule or scope.

147 NEW SECTION. SECTION 8. There is hereby added to K.C.C. chapter 4A.10 a
148 new section to read as follows:

149 "Rough order of magnitude cost estimate" means an early cost estimate based on
150 approximate cost models.

151 NEW SECTION. SECTION 9. There is hereby added to K.C.C. chapter 4A.10 a
152 new section to read as follows:

153 "Total project cost estimate" means the estimated project cost from the start of
154 planning through project closeout. If the project has a range of potential project costs, the
155 total project cost estimate is the highest cost in the range.

156 SECTION 10. There is hereby established a new chapter in K.C.C. Title 4A. The
157 new chapter shall contain K.C.C. 4.04.245, recodified by this ordinance, section 13 of
158 this ordinance, section 14 of this ordinance, section 15 of this ordinance and K.C.C.
159 4.04.246, as recodified by this ordinance.

160 SECTION 11. K.C.C. 4.04.245, as amended by this ordinance, is hereby
161 recodified as a new section in the new chapter established in section 10 of this ordinance.

162 SECTION 12. Ordinance 16764, Section 2, as amended, and K.C.C. 4.04.245 are
163 hereby amended to read as follows:

164 A. ~~((For the purposes of this section:~~

165 1. ~~"Capital projects oversight program" means the function within the King~~
166 ~~County auditor's office to oversee King County's large capital construction projects that~~
167 ~~was initially funded within the 2007 annual budget;~~

168 2. ~~"Earned value management" means an analysis of how much has been~~
169 ~~accomplished on a capital project to date compared to the project's planned scope,~~
170 ~~schedule and cost. It includes a plan that identifies work to be accomplished, a valuation~~
171 ~~of planned work, and predefined earning rules that quantify how to measure the~~
172 ~~accomplishment of work;~~

173 3. ~~"Eligible capital project" means a capital project as defined in K.C.C.~~
174 ~~4.04.020, except it does not include information technology projects, transit acquisitions,~~

175 affordable housing and community development projects that are developed and managed
176 by noncounty entities, energy savings performance contracts or lease-based projects;

177 4. "Estimate at completion" means a forecast of cost and time to complete a
178 project. The estimate at completion includes the amount of cost and time incurred to date
179 plus remaining forecasted cost and time;

180 5. "High risk project" means an eligible capital project with characteristics that
181 increase its likelihood of being completed late or over budget at a potentially significant
182 financial cost or other significant impact to the county. Whether an eligible capital project
183 is a high risk project shall be determined by the process in subsection C. of this section;

184 6. "Joint advisory group" means the real estate and major capital project review
185 joint advisory group created in K.C.C. chapter 4.06;

186 7. "Lease-based project" means a project where a lease-purchase or lease-
187 leaseback agreement is proposed, pursuant to chapter 35.42 RCW, that transfers
188 construction risk to a developer or not-for-profit intermediary and provides the
189 contractual basis for obtaining funding from a third party to finance construction of the
190 project;

191 8. "Project baseline" means the scope, schedule and budget set at the conclusion
192 of the preliminary design phase when the preferred alternative has been selected and
193 design has progressed adequately to make reasonable and informed commitments, at
194 thirty to forty percent design. Project baseline is used as a basis for variance reporting and
195 performance measurement;

196 9. "Project management plan" means a formal document that defines how the
197 project is executed, monitored and controlled. The objective of the project management

198 plan is to define the approach and schedule to be used by the project team to deliver the
199 intended project scope.

200 10. "Risk register" means a document that identifies potential events that could
201 impact cost, schedule, or scope. The document formulates plans for addressing those
202 risks.

203 11. "Rough order of magnitude cost estimate" means an early cost estimate
204 based on approximate cost models; and

205 12. "Total project cost estimate" means the estimated project cost from the start
206 of planning through project closeout. If the project has a range of potential project costs,
207 the total project cost estimate is the highest cost in the range.

