

**AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT**

**among**

**CITY OF AUBURN,**

**CITY OF DES MOINES,**

**CITY OF FEDERAL WAY,**

**CITY OF RENTON,**

**CITY OF TUKWILA,**

**CITY OF BURIEN,**

**AND**

**CITY OF SEATAC, WASHINGTON**

**Dated as of October 1, 2009**

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## **AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT**

THIS AMENDED AND RESTATED SCORE INTERLOCAL AGREEMENT amends and restates the SCORE Interlocal Agreement, dated as of February 25, 2009 (the "Original Interlocal Agreement" and as amended and restated hereby, the "SCORE Formation Interlocal Agreement"), and is entered into this October 1, 2009 among the Cities of Auburn, Des Moines, Federal Way, Renton, Tukwila, Burien and SeaTac, Washington (the "Member Cities"), all of which are municipal corporations under the laws and statutes of the State of Washington:

### **RECITALS:**

WHEREAS, the Member Cities are authorized by chapter 70.48 RCW to contract for, establish and maintain correctional facilities in furtherance of public safety and welfare; and

WHEREAS, the Member Cities currently contract with other local governments within the State of Washington for correctional services at a great expense to the City; and

WHEREAS, chapter 39.34 RCW, the Interlocal Cooperation Act, authorizes municipalities in Washington to enter into agreements for the joint undertaking of certain projects as provided therein; and

WHEREAS, the Member Cities entered into a SCORE Interlocal Agreement, effective February 25, 2009 (the "Original Interlocal Agreement"), to form a governmental administrative agency pursuant to RCW 39.34.030(3) known as the South Correctional Entity ("SCORE") to establish and maintain a consolidated correctional facility to be located in the City of Des Moines (the "SCORE Facility") to serve the Member Cities and federal and state agencies and other local governments that may contract with SCORE in the future to provide correctional services essential to the preservation of the public health, safety and welfare; and

WHEREAS, the Member Cities have determined that the SCORE Facility will provide improved correctional facilities within the boundaries of the consolidated service areas at a lower total cost to the participating Member Cities than currently available alternatives or than the participating Member Cities could individually provide; and

WHEREAS, financing for the acquisition, construction, equipping, and improvement of the SCORE Facility will be provided by bonds issued by the South Correctional Entity Facility Public Development Authority (the "SCORE Facility Public Development Authority"), a public development authority chartered by the City of Renton pursuant to RCW 35.21.730 through 35.21.755 and secured by the full faith and credit of the Cities of Renton, Auburn, Federal Way, SeaTac, Tukwila, and Burien (the "Owner Cities"); and

WHEREAS, the Member Cities now desire to amend the Original Interlocal Agreement to allocate the proportion of debt service on bonds issued by the SCORE Facility Public Development Authority to each of the Owner Cities and to designate the City of Des Moines as the host city; and

WHEREAS, the establishment and maintenance of the SCORE Facility will be of substantial benefit to the Member Cities and the public in general;

NOW THEREFORE, it is hereby agreed and covenanted among the undersigned as follows:

**Section 1. Definitions.** Capitalized terms used in this SCORE Formation Interlocal Agreement shall have the following meanings:

**“Administrative Board”** means the governing board of SCORE created pursuant to Section 5 of this SCORE Formation Interlocal Agreement.

**“Bonds”** mean, collectively, bonds, notes or other evidences of borrowing issued by the SCORE Facility Public Development Authority to provide interim and permanent financing for the SCORE Facility and thereafter, to finance or refinance equipment, completion, expansion and other capital improvements essential to maintain the SCORE Facility’s functionality.

**“Budget”** means the budget prepared by the Facility Director in consultation with the Operations Board, and submitted to the Administration Board for its approval in accordance with Section 5 and Section 9 of this SCORE Formation Interlocal Agreement, which budget shall set forth (a) an estimate of the costs of capital improvements required to be made to the SCORE Facility within the applicable year, (b) on a line item basis, all anticipated revenues and expenses for the operation and maintenance of the SCORE Facility for the applicable year, and (c) any information required by policies adopted by the Administrative Board pursuant to Section 9(b) of this SCORE Formation Interlocal Agreement.

