

**Draft Interlocal Agreement for SKHHP
South King Housing and Homelessness Partners**

(Effective Date: January 1, 2019)

This Interlocal Agreement ("Agreement") is entered into by and between the Cities of Auburn, Burien, Covington, Des Moines, Federal Way, Kent, Normandy Park, Renton, Tukwila, and King County, each municipal corporations and political subdivisions of the State of Washington (individually, a "Party" and collectively, the "Parties"). This Agreement relates to the creation and operation of a joint undertaking among the Parties hereto to be known as the South King Housing and Homelessness Partners ("SKHHP"). This Agreement is made pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW, and has been authorized by the legislative body of each jurisdiction.

WHEREAS, the Parties have a common goal to ensure the availability of housing that meets the needs of all income levels in South King County; and

WHEREAS, the Parties wish to provide a sound base of housing policies and programs in South King County and to complement the efforts of existing public and private organizations to address housing needs in South King County; and

WHEREAS, the Parties wish to act cooperatively to formulate affordable housing policies and strategies that address housing stability, to foster efforts to preserve and provide affordable housing by combining public funding with private-sector resources, to support implementation of the goals of the Washington State (the "State") Growth Management Act, related countywide planning policies, and other local policies and programs relating to affordable housing, and to do so efficiently and expeditiously; and

WHEREAS, the Parties have determined that the most efficient and expeditious way for the Parties to address affordable housing needs in South King County is through cooperative action and pooling public and private resources; and

WHEREAS, the intent of this cooperative undertaking is not to duplicate efforts of non-profit corporations and other entities already providing affordable-housing-related services; and

WHEREAS, a cooperative work plan with a primary focus on the production and preservation of affordable housing, is needed because the lack of access to affordable housing is one of the key contributors to homelessness;

NOW, THEREFORE, in consideration of the mutual promises, benefits and covenants contained in this Agreement and other valuable consideration, the sufficiency of which is acknowledged, the Parties agree to the above Recitals and the following terms and conditions:

1. DEFINITIONS. The following terms used in this Agreement are defined as follows:

a. *Administering Agency* - One or more of the Parties that will provide administrative support services on behalf of SKHHP. The Administering Agency will be the fiscal agent for SKHHP in accordance with the requirements of chapter 39.34 RCW. One Party could serve as the fiscal agent and another Party could serve as the administrative home for SKHHP staff.

b. *Advisory Board* - A board consisting of 12 to 15 community members appointed by the Executive Board to provide advice and recommendation to the Executive Board on land and/or money resource allocation for affordable housing projects, input on policy needs related to housing stability, program design and development, recommendations for emergency shelter and other immediate affordable housing needs, and to provide public education and community outreach services.

c. *Executive Board* - The governing board for SKHHP comprised of members as provided herein, which will act on behalf of all Parties and as may be in the best interest of SKHHP in order to carry out the purposes of this Agreement.

d. *Housing Capital Funds Account* - An account established by the Administering Agency within the SKHHP Fund for the purpose of administering the contributions of Parties, or other public or private entities, to affordable housing projects and programs, to be known as the SKHHP Housing Capital Funds Account. The amounts in the Housing Capital Funds Account will be held and disbursed by the Administering Agency.

e. *Individual Account(s)* - One or more subaccounts established within the Housing Capital Funds Account for each Party

to this Agreement that chooses to contribute to the Housing Capital Funds Account. Contributions to an Individual Account from a Party may be released only upon, and in accordance with, the written direction of that Party.

f. *SKHHP Fund* - A special fund established by the Administering Agency, as authorized by RCW 39.34.030, to be known as the "Operating Fund of the SKHHP Executive Board". Within the SKHHP Fund may be established various accounts and subaccounts including but not limited to a "SKHHP Operating Account" and a "Housing Capital Funds Account".

g. *SKHHP Operating Account* - An account created by the Administering Agency for the receipt of contributions from the Parties and other private or public entities, for the purpose of paying for the operations of and supporting the SKHHP annual budget.

h. *SKHHP Program Manager* - The lead staff for SKHHP, reporting to the Executive Board, responsible for carrying out the SKHHP annual work plan and other terms of this Agreement.

i. *SKHHP Staff* - The full-time and part-time staff hired or assigned with the responsibility for carrying out the SKHHP work plan.

j. *Sphere of Influence* - The area in South King County where SKHHP is expected to conduct its work, as further described in Exhibit A.

2. PURPOSE. All Parties to this Agreement have responsibility for local and regional planning for the provision of housing affordable to residents that work and/or live in South King County. The Parties agree to act cooperatively to formulate affordable housing policies that address housing stability and to foster efforts to preserve and provide affordable housing by combining public funding with private-sector resources. In order to accomplish the purposes of this Agreement, the Parties agree to create a joint and cooperative undertaking responsible for administering the activities described herein. The cooperative undertaking among the Parties will be called the South King Housing and Homelessness Partners ("SKHHP"). The Parties further intend that this Agreement serve as a framework for all participating municipalities within the broader SKHHP Sphere of Influence to do the aforementioned work. The Parties encourage other cities and other public and private entities in South King County within the SKHHP Sphere of Influence to join the Parties in this endeavor.