208 B.1. For any eligible capital project with a total project cost estimate of over ten
209 million dollars, the executive shall transmit risk score results to the joint advisory group
210 each year in accordance with the process identified in subsection C.1. of this section
211 under the following circumstances:)) A capital project shall undergo an annual mandatory
212 phased appropriation determination in accordance with the process outlined in section 13
213 of this ordinance if it meets the following criteria and is not exempt by subsection B. of
214 this section:

215 ((a.)) 1. ((t))The ((appropriation request for the project will be over two hundred
216 thousand dollars or the appropriation request plus)) total project cost estimate is over ten
217 million dollars;

218 2. For a project that has general fund financing, the project's ((prior))
219 appropriations ((will)) together with any request for supplemental appropriations
220 collectively exceed two hundred fifty thousand dollars, or, for a project that does not have

221 general fund financing, the project's appropriations together with any request for
222 supplemental appropriations collectively exceed five hundred thousand dollars; and

223 ~~((b.)) 3. For a project that has set a project baseline, the project has not ((yet))~~
224 ~~had a ((high-risk)) mandatory phased appropriation determination since setting of its~~
225 ~~project baseline ((from the joint advisory group that was made after setting the project~~
226 ~~baseline; and~~

227 ~~e. the project has not entered the implementation phase.~~

228 ~~2. The high-risk determination by the joint advisory group shall be made in~~
229 ~~accordance with the process outlined in subsection C. of this section.~~

230 ~~3. High-risk projects shall provide supporting data in accordance with the~~
231 ~~requirements of subsections F. through H. of this section beginning with the next phase~~
232 ~~for which appropriation authority is requested.~~

233 ~~C.1. The capital projects oversight program shall develop a risk scoring~~
234 ~~instrument for assessing whether an eligible capital project is a high-risk project. The~~
235 ~~instrument shall be submitted to the joint advisory group for its approval.~~

236 ~~2. The risk scoring instrument shall be used by the implementing agency to~~
237 ~~generate a risk score for all projects that are required to be scored under subsection B.1.~~
238 ~~of this section.~~

239 ~~3. The risk scoring instrument shall use information such as complexity of~~
240 ~~regulatory requirements, interdependencies with other projects and programs, schedule~~
241 ~~constraints, implementing agency resources, project delivery method, complexity of~~
242 ~~property acquisition issues, public impact, risks inherent to the likely construction~~

243 technology, or any other issues that could have a significant impact on the ability of the
244 project to meet baseline scope, schedule or budget.

245 4. The implementing agency director shall ensure that the risk scoring has been
246 completed by qualified staff who does not report to the project manager, to anyone who
247 reports to the project manager, or to anyone to whom the project manager directly
248 reports.

249 5. By March 1, the executive shall electronically transmit all risk score results
250 for eligible capital projects that require a risk score that year to the clerk of the council,
251 who will retain an electronic copy and distribute electronic copies to the manager of the
252 capital projects oversight program and the co-chairs of the joint advisory group or their
253 designees, except that scoring results for eligible capital projects that received
254 appropriations in 2010 shall be transmitted to the clerk of the council by July 31, 2010.

255 6. By the end of the first quarter of each year, or by the end of the third quarter
256 in the year in which this ordinance is enacted, the joint advisory group, in consultation
257 with the capital projects oversight program and using the risk scores for guidance, shall
258 determine which projects for which it has received risk scores are high-risk projects. The
259 joint advisory group may change the risk status of any of those projects when the joint
260 advisory group receives an updated risk score.

261 7. The capital projects oversight program may recommend to the joint advisory
262 group changes to the risk scoring instrument, but a new risk scoring instrument may be
263 used only if the joint advisory group approves the instrument and provides an effective
264 date for agency use of the instrument.

265 8. ~~The joint advisory group shall file an electronic list of all eligible capital~~
266 ~~projects for which it has changed the high-risk status designation, including risk score~~
267 ~~and change in high-risk status, with the clerk of the council who will retain an electronic~~
268 ~~copy and distribute electronic copies to the chair of the budget and fiscal management~~
269 ~~committee or its successor and the manager of the capital projects oversight program.~~

270 9. ~~Each agency or department that has at least one eligible capital project with a~~
271 ~~total project cost estimate of over ten million dollars should have at least one project~~
272 ~~designated as a high-risk project by the joint advisory group.~~

273 10. ~~The executive may designate any eligible capital project as a high-risk~~
274 ~~project by letter or the council may designate any eligible capital project as a high-risk~~
275 ~~project by motion. Thirteen copies of the letter or motion shall be filed with the clerk of~~
276 ~~the council for distribution to all councilmembers, the co-chairs of the joint advisory~~
277 ~~group or their designees and the manager of the capital projects oversight program.~~

278 D. ~~For purposes of identifying when an eligible capital project has entered a~~
279 ~~particular phase and when subsections F. through H. of this section apply, phases include~~
280 ~~preliminary design, final design and close-out, and the following characteristics shall be~~
281 ~~used as a guide:~~

282 1. ~~The preliminary design phase is when evaluation and analysis of potential~~
283 ~~project alternatives occurs. Based on analysis, the preferred alternative is selected and~~
284 ~~designed sufficiently to establish a project baseline, at thirty to forty percent design.~~
285 ~~Activities requiring long lead times, such as acquisition or permitting may be initiated~~
286 ~~during this phase. Some planning activities may occur prior to the preliminary design~~
287 ~~phase;~~

288 2. ~~The design phase is the time during which design is completed, permits and~~
289 ~~other permissions are secured, and necessary land, rights of way, and easements are~~
290 ~~acquired so that the project (or staged elements of the project consistent with the project~~
291 ~~management plan) can proceed to implementation. The design phase also includes~~
292 ~~development of a cost estimate, plans, specifications and a bid package. It is expected~~
293 ~~that the range of uncertainty associated with project cost estimates decreases as the~~
294 ~~design progresses. Activities to procure materials and equipment that require long lead~~
295 ~~times may be initiated during this phase. For projects with alternative delivery methods,~~
296 ~~such as general contractor construction manager projects, the design phase may include~~
297 ~~some construction activities that occur before completion of project plans and~~
298 ~~specifications;~~

299 3. ~~The implementation phase is the time during which the project is constructed~~
300 ~~or implemented. This also includes the testing, inspection, adjustment, correction and~~
301 ~~certification of facilities and systems to ensure that the project performs as specified. The~~
302 ~~implementation phase ends with final acceptance of the project; and~~

303 4. ~~Close-out follows final acceptance and consists of administrative processes~~
304 ~~and associated accounting activities to close out all contracts. It may include multi-year~~
305 ~~monitoring. It should comprise no more than three percent of the total project cost.~~

306 E.1. ~~When submitting a capital budget appropriation ordinance or an additional~~
307 ~~or amended capital budget appropriation ordinance to the council that includes an~~
308 ~~appropriation for a high-risk project, the executive shall submit supporting data as~~
309 ~~identified in subsections F. through H. of this section. For any item required by~~
310 ~~subsections F. through H. of this section that the executive does not provide with the~~

311 ~~appropriation request, the executive shall provide a detailed explanation of why it cannot~~
312 ~~be provided and, if the item is to be provided later, identify the date by which the item~~
313 ~~will be provided.~~

314 ~~2. For some eligible capital projects, one or more phases may run concurrently,~~
315 ~~such as projects requiring staged construction due to site constraints or operational needs,~~
316 ~~or performed under a declaration of emergency. Some nonconstruction eligible capital~~
317 ~~projects, such as land acquisition, may not utilize all of the capital project phases.~~

318 ~~a. When submitting a capital budget appropriation ordinance or an additional~~
319 ~~or amended capital budget appropriation ordinance to the council where the appropriation~~
320 ~~request encompasses work performed in more than one phase of a high-risk project, not~~
321 ~~including the close-out phase, the executive shall submit as supporting data an~~
322 ~~explanation of the cost and schedule factors necessitating appropriation for more than one~~
323 ~~phase. The executive shall also submit as supporting data a schedule for reporting those~~
324 ~~supporting items required by subsections F. through H. to the council. The schedule and~~
325 ~~items to be reported shall match milestones identified in the project management plan.~~
326 ~~The reports shall be filed with the clerk of the council for distribution to the chair of the~~
327 ~~budget and fiscal management committee or its successor.~~

328 ~~b. The council should consider placing expenditure restrictions upon the~~
329 ~~appropriation that release funds contingent upon appropriate further action.~~

330 ~~F. When submitting a capital budget appropriation ordinance or an additional or~~
331 ~~amended capital budget appropriation ordinance to the council that encompasses work~~
332 ~~performed in the preliminary design phase of a high-risk project, the appropriation~~
333 ~~request may include up to ten percent of the funding for the design phase. The executive~~

334 shall, in addition to the requirements of K.C.C. 4.04.247, provide the following
335 supporting data:

336 1. Identify design criteria;

337 2. Provide an estimate of preliminary design costs, start and end dates for the
338 preliminary design phase, and a rough order of magnitude cost estimate, which may be
339 expressed as a range, for design and implementation phases;

340 3. Provide a planned schedule that shows the anticipated start and finish dates
341 for each major task for the preliminary design phase, and for the design and the
342 implementation phases, provide the anticipated start and finish dates for major work
343 through completion;

344 4. Identify stakeholders;

345 5. Identify regulatory requirements and highlight any regulatory requirements
346 that increase project risk; and

347 G. When submitting a capital budget appropriation ordinance or an additional or
348 amended capital budget appropriation ordinance to the council that encompasses work
349 performed in the design phase of a high-risk project, the executive shall, in addition to the
350 requirements of K.C.C. 4.04.247, provide the following supporting data:

