



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 13, 2016

Ordinance 18441

Proposed No. 2016-0119.2

Sponsors Upthegrove, Balducci and Kohl-
Welles

1 AN ORDINANCE approving an agreement between King
2 County and 4Culture on how the preservation action fund
3 will be administered and governed in accordance with the
4 2015/2016 Budget Ordinance, Ordinance 17941, Section
5 74, as amended by Ordinance 18179, Section 2, Proviso P1.

6 STATEMENT OF FACTS:

- 7 1. Through Ordinance 18181, the King County council authorized the
8 executive to enter into the Agreement for Implementation of the Building
9 for Culture Program by and between King County and 4Culture, which
10 was executed on December 2, 2015.
- 11 2. Through Ordinance 18179, the King County council amended
12 Ordinance 17941, Sections 74 and 92 to make a supplemental budget
13 appropriation of \$28,000,000 to the cultural development authority, which
14 is also known as 4Culture, and \$500,000 to the historic preservation
15 program for the building for culture program.
- 16 3. Ordinance 18179, which amended the 2015/2016 Biennial Budget
17 Ordinance, Ordinance 17941, Sections 74 and 92, stated in Section 2,
18 Proviso P1, that \$2,000,000 of the \$28,000,000 budget appropriation shall
19 be expended or encumbered solely for the preservation action fund. Of

20 that amount, funds shall not be encumbered or expended until the
21 executive transmits an agreement between the county and 4Culture on
22 how the preservation action fund will be administered and governed.

23 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

24 SECTION 1. Findings:

25 A. Saving and preserving threatened buildings or sites of historic or architectural
26 significance provides important benefits to the preservation of the arts and cultural
27 heritage of King County and promotes tourism.

28 B. Long-standing local examples of historic and architectural heritage
29 preservation that have successfully promoted significant tourism include Pioneer Square
30 and the Pike Place Market.

31 C. The preservation action fund will make it possible to provide similar public
32 benefits through heritage preservation in additional communities in King County.

33 SECTION 2. In accordance with Ordinance 18179, Section 2, Proviso P1, the
34 agreement between King County and 4Culture for the administration and governance of
35 the preservation action fund, as detailed in Attachment A to this ordinance, is hereby
36 approved.

37 SECTION 3. The executive shall submit an annual report on progress and
38 spending on the preservation action fund. The executive shall file the annual report and a
39 motion accepting the report by September 1 of each year until the preservation action
40 fund is terminated, in the form of a paper original and an electronic copy with the clerk of
41 the council, who shall retain the original and provide an electronic copy to all

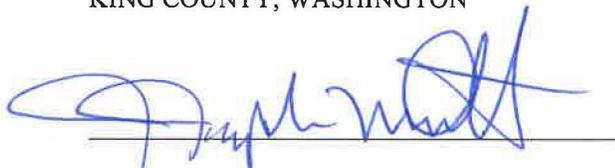
42 councilmembers, the council chief of staff and the lead staff for the committee of the
43 whole, or its successor.

44

Ordinance 18441 was introduced on 2/22/2016 and passed as amended by the Metropolitan King County Council on 12/12/2016, by the following vote:

Yes: 8 - Mr. von Reichbauer, Mr. Gossett, Ms. Lambert, Mr. Dunn,
Mr. McDermott, Mr. Dembowski, Ms. Kohl-Welles and Ms. Balducci
No: 1 - Mr. Upthegrove
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



J. Joseph McDermott, Chair

ATTEST:



Melani Pedroza, Acting Clerk of the Council

APPROVED this 23rd day of December, 2016.



Dow Constantine, County Executive

RECEIVED
2016 DEC 23 PM 3:26
KING COUNTY COUNCIL CLERK

Attachments: A. Agreement for Administration and Governance of the Preservation Action Fund Program By and Between King County and 4Culture, Updated December 12, 2016

**AGREEMENT FOR
ADMINISTRATION AND GOVERNANCE
OF THE PRESERVATION ACTION FUND PROGRAM
BY AND BETWEEN
KING COUNTY AND 4CULTURE**

This Agreement for Administration and Governance of the Preservation Action Fund (“Agreement”) is made by and between King County (the “County”), a municipal corporation, political subdivision of the State of Washington and home rule charter County, and the Cultural Development Authority of King County (“4Culture”), a public authority established by the County, both of which may be referred to hereinafter individually as a “Party” or collectively the “Parties”.