3. STRUCTURE; CREATION OF JOINT BOARD. By executing this Agreement, the Parties hereto create a joint board pursuant to RCW 39.34.030(4) to govern SKHHP. The joint board created by this Agreement will be called the "Executive Board" and will be composed of members as provided for in Section 5.a of this Agreement. The Joint Board created in this Agreement is not a separate legal or administrative entity within the meaning of RCW 39.34.030(3). The Executive Board will act on behalf of all Parties and as may be in the best interest of SKHHP in order to carry out the purposes of this Agreement. The Executive Board is not authorized to own assets or have employees.

4. RESPONSIBILITIES AND AUTHORITY. In order to carry out the purposes of SKHHP and this Agreement, the Executive Board will have the responsibility and authority to:

a. Create and implement an annual work plan approved by the Executive Board to guide the work of SKHHP Staff. The work plan will include activities that may benefit multiple participating jurisdictions or individual jurisdictions. The work plan activities will be consistent with the purpose described in this Agreement.

b. Provide recommendations to the Parties regarding the allocation of public and private funding for affordable housing purposes.

c. Direct the Administering Agency to enter into agreements with third parties for the use and application of public and private funds contributed by individual Parties to the SKHHP Housing Capital Funds Account established in Section 14, under terms and conditions as may be agreed by the individual contributing Parties, as further described in Section 14. At least annually, report to the Parties on the geographic distribution of all housing capital funds as recommended by the SKHHP Executive Board.

d. Guide the SKHHP Staff in the performance of the following duties:

i. Provide recommendations to the Parties regarding local and regional affordable housing policies. SKHHP Staff will assist the Parties in developing strategies and programs to achieve State Growth Management Act housing goals, growth targets, local

Comprehensive Plan Housing Element goals, and local housing strategy plans, as appropriate.

- ii. SKHHP Staff will provide technical assistance to any Party considering adoption of land use incentives or requirements, or affordable housing programs. SKHHP Staff will research model programs, develop draft legislation, prepare briefing materials and make presentations to planning commissions and councils on request by a Party. SKHHP Staff will assist Parties in developing strategies and programs to implement county-wide affordable housing policies to meet State Growth Management Act objectives, growth targets, local Comprehensive Plan Housing Element goals, and local housing strategy plans for an equitable and rational distribution of low- and moderate-income housing.
- iii. Facilitate cooperation between the private and public sector with regard to the provision of affordable housing. SKHHP Staff will communicate directly with private developers, financial institutions, non-profit corporations and other public entities to assist in the implementation of affordable housing projects. SKHHP Staff will work directly with any Party to provide technical assistance with regard to the public funding of affordable housing projects and the implementation of affordable housing regulatory agreements for private developments.
- iv. SKHHP Staff will also identify public and private sites that are available for affordable housing and develop affordable housing alternatives for such sites.
- v. After the Housing Capital Fund is created, develop standard regulatory agreements acceptable to private and public financial institutions to facilitate the availability of funding for private and public projects containing affordable housing.
- vi. Provide other technical advice to any Party upon request and to enter into agreements to provide technical assistance to other public entities on a reimbursable basis.

- vii. Provide support and educational activities and to monitor legislative and regulatory activities and proposed policy changes related to affordable housing at the county, state and federal levels. Ensure that the Parties to this Agreement have a strong South King County voice in regional decision making.
- viii. After the Housing Capital Fund is created, develop and carry out procedures for monitoring of affordable units and to administer direct service housing programs on behalf of any Party. Such direct service housing programs may include but are not limited to relocation assistance programs, rent voucher and/or deposit loan programs.
- ix. Work directly with other public and private entities for the development of affordable housing policies and encourage the provision and preservation of affordable housing.
- x. Work with the Advisory Board appointed under this Agreement and South King County agencies working on regional housing stability and housing affordability, identify trends and promising practices, and mobilize those agencies to support South King County positions in regional decision-making forums.
- xi. Support public and private fundraising efforts of public and private entities (including non-profit corporations) to raise funds to carry out the purposes of this Agreement. Enter into agreements with those entities for the use of such funds in order to carry out the purposes of this Agreement.
- xii. As directed by the Executive Board, accept public and private funding, invest those funds in accordance with State law, and take other appropriate and necessary action to carry out the purposes of this Agreement.

5. EXECUTIVE BOARD.

a. Membership. SKHHP will be governed by an Executive Board composed of either an elected official or City

Manager/Administrator for each city and the King County Executive, or their designated representative, of each Party. However, there will not be more than two members on the Executive Board representing cities with population less than 5,000 persons, unless approved by the Executive Board. In the event that there are more than two Parties to this Agreement with population less than 5,000 persons, then those Parties will propose to the Executive Board for the Executive Board's approval, a method for shared membership on the Executive Board by those Parties.

Municipalities, local governments and public agencies within the Sphere of Influence may become Parties to this Agreement with representation on the Executive Board described in this Section 5, upon satisfaction of the requirements of Section 20.

