

AMENDMENT NO. ONE

INTERLOCAL AGREEMENT FOR DISSOLVING THE HEALTH AND HUMAN SERVICES COUNCIL, THE COMMUNITY INVESTMENT PARTNERSHIP, AND CREATING THE REGIONAL HOUSING COUNCIL

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into pursuant to the authority of Chapter 39.34 RCW in duplicate originals between the City of Olympia, Washington, a Washington municipal corporation; the City of Lacey, Washington, a Washington municipal corporation; the City of Tumwater, Washington, a Washington municipal corporation; the City of Yelm, Washington, a Washington municipal corporation; and Thurston County, Washington, a Washington municipal corporation; collectively referred to as "Jurisdictions" and individually as "Jurisdiction."

In consideration of the terms, conditions, covenants, and performances contained herein, it is mutually agreed by the Jurisdictions as follows:

WHEREAS, Amendment One to this Agreement adds clarification and requirements to how the signatories of this Agreement will manage and make decisions concerning RCW 82.14.540 ("SHB 1406") funds; and

WHEREAS, there is a homeless crisis in Thurston County; and

WHEREAS, the Thurston County Board of Health ("BOH") has declared homelessness a public health crisis; and

WHEREAS, the Thurston County Board of County Commissioners ("BoCC") has adopted a five-year Homeless Crisis Response Plan ("HCRP"); and

WHEREAS, the City of Olympia has also declared a public health emergency related to homelessness and is developing a Homeless Response Plan; and

WHEREAS, the Cities of Tumwater and Lacey have invested significant time and energy developing strategic approaches to homelessness and housing issues; and

WHEREAS, the COVID-19 pandemic has dramatically compounded the emergent housing and homeless situation in Thurston County; and

WHEREAS, the residential vacancy rate is below 5% and rental rates have continued to climb making housing less affordable to a growing segment of area residents; and

WHEREAS, in the urban portion of the county, approximately 50% of the residents are renters; and

WHEREAS, Thurston County's poverty rate is 11% and the United Way's ALICE (Asset Limited, Income Constrained, Employed) report indicates that 36% of Thurston County households are rent burdened, which is defined as paying more than 30% of their income for housing; and

WHEREAS, the Jurisdictions agree that it is mutually beneficial to share decision making responsibilities related to homelessness and affordable housing in Thurston County; and

WHEREAS, the Jurisdictions agree that it is mutually beneficial to collaborate to expand affordable housing options and share the planning for, identification of, and resource allocation to activities and programs intended to support individuals experiencing homelessness in Thurston County; and

WHEREAS, the Jurisdictions agree that by collaborating, these activities and programs will be delivered more efficiently and effectively and the costs and impacts of managing them will be shared equitably by the Jurisdictions; and

WHEREAS, the Jurisdictions agree that dissolving the Health and Human Services Council ("HHSC") and creating the Regional Housing Council ("RHC") will aid in efficient and effective decision making related to responding to the homeless and housing affordability crisis.

NOW, THEREFORE, it is hereby agreed as follows:

1. Regional Housing Council to Replace Health and Human Services Council.

The signatories of this Agreement hereby agree to dissolve the HHSC and create the RHC. All records related to the HHSC shall be preserved by Thurston County. Dissolving the HHSC does not change any prior commitments made by that Council. Any assets remaining with the HHSC are hereby transferred to the RHC.

2. Purpose of the RHC.

A. The primary purpose of the RHC is to leverage resources and partnerships through policies and projects that promote equitable access to safe and affordable housing. The RHC will consider issues specifically related to funding a regional response to homelessness and affordable housing and how to better coordinate existing funding programs, which may include, RCW 36.22.179 (ESSHB 2163) and RCW 36.22.178 (SHB 2060) funds, HOME Investment Partnership Program ("HOME"), Consolidated Homeless Grant ("CHG"), Housing and Essential Needs ("HEN"), RCW 82.14.540 (SHB 1406), Community Development Block Grant ("CDBG") and other related funding sources such as a regional home fund to help implement the five-year HCRP and increase affordable housing options.

- B. To achieve this purpose, the RHC may assist in monitoring the implementation of the County's five-year HCRP by setting priorities and making funding decisions on projects and programs that implement the HCRP. Additionally, the RHC may provide a forum for consideration of policy options related to homelessness and to encourage development of regional approaches to planning for, responding to, and funding homeless services and facilities and expanding affordable housing options.