RECITALS

WHEREAS, through Ordinance 18181 the King County council authorized the Executive to enter into the Agreement for Implementation of the Building for Culture Program by and between King County and 4Culture, which was executed on December 2, 2015, and

WHEREAS, through Ordinance 18179, the King County council amended Ordinance 17941, Sections 74 and 92 to make a supplemental budget appropriation of \$28,00,000 to the cultural development authority (“4Culture”) and \$500,000 to the historic preservation program for the Building for Culture Program, and

WHEREAS, through Ordinance 18180, the King County council authorized issuance of one or more series of limited tax general obligation bonds of the county in an aggregate original principal amount not to exceed \$29,000,000 to provide financing for the Building for Culture Program and to pay the costs of issuing the bonds, and

WHEREAS, the Preservation Action Fund (“PAF”) is included in the list of approved projects to be funded by the Building for Culture Program, and

WHEREAS, \$2,000,000 allocated for the PAF will be used proactively to save properties either designated or eligible for designation as landmarks but threatened by damage, natural calamity and/or neglect, and

WHEREAS, saving and preserving threatened buildings or sites of historic or architectural significance provides important benefits to the preservation of the arts and cultural heritage of King County and promotes tourism, and

WHEREAS, Ordinance 18179 required the executive to develop an agreement between King County and 4Culture for administering the PAF funds, and this Agreement satisfies that requirement, and

WHEREAS, the PAF will be administered through a partnership between King County through the Historic Preservation Program at the Department of Natural Resources and Parks and 4Culture, in collaboration with Historic Seattle and the Washington Trust for Historic Preservation.

NOW, THEREFORE, the parties hereby agree to the following:

AGREEMENT

1. Definitions

All terms not otherwise defined herein shall have the meaning as provided in the Implementation Agreement.

Historic Seattle means that public development authority established by the City of Seattle in 1974 that, as its mission, acquires, rehabilitates, and preserves historic properties.

Implementation Agreement means that Agreement for Implementation of the Building for Culture Program by and between King County and 4Culture, executed on December 2, 2015 and attached at Exhibit A.

King County's Historic Preservation Program means that program within the King County Department of Natural Resources and Parks that as its mission, preserves and protects King County's significant historic and archaeological resources and enhances public access and appreciation of these resources.

King County Landmarks means historic resources designated and protected pursuant to KCC 20.62.070.

King County Landmarks Commission means the commission created by KCC 20.62.030 to designate and protect historic resources in King County.

PAF or Preservation Action Fund means that Project included in the list of approved Projects to be funded by the Building for Culture Program.

PAF Advisory Team means, collectively 4Culture, Historic Seattle, King County's Historic Preservation Program, and Washington Trust for Historic Preservation.

PAF Projects means each of the Building for Culture projects selected by consensus by the PAF Advisory Team using the criteria described in Exhibit C for Preservation Action Fund funding.

Preservation Easement means the voluntary donation of all or part of a historic property to a nonprofit or government entity to provide tax benefits to the property owner and to ensure protection of the property in perpetuity.

Washington Trust for Historic Preservation means that organization, established in 1976, that, as its mission, helps make local preservation work through advocacy, education, collaboration, and stewardship.

2. Purpose of Agreement

The purpose of this Agreement is to set forth the terms and conditions under which the Preservation Action Fund ("PAF") will be administered and governed through a partnership by and between King County and 4Culture, as required under Ordinance 18179. 4Culture will enter into a further agreement to implement the PAF, in collaboration with Historic Seattle.

3. Term of Agreement

This Agreement will be effective for at least so long as taxable Bonds are outstanding. After such time as the taxable Bonds are no longer outstanding, this Agreement may be terminated by either Party, with or without cause, and in either case without penalty, by providing the other Party to this Agreement with at least sixty (60) days prior written notice of such termination.

4. County's Responsibilities

4.1 Funding. The County shall provide Bond financing for the Building for Culture Program, which includes the Preservation Action Fund as a Project. Subject to this Agreement, the County shall transfer funding to 4Culture once the following conditions are met:

- (1) Finalization of an agreement by and between 4Culture and Historic Seattle regarding administration of the PAF; and
- (2) Confirmation to the County by 4Culture that Historic Seattle has the appropriate legal authority or will have the appropriate legal authority to administer PAF Projects outside the City of Seattle.

4.2 Compliance with Historic Landmark Requirements. The County shall confirm that all PAF Projects either meet landmarks criteria, or if located in cities that do not participate in King County's landmark program otherwise would meet the landmark designation criteria set forth in KCC 20.62.040.

5. 4Culture Responsibilities

4Culture shall: (i) provide fiscal management of the PAF; (ii) identify projects for PAF funding; (iii) review projects as described in the PAF description; (iv) negotiate and enter into an agreement with Historic Seattle that defines the terms and conditions by which the PAF will be administered; (v) monitor compliance by Historic Seattle with the terms of all agreements related to the PAF; and (vi) assist with program marketing and community outreach.