**“Capital Contribution”** means, for each Owner City, that Owner City’s Owner Percentage multiplied by the principal of and interest on Bonds as the same shall become due and payable.

**“Costs of Maintenance and Operation”** means all reasonable expenses incurred by SCORE in causing the SCORE Facility to be operated and maintained in good repair, working order and condition, and all costs of administering SCORE.

**“Designated Representative”** means the Mayor or the City Manager, as selected by each Member City, or his or her designee.

**“Facility Director”** means the director of the SCORE Facility selected by the Administrative Board pursuant to Section 7 of this SCORE Formation Interlocal Agreement.

**“Host City”** means the City of Des Moines, Washington.

**“Member Cities”** mean the Owner Cities and the Host City.

**“Operations Board”** means the board formed pursuant to Section 6 of this SCORE Formation Interlocal Agreement.

**“Owner Cities”** mean the Cities of Auburn, Renton, Federal Way, Tukwila, Burien and SeaTac, Washington.

**“Owner Percentage”** means the percentage assigned to each Owner City, as follows:

- (a) Auburn – thirty-one (31%)
- (b) Federal Way – eighteen (18%)
- (c) Renton - thirty-six (36%)
- (d) Tukwila – eight (8%)
- (e) Burien – four (4%)
- (f) SeaTac – three (3%)

**“Presiding Officer”** means the member of the Administrative Board selected pursuant to Section 5 of this SCORE Formation Interlocal Agreement.

**“SCORE”** means the governmental administrative agency established pursuant to RCW 39.34.030(3) by the Member Cities.

**“SCORE Facility”** means the consolidated correctional facility acquired, constructed, improved, equipped, maintained and operated by SCORE.

**“SCORE Facility Public Development Authority”** means the South Correctional Entity Facility Public Development Authority chartered by the City of Renton, Washington.

**“SCORE Formation Interlocal Agreement”** means this Amended and Restated SCORE Interlocal Agreement among the Member Cities, as amended from time to time.

**“Subscribing Agencies”** mean the federal and state agencies, municipal corporations, and other local governments, other than the Member Cities, that contract with SCORE for correctional services at the SCORE Facility pursuant to the terms of this SCORE Formation Interlocal Agreement.

**Section 2. SCORE Facility; Authority.**

(a) Administrative Agency. There is hereby established a governmental administrative agency pursuant to RCW 39.34.030(3) to be known as the South Correctional Entity ("SCORE"). SCORE shall initially consist of the Member Cities.

(b) Powers of SCORE. SCORE shall have the power to acquire, construct, own, operate, maintain, equip, and improve a correctional facility known as the "SCORE Facility" and to provide correctional services and functions incidental thereto, for the purpose of detaining arrestees and sentenced offenders in the furtherance of public safety and emergencies within the jurisdiction of the Member Cities. The SCORE Facility may serve the Member Cities and Subscribing Agencies which are in need of correctional facilities. Any agreement with a Subscribing Agency shall be in writing and approved by SCORE as provided herein.

(c) Administrative Board. The affairs of SCORE shall be governed by the Administrative Board formed pursuant to Section 5 of this SCORE Formation Interlocal Agreement. The Administrative Board shall have the authority to:

1. Recommend action to the legislative bodies of the Member Cities;
2. Approve the Budget, adopt financial policies and approve expenditures;
3. Establish policies for investing funds and incurring expenditures of Budget items for the SCORE Facility;
4. Review and adopt a personnel policy for the SCORE Facility;
5. Establish a fund, or special funds, as authorized by chapter 39.34 RCW for the operation of the SCORE Facility;
6. Conduct regular meetings as may be designated by the Administrative Board;
7. Determine what services shall be offered at the SCORE Facility pursuant to the powers of SCORE and under what terms they shall be offered;
8. Enter into agreements with third parties for goods and services necessary to fully implement the purposes of this SCORE Formation Interlocal Agreement;