3. Term.

The term of this Agreement shall be effective upon the approval of the last Jurisdiction's governing body, and shall be effective for five years, unless amended pursuant to Section 12 of this Agreement. Prior to commencement, this Agreement shall be filed or posted in accordance with RCW 39.34.040. This Agreement may be extended upon the mutual written approval of the Jurisdictions on an annual basis thereafter.

4. Governance.

- A. The RHC shall consist of one voting member and one alternate member from each of the Jurisdictions which comprise more than 5% of the county population.
- B. Individual Jurisdictions which comprise less than 5% of the county population may participate on the RHC in a non-voting capacity.
- C. One voting member and one alternate member shall be selected by and from the group of Jurisdictions whose population is 5% or less of the county population.
- D. Each Jurisdiction shall send a decision-making member of its staff to support and participate on the RHC in a non-voting capacity.
- E. The chairs of the Technical and Communications Working Teams, as established in Section 9 of this Agreement, and the program manager of the Lead Agency, as established in Section 8 of this Agreement, shall serve in an ex officio capacity and will also participate in the RHC in a non-voting capacity.
- F. The RHC may invite subject matter experts, such as representatives of the Housing Action Team ("HAT"), to provide input and information to inform the work of the RHC. The RHC recognizes the role of the Homeless Housing Hub ("HHH") as the local Continuum of Care.
- G. All meetings of the RHC shall be open and public as provided for in Title 42.30 RCW.

- H. A quorum, defined as a minimum of three (3) voting members, is required to hold a meeting.
- I. It is the intent of the RHC to operate based on consensus. If a consensus cannot be achieved, action by the RHC shall be by vote of those members present. A minimum of three (3) affirmative votes are required to approve an action. Absent voting members cannot delegate their voting authority; however, alternate members shall have full voting rights when the regular member is not present. Non-voting members, decision-making staff (as specified in Paragraph D of this Section), Working Team Chairs, and ex officio members shall not have a vote; however, they are encouraged to participate in committee discussions and deliberations.
- J. If necessary, actions taken by the RHC shall be taken for final consideration and approval to the respective legislative Councils and Commissions.
- K. Officers shall be elected annually by vote of the members. The RHC shall annually elect a chair and vice-chair. Either the chair or vice-chair shall be from the Lead Agency, as described in Section 8 of this Agreement. The duties of the chairs shall be to preside over the RHC meetings and provide a direct link to the RHC with administrative staff of the Lead Agency. The vice-chair will preside over the RHC meeting if the chair is not present and will support the chair in their duties.
- L. Membership of the RHC may only be increased or changed following an affirmative vote of the members of the RHC and by amending this Agreement as provided in Section 12 below.
- M. The RHC may adopt a set of bylaws setting forth the manner in which it will perform its functions.

5. Scope of Work.

- A. The responsibilities of the RHC SHALL include, but are not limited to:
 - a. Making recommendations to regional elected and appointed leaders on funding decisions related to implementing the five year HCRP and expanding shelter and affordable housing, including but not limited to ESSHB 2163 and SHB 2060 funds, HOME, CHG, HEN, SHB 1406, dollars and other funding sources as may be created or identified in the future.
 - b. Recommending an annual RHC budget, which shall detail the authorized expenditures for the coming fiscal year, for approval by the governing body of each Jurisdiction. The fiscal year for the RHC shall be July 1 to June 30.

- c. Establishing an annual RHC work plan, specifying the activities planned for the coming fiscal year, to accompany the recommended annual budget.
- d. Submitting an annual report to the governing body of each Jurisdiction, apprising that Jurisdiction of the tasks undertaken and accomplishments of the RHC in the previous fiscal year.

B. The responsibilities of the RHC MAY include, but are not limited to:

- a. Monitoring the five-year HCRP and support actions necessary to implement the plan.
- b. Identifying and supporting projects, programs, and policies that increase shelter and affordable housing throughout the region.
- c. Identifying and supporting projects, programs, and policies that further the objectives of the HCRP and will reduce the number of unsheltered individuals living in the Jurisdictions.
- d. Identifying and supporting the construction and operation of supportive housing options and units in the Jurisdictions.
- e. Serving as a regional forum for development and implementation of policies, programs, and projects related to homelessness and affordable housing.
- f. Developing communication protocols to assist local elected officials and the community in understanding the extent and nature of the homeless and housing crisis in the Jurisdictions.
- g. Considering changes to the organization structure necessary to create organizational capacity to effectively carry out these responsibilities over the long term. This may include a review of role and relationship between the RHC and the HHH, HAT, and other groups playing a role in the housing and homeless policy development and funding decisions.
- h. Taking other appropriate and necessary action to carry out the purposes of this Agreement, provided that any commitment of resources outside the scope of the annual budget or policies not within the annual work plan shall be subject to the ultimate approval of the governing bodies.