351 1. Describe the alternatives considered, including a summary of life-cycle cost
352 analysis performed for feasible alternatives progressing to further design, and identify the
353 recommended alternative or alternatives with detailed scope description;

354 2. Provide a summary of the results of a formal schedule and cost risk
355 assessment conducted by an external consultant or staff who does not report to the project

356 manager, to any person who reports to the project manager, or to anyone to whom the
357 project manager directly reports;

358 3. Provide the project baseline, if set by the time of the appropriation request;

359 4. Certify that the implementing agency completed a cost estimate validation
360 process to provide an independent evaluation of the project's cost estimates using an
361 external consultant or staff who does not report to the project manager, to any person who
362 reports to the project manager, or to anyone to whom the project manager directly
363 reports;

364 5. Certify that significant progress has been made in environmental review and
365 public outreach, identify steps remaining in the environmental review process, and
366 summarize major issues;

367 6. Identify permits, acquisitions, and relocations, address mitigations, and
368 highlight any of these that increase project risk to scope, schedule or budget;

369 7. Certify that application for external funding has begun, if applicable; and

370 8. For projects with alternative delivery methods that contemplate a need for
371 early construction costs, provide an explanation of the need.

372 H.1. When submitting a capital budget appropriation ordinance or an additional
373 or amended capital budget appropriation ordinance to the council that encompasses work
374 performed in the construction phase of a high-risk project, the executive shall, in addition
375 to the requirements of K.C.C. 4.04.247, provide the following supporting data:

376 a. certify that plans, specifications, estimates and contract documents reflect a
377 level of design completion that is sufficient to support a final cost estimate and schedule

378 ~~for proceeding to procurement and specify the ready date for proceeding with the selected~~
379 ~~procurement method for the project;~~

380 ~~b. certify that all required nonconstruction permits are in place in accordance~~
381 ~~with the project management plan or provide status of pending approvals and the~~
382 ~~expected date of receipt;~~

383 ~~e. certify that all land acquisition, lease documents, and partnership agreements~~
384 ~~are in place in accordance with the project management plan or provide status of pending~~
385 ~~actions and expected date of receipt; and~~

386 ~~d. certify that the implementing agency completed a cost estimate validation~~
387 ~~process to provide an independent evaluation of the project's cost estimates using an~~
388 ~~external consultant or staff who does not report to the project manager, to any person who~~
389 ~~reports to the project manager, or to anyone to whom the project manager directly~~
390 ~~reports.~~

391 ~~2. The executive shall provide quarterly reports during the construction phase of~~
392 ~~a high-risk project. The quarterly report shall address performance relative to project~~
393 ~~baseline, highlight any significant variance from project baseline, summarize the top risks~~
394 ~~in the risk register, summarize change orders, explain change orders that have the~~
395 ~~cumulative potential to carry the project over project baseline and summarize the results~~
396 ~~of the latest earned value analysis. Five copies of each report shall be filed with the clerk~~
397 ~~of the council, who shall retain a copy and distribute copies to the chair of the budget and~~
398 ~~fiscal management committee or its successor, the co-chairs of the joint advisory group or~~
399 ~~their designees and the manager of the capital projects oversight program.~~

400 I.1. ~~The implementing agency shall establish and maintain a risk register for each~~
401 ~~high-risk project. The risk register shall be developed consistent with industry standards.~~

402 2. ~~The implementing agency shall update the risk register at least quarterly, or~~
403 ~~more frequently should significant changes or additions be identified by the~~
404 ~~implementing agency.~~

405 J.1. ~~The implementing agency shall employ earned value management on high-~~
406 ~~risk projects to forecast unfavorable variations in final project cost or completion date,~~
407 ~~based on progress to date.~~

408 2. ~~Agencies shall apply earned value management tools and methods to the~~
409 ~~design and construction phases. The earned value management tools and methods, and~~
410 ~~the format and level of detail reported, shall be appropriate for the phase of the project~~
411 ~~and the associated level of certainty regarding cost and schedule estimates. Tools for~~
412 ~~earned value management may include forecasting estimate at completion for design~~
413 ~~phase and use of earned value analysis for the construction phase.~~

414 3. ~~The analysis shall be updated at least monthly)).~~

415 B. The following types of capital projects are exempt from mandatory phased
416 appropriation:

417 1. Information technology projects that do not involve construction and that are
418 subject to the project review board established by Ordinance 14155;

419 2. Open space acquisitions;

420 3. Purchase of transit vehicles; and

421 4. Lease-based projects that comply with the phased requirements of section 17
422 of this ordinance.

423 NEW SECTION. SECTION 13. There is hereby added to the new chapter
424 created in section 10 of this ordinance a new section to read as follows:

425 A. Capital projects required to undergo a mandatory phased appropriation
426 determination shall receive an annual risk assessment score using a risk assessment
427 scoring instrument developed by the capital projects oversight program.

428 B. The risk assessment scoring instrument shall use information such as
429 complexity of regulatory requirements, interdependencies with other projects and
430 programs, schedule constraints, implementing agency resources, project delivery method,
431 complexity of property acquisition issues, public impact, risks inherent to the likely
432 construction technology or any other issues that could have a significant impact on the
433 ability of the project to meet its project baseline scope, schedule or budget. Before its use
434 by implementing agencies, the instrument shall be approved by the joint advisory group.
435 Revisions to the approved risk assessment scoring instrument proposed by the capital
436 projects oversight program must be approved by the joint advisory group, which shall
437 also set the effective date by which implementing agencies must start using the approved,
438 revised instrument.

439 C. The risk assessment scoring instrument shall be completed by the
440 implementing agency. The implementing agency director shall ensure that the risk
441 assessment scoring instrument is reviewed and signed by agency staff who does not
442 report to the project's project manager, to anyone who reports to that project manager or
443 to anyone to whom that project manager directly reports.

444 D. 1. For existing capital projects and anticipated capital project budget
445 appropriation requests, the executive shall transmit risk assessment score results, if

446 required by section 12 of this ordinance, by March 31 of each year to the clerk of the
447 council, who shall retain an electronic copy and distribute electronic copies to the
448 manager of the capital projects oversight program and the co-chairs of the joint advisory
449 group. By May 31 of each year, the joint advisory group, in consultation with the capital
450 projects oversight program, shall consider these projects' risk assessment scores and
451 determine which projects are to be mandatory phased appropriation projects.

452 2. For capital project supplemental appropriation requests, the executive shall
453 transmit a risk assessment score, if required by section 12 of this ordinance, with the
454 request. Within a reasonable time upon receipt of these projects' risk assessment scores,
455 the joint advisory group, in consultation with the capital projects oversight program, shall
456 consider these projects' risk assessment scores and determine which projects are to be
457 mandatory phased appropriation projects.

458 E.1. The joint advisory group should strive to have mandatory phased
459 appropriation projects from a range of implementing agencies.

460 2. The joint advisory group may change the mandatory phased appropriation
461 status of any project when the joint advisory group receives a risk assessment score for
462 that project.

463 F. The joint advisory group shall file a paper and an electronic copy of a list of all
464 mandatory phased appropriation projects and their risk assessment scores with the clerk
465 of the council. The joint advisory group shall file a paper and an electronic copy of an
466 updated list with the clerk of the council any time there is a change in the mandatory
467 phased appropriation determination of a project. The clerk shall retain a paper copy and

468 distribute electronic copies of each list to the chair of the budget and fiscal management
469 committee, or its successor, and the manager of the capital projects oversight program.

470 G. For capital projects with characteristics that increase their likelihood of being
471 completed late or over budget at a potentially significant financial cost or other
472 significant impact to the county, the council may designate a capital project as a
473 mandatory phased appropriation project by motion or the executive may designate a
474 capital project as a mandatory phased appropriation project by letter. A paper and
475 electronic copy of the letter shall be filed with the clerk of the council who shall retain a
476 paper copy and distribute electronic copies to all councilmembers, the cochairs of the
477 joint advisory group or their designees and the manager of the capital projects oversight
478 program.

479 H. When submitting a capital budget appropriation ordinance or requesting a
480 supplemental appropriation ordinance for a project subject to the mandatory phased
481 appropriation review, the executive shall also submit the project's risk assessment score
482 and the determination made by joint advisory group.

483 NEW SECTION. SECTION 14. There is hereby added to the new chapter
484 created in section 10 of this ordinance a new section to read as follows:

485 A. The typical sequential phases of a capital project are: preliminary design,
486 design and acquisition, implementation and closeout. When submitting a capital budget
487 appropriation ordinance or a supplemental capital budget appropriation ordinance that
488 includes an appropriation for a mandatory phased appropriation project, the executive
489 shall provide supporting data in accordance with subsections B. through D. of this
490 section, except that:

491 1. If the executive does not provide all required supporting data, the executive
492 shall provide a detailed explanation of why the data cannot be provided and, if the data is
493 to be provided later, include a schedule for when the data will be provided. The schedule
494 and items to be reported shall match milestones identified in the project plan. In
495 accordance with the schedule submitted by the executive, a paper and electronic copy of
496 the reports shall be filed with the clerk of the council who shall retain a paper copy and
497 distribute electronic copies to the chair of the budget and fiscal management committee,
498 or its successor;

499 2. a. For some mandatory phased appropriation projects, one or more phases
500 may run concurrently or the appropriation request may encompass multiple phases, such
501 as projects with alternative delivery methods, projects requiring staged construction due
502 to site constraints or operational needs or projects performed under a declaration of
503 emergency.

504 b. When the appropriation request encompasses work performed in more than
505 one phase of a mandatory phased appropriation project, not including the closeout phase,
506 the executive shall submit as supporting data an explanation of the reasons necessitating
507 appropriation for more than one phase, including, but not limited to, cost and schedule
508 factors.

509 c. The executive shall also submit as supporting data a schedule for reporting
510 those supporting items required by subsections B. through D. of this section to the
511 council. The schedule and items to be reported shall match milestones identified in the
512 project plan. In accordance with the schedule submitted by the executive, a paper and
513 electronic copy of the reports shall be filed with the clerk of the council who shall retain a

514 paper copy and distribute electronic copies to the chair of the budget and fiscal
515 management committee, or its successor.

516 B. When the appropriation request encompasses work to be performed in the
517 preliminary design phase of a mandatory phased appropriation project:

518 1. The executive shall provide:

519 a. identification of design criteria;

520 b. an estimate of preliminary design costs, start and end dates for the
521 preliminary design phase and a rough order of magnitude cost estimate, which may be
522 expressed as a range, for design and implementation phases;

523 c. a planned schedule that shows the anticipated start and finish dates for each
524 major task for the preliminary design phase and, for the design and the implementation
525 phases, the anticipated start and finish dates for major work through completion;

526 d. identification of stakeholders; and

527 e. identification of regulatory requirements and highlighting of any regulatory
528 requirements that increase project risk.

529 2. The executive may also request up to ten percent of the funding for the design
530 phase. The requirements of subsection C. of this section shall not apply to this partial
531 design phase request.

532 C. When the appropriation request encompasses work to be performed in the
533 design phase or acquisition phase of a mandatory phased appropriation project, the
534 executive shall provide:

535 1. A description of the alternatives considered, including a summary of life-
536 cycle cost analysis performed for feasible alternatives progressing to further design, and
537 identify the recommended alternative or alternatives with detailed scope description;

538 2. A summary of the results of a formal risk assessment;

539 3. The project baseline, if set by the time of the appropriation request;

540 4. Affirmation that the implementing agency completed a cost estimate
541 validation process to provide an independent evaluation of the project's cost estimates;

542 5. Report on status of environmental issues, including an affirmation that
543 significant progress has been made in environmental review and public outreach,
544 identification of steps remaining in the environmental review process, and summarizing
545 of major issues;

546 6. Identification of permits, acquisitions, relocations and mitigations, and
547 highlighting of any of these that present a significant risk to the project scope, schedule or
548 budget; and

549 7. Affirmation that application for external funding has begun, if applicable.

550 D. When the appropriation request encompasses work to be performed in the
551 implementation phase of a mandatory phased appropriation project, the executive shall
552 provide:

553 1. Affirmation that estimates and contract documents reflect a level of design
554 completion that is sufficient to support a final cost estimate and schedule for proceeding
555 to procurement;

556 2. The ready date for proceeding with the selected procurement method for the
557 project;

558 3. Affirmation that all required permits are in place in accordance with the
559 project plan or else the status of pending approvals and the anticipated date of receipt;

560 4. Affirmation that all land acquisition, lease documents and partnership
561 agreements are in place in accordance with the project plan or else the status of pending
562 actions and anticipated date of receipt; and

563 5. Affirmation that the implementing agency completed a cost estimate
564 validation process to provide an independent evaluation of the project's cost estimates.

565 NEW SECTION. SECTION 15. There is hereby added to the new chapter
566 created by section 10 of this ordinance a new section to read as follows:

567 A.1. The implementing agency shall establish and maintain a risk register and
568 document strategies to address identified risks for each mandatory phased appropriation
569 project.

570 2. The implementing agency shall update the risk register at least quarterly, or
571 more frequently should significant changes or additions be identified by the
572 implementing agency.

573 B.1. The implementing agency shall employ earned value management on the
574 design and implementation phases of mandatory phased appropriation projects to forecast
575 variations in final project cost or completion date, based on progress to date.

576 2. The implementing agency shall develop earned value management tools and
577 methods with a level of detail and scope that is appropriate for the phase of the project
578 and the associated level of certainty regarding cost and schedule estimates.