Any member of the Executive Board representing more than one Party must be approved by the chief executive officer of those Parties being represented by the shared Executive Board member. The Executive Board will administer this cooperative undertaking under the terms of this Agreement and under any procedures adopted by the Executive Board.

b. Chair. The Chair of the Executive Board will be elected by the members of the Board from the Board membership; will preside over all meetings of the Executive Board; and will, in the absence of a Program Manager provided for in Section 6 of this Agreement, process issues, organize meetings and provide for administrative support as required by the Executive Board. The Chair will serve a one-year term, but may be reelected by the Executive Board.

c. Alternate Member. Each member of the Executive Board may designate one alternate member who will serve in the place of the member on the Executive Board during the member's absence or inability to serve. Notice of the designation will be provided to the Chair of the Executive Board. An alternate member may only vote on behalf of the appointing Party if the Chair has received written notice of the alternate's appointment.

d. Powers. The Executive Board will have the power to (1) develop and approve an annual budget and annual work plan for SKHHP; (2) adopt procedures for the administration of SKHHP (including securing any necessary legal counsel) and for the conduct of meetings; (3) make recommendations to the Parties concerning planning, policy, programs and the funding of affordable housing projects; (4) establish policies for the expenditure of SKHHP budgeted items; (5) designate one or more

Administering Agencies to carry out the terms of this Agreement; (6) establish a special fund with the Administering Agency as authorized by RCW 39.34.030, to be known as the "Operating Fund of the SKHHP Executive Board" ("SKHHP Fund") within which Fund may be established various accounts and subaccounts including but not limited to a "SKHHP Operating Account" (into which will be deposited funding for the SKHHP operating budget) and a "Housing Capital Funds Account"; (7) hold regular meetings on those dates and at those places as the Executive Board may designate; (8) direct the Administering Agency to enter into contracts and agreements for the provision of personnel and other necessary services to SKHHP, including accounting and legal services and the purchase of insurance, and authorize the Administering Agency to execute such other contracts, agreements or other legal documents necessary with public and private entities for SKHHP to carry out its purposes; (9) establish the responsibilities for the SKHHP Program Manager, direct and oversee the Administering Agency in the hiring process and performance review for that position and direct and oversee the activities of the SKHHP Program Manager; (10) appoint members of the Advisory Board; (11) assist with incorporating and/or work with a non-profit corporation to accept grants, donations and other funds on behalf of SKHHP and direct the Administering Agency to enter into contracts or other agreements with such agency for the use of those funds to carry out the purposes of this Agreement; and (12) take whatever other action is necessary to carry out the purposes of this Agreement.

6. ADMINISTRATION AND OVERSIGHT. The Executive Board will have final decision-making authority on behalf of SKHHP over all legislative and administrative matters within the scope of this Agreement. The Executive Board may delegate responsibility for general oversight of the operations of SKHHP to a Program Manager. The SKHHP Program Manager will submit quarterly budget performance and progress reports on the status of the work program elements to the Executive Board and the legislative body of each Party. The reports and their contents will be in a form acceptable to the Executive Board.

The Executive Board will, by two-thirds supermajority vote, designate one or more of the Parties to serve as the Administering Agency, which will provide administrative support services on behalf of SKHHP. The Administering Agency will be the fiscal agent for SKHHP in accordance with the requirements of chapter 39.34 RCW. Each Party that serves in the capacity of Administering Agency hereby agrees to comply with the terms of this Agreement applicable to the Administering Agency in order to permit SKHHP to carry out its purposes. SKHHP will be staffed with personnel

provided by the Parties and/or independent contractors contracting with the Administering Agency on behalf of SKHHP.

Any Party providing personnel to SKHHP will remain solely responsible for the continued payment of all compensation and benefits to those personnel as well as for any worker's compensation claims. All Parties will cooperate fully in assisting SKHHP to provide the services authorized in this Agreement.

7. MEETINGS OF EXECUTIVE BOARD.

a. Frequency. The Executive Board will meet as often as it deems necessary, but not less often than quarterly.

b. Quorum. A quorum at any meeting of the Executive Board will consist of the Board members (or alternates) who represent a simple majority of the Board's membership. Executive Board members (or alternates) may participate in any meeting by phone or video conferencing for all purposes, including but not limited to voting and establishing a quorum.

c. Action. No action may be taken except at a meeting where a quorum exists. Action by the Executive Board requires an affirmative vote by a majority of the Board's membership, provided however, that a supermajority (two-thirds of Board members) will be required to appoint the Administering Agency, to add a new Party to this Agreement, or to modify the proposed contribution methodology for dues and assessments (see Section 15). Official action by the Executive Board may be conducted by motion, resolution, declaration, or other means as determined to be necessary by the Executive Board, provided however, appointment of the Administering Agency or Agencies shall be completed by resolution. All official action of the Executive Board shall be recorded in its official minutes. Each Executive Board member, or his or her alternate, will have one vote on any proposed action; except that shared member voting shall be in accordance with the Executive Board's approval under Section 5 (a). Proxy voting will not be allowed. To the extent applicable to meetings of the Executive Board, the Executive Board will comply with applicable requirements of the Washington State Open Public Meetings Act (chapter 42.30 RCW).

8. ADVISORY BOARD. The Executive Board will create an Advisory Board to provide advice and recommendation to the Executive Board on land and/or money resource allocation for affordable housing projects, input on policy needs related to housing stability, program design and development, recommendations

for emergency shelter and other immediate affordable housing needs, and to provide public education and community outreach services. The Advisory Board will be created before the end of the first year of SKHHP operations (with the start of the year defined as the hiring of the SKHHP Program Manager). The Advisory Board will consist of not more than fifteen (15) and not less than twelve (12) community members. The Executive Board will appoint members to the Advisory Board. Members appointed to the Advisory Board must have knowledge and understanding of affordable housing, be committed to the furtherance of affordable housing in South King County, and represent diverse community perspectives. Appointments will be for a four-year term with service limited to a total of two consecutive terms. The Executive Board will adopt procedures for the convening and administration of the Advisory Board. A member may be removed from the Advisory Board by the Executive Board with or without cause on a majority vote of membership of the Executive Board.

9. MEETINGS OF ADVISORY BOARD.

a. Frequency. The Advisory Board will meet as often as it deems necessary, but not less often than quarterly.

b. Quorum. A quorum at any meeting of the Advisory Board will consist of the Board members who represent a simple majority of the Board's membership. Advisory Board members may participate in any meeting by phone or video conferencing for all purposes, including but not limited to voting and establishing a quorum.

c. Action. No action may be taken except at a meeting where a quorum exists. Action by the Advisory Board requires an affirmative vote by a majority of those members attending a Board meeting where a quorum exists. Official action by the Advisory Board may be conducted by motion, resolution, declaration, or other means as determined to be necessary by the Advisory Board. Proxy voting is not allowed. To the extent applicable to meetings of the Advisory Board, the Advisory Board will comply with applicable requirements of the Washington State Open Public Meetings Act (chapter 42.30 RCW).

10. AGREEMENT DURATION. This Agreement will be in full force and effect for a period commencing as provided in Section 34, and ending December 31 2020. This Agreement will automatically renew for successive two-year terms, unless sooner terminated under the provisions of this Agreement.

11. TERMINATION OF AGREEMENT. This Agreement may be terminated at any time by affirmative vote of a majority of the legislative bodies of the Parties to this Agreement.

Upon termination of this Agreement, all property acquired during the life of the Agreement will be disposed of in the following manner:

a. all property contributed without charge by any Party will revert to the contributing Party;

b. all property purchased on behalf of SKHHP after the effective date of this Agreement will be distributed to the Parties based on each Party's pro rata contribution to the overall budget at the time the property was purchased;

c. except as provided in Subsection d. below, all unexpended or reserve funds will be distributed to the Parties based on each Party's pro rata contribution to the overall budget in effect at the time the Agreement is terminated;

d. all uncommitted monies in the Housing Capital Funds Account will be distributed to the Parties by remitting the total uncommitted amounts remaining in each Party's Individual Account (as described in Section 14) to that Party; and

e. each Party that has funded a project through the Housing Capital Funds Account will be substituted for the Administering Agency with regard to all project financing documents, and the Administering Agency will be released from further obligations with respect thereto.

12. WITHDRAWAL. If a Party wishes to withdraw from participation in this Agreement, it may do so after the initial two year term if it first gives three months advance written notice to the Executive Board of its intention to withdraw, which notice will be due on or before October 1, 2020. If notice of an intent to withdraw is timely received, withdrawal will be effective as of 11:59 p.m. on December 31, 2020. The initial members of SKHHP agree they will participate for at least the first two years of the collaboration.

After January 1, 2021, an opportunity is provided once per year for a Party to withdraw from this Agreement. Under this provision, advance written notice must be provided to the Executive Board on or before July 1, of its intention to withdraw from participation in the Agreement, effective as of 11:59 p.m. on December 31st of that current year.

Any Party withdrawing from this Agreement will remain legally and financially responsible for any obligation incurred by the Party pursuant to the terms of this Agreement, including but not limited to any project financing documents executed by the Administering Agency on behalf of that Party, during the time the withdrawing Party was a member of SKHHP. A notice of withdrawal may be revoked by the Party that submitted the notice only by approval of a majority of the Executive Board to accept the revocation. Any Party that provides written notice of its intent to withdraw may continue to vote on all matters before the Executive Board prior to the effective date of its withdrawal, except the budget and work plan for the following year.