4Culture will create a separate PAF account in which to hold the \$2,000,000 as described in this Agreement. 4Culture will hold the PAF funds in this account and will only use those funds for PAF Project capital costs.

6. Projects

PAF Projects shall be selected by consensus of the PAF Advisory Team as more specifically described at Exhibit B. Eligible projects must fit within the scope of RCW 67.28.180.

7. General 4Culture Responsibilities

7.1 Agreement Required for Implementation of PAF

4Culture will enter into an agreement with Historic Seattle for administration of the PAF outlining the terms and conditions by which Historic Seattle will: (i) acquire, (ii) execute rehabilitation, and (iii) divest itself of PAF Projects or properties. This agreement will require Historic Seattle to:

- a. maintain all required insurance, stabilization, maintenance, and property/project management; and
- b. establish the appropriate legal authority to operate outside the City of Seattle and establish the appropriate authority to operate in unincorporated King County and any other cities that have likely PAF projects; and
- c. place a preservation easement substantially in a form approved by the County after review by the Office of the Prosecuting Attorney on the PAF Project or property and hold the easement to ensure protection of the property in perpetuity; and

- d. once a PAF Project is complete, Historic Seattle will market and sell the rehabilitated property and return all proceeds from the property sale to 4Culture for placement in the PAF to be used for future projects. If the PAF holds more than five million dollars in proceeds from the sale of renovated properties, 4Culture must not initiate additional projects under the PAF until such time as the King County Council has approved by ordinance a new PAF Agreement between 4Culture and King County.

7.2 Agreements. All Building for Culture Program agreements related to the PAF shall include the following:

A. Implementation Agreement provision as follows:

This contract shall be consistent with the Agreement for Implementation of the Building for Culture Program by and between King County and 4Culture (“Implementation Agreement”), executed on December 2, 2015. Any conflict or inconsistency shall be resolved in favor of the Implementation Agreement.

B. The County’s required nondiscrimination provision as follows:

During the performance of this agreement borrower agrees that it shall not discriminate on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualifications. Notwithstanding the definition of contract as set forth in K.C.C. chapter 12.19, as amended, the provisions of that chapter and related administrative rules shall apply to this agreement and are incorporated herein by this reference. They are also available online at:

http://kingcounty.gov/operations/procurement/services/equal_benefits.aspx

Contracting parties shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, chapter 49.60 RCW, and Titles VI and VII of the Civil Rights Act of 1964. Any violation of this provision shall be considered a default of this agreement and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the agreement and may result in ineligibility for further agreements with King County and/or 4Culture.

7.2 Operations. 4Culture shall maintain a high standard of care, conduct its operations in an efficient manner and faithfully perform and do all things necessary so that the County may observe and perform all conditions, covenants, and requirements of the Bond Ordinance.

7.3 Warranty. 4Culture warrants that it is authorized to enter into this Agreement, and any of the other agreements between 4Culture, the County and other entities to carry out the terms of this Agreement.

7.4 Compliance with Historic Landmark Requirements. In jurisdictions with a historic preservation ordinance, 4Culture shall ensure that a landmark nomination and subsequent applications for certificates of appropriateness for any alterations to character defining features of the property are submitted to the County or other local jurisdiction in which the PAF Project is located and that PAF Projects comply with any additional federal, state, and local requirements during which time the property is owned by Historic Seattle.

8. Reporting

8.1 Reports. Annually, beginning June, 2016, 4Culture shall submit a report to the Office of Performance, Strategy and Budget as well as the County Council detailing the status of each PAF Project.

8.2 Access to Records; Audits. The County and its designated agents shall have access at any time during normal business hours and as often as necessary to any bank account and 4Culture books, records, documents, accounts, files, reports and other property and papers of 4Culture relating to the PAF Projects

funded by the Building for Culture Program as described in this Agreement for the purpose of making audits, surveys, examinations, excerpts, and transcripts.

4Culture shall have an annual audit of its operations conducted. The audit will be conducted by the Washington State Auditor's Office or an independent certified public accountant, and the auditor shall determine whether:

- A. The financial statements of 4Culture present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;
 - B. 4Culture has internal accounting and other control systems to provide reasonable assurance that it is managing bond proceeds in compliance with applicable laws and regulations; and
 - C. 4Culture has complied with laws and regulations that have material effect on its financial statements.
- The audit shall be submitted to the County within 30 days after 4Culture receives the audit report, or six months after the close of 4Culture's fiscal year, whichever occurs first.

8.3 Annual Certification. Commencing with the sale of the Bonds, 4Culture shall submit an annual certification to the County's Finance and Business Operations Division to the effect that 4Culture is not in default of any of its obligations, covenants or undertakings under this Agreement or alternatively, if 4Culture is in default of any of its obligations, covenants or undertakings under this Agreement, explaining the nature thereof and specifying the steps being taken to remedy the same.

9. Default

9.1 Default of 4Culture.

- A. An "Event of Default" shall be deemed to occur if:
 - (i) 4Culture fails to perform any of the obligations of this Agreement for more than 30 days after receipt of written notice of such failure; provided, however, if the default is of such a nature that it cannot reasonably be cured within such 30-day period, then 4Culture shall not be in default, so long as it commences cure within such 30-day period and thereafter diligently pursues cure to completion within a time period acceptable to the County;
 - (ii) 4Culture dissolves or becomes insolvent;
- B. Default Remedies. In the Event of Default, the County shall have the right to any or all of the following remedies at its option:
 - (i) The County may require 4Culture to pay the County the amount necessary to redeem any outstanding Bonds as of the next immediately occurring Bond redemption date (as described in the Bond Ordinance) following the date the County is notified of 4Culture's Event of Default, and any additional amounts necessary to fulfill the indemnification requirements set forth herein.
 - (ii) The County may institute suit for damages for specific performance and nothing herein shall be deemed to impair or limit in any way any legal rights or remedies of the County.

10. General Provisions

10.1 Relationship of the Parties. The Parties have entered into this Agreement only for the purpose set forth in Section 2. Neither of the Parties is an employee, agent, partner, or joint venture with the other. None of the Loan Recipients or other entities with whom 4Culture may contract or be associated in any way is an employee, agent, partner, or joint venture with the County.

10.2 Binding on Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the 4Culture.

10.3 Notices. Any notice, consent, demand, or other communication hereunder shall be in writing and shall be deemed to have been given if delivered in person or deposited in any United States Postal Service mailbox, sent by registered or certified mail, return receipt requested and first-class postage prepaid, addressed to the Party for whom it is intended as follows (as may be changed by written notice to the other Party pursuant to this provision):

4Culture: 4Culture Executive Director, 101 Prefontaine Pl S, Seattle, WA 98104

County: Ken Guy, Director of FBOD, 401 5th Avenue, CNK-ES-0300, Seattle, WA 98104

10.4 Interpretation. The section and subsection captions in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement. Any conflict as between this Agreement and the Implementation Agreement shall be resolved in favor of the Implementation Agreement.

10.5 Severability. Each provision of this Agreement is severable from all other provisions. In the event any court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable for any reason, all remaining provisions will remain in full force and effect.

10.6 Amendment. This Agreement may not be amended or modified except by written instrument signed by the Parties and approved by the King County Council.

10.7 Non-waiver. No failure or delay on the part of the County in exercising any of its rights and remedies hereunder or otherwise shall constitute a waiver thereof, and no single or partial waiver by the County of any default or other right or remedy which it may have shall operate as a waiver of any other default, right, or remedy or of the same default, right or remedy on a future occasion.

10.8 Entire Agreement. This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior oral and written understandings, agreements, or other undertakings between the Parties.

10.9 Time. Time is of the essence with respect to the performance of all obligations of this Agreement.

10.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The venue of any suit or arbitration arising under this Agreement shall be in King County, Washington and if a lawsuit, in King County Superior Court.

10.11 Third Parties. Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the Parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.

IN WITNESS WHEREOF, authorized representatives of the Parties have signed their names in the spaces below.

KING COUNTY

4CULTURE

Christie True
Department Director, Natural Resources & Parks

Jim Kelly
4Culture Executive Director

Date: _____

Date: _____

EXHIBIT A to Attachment A

**AGREEMENT FOR IMPLEMENTATION OF THE
BUILDING FOR CULTURE PROGRAM
BY AND BETWEEN
KING COUNTY AND 4CULTURE**

This Agreement for Implementation of the Building for Culture Program (“Agreement”) is made by and between King County (the “County”), a municipal corporation, political subdivision of the State of Washington and home rule charter county, and Cultural Development Authority of King County (“4Culture”), a public authority established by the County, both of which may be referred to hereinafter individually as a “Party” or collectively the “Parties.”

RECITALS

WHEREAS, King County Motion 14406 provided for a plan to develop and approve a partnership between King County and 4Culture to create a debt financed arts, cultural, heritage and preservation capital program to build, maintain, expand, preserve and improve new and existing cultural facilities.

WHEREAS, after consultation and discussion with 4Culture, the County seeks to provide bond funding through the Building for Culture Program for the Projects described at Exhibit A with a budget of \$28.5 million.

AGREEMENT

The County and 4Culture agree as follows:

1. Definitions

4Culture means the Cultural Development Authority of King County, a public authority, established by the County.

Agreement means this agreement between the County and 4Culture.

Arts and Cultural Development Fund means the County fund defined in K.C.C. 4A.200.140 and used exclusively for the purposes established in K.C.C. chapters 4.40, 2.46, 2.48 and 2.49.

Bonds means limited tax general obligation bonds of the County issued to provide financing for the Building for Culture Program and to pay costs of issuing the Bonds.

Bond Ordinance means the ordinance enacted by the County authorizing the issuance and sale of the Bonds.

Building for Culture Program means the partnership between the County and 4Culture to provide capital grant funding to arts, cultural, heritage and preservation nonprofit organizations, local public agencies and owners of designated historic structures within the county.

Code means the federal Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue

rulings issued or amended with respect thereto by the United States Treasury Department or the Internal Revenue Service.

County means King County, a municipal corporation, political subdivision of the State of Washington and home rule charter county.

County Council means the body as established by Article 2 of the King County Charter.

County Executive or Executive means the County Executive of King County as established by Article 3 of the King County Charter.

FBOD means the Finance and Business Operations Division of the Department of Executive Services of the County.

Grant means a grant of Bond proceeds made pursuant to the Building for Culture Program.

Grant Agreement means a written agreement for Grant funding between each Grant Recipient and 4Culture.

Grant Recipient means a recipient of a Grant.

Hotel-Motel Tax Revenues means all of those revenues generated by the tax authorized by RCW 67.28.180.

K.C.C. means King County Code.

Project means each of the Building for Culture projects listed in Exhibit A, as adopted by the County Council.

RCW means the Revised Code of Washington.

Series or Series of Bonds means a series of Bonds issued pursuant to the Bond Ordinance.

Taxable Bonds means Bonds of any series determined to be issued on a taxable basis pursuant to the Bond Ordinance.

Tax-Exempt Bonds means Bonds of any series determined to be issued on a tax-exempt basis pursuant to the Bond Ordinance.

2. Purpose of Agreement

The purpose of this Agreement is to set forth the terms and conditions under which to develop and implement the County-funded Building for Culture Program.

3. Term of Agreement

This Agreement shall be effective when executed by both Parties and shall remain in effect for fifteen (15) years following the first date of issuance of any Series of Bonds, or the longest term of any Series of Bonds, whichever is longer.

4. County's Responsibilities

The County shall: provide Bond financing for the Building for Culture Program.

5. 4Culture Responsibilities

4Culture shall: (i) solicit proposals for grant funding; (ii) review such grant proposals as described in the Building for Culture Program description; (iii) develop recommendations for grant funding to be approved by the 4Culture board of directors; and (iv) provide any necessary information or documentation that County or its bond counsel request.

6. Projects

Exhibit A of this Agreement includes Projects that will be funded by the Building for Culture Program. If, (A) within eighteen (18) months following the date of issuance of the Bonds, a Project does not have an executed Grant Agreement, or (B) within twenty-four (24) months following the date of issuance of the Bonds, 4Culture advises the County that a Project with an executed Grant Agreement will not be able to expend all of its funds within thirty-six (36) months following the date of issuance of the Bonds or (C), any allocated funds remain unexpended upon the completion or termination of a Project then, in any such case, the list of Projects in Exhibit A to this Agreement may be amended by the County Council to reallocate those funds to any of the other Projects or such other tourism promotion, including arts and culture, capital projects as the County Council may determine. In the event funds are not reallocated, the County will use these funds to pay, redeem or defease Bonds. Any decrease in debt service as a result of the defeasance of bonds will be shared equally and prospectively between 4Culture and the County.

6.B. Notwithstanding any other provision of this agreement, the Barn Again Project listed in Exhibit A shall be administered and managed by King County's Department of Natural Resources and Parks Historic Preservation Program, including but not limited to solicitation of proposals for grant funding, review and determination of grant funding, provision of funding to projects, monitoring of compliance of projects awarded funding, and reporting.

6.C Notwithstanding any other provision of this Agreement, the Preservation Action Fund Project listed in Exhibit A shall be administered and managed in a manner to be agreed-to by King County and 4Culture subject to the approval of the County Council by motion.

7. General 4Culture Responsibilities

7.1 Grants and Contracts. All Grant Agreements shall include the County's required nondiscrimination provision as follows:

During the performance of this Grant Agreement, Grantee agrees that it shall not discriminate on the basis of sex, race, color, marital status, national origin, religious affiliation, disability, sexual orientation, gender identity or expