



## Legislation Text

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Clerk 10/23/2014

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

### PREAMBLE:

The existing code on revenue and fiscal regulation, K.C.C. Title 4, was created for the most part in the 1970s and 1980s, though some provisions date back to at least the 1940s. The council has directed that the code provisions of Title 4 be updated and consolidated in the new title, K.C.C. Title 4A. This proposed ordinance will fulfill that directive as to the code provisions governing capital projects oversight.

The King County capital budget is over one billion dollars for the 2015-2016 biennium.

Oversight of capital projects is a priority for the council and includes three distinct mechanisms have been developed to ensure that oversight: the implementation of mandatory phased

appropriations, the capital projects oversight program within the King County auditor's office and the real estate and major capital projects review joint advisory group.

Regarding mandatory phased appropriations:

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

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

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

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

Regarding the capital projects oversight program:

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

Since its inception, the capital project oversight program has encompassed oversight and reporting on at least eight major capital projects, such as the Accountable Business

Transformation, as well as providing studies and input on individual and countywide capital program activities;

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

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

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

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

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

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

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

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

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

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

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

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

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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

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

follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. ~~"Eligible capital project" means a capital project as defined in K.C.C. 4.04.020, except it does not include information technology projects, transit acquisitions, affordable housing and community development projects that are developed and managed by noncounty entities, energy savings performance contracts or lease-based projects;~~

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

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

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

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

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

9. ~~"Project management plan" means a formal document that defines how the project is executed, monitored and controlled. The objective of the project management plan is to define the approach and schedule to be used by the project team to deliver the intended project scope.~~

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

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

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

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

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

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



supplemental appropriations collectively exceed five hundred thousand dollars; and

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

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

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

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

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

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

~~3. The risk scoring instrument shall use information such as complexity of regulatory requirements, interdependencies with other projects and programs, schedule constraints, implementing agency resources, project delivery method, complexity of property acquisition issues, public impact, risks inherent to the likely construction technology, or any other issues that could have a significant impact on the ability of the project to meet baseline scope, schedule or budget.~~

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

~~5. By March 1, the executive shall electronically transmit all risk score results for eligible capital projects that require a risk score that year to the clerk of the council, who will retain an electronic copy and~~

~~distribute electronic copies to the manager of the capital projects oversight program and the co-chairs of the joint advisory group or their designees, except that scoring results for eligible capital projects that received appropriations in 2010 shall be transmitted to the clerk of the council by July 31, 2010.~~

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

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

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

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

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

~~D. For purposes of identifying when an eligible capital project has entered a particular phase and when subsections F. through H. of this section apply, phases include preliminary design, final design and close-out,~~

and the following characteristics shall be used as a guide:

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

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

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

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

E.1. When submitting a capital budget appropriation ordinance or an additional or amended capital budget appropriation ordinance to the council that includes an appropriation for a high-risk project, the executive shall submit supporting data as identified in subsections F. through H. of this section. For any item required by subsections F. through H. of this section that the executive does not provide with the appropriation request, the executive shall provide a detailed explanation of why it cannot be provided and, if the item is to be

~~provided later, identify the date by which the item will be provided.~~

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

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

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

~~F. When submitting a capital budget appropriation ordinance or an additional or amended capital budget appropriation ordinance to the council that encompasses work performed in the preliminary design phase of a high-risk project, the appropriation request may include up to ten percent of the funding for the design phase. The executive shall, in addition to the requirements of K.C.C. 4.04.247, provide the following supporting data:~~

~~1. Identify design criteria;~~

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

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

~~4. Identify stakeholders;~~

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

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

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

~~2. Provide a summary of the results of a formal schedule and cost risk assessment conducted by an external consultant or staff who does not report to the project manager, to any person who reports to the project manager, or to anyone to whom the project manager directly reports;~~

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

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

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

~~6. Identify permits, acquisitions, and relocations, address mitigations, and highlight any of these that~~

~~increase project risk to scope, schedule or budget;~~

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

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

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

~~a. certify that plans, specifications, estimates and contract documents reflect a level of design completion that is sufficient to support a final cost estimate and schedule for proceeding to procurement and specify the ready date for proceeding with the selected procurement method for the project;~~

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

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

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

~~2. The executive shall provide quarterly reports during the construction phase of a high-risk project. The quarterly report shall address performance relative to project baseline, highlight any significant variance from project baseline, summarize the top risks in the risk register, summarize change orders, explain change orders that have the cumulative potential to carry the project over project baseline and summarize the results of~~

~~the latest earned value analysis. Five copies of each report shall be filed with the clerk of the council, who shall retain a copy and distribute copies to the chair of the budget and fiscal management committee or its successor, the co-chairs of the joint advisory group or their designees and the manager of the capital projects oversight program.~~

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

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

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

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

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

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

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

2. Open space acquisitions;

3. Purchase of transit vehicles; and

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

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

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

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

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

D. 1. For existing capital projects and anticipated capital project budget appropriation requests, the executive shall transmit risk assessment score results, if required by section 12 of this ordinance, by March 31 of each year to the clerk of the council, who shall retain an electronic copy and distribute electronic copies to the manager of the capital projects oversight program and the co-chairs of the joint advisory group. By May 31 of each year, the joint advisory group, in consultation with the capital projects oversight program, shall consider these projects' risk assessment scores and determine which projects are to be mandatory phased appropriation projects.

2. For capital project supplemental appropriation requests, the executive shall transmit a risk



assessment score, if required by section 12 of this ordinance, with the request. Within a reasonable time upon receipt of these projects' risk assessment scores, the joint advisory group, in consultation with the capital projects oversight program, shall consider these projects' risk assessment scores and determine which projects are to be mandatory phased appropriation projects.

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

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

F. The joint advisory group shall file a paper and an electronic copy of a list of all mandatory phased appropriation projects and their risk assessment scores with the clerk of the council. The joint advisory group shall file a paper and an electronic copy of an updated list with the clerk of the council any time there is a change in the mandatory phased appropriation determination of a project. The clerk shall retain a paper copy and distribute electronic copies of each list to the chair of the budget and fiscal management committee, or its successor, and the manager of the capital projects oversight program.

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

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

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

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

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

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

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

c. The executive shall also submit as supporting data a schedule for reporting those supporting items required by subsections B. through D. of this section to the council. The schedule and items to be reported shall match milestones identified in the project plan. In accordance with the schedule submitted by the executive, a

paper and electronic copy of the reports shall be filed with the clerk of the council who shall retain a paper copy and distribute electronic copies to the chair of the budget and fiscal management committee, or its successor.

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

1. The executive shall provide:

a. identification of design criteria;

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

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

d. identification of stakeholders; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. The implementing agency shall update the risk register at least quarterly, or more frequently should

significant changes or additions be identified by the implementing agency.

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

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

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

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

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

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

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

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

3. The lease phase of a lease-based project is when the executive requests council approval to enter

into a lease agreement for the project.

B. When submitting a capital budget appropriation ordinance or ~~((an additional or amended))~~ a supplemental capital budget appropriation ordinance ~~((to the council))~~ that encompasses work to be performed in the planning phase of a lease-based project, the executive shall provide as supporting data a cost estimate that details the anticipated cost for each major task required to complete the predevelopment phase. When a request for proposal has been issued by the county, the executive shall notify the council by filing a paper and electronic copy of a letter with the clerk of the council, who shall forward an electronic copy to all councilmembers and to the lead of the budget and fiscal management committee, or its successor.

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

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

1. ~~((Identify))~~ Identification of design criteria;
2. ~~((Provide a))~~ A financial analysis of the project;
3. ~~((Provide t))~~ The draft lease agreement agreed to by the executive and developer;
4. ~~((Provide t))~~ The development team's pro forma cost plan for the design and construction of the project;
5. ~~((Provide a))~~ A description and an analysis of the feasible alternatives considered, and ~~((identify))~~ identification of the recommended alternative;
6. ~~((Provide))~~ A planned schedule that shows the anticipated start and finish dates for each major task, consistent with the development team's pro forma cost plan;

7. ~~((Identify))~~ Identification of stakeholders;
8. ~~((Identify))~~ Identification of regulatory requirements; and
9. A ~~((R))~~ report on variance of predevelopment phase major task performance from the schedule and cost estimate provided for the predevelopment phase.

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

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

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

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

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

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

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

follows:

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

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

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

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

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

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

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

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

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

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

SECTION 24. Ordinance 14921, Section 5, as amended, and K.C.C. 4.06.030 are hereby amended to



read as follows:

A. ~~The group members shall be the ((chair)) designee of the metropolitan King County council((, the chairs of the budget and fiscal management committee and the labor, operations and technology committee or their successor committees as defined by the council's organizational motion, and three participants as determined appropriate by the executive, depending on projects to be discussed. Executive participants may include the facilities management director, the department of natural resources director, the department of transportation director or the office of performance, strategy and budget director, as assigned by the executive)) and designee of the executive. Group members may bring staff as needed to support the activities of the group.~~

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

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

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

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

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