9. Establish rates for services provided to members, subscribers or participating agencies;
10. Direct and supervise the activities of the Operations Board and the Facility Director;
11. Enter into an agreement with a public corporation or otherwise to incur debt;
12. Make purchases or contract for services necessary to fully implement the purposes of this SCORE Formation Interlocal Agreement;
13. Enter into agreements with and receive and distribute funds from any federal, state or local agencies;
14. Receive and account for all funds allocated to the SCORE Facility from its members;
15. Purchase, take, receive, lease, take by gift, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, in the name of the SCORE Facility;
16. Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of property and assets;
17. Sue and be sued, complain and defend, in all courts of competent jurisdiction in its name;
18. Make and alter bylaws for the administration and regulation of its affairs;
19. Enter into contracts with Subscribing Agencies to provide correctional services;
20. Employ employees as necessary to accomplish the terms of this SCORE Formation Interlocal Agreement;
21. Establish policies and procedures for adding new cities as parties to this SCORE Formation Interlocal Agreement; and
22. Engage in any and all other acts necessary to further the goals of this SCORE Formation Interlocal Agreement.

**Section 3. Duration of Agreement.**

The initial duration of this SCORE Formation Interlocal Agreement shall be for a period of ten (10) years from its effective date and, thereafter, shall automatically extend for additional five (5) year periods unless terminated as provided in this SCORE Formation Interlocal Agreement. Notwithstanding the foregoing, this SCORE Formation Interlocal Agreement shall not terminate until all Bonds issued by the SCORE Facility Public Development Authority as provide in Section 15 of this SCORE Formation Interlocal Agreement are no longer outstanding.

**Section 4. Withdrawal and Termination.**

(a) Subject to Section 4(g) below, any Member City may withdraw its membership and terminate its participation in this SCORE Formation Interlocal Agreement by providing written notice and serving that notice on the other Member Cities on or before December 31 in any one-year. After providing appropriate notice as provided in this Section, that Member City's membership withdrawal shall become effective on the last day of the year following delivery and service of appropriate notice to all other Member Cities.

(b) Subject to Section 3 above, four (4) or more Member Cities may, at any one time, by written notice provided to all Member Cities, call for a termination of SCORE and this SCORE Formation Interlocal Agreement. Upon an affirmative supermajority vote (majority plus one) by the Administrative Board, SCORE shall be directed to terminate business, and a date will be set for final termination, which shall be at least one (1) year from the date of the vote to terminate this SCORE Formation Interlocal Agreement. Upon the final termination date, this SCORE Formation Interlocal Agreement shall be fully terminated.

(c) Subject to Section 4(g) below, in the event any Owner City or the Host City fails to budget for or provide its applicable annual funding requirements for SCORE as provided in Section 15 hereof, the remaining Member Cities may, by majority vote, immediately declare the underfunding City to be terminated from this SCORE Formation Interlocal Agreement and to have forfeited all its rights under this SCORE Formation Interlocal Agreement as provided in Section 4(e). The remaining Member Cities may, at their option, withdraw SCORE's correctional services from that City, or alternatively, enter into a Subscribing Agency agreement with that City under terms and conditions as the remaining Member Cities deem appropriate.

(d) Time is of the essence in giving any termination notice.

(e) If an individual Owner City withdraws its membership in SCORE, the withdrawing City will forfeit any and all rights it may have to SCORE's real or personal



property, or any other ownership in SCORE, unless otherwise provided by the Administrative Board.

(f) Upon termination of this SCORE Formation Interlocal Agreement, all property acquired during the life of this SCORE Formation Interlocal Agreement shall be disposed of in the following manner:

1. All real and personal property acquired pursuant to this SCORE Formation Interlocal Agreement shall be distributed to the Owner Cities based on the Owner Percentages; and
2. All unexpected funds or reserve funds shall be distributed based on the percentage of average daily population at the SCORE Facility for the last three (3) years prior to the termination date of those Member Cities still existing on the day prior to the termination date.

(g) Notwithstanding any of the other rights, duties or obligations of any Member City under this Section 4, the withdrawal of any Owner City from this SCORE Formation Interlocal Agreement shall not discharge or relieve the Owner City that has withdrawn pursuant to Section 4(a) or been terminated pursuant to Section 4(c) of its obligation to pay debt service on Bonds issued by the SCORE Facility Public Development Authority. An Owner City may be relieved of its obligation under this SCORE Formation Interlocal Agreement to make payments with respect to its Capital Contribution if the Administrative Board, by supermajority vote (majority plus one), authorizes such relief based on a finding that such payments are not required to pay debt service on Bonds issued by the SCORE Facility Public Development Authority.