6. Funding.

- A. Members agree to pool funding including, but not limited to, ESHB 2163, SHB 2060, HOME, CHG, SHB 1406, Human Services Fund (HSF), and other related funding sources as may be identified or created in the future to the extent allowed by federal and state law.
- B. The Jurisdictions comprising 5% or more of the County population shall allocate a minimum annual amount equal to not less than one half of one percent of the last full year of general sales and use taxes pursuant to RCW 82.14.030(1) as of the time the jurisdiction is adopting its budget to HSF for projects, programs, and activities providing direct support to our Jurisdictions' most vulnerable residents. For example, the 2020 funding contribution for a jurisdiction adopting its budget in the fall of 2019 would be based upon the 2018 full year of collections. In addition, any jurisdiction may choose to contribute additional funding subject to the approval of its Council and the requirements of the applicable fund source. The funds will be incorporated as part of the RHC's purview. Funds remaining at the end of the calendar year shall be available for expenditure in the following year. The Lead Agency shall earmark such funds for future expenditures, and, if necessary, budget the same in the adoptive budget for the ensuing year.
 - i. The Lead Agency will utilize 10% of the annual required funding contribution by the participating Jurisdictions, pursuant to Section 6.B, above, for administrative costs, such as contract and fiscal management.
 - ii. Jurisdictions that individually comprise less than 5% of the county population shall be exempt from the HSF allocation.
- C. All funds contributed by members of the RHC and any other funds devoted to the purposes set forth in this Agreement, shall be deposited in the treasury of the Lead Agency, as described in Section 8, for the period in which the funds are to be expended.
- D. The SHB 2060 surcharge funds will be used as the twenty-five percent (25%) match requirement for HOME entitlement funds.
- E. Unspent funds may be carried over and used in subsequent years to the extent allowed by federal and state law for projects, programs, and activities consistent with this Agreement.
- F. The RHC will make funding recommendations and will serve in an advisory capacity to the BoCC, which have final approval of awards and distribution of grant funding. The BoCC shall give substantial weight and consideration to the recommendations of the RHC. With respect to the HSF, the BoCC

will authorize funding for these grants but will not deviate from the funding recommendations provided by the RHC.

- G. In the event the BoCC deviates from the funding recommendations provided by the RHC, the BoCC will provide revised recommendations to the RHC for consideration. After the RHC reviews the BoCC revised recommendations, the RHC will submit a final recommendation to the BoCC. The BoCC will assess the recommendations by the RHC and make a final decision.
- H. With respect to SHB 1406, the Jurisdictions commit to a regional project using this funding. Further, the BoCC will not approve any project until and unless each legislative body has taken action to endorse the RHC recommendation.
- I. Jurisdictional allocations of the CDBG fund shall take into consideration the goals, objectives, programs, and projects developed and approved by the RHC.
- J. The Jurisdictions agree to pool SHB 1406 funds received after January 1, 2021, under the following conditions and processes:
 - i. The RHC will determine whether to bond SHB 1406 tax revenue.
 - ii. The RHC will implement a process to identify and select projects and actions using SHB 1406 tax revenue. The RHC will prepare, and update, as needed, both Year One annual funding plans and Year Two and Three funding plans for using SHB 1406 tax revenue.
 - iii. Year One annual funding plans will identify specific projects or actions for using SHB 1406 tax revenue.
 - iv. Year Two and Three funding plans will outline the RHC's general funding priorities for using SHB 1406 tax revenue during that period.
 - v. The Jurisdictions will submit SHB 1406 tax revenue on a quarterly basis to the RHC Lead Agency, which will serve as the contracting agency for pooled SHB 1406 tax revenue.
 - vi. The RHC Lead Agency will abide by SHB 1406 requirements regarding an administrative fee for managing SHB 1406 tax revenue. As of January 2021, the SHB 1406 legislation does not provide for administrative costs.
 - vii. The RHC Lead Agency will coordinate with the Jurisdictions in preparing the required local and state reporting materials.