579 3. The earned value analysis shall be updated at least monthly.

580 SECTION 16. K.C.C. 4.04.246, as amended by this ordinance, is hereby
581 recodified as a new section in the new chapter established in section 10 of this ordinance.

582 SECTION 17. Ordinance 16764, Section 3, and K.C.C. 4.04.246 are each hereby
583 amended to read as follows:

584 A. For purposes of this section: ~~((, "lease-based project" is as defined in K.C.C.~~
585 ~~4.04.245. The phases of a lease-based project are the planning, predevelopment and lease~~
586 ~~phases.))~~

587 1. The planning phase of a lease-based project is the time during which the
588 county develops the scope of work including an estimate of project size, construction
589 cost~~((,))~~ and tenant improvements. The procurement process for the developer is
590 completed in this phase.

591 2. The predevelopment phase of a lease-based project is the time during which
592 the county in conjunction with the developer identifies and analyzes potential
593 alternatives, selects the preferred alternative and evaluates the technical and economic
594 feasibility of the project. The preferred alternative is engineered to approximately thirty
595 percent design. The draft lease agreement is agreed to in principle by the developer and
596 the executive at the completion of the predevelopment phase.

597 3. The lease phase of a lease-based project is when the executive requests
598 council approval to enter into a lease agreement for the project.

599 B. When submitting a capital budget appropriation ordinance or ~~((an additional~~
600 ~~or amended))~~ a supplemental capital budget appropriation ordinance ~~((to the council))~~
601 that encompasses work to be performed in the planning phase of a lease-based project,
602 the executive shall provide as supporting data a cost estimate that details the anticipated

603 cost for each major task required to complete the predevelopment phase. When a request
604 for proposal has been issued by the county, the executive shall notify the council by
605 filing a paper and electronic copy of a letter with the clerk of the council, who shall
606 forward an electronic copy to all councilmembers and to the lead of the budget and fiscal
607 management committee, or its successor.

608 C. When submitting a capital budget appropriation ordinance or ~~((an additional~~
609 ~~or amended))~~ a supplemental capital budget appropriation ordinance ~~((to the council))~~
610 that encompasses work to be performed in the predevelopment phase of a lease-based
611 project, the executive shall provide ~~((as supporting data))~~ with the submittal an estimate
612 of project size, construction cost and tenant improvements~~((;))~~ and a description of
613 performance requirements and space needs.

614 D. When submitting an ordinance requesting council approval to enter into a
615 lease agreement for a lease-based project, the executive shall provide ~~((supporting data as~~
616 ~~follows))~~ with the submittal:

- 617 1. ~~((Identify))~~ Identification of design criteria;
- 618 2. ~~((Provide a))~~ A financial analysis of the project;
- 619 3. ~~((Provide t))~~ The draft lease agreement agreed to by the executive and
620 developer;
- 621 4. ~~((Provide t))~~ The development team's pro forma cost plan for the design and
622 construction of the project;
- 623 5. ~~((Provide a))~~ A description and an analysis of the feasible alternatives
624 considered, and ~~((identify))~~ identification of the recommended alternative;

- 625 6. ~~((Provide))~~ A planned schedule that shows the anticipated start and finish
626 dates for each major task, consistent with the development team's pro forma cost plan;
- 627 7. ~~((Identify))~~ Identification of stakeholders;
- 628 8. ~~((Identify))~~ Identification of regulatory requirements; and
- 629 9. A ~~((R))~~report on variance of predevelopment phase major task performance
630 from the schedule and cost estimate provided for the predevelopment phase.

631 E. For any item required by subsections B. through D. of this section that the
632 executive does not provide with the appropriation request, the executive shall provide
633 with the submittal a detailed explanation of why it cannot be provided and, if the item is
634 to be provided later, identify the date by which the item will be provided.

635 SECTION 18. There is hereby added to Title 4A a new chapter to read as
636 follows:

637 A. The capital project oversight program is established within the office of the
638 King County auditor to enhance legislative oversight of the county's capital programs.
639 Under the direction of the auditor, the program shall provide the council with ongoing
640 review and analysis of selected capital programs and projects administered by executive
641 branch agencies and provide such reports and technical support activities to the
642 legislative branch as the auditor deems appropriate or as may be requested by the council.
643 The program shall provide the council with input on project development and
644 management practices intended to increase the likelihood of successful delivery of capital
645 projects within approved appropriation limits and stated scope and schedule
646 commitments.

647 B. The work program for the capital project oversight program shall be included
648 in the annual audit work program submitted for review and approval by the county
649 council in accordance with K.C.C. 2.20.045.

650 SECTION 19. There is hereby established a new chapter in K.C.C. Title 4A. The
651 new chapter shall contain K.C.C. 4.06.010, as recodified by this ordinance, and K.C.C.
652 4.06.030, as recodified by this ordinance.

653 SECTION 20. K.C.C. 4.06.010, as amended by this ordinance, is recodified as a
654 new section in the new chapter established in section 19 of this ordinance.

655 SECTION 21. Ordinance 14921, Section 3, and K.C.C. 4.06.010 are hereby
656 amended to read as follows:

657 The King County (~~real estate and major capital project review~~) joint advisory
658 group is hereby established to provide a forum for discussing a schedule of all legislation
659 and early policy level dialogue between the executive and the council on major capital
660 project and major real estate matters. The group shall be responsible for:

661 A. Review of upcoming legislative transmittals, including scheduling
662 ramifications for capital projects;

663 B. Review of the scope, schedule and budget information for major capital
664 projects;

665 C. Review of project risk assessment scores and making mandatory phased
666 appropriation determinations for capital projects, as required by K.C.C. 4.04.245 as
667 recodified by this ordinance;

668 ~~((The joint advisory group should provide the executive and legislative branches~~
669 ~~of government an opportunity to explore and discuss emergent))~~ D. Discussing emerging
670 projects and issues, as well as ongoing proposals regarding:

671 1. ~~((m))~~Major capital projects with estimated overall project costs that exceed
672 ten million dollars or a project with major policy considerations; and

673 2. ~~((m))~~Major real estate projects~~((:))~~ with an estimated value greater than one
674 million dollars or a real estate project with major policy considerations; and

675 ~~((The items for discussion by the group should exclude major technology projects~~
676 ~~considered for development and review that are included in the information technology~~
677 ~~governance processes pursuant to K.C.C. 2.16.0757 and 2.16.0758))~~ E. Assisting with
678 coordination of capital project and real estate management matters involving independent
679 elected officials in King County government.

680 SECTION 22. Ordinance 14921, Section 4, and K.C.C. 4.06.020 are hereby
681 repealed.

682 SECTION 23. K.C.C. 4.06.030, as amended by this ordinance, is recodified as a
683 new section in the new chapter established in section 1 of this ordinance.

684 SECTION 24. Ordinance 14921, Section 5, as amended, and K.C.C. 4.06.030 are
685 hereby amended to read as follows:

686 A. The group members shall be the ~~((chair))~~ designee of the metropolitan King
687 County council~~((, the chairs of the budget and fiscal management committee and the~~
688 ~~labor, operations and technology committee or their successor committees as defined by~~
689 ~~the council's organizational motion, and three participants as determined appropriate by~~
690 ~~the executive, depending on projects to be discussed. Executive participants may include~~

691 ~~the facilities management director, the department of natural resources director, the~~
692 ~~department of transportation director or the office of performance, strategy and budget~~
693 ~~director, as assigned by the executive)) and designee of the executive. Group members
694 may bring staff as needed to support the activities of the group.~~

695 B. ~~((The chair of the metropolitan King County council and the King County~~
696 ~~executive, or their designees, shall serve as group cochairpersons.~~

697 C. ~~Group members may appoint a designee to participate in any meeting on their~~
698 ~~behalf.~~

699 D. ~~Councilmembers or executive branch persons directly affected by or~~
700 ~~with specific knowledge of the real estate or major capital project program areas~~
701 ~~to be discussed at a monthly meeting may be invited by any group member to~~
702 ~~participate as ex officio members during consideration of that program area.)) The
703 group, to be chaired by council or executive staff on an alternating basis every
704 other month, shall meet monthly to discuss agenda items determined at least two
705 days before the meeting.~~

706 SECTION 25. Ordinance 14921, Section 6, as amended, and K.C.C. 4.06.040 are
707 hereby repealed.

708 SECTION 26. Ordinance 14921, Section 7, and K.C.C. 4.06.050 are hereby
709 repealed.
710

Ordinance 17930 was introduced on 10/27/2014 and passed by the Metropolitan King County Council on 11/10/2014, by the following vote:

Yes: 7 - Mr. Phillips, Mr. Gossett, Ms. Hague, Ms. Lambert, Mr. McDermott, Mr. Dembowski and Mr. Upthegrove
No: 0
Excused: 2 - Mr. von Reichbauer and Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

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KING COUNTY COUNCIL

APPROVED this 20 day of NOVEMBER, 2014.



Dow Constantine, County Executive

Attachments: None