#### **Section 5. Administrative Board.**

(a) Formation. An Administrative Board composed of the Designated Representative from each Member City shall govern the affairs of SCORE.

(b) Allocation of Votes. Each Board member shall have an equal vote and voice in all Board decisions.

(c) Voting Requirements. Votes regarding (1) debt; (2) approval of the Budget; (3) employment of the Facilities Director; (4) cost allocations made prior to the issuance of Bonds pursuant to Section 16 of this SCORE Formation Interlocal Agreement; and (5) approval of labor contracts, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities, two (2) of which shall have the highest and the second highest average daily population in the SCORE Facility for the 12-month period ending June 30 of the preceding year. Votes regarding (1) the conveyance of real property; (2) the addition of additional services pursuant to Section 11 of this SCORE Formation Interlocal Agreement not directly incidental to correctional services (such as providing

court services); and (3) matters addressed in Sections 4(b) and (g) of this SCORE Formation Interlocal Agreement, shall require an affirmative vote of a supermajority (majority plus one) of the Member Cities.

(d) Parliamentary Authority. Unless otherwise provided, Robert's Revised Rules of Order (newly revised) shall govern all procedural matters relating to the business of the Administrative Board.

(e) Officers of the Administrative Board. Members of the Administrative Board shall select a Presiding Officer from its members, together with such other officers as a majority of the Administrative Board may determine. Subject to the control of the Administrative Board, the Presiding Officer shall have general supervision, direction and control of the business and affairs of SCORE. On matters decided by the Administrative Board, the signature of the Presiding Officer alone is sufficient to bind SCORE.

(f) Meetings of the Administrative Board. There shall be a minimum of two (2) meetings each year, and not less than fifteen (15) days notice shall be given to all members prior to any such meeting. Unless otherwise designated by the Presiding Officer, the first meeting shall be held on the second Tuesday of February of each year to review the prior year's service. The second meeting shall be on the second Tuesday of September of each year to consider and adopt a Budget for the following fiscal year. Other meetings may be held upon request of the Presiding Officer or any two members. All meetings shall be open to the public to the extent required by chapter 42.30 RCW.

Five (5) members of the Administrative Board must be present at any meeting of the Administrative Board to comprise a quorum, and for the Administrative Board to transact any business. Proxy voting shall not be allowed. Members of the Administrative Board may participate in a meeting through the use of any means of communication by which all members and members of the public participating in such meeting can hear each other during the meeting. Any members of the Administrative Board participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

(g) Bylaws. The Administrative Board shall be authorized to establish bylaws that govern procedures of that Board and the SCORE Facility's general operations.

(h) Administrative Board Review. A general or particular authorization or review and concurrence of the Administrative Board by majority vote shall be necessary for all capital expenditures or contracts in excess of \$50,000.

**Section 6. Operations Board.**

(a) Formation. There is further established an Operations Board which shall consist of up to nine (9) members selected as provided in this paragraph. One (1) member shall be designated by each of the Member Cities, and up to two (2) at-large members shall be selected, by majority vote, by the Subscribing Agencies to represent the police departments of the Subscribing Agencies. At the time set for election of the at-large members, only the representatives of the Subscribing Agencies, then in attendance, will participate in the election. The Member Cities' Operations Board representatives shall not participate in the at-large member elections. The at-large members shall serve one-year terms, unless otherwise determined by majority vote of the Operations Board. The purpose and duties of the Operations Board shall be established by the Administrative Board.

(b) Voting and Meetings of the Operations Board. Each member of the Operations Board shall have an equal vote in all Operations Board decisions. The Operations Board shall be authorized to establish bylaws that govern its procedures. Unless otherwise provided, Robert's Revised Rules of Order shall govern all procedural matters relating to the business of the Operations Board. The Operations Board shall elect a presiding officer from its members and shall likewise determine the time and place of its meetings; at least one (1) regular meeting shall be held each month at a time and place designated by the presiding officer or a majority of its members. Special meetings may be called by the presiding officer or any two (2) members upon giving all other members not less than 24 hours prior written notice (electronic or facsimile notice acceptable). In an emergency, the Operations Board may dispense with written notice requirements for special meetings, but must, in good faith, implement best efforts to provide fair and reasonable notice to all of the members of the Operations Board. All meetings shall be open to the public to the extent required by chapter 42.30 RCW.

A majority of the members of the Operations Board must be present at any meeting of the Operations Board to comprise a quorum, and for the Operations Board to transact any business. Proxy voting shall not be allowed. Members of the Operations Board may participate in a meeting through the use of any means of communication by which all members and members of the public participating in such meeting can hear each other during the meeting. Any members of the Operations Board participating in a meeting by such means is deemed to be present in person at the meeting for all purposes including, but not limited to, establishing a quorum.

**Section 7. Facility Director.**

Not later than one hundred eighty (180) days prior to the completion of the SCORE Facility, the Operations Board shall recommend to the Administrative Board a person to act as the Facility Director. The Administrative Board may accept or reject the Operations Board recommendation. Such Facility Director shall be responsible to the Administrative Board, shall develop the Budget in consultation with the Operations Board and other

appropriate means in order to fully implement the purposes of this SCORE Formation Interlocal Agreement. The Facility Director shall administer the program in its day-to-day operations consistent with the policies adopted by the Administrative Board. Such Facility Director shall have experience in technical, financial and administrative fields, and such appointment shall be on the basis of merit only.

**Section 8. Personnel Policy.**

(a) The Operations Board shall submit to the Administrative Board within one hundred eighty (180) days prior to the completion of the SCORE Facility, a proposed personnel policy for the SCORE Facility for its approval, rejection or modification. All of such modifications or revisions shall be subject to the final approval of the Administrative Board.

(b) Such personnel policy shall provide for the initial appointment to the SCORE Facility's staff from the personnel presently, permanently appointed or assigned as corrections officers in the Member Cities. Additional employees shall be appointed by the Facility Director upon meeting the qualifications established by the Operations Board and adopted by the Administrative Board. None of such employees shall be commissioned members of any emergency service, but may be eligible for membership under the Public Employees Retirement Systems (PERS), or Public Safety Employees Retirement System (PSERS), as provided by law.

**Section 9. Budget, Policies and Operations.**

(a) The Facility Director shall distribute a proposed Budget to the Operations Board on or before August 1 of each year, which Budget shall then be provided to the Administrative Board no later than September 1 of such year. Thereafter, the Member Cities shall be advised of the programs and objectives as contained in said proposed Budget, and of the required financial participation for the ensuing year.

(b) The Administrative Board shall develop financial policies for SCORE as part of the budgetary process. Such policies may include, but are not limited to, (1) items to be provided for in the Budget, (2) a minimum contribution amount for each Member City to pay for Costs of Maintenance and Operation, (3) the process for allocating unexpended amounts paid by the Member Cities for Costs of Maintenance and Operation and assessing the Member Cities in the event of cost overruns, (4) establishing and maintaining reserve accounts, if any, and (5) the process for adding a new party to this SCORE Formation Interlocal Agreement.

(c) The allocation of prorated financial participation among the Member Cities shall be calculated as provided in Section 15 hereof. Each Member City shall be unconditionally obligated to provide its allocable share of costs as provided in this SCORE Formation Interlocal Agreement.

**Section 10. Contracts and Support Services.**

(a) The Administrative Board (or the Operations Board or the Facility Director, if so designated by the Administrative Board) shall, as necessary, contract with local governments for the use of space for its operations, auxiliary services including but not limited to records, payroll, accounting, purchasing, and data processing, and for staff prior to the selection of a Facility Director for the SCORE Facility.

(b) The Member Cities hereby agree to furnish legal assistance, from time to time, as approved by the Administrative Board. The Administrative Board may contract with the City Attorney of a Member City, other local government, or independent legal counsel as necessary.

**Section 11. Policy and System Evaluation.**

The Facility Director shall actively and continually consider and evaluate all means and opportunities toward the enhancement of operations effectiveness for correctional services so as to provide maximum and ultimate benefits to the members of the general public. The Facility Director shall present his or her recommendations to the Operations Board from time to time. Any substantive change or deviation from established policy shall be subject to the prior approval of the Administrative Board.

**Section 12. Additional Services Authorized.**

The Administrative Board shall evaluate and determine the propriety of including additional correctional services for local governments, whenever so required, and shall determine the means of providing such services, together with its costs and effects. These additional services may include, but shall not be limited to the following: alternatives to incarceration, inmate transportation systems, and consolidated court services.

**Section 13. Inventory and Property.**

(a) Equipment and furnishings for the operation of the SCORE Facility shall be acquired by SCORE as provided by law. If any Member City furnishes equipment or furnishings for SCORE's use, title to the same shall remain with the respective local entity unless that equipment is acquired by SCORE.

(b) The Facility Director shall, at the time of preparing the proposed Budget for the ensuing year, submit to the Operations Board a complete inventory together with current valuations of all equipment and furnishings owned by, leased or temporarily assigned to SCORE. In case of dissolution of SCORE, such assigned or loaned items shall be returned to the lending governmental entity and all other items, including real property,

or funds derived from the sale thereof, shall be distributed in accordance with Section 4(f) above.

(c) Title to real property purchased or otherwise acquired shall be held in the name of SCORE; provided however, that for valuable consideration received, SCORE may convey ownership of any real property as may be approved by supermajority vote (majority plus one) of the Administrative Board.

**Section 14. Local Control.**

Each Member City and Subscribing Agency shall retain the responsibility and authority for the operation of its police departments, and for such equipment and services as are required at its place of operation to utilize the SCORE Facility.

**Section 15. SCORE Facility Financing and Construction; SCORE Facility Public Development Authority.**

(a) SCORE Facility. In order to provide necessary services for the Member Cities and the Subscribing Agencies, SCORE shall acquire, construct, improve, equip, maintain and operate the SCORE Facility. The SCORE Facility is expected to be located in the City of Des Moines, Washington.

(b) Contracts for the SCORE Facility. The Administrative Board shall authorize, and the Presiding Officer of the Administrative Board, or his or her approved designee, will execute contracts for the development of the SCORE Facility. These contracts shall include, without limitation, contracts for architectural design and engineering, project management services; real estate acquisition, and construction.

(c) SCORE Facility Public Development Authority. In order to finance costs of acquiring, constructing, improving and equipping the SCORE Facility, the City of Renton has chartered the SCORE Facility Public Development Authority. The purpose of the SCORE Facility Public Development Authority is to issue Bonds to finance and refinance the acquisition, construction, improvement and equipping of the SCORE Facility. The Administrative Board shall serve *ex officio* as the Board of Directors of the SCORE Facility Public Development Authority as further provided in the Authority's organizational charter. Upon issuance of Bonds by the SCORE Facility Public Development Authority, Bond proceeds shall be deposited on behalf of SCORE and used for the purposes set forth herein. SCORE shall be obligated to make payments to the SCORE Facility Public Development Authority at the time and in the amounts required to pay principal of and interest on the Bonds and any administrative costs of the SCORE Facility Public Development Authority.

(d) SCORE Facility Financing.

(1) *Capital Contributions.* Each Owner City shall be obligated to pay an amount equal to its Capital Contribution without regard to the payment or lack thereof by any other Owner City. No Owner City shall be obligated to pay the Capital Contribution of any other Owner City, and each Owner City shall be obligated to budget for and pay its Capital Contribution. The obligation of each Owner City to pay its Capital Contribution shall be an irrevocable full faith and credit obligation of such Owner City, payable from property taxes levied within the constitutional and statutory authority provided without a vote of the electors of the Owner City on all of the taxable property within the Owner City and other sources of revenues available therefor. Each Owner City has or will set aside and include in its calculation of outstanding nonvoted general obligation indebtedness an amount equal to the principal component of its Capital Contribution for so long as Bonds remain outstanding, unless relieved of such payment in accordance with Section 4(g). Each Owner City's obligation to pay the Capital Contribution shall not be contingent on the receipt of any revenues from other sources, including but not limited to Subscribing Agencies or the Host City.

An Owner City may prepay its Capital Contribution in a manner that is consistent with the authorizing documents for the Bonds; provided, however, that any such prepayment of one or more Owner Cities shall not affect the Capital Contribution of the remaining Owner Cities. Any Owner City that elects to prepay its Capital Contribution shall be responsible for paying all costs associated with such prepayment.

(2) *Costs of Maintenance and Operation.* Subject to the terms of the financial policies established by the Administrative Board pursuant to Section 9(b) of this SCORE Formation Interlocal Agreement, each Member City shall be obligated to pay its allocable portion of Costs of Maintenance and Operation of the SCORE Facility, including any debt issued to finance such costs, as determined in this subsection.

(i) Until the end of the first calendar year of operations of the SCORE Facility (estimated to be December 31, 2012), the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation in such year shall be equal to the Member City's 2007 average daily population in all correctional facilities (as provided in the SCORE financial policies) multiplied by the Costs of Maintenance and Operation.

(ii) Commencing with the calendar year following the first calendar year of operations, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall be

based on the Member City's average daily population in the SCORE Facility, as supplemented as necessary with the average daily population allocable to the Member Cities in all correctional facilities, for the 12-month period ending June 30 of the preceding year.

(iii) Commencing with the third calendar year of operations, the allocable portion that each Member City shall be obligated to pay of Costs of Maintenance and Operation shall be based on the Member City's average daily population in the SCORE Facility for the 12-month period ending June 30 of the preceding year.

(e) Billing and Allocation of Revenues. Each Member City shall be billed for its Capital Contribution and its portion of Costs of Maintenance and Operation, as applicable, on a semiannual basis, or more frequently as determined by the Administrative Board, calculated as provided for in Section 15(d) above. Revenues received in a calendar year from Subscribing Agencies or from sources other than the contributions described in Section 15(d) above shall be allocated among the Member Cities as follows: (i) each Member City shall receive a credit against its obligation to pay Costs of Maintenance and Operation based on that Member City's proportional average daily population as calculated in Section 15(d)(2) above, and (ii) each Owner City shall receive a credit against its Capital Contribution based on that Owner City's proportional Owner Percentage.

(f) Host City. Pursuant to RCW 35.21.740, the City of Des Moines, as the Host City, hereby authorizes the City of Renton to operate the SCORE Facility Public Development Authority within the corporate limits of the City of Des Moines in a manner consistent with the terms of this SCORE Formation Interlocal Agreement. The Host City shall enter into a written agreement with SCORE and any of the Owner Cities, as applicable, to establish a host city fee to be paid in exchange for the availability of the SCORE Facility.

(g) Tax-Exemption. The Member Cities shall not (1) make any use of the proceeds from the sale of Bonds or any other money or obligations of the SCORE Facility Public Development Authority or the Member Cities that may be deemed to be proceeds of the Bonds pursuant to Section 148(a) of the Code that will cause the Bonds to be "arbitrage bonds" within the meaning of said Section and said regulations, or (2) act or fail to act in a manner that will cause the Bonds to be considered obligations not described in Section 103(a) of the Code.

(h) Additional Financing. Notwithstanding anything to the contrary in this SCORE Formation Interlocal Agreement, bonds, notes or other evidences of borrowing may be issued from time to time by the SCORE Facility Public Development Authority or another issuer pursuant a separate agreement between one or more Member Cities and other entities to provide additional financing for the SCORE Facility on terms as agreed upon by the parties thereto.



(i) Special Facility Designation. The SCORE Facility, including all equipment, furnishings, and fixtures is critical to the ability of the Member Cities and the Subscribing Agencies to provide necessary and secure correctional services and assure public safety. Consequently, the SCORE Facility is essential to the preservation of the public health, safety, and welfare. As a result, the SCORE Facility's equipment, furnishings, and fixtures are special facilities subject to unique standards. Accordingly, based on the facts presented in this subsection, it is hereby resolved that the established policy of the Member Cities is that the SCORE Facility constitutes a "special facility" under RCW 39.04.280(1)(b), and all purchases of any kind or nature for the SCORE Facility shall be exempt from competitive bidding requirements as prescribed by Washington State statute but shall be governed by the procurement policy established by the Administrative Board as amended from time to time.

**Section 16. Preliminary Costs of the SCORE Facility; Bellevue Property**

The Administrative Board shall allocate costs associated with the design, acquisition, construction, improvement and equipping of the SCORE Facility prior to the issuance of the Bonds by the SCORE Facility Public Development Authority among the Member Cities by an affirmative vote of a supermajority (majority plus one) of the of the Member Cities, two (2) of which shall have the highest and the second highest average daily population in the SCORE Facility for the 12-month period ending June 30 of the preceding year. Any costs of the SCORE Facility paid by a Member City pursuant to this section may be reimbursed out of proceeds of Bonds to the extent permitted by law.

The Member Cities hereby agree that any net proceeds received from the sale of the property located at 1440 116<sup>th</sup> Avenue NE, Bellevue, Washington and 1412 116<sup>th</sup> Avenue NE, Bellevue, Washington (estimated to be approximately \$3,180,000) shall be deposited with SCORE and used to finance costs associated with the design, acquisition, construction, improvement and equipping of the SCORE Facility.

**Section 17. Compliance with Continuing Disclosure Requirements**

To the extent necessary to meet the conditions of paragraph (d)(2) of United States Securities and Exchange Commission Rule 15c2-12 (the "Rule"), as applicable to a participating underwriter or remarketing agent for Bonds, each Owner City will enter into an undertaking in a form acceptable at the time to the participating underwriter or remarketing agent, as the case may be.

**Section 18. Filing of Agreement**

Upon execution, this SCORE Formation Interlocal Agreement shall be filed as required in RCW 39.34.040.

**Section 19. Severability**

If any part, paragraph, section or provision of this SCORE Formation Interlocal Agreement is adjudged to be invalid by any court of competent jurisdiction such adjudication shall not affect the validity of any remaining section, part or provision of this SCORE Formation Interlocal Agreement.

**Section 20. Execution and Amendment**

This SCORE Formation Interlocal Agreement shall be executed on behalf of each Member City by its Designated Representative, or other authorized officer of the Member City, and pursuant to an appropriate motion, resolution or ordinance of each Member City. This SCORE Formation Interlocal Agreement shall be deemed adopted upon the date of execution by the last so Designated Representative or other authorized officer.

This SCORE Formation Interlocal Agreement may not be effectively amended, changed, modified or altered, except by an instrument in writing duly executed by the Designated Representative, or other authorized officer, of each Member City and pursuant to an appropriate motion, resolution or ordinance of each Member City, so long as such amendment does not materially adversely affect the owners of the Bonds or affect the tax-exempt status of the interest paid on the Bonds. If the Bonds issued by the SCORE Facility Public Development Authority are rated by a rating agency, then no amendment that adds or removes an Owner City from this SCORE Formation Interlocal Agreement or revises Section 15 of this SCORE Formation Interlocal Agreement shall be permitted unless the SCORE Facility Public Development Authority has received written confirmation from the rating agency that such amendment will not result in a reduction or withdrawal of the rating on the Bonds. If the Bonds are not rated by a rating agency, then no such amendment as described in the preceding sentence will be permitted unless in the opinion of the SCORE Facility Public Development Authority such amendment will not materially adversely affect the owners of the Bonds.

**Section 21. Third Party Beneficiaries**

The SCORE Facility Public Development Authority and the holders from time to time of the Bonds shall be third party beneficiaries hereof and the commitments made herein shall be for their further benefit.

**Section 22. Hold Harmless**

The parties to this SCORE Formation Interlocal Agreement shall defend, indemnify and save one another harmless from any and all claims arising out of the performance of this SCORE Formation Interlocal Agreement, except to the extent that the harm complained of arises from the sole negligence of one of the participating members. Any loss or liability resulting from the negligent acts errors or omissions of the Administrative Board, Operations Board, Facility Director and or staff, while acting within the scope of their authority under this SCORE Formation Interlocal Agreement shall be borne by SCORE exclusively.

**Section 23. Counterparts**

This SCORE Formation Interlocal Agreement may be executed in any number of counterparts, each of whom shall be an original, but those counterparts will constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this SCORE Formation Interlocal Agreement as of the day and year first written above.

CITY OF AUBURN

By: \_\_\_\_\_

*Mayor*

CITY OF RENTON

By: \_\_\_\_\_

*Mayor*

CITY OF DES MOINES

By: \_\_\_\_\_

*City Manager*

CITY OF TUKWILA

By: \_\_\_\_\_

*Mayor*

CITY OF FEDERAL WAY

By: \_\_\_\_\_

*Mayor*

CITY OF BURIEN

By: \_\_\_\_\_

*City Manager*

CITY OF SEATAC

By: \_\_\_\_\_

*City Manager*