- viii. The Jurisdictions may not utilize its own SHB 1406 tax revenue prior to adding the funds to the pooled account.
- ix. If more than one year of SHB 1406 tax revenue is collected without a project or action being identified and the funds have not been bonded, the Jurisdictions may request to have a portion of their contribution returned for use by the Jurisdiction. The RHC must vote to approve returning funds to a Jurisdiction.

7. Contribution.

- A. Each Jurisdiction that is a member under Section 4.A of this Agreement, shall strive to make an in-kind contribution of up to 0.25 FTE staff to support the work of the RHC. Staff support may include, but is not limited to, participation on Working Teams as defined under Section 9 of this Agreement, tasks identified in the annual work plan required under Section 5.A.c, or tasks to support the operation of the RHC. As needed, Jurisdictions shall discuss dedicating additional staff resources beyond a 0.25 FTE to achieve the annual work plan or to implement special projects.
- B. Costs associated with the operations of the RHC, in excess of the revenues available from program funded administrative allocations, shall be distributed among the Jurisdictions on a pro rata basis using the most recent population figures provided by the State of Washington.
- C. These operational costs may include but are not limited to: staff, office space, furnishing, equipment and supplies, and administrative overhead necessary for the Lead Agency to support the RHC. Where administrative dollars are provided for in the funding source, these funds shall be used to offset operational costs of the RHC to the extent allowed by the funding source. These administrative costs shall be allocated to the Fiscal Agent of the RHC, as described in Section 8 of this Agreement.

8. Lead Agency.

Thurston County will act as the Fiscal Agent and Lead Agency on behalf of the Jurisdictions in administering all contracts and processing all invoices and receipts. Thurston County shall name a program manager who shall be responsible for the operations of the RHC. The task of the program manager will include, but are not limited to: meeting coordination and agenda preparation in consultation with the chair and vice-chair, preparation of meeting minutes, support to develop and implement the annual work plan, and coordination of the annual request for proposal and award process. The Lead Agency will submit invoices to each Jurisdiction for their share of the costs as identified in Section 6.B.a. The Jurisdiction will remit payment to the Lead Agency no later than 30 days from the date of the invoice.

The Lead Agency and Fiscal Agent roles shall be revisited every five (5) years throughout the duration of this Agreement.

9. Working Teams.

The RHC may use the following staff Working Teams to inform and support the RHC:

- Technical Working Team to provide objective technical feedback regarding project and policy proposals.
- Communications Working Team to develop clear and coordinated communications around project and policy proposals and funding recommendations.

Each voting member Jurisdiction that is a member under Section 4.A of this Agreement will assign at least one staff member to participate on each Working Team. The RHC may create additional Working Teams or dissolve Working Teams in accordance with Section 4.I of this Agreement.

10. Relationship of the Jurisdictions.

This Agreement is for the benefit of the Jurisdictions. No separate legal entity is created by this Agreement. No administrator or joint board is created by this Agreement, although a Fiscal Agent and Lead Agency are established by Section 8 herein. No personal or real property is to be jointly acquired or held. Each Jurisdiction is responsible for directing the work of its staff. RHC members may not direct or supervise the work of staff from another Jurisdiction. An RHC chair or vice-chair may coordinate and work with staff from another Jurisdiction to fulfill the responsibilities of the RHC.

11. Indemnification and Hold Harmless.

- A. To the extent permitted by law, each Jurisdiction agrees to indemnify, defend, and hold harmless the other Jurisdiction, their officers, officials, employees, agents, and volunteers from and against any and all claims, demands, damages, losses, actions, liabilities, expenses, and judgments of any nature whatsoever, including without limitation, court and appeal costs and attorneys' fees, to or by any and all persons or entities, including without limitation, their respective agents, licensees, or representatives, caused by or arising out of any negligent act, errors, or omissions, of that Jurisdiction, its employees, agents, or volunteers or arising out of, in connection with, or incident to that Jurisdiction's performance or failure to perform any aspect of this Agreement.
- B. The Jurisdictions waive their immunity under the Washington State Industrial Insurance Act, Title 51 RCW, to the extent required by this indemnification and hold harmless provision. Provided, however, the foregoing waiver shall not in

any way preclude a Jurisdiction from raising such immunity as a defense against any claim brought against a Jurisdiction by any of the Jurisdiction's respective employees. This waiver has been mutually negotiated by the Jurisdictions.