13. BUDGET. The fiscal year for SKHHP will be January 1 to December 31 of any year. The first year budget and anticipated second year budget for SKHHP are attached to this Agreement as Exhibit B and incorporated herein by this reference. Approval of this Agreement by the legislative body of each Party includes approval of the first year SKHHP budget. For subsequent years, on or before June 1st of each year, a recommended operating budget and work plan for SKHHP for the next budget year will be prepared, reviewed and recommended by the Executive Board and transmitted to each Party. The recommended operating budget will contain an itemization of all categories of budgeted expenses and will contain an itemization of the amount of each Party's contribution, including in-kind services, toward that budget. Contributions to the SKHHP annual budget may also come from other public or private entities. The Executive Board will approve acceptance of those contributions.

a. No recommended budget or work plan will become effective until approved by the legislative body of each Party and adopted by the Executive Board, except for SKHHP's first year (2019). For the first year, the budget will be approved as part of the approval of this Agreement, and the first year work plan must be approved by the Executive Board. Once the legislative body of each Party has approved its contribution to SKHHP, either separately or through its budget process, and the SKHHP budget has been adopted by the Executive Board, each Party will be obligated to make whatever contribution(s) is budgeted for that Party. If a Party does not approve the work plan or budget in a timely manner, the Executive Board may adopt the annual budget and work plan with a two-thirds majority vote.

b. Each Party's contribution(s) will be transmitted to SKHHP on a quarterly basis at the beginning of each quarter unless

otherwise provided in the budget document. Each Party will specify the amount of its contribution to be deposited by the Administering Agency into the SKHHP Operating Account, as well as the amount, *if any*, to be deposited into the Party's Individual Account within the SKHHP Housing Capital Funds Account established by Section 14.

c. If any Party is delinquent by more than three months in the payment of its approved operating budget contribution to the SKHHP Operating Account, that Party will not be entitled to vote on matters before the Executive Board until the delinquency has been paid. A Party's decision not to contribute funds to its Individual Account, or its delinquency in funding the same will not affect that Party's voting rights on the Executive Board.

14. HOUSING CAPITAL FUNDS ACCOUNT ESTABLISHED; PROCEDURES FOR ADMINISTERING HOUSING CAPITAL FUNDS ACCOUNT CONTRIBUTIONS. If authorized by resolution of the Executive Board, the Administering Agency may establish and maintain an account within the SKHHP Fund for the purpose of administering the contributions of Parties, or other public or private entities, to affordable housing projects and programs, to be known as the SKHHP Housing Capital Funds Account. The amounts in the Housing Capital Funds Account will be held and disbursed by the Administering Agency as described in this Agreement.

a. Within the Housing Capital Funds Account, a sub-account will be established for each Party to this Agreement that chooses to contribute to the Housing Capital Funds Account. Such sub-accounts are collectively referred to as the "Individual Accounts." Contributions to an Individual Account from a Party may be released only upon, and in accordance with, the written direction of that Party.

b. A subaccount will be established within each Individual Account for each project or program funded in whole or part by a Party from its Individual Account. Such sub-accounts are referred to as "Project Accounts."

c. The Administering Agency will maintain records sufficient to separately track the deposits, withdrawals and interest earnings, within each Individual Account and each Project Account, and will provide quarterly reports to all Parties as to the status of funds in each Individual Account and Project Account. The Administering Agency's responsibilities under this Section may be delegated to the SKHHP Program Manager to the extent consistent with applicable law and as the Administering Agency and Executive Board may agree.

d. Funds transmitted to SKHHP for deposit in the Housing Capital Funds Account will be held by the Administering Agency on behalf of SKHHP until directed for application to a specific project or program by the contributing Party. Uncommitted funds in an Individual Account will be remitted to the contributing Party within 45 days of receipt of written request from the Party signed by its chief executive officer, or upon the Party's withdrawal from SKHHP in accordance with the terms of Section 12, or on the dissolution of SKHHP per Section 11.

e. Funds held by the Administering Agency on behalf of SKHHP will be subject to laws applicable to public funds, including but not limitations on investments for public funds as provided in State law and the State constitutional limitations on the gifting of public funds. Investment earnings will be credited to each Individual Account and Subaccount on a pro rata basis.

f. The Executive Board will develop standard forms of approvals and agreements to be used in the application of funds contributed to the Housing Capital Funds Account (collectively referred to as "project financing documents"), consistent with the following goals and procedures:

- i. Each Party choosing to participate in funding a project or program through the Housing Capital Funds Account will by action of its legislative body authorize the application of a specified amount of its Individual Account monies to such project or program, and will authorize and direct the SKHHP Executive Board, the SKHHP Program Manager, and the Administering Agency to take such actions as necessary to accomplish this. The Executive Board will recommend to the individual legislative bodies various terms to accompany their authorizations, and the legislative body authorizations will at a minimum include terms related to:
 1. amount of funds allocated;
 2. project description, including minimum affordability requirements, if any;
 3. nature of the funding commitment (loan, grant, or other);
 4. in the event the funding commitment is provided as a loan, the general repayment terms including but not limited to the term of the loan and applicable, interest rate(s); and

5. a general description of the security interests, if any, to be recorded in favor of the Party.
- ii. For each individual housing project or program to be funded through the Housing Capital Funds Account, the developer, owner or administrator of such project or program (generally referred to as the "developer"), will enter into the necessary set of agreements (project financing documents) with the Administering Agency. The project financing documents will specify that the Administering Agency is acting as administering agency on behalf of each Party that is providing Housing Capital Funds Account funding to the project or program pursuant to this Agreement and RCW 39.34.030(4), and will identify each participating funding Party. The project financing documents will be consistent with general forms of agreement approved by the Executive Board and the terms and conditions approved by the legislative bodies of the funding Parties. To the extent permitted by law, the project financing agreements will incorporate all terms and conditions relative to the use and (if applicable) repayment of such funds, and provide for transfer of the Housing Capital Funds Account monies from the funding Parties to the developer.
- iii. Funding contributions to, and repayments (if any) from, specific projects and programs will be recorded by the Administering Agency, including recording of monies deposited and withdrawn from each Party's Individual Account and Project Accounts. Repayments (if any) under any project financing agreement will be applied *pro rata* to the funding Parties' Individual Accounts based on the ratio of funding contributed to the project by each Party, unless the funding Parties otherwise agree.
- iv. Unless the Parties funding a project or program through the Housing Capital Funds Account otherwise agree, a default, termination or other action against a developer or other third party may be declared only after securing approval in writing of the chief executive officers of funding Parties which together have contributed not less than 51% of the total SKHHP member funding to the project. The Administering Agency will provide reasonable

notice and information regarding the status of projects as necessary to each funding Party's chief executive officer to allow them to make a timely decision in this regard. Funding Parties not consenting to such default, termination or other action will be bound by the decision of the majority. All funding Parties will be obligated on a pro rata basis (based on their contributions to the project) to pay to the Administering Agency its reasonable costs and expenses incurred as a result of declaring a default, terminating an agreement or taking other action against a developer or other third party. Any funds recovered through such enforcement proceedings will be allocated to the funding Parties Individual Accounts pro rata based on their respective funding contributions to a project.

- v. The Executive Board may from time to time authorize the Administering Agency to administer housing project agreements entered into before the effective date of this Agreement, upon terms consistent with this Agreement and subject to the consent of the Administering Agency and the Parties to such agreements.

15. DUES, ASSESSMENTS AND BUDGET AMENDMENTS. Contributions to the SKHHP Operating fund will be based on groupings of like-sized cities (based on population), or whatever contribution methodology is approved by a two-thirds majority of the Executive Board. Funding for the activities of SKHHP will be provided solely through the budgetary process. Unless otherwise specified in this Agreement, no dues, charges or assessments will be imposed or required of the Parties except upon unanimous vote of the membership of the Executive Board and ratification by the legislative body of each Party subject to the dues, charges or assessments. An approved budget (the overall revenues and expenditures) will not be modified until approved by the legislative body of each Party and finally adopted by the Executive Board. If a Party agrees to totally fund an additional task to the work program, not currently approved in the budget, the task may be added to the work plan and the budget amended to reflect the funding of the total cost of such task by the requesting Party, upon approval by a majority of the membership of the Executive Board without approval by the individual Parties. Notwithstanding the foregoing, contributions by a Party to its Individual Account within the Housing Capital Funds Account will be solely within the

discretion of that Party and are not considered "dues or assessments."

16. PUBLIC RECORDS REQUESTS. Records of SKHHP will be held by the Administering Agency, in addition to any records the Parties themselves may retain concerning their participation in SKHHP. These records may include meeting agendas, meeting summaries, reports, plans, budgets, and other documents.

When a Party receives a request for records that may be held by the Administering Agency, the Party will refer the request to its own Executive Board member. The Party's Executive Board member will then work with the Administering Agency to gather all responsive records. The Party receiving the request should work with its own public records staff (if any) to describe the request with sufficient specificity to allow the Administrative Agency to identify and provide the records being sought. If any clarification of the request is required, the Party receiving the request will obtain that clarification from the requester. All communication with the requester will be by the Party to whom the request was submitted.

In consultation with the Administering Agency, it will be the responsibility of the Party to whom the request for records was made to estimate the time it will need to produce responsive records, determine which records are responsive to the request, and address any redactions permitted by law. The Party that receives the request will bear the responsibility of complying with the Public Records Act in relation to its public records.

Nothing in this Section is intended to require a Party to collect or produce records that are not prepared, owned, used, or retained by that Party as contemplated by the Public Records Act.

17. INDEMNIFICATION AND HOLD HARMLESS.

a. Each Party will indemnify, defend and hold other Parties (including without limitation the Party serving as, and acting in its capacity as, SKHHP's Administering Agency), their officers, officials, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of that Party's wrongful acts or omissions in connection with the performance of its obligations under this Agreement, except to the extent the injuries or damages are caused by another Party. If there is any recovery under this Section, the Party responsible for any wrongful acts or omissions will pay any judgment or lien arising from the acts or omissions, including all

costs and other Parties' reasonable attorney's fees. If more than one Party is held to be at fault, the obligation to indemnify and to pay costs and attorney's fees, will be only to the extent of the percentage of fault allocated to each respective Party by a final judgment of the court.

b. If a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of a Party (including without limitation the Party serving as, and acting in its capacity as, SKHHP's Administering Agency), its officers, officials, employees, and volunteers, the Party's liability hereunder will be only to the extent of the Party's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Party's waiver of immunity under Industrial Insurance Title 51 RCW, solely for the purpose of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this Section will survive the expiration or termination of this Agreement.

c. Each Party (including without limitation the Party serving as, and acting in its capacity as, SKHHP's Administering Agency) will give the other Parties proper notice of any claim or suit coming within the purview of these indemnities.

18. INSURANCE. The Executive Board, SKHHP Program Manager and the Administering Agency will take such steps as are reasonably practicable to minimize the liability of the Parties associated with their participation in this Agreement, including but not limited to the utilization of sound business practice. The Executive Board will determine which, if any, insurance policies may be reasonably practicably acquired to cover the operations of SKHHP and the activities of the Parties pursuant to this Agreement (which may include general liability, errors and omissions, fiduciary, crime and fidelity insurance), and will direct the acquisition of same.

19. AMENDMENTS. Any amendments to this Agreement must be in writing. This Agreement may be amended upon approval of at least two-thirds of the legislative bodies of all Parties to this Agreement, evidenced by the authorized signatures of those Parties as of the effective date of the amendment. However, any amendment to this Agreement affecting the terms and conditions of membership on the Executive Board, powers of the Executive Board, voting rights of Executive Board members, Party contribution

responsibilities, hold harmless and indemnification requirements, provisions regarding duration, termination or withdrawal, or the conditions of this Section will require consent of the legislative authorities of all Parties. This Section will not be construed to require amendment of this Agreement for the addition of a new Party contemplated under Section 20 or for any related revision to Executive Board membership authorized in Section 5(a).

20. ADDITIONAL PARTIES. Municipalities, local governments and public agencies within the SKHHP Sphere of Influence may, on execution of the Agreement and approval of the budget and work plan by its legislative body, become a Party to this Agreement on affirmative vote of a two-thirds majority of the membership of the Executive Board. The Executive Board will determine by a vote of a majority of its membership what, if any, funding obligations the additional Party will commit to as a condition of becoming a Party to this Agreement.

21. SEVERABILITY. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Agreement, will not affect the validity of the remaining provisions of the Agreement.

22. CONFLICT RESOLUTION. Whenever any dispute arises between the Parties or between a Party or Parties, the Executive Board, or the Administering Agency (referred to collectively in this Section as the "Parties") under this Agreement which is not resolved by routine meetings or communications, the parties agree to seek resolution of such dispute in good faith by meeting, as soon as feasible. The meeting will include the Chair of the Executive Board, the SKHHP Program Manager, and the representative(s) of the Parties involved in the dispute. If the parties do not come to an agreement on the dispute, any party may pursue mediation through a process to be mutually agreed to in good faith between the parties within 30 days, which may include binding or nonbinding decisions or recommendations. The mediator(s) will be individuals skilled in the legal and business aspects of the subject matter of this Agreement. The parties to the dispute will share equally the costs of mediation and assume their own costs.

23. SURVIVABILITY. Notwithstanding any provision in this Agreement to the contrary, the provisions of Section 10 (Agreement Duration), Section 11 (Termination of Agreement), Section 12 (Withdrawal), Section 16 (Public Records Requests), and Section 17 (Indemnification and Hold Harmless) will remain operative and in full force and effect, regardless of the withdrawal or termination of any Party or the termination of this Agreement.

24. WAIVER. No term or provision of this Agreement will be deemed waived and no breach excused unless that waiver or consent is in writing and signed by the Party claimed to have waived or consented.

25. SUBSEQUENT BREACH. Waiver of any default will not be deemed a waiver of any subsequent default. Waiver of breach of any provision of this Agreement will not be deemed to be a waiver of any other or subsequent breach and will not be construed to be a modification of the terms of the Agreement unless stated to be such through written approval of all Parties.

26. NOTICE. Any notice to the Executive Board will be in writing and will be addressed to the Chair of the Executive Board and to the SKHHP Program Manager. In the absence of a SKHHP Program Manager, notice will be given to the chief executive officer of the Administering Agency. Any notice to an Officer or Party will be sent, to the address specified by the chief executive officer of the Party.

27. ASSIGNMENT. No Party may sell, transfer or assign any of its rights or benefits under this Agreement without Executive Board approval.

28. APPLICABLE LAW AND VENUE. This Agreement and any rights, remedies, or obligations provided for in this Agreement will be governed, construed, and enforced in accordance with the substantive and procedural laws of the State. The Parties agree that the venue for any legal action under this Agreement is in the County in which a project is located, provided that the venue for any legal action against King County may be filed in accordance with RCW 36.01.050.

29. RETAINED RESPONSIBILITY AND AUTHORITY. Parties retain the responsibility and authority for managing and maintaining their own internal systems and programs related to affordable housing activities.

30. INDEPENDENT CONTRACTORS. Each Party to this Agreement is an independent contractor with respect to the subject matter of this Agreement. No joint venture or partnership is formed as a result of this Agreement.

Nothing in this Agreement will make any employee of one Party an employee of another party for any purpose, including, but not limited to, for withholding of taxes, payment of benefits, worker's

compensation pursuant to Title 51 RCW, or any other rights or privileges accorded by virtue of their employment. No Party assumes any responsibility for the payment of any compensation, fees, wages, benefits or taxes to or on behalf of any other Party's employees. No employees or agents of one Party will be deemed, or represent themselves to be, employees of another Party.

31. NO THIRD PARTY BENEFICIARIES. This Agreement is for the benefit of the Parties only, and no third party will have any rights under this agreement.

32. NONDISCRIMINATION. The Parties will comply with the nondiscrimination requirements of applicable federal, state and local statutes and regulations.

33. COUNTERPARTS. This Agreement may be signed in counterparts and, if so signed, will be deemed one integrated Agreement.

34. FILING AND EFFECTIVE DATE; PRIOR AGREEMENTS. This Agreement will become effective January 1, 2019, subject to its approval by the legislative bodies of all jurisdictions who are members of SKHHP as of January 1, 2019, and, pursuant to RCW 39.34.040, upon recording this Agreement or posting this Agreement on a Party's web site or other electronically retrievable public source. Although this Agreement may be approved and signed by a Party after the Agreement's effective date, all acts consistent with the authority of this Agreement that occur on or after January 1, 2019, are hereby ratified and affirmed, and the terms of this Agreement will be deemed to have applied.

(Signature Page Follows)

Approved and executed this 2nd day of April, 2019.

Name of Party: City of Des Moines Approved as to form



By: Michael Matthias
Its: City Manager


_____ City Attorney

Exhibit A - SKHHP Sphere of Influence



EXHIBIT B

FIRST YEAR SKHHP BUDGET
9 cities & King County
Year 1: 10 months of Operations

Annual Expense Budget

Full-time manager with salary/taxes/benefits	\$	130,000
Administrative & low-level policy support with salary/taxes/benefits	\$	90,000
Expenses - travel, phone, postage, and start-up costs	\$	19,000
Space	\$	12,000
SubTotal	\$	251,000
<i>10% Fiscal Administration Fee</i>	<i>\$</i>	<i>25,100</i>
TOTAL	\$	276,100
Cost for 10 months of Operations:	\$	230,083

Revenue Budget

Outside sources* (County, philanthropy, aligned organizations)	\$	68,000
Office Space (in-kind donation) [Pro-rated]	\$	10,000
Shared among participating cities (see below)	\$	152,083
TOTAL	\$	230,083

Shares for participating cities:

	Population (OFM 2018 est)	% of Population	Grouped by Size**
Auburn	80,615	12%	\$ 20,236
Burien	51,850	8%	\$ 11,675
Covington	20,080	3%	\$ 5,837
Des Moines	31,340	5%	\$ 5,837
Federal Way	97,440	15%	\$ 20,236
Kent	128,900	20%	\$ 26,463
Normandy Park	6,700	1%	\$ 3,113
Renton	104,100	16%	\$ 26,463
Tukwila	19,800	3%	\$ 5,837
Unincorporated SKC	111,000	17%	\$ 26,463
TOTAL	651,825		\$ 152,161

*Outside sources	
KC Housing Authority	15,000
Enterprise	5,000
King County***	48,000
TOTAL	68,000

**Grouped by Size Ranges	
<10,000	\$ 3,113
10,001- 35,000:	\$ 5,837
35,001 - 65,000:	\$ 11,675
65,001 - 100,000	\$ 20,236
100,001+ :	\$ 26,463

***King County has committed \$75,000;
including covering the share for unincorporated
(In Year 1, the accrual from the unincorporated SKC
share is used for \$7K in startup costs)

SECOND YEAR SKHHP DRAFT BUDGET

9 cities & King County

Year 2: Full Year of Operations

Annual Expense Budget

Full-time manager with salary/taxes/benefits	\$	130,000
Administrative & low-level policy support with salary/taxes/benefits	\$	90,000
Expenses - travel, phone, postage	\$	12,000
Space	\$	12,000
SubTotal	\$	244,000
<i>10% Fiscal Administration Fee</i>	\$	<i>24,400</i>
TOTAL	\$	268,400

Revenue Budget

Outside sources* (County, philanthropy, aligned organizations)	\$	61,000
Office Space (in-kind donation)	\$	12,000
Shared among participating cities (see below)	\$	195,400
TOTAL	\$	268,400

Shares for participating cities:

	Population (OFM 2018 est)	% of Population	Grouped by Size**
Auburn	80,615	12%	\$ 26,000
Burien	51,850	8%	\$ 15,000
Covington	20,080	3%	\$ 7,500
Des Moines	31,340	5%	\$ 7,500
Federal Way	97,440	15%	\$ 26,000
Kent	128,900	20%	\$ 34,000
Normandy Park	6,700	1%	\$ 4,000
Renton	104,100	16%	\$ 34,000
Tukwila	19,800	3%	\$ 7,500
Unincorporated SKC	111,000	17%	\$ 34,000
TOTAL	651,825		\$ 195,500

***Outside sources**

KC Housing Authority	15,000
Enterprise	5,000
King County***	41,000
TOTAL	61,000

****Grouped by Size Ranges**

<10,000	\$	4,000
10,001- 35,000:	\$	7,500
35,001 - 65,000:	\$	15,000
65,001 - 100,000	\$	26,000
100,001+ :	\$	34,000

***King County has committed \$75,000;
including covering the share for unincorporated