- C. The provisions of this section shall survive the completion or expiration of this Agreement or termination whether termination is by all Jurisdictions, or by one or more Jurisdictions.
- D. The Jurisdictions agree to support each other in pursuing these purposes and responsibilities and operate in good faith and partnership in carrying them out. Risk and accountability shall be shared to the extent possible by the Jurisdictions.

12. Amendments.

This Agreement may be amended as needed by mutual written agreement of all Jurisdictions as executed by each Jurisdiction's authorized governing authority as provided in Chapter 39.34 RCW.

13. Termination.

This Agreement may be terminated as to any single Jurisdiction when the terminating Jurisdiction provides written notice to all other Jurisdictions, as set out in Section 14, at least 60 days prior to its intended withdrawal from this Agreement. The withdrawing Jurisdiction agrees to be responsible for its share of any costs incurred or encumbered pursuant to this Agreement through the remainder of the year of such withdrawal.

14. Jurisdiction Representative.

The following are designated as representatives of the respective Jurisdictions. Notice provided for in this Agreement shall be sent to the designated representatives by certified mail to the addresses set forth below. Notice will be deemed received three business days following posting by the U.S. Postmaster.

City of Lacey, c/o City Manager, 420 College Street SE, Lacey, WA 98503

City of Olympia, c/o City Manager, P.O. Box 1967, Olympia, WA 98507

City of Tumwater, c/o City Administrator, 555 Israel Road SW, Tumwater, WA 98501

City of Yelm, c/o Mayor, 106 Second St. SE Yelm, WA 98597

Thurston County, c/o County Manager, 2000 Lakeridge Drive SW, Olympia, WA 98502

15. Governing Law and Venue.

This Agreement has been and shall be construed as having been made and delivered within the State of Washington, and it is agreed by each Jurisdiction hereto that this Agreement shall be governed by the laws of the State of Washington both as to its interpretation and performance. Any action of lawsuit in equity, or judicial proceeding arising out of this Agreement shall be instituted and maintained only in a court of competent jurisdiction in Thurston County, Washington.

16. Severability.

If a court of competent jurisdiction holds any part, term, or provision of this Agreement to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the Jurisdictions' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid. If any provision of this Agreement is in direct conflict with any statutory provision of the state of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict and shall be deemed modified to conform to such statutory provision.

17. Entire Agreement.

The Jurisdictions agree that this Agreement, is the complete expression of its terms and conditions. Any oral or written representations or understandings not incorporated in this Agreement are specifically excluded.

18. Non-Waiver of Rights.

The Jurisdictions agree that the forgiveness of the nonperformance of any provision of this Agreement does not constitute a waiver of the provisions of this Agreement.

19. Equal Opportunity to Draft.

The Jurisdictions have participated and had an equal opportunity to participate in the drafting of this Agreement. No ambiguity shall be construed against any Jurisdiction upon a claim that that Jurisdiction drafted the ambiguous language.

IN WITNESS WHEREOF, the Parties hereto have caused Amendment No. One to this Interlocal Agreement to be executed by the dates and signature herein under affixed. The persons signing Amendment No. One to this Interlocal Agreement on behalf of the Parties represent that each has authority to execute Amendment No. One to this Interlocal Agreement on behalf of the Party entering into this Interlocal Agreement.

THURSTON COUNTY

Tye Menser, Chair of the Board of County Commissioners

Date

APPROVED AS TO FORM:
JON TUNHEIM
PROSECUTING ATTORNEY

By: _____
Deputy Prosecuting Attorney

CITY OF LACEY

Scott Spence, City Manager

Date

APPROVED AS TO FORM:

By: _____
Lacey City Attorney

CITY OF OLYMPIA

Steven J. Burney, City Manager

Date

APPROVED AS TO FORM:

By: Mark Barber
Olympia City Attorney

CITY OF TUMWATER

Pete Kmet, Mayor

Date

APPROVED AS TO FORM:

By: _____
Tumwater City Attorney

CITY OF YELM

JW Foster, Mayor

Date

APPROVED AS TO FORM:

By: _____
Yelm City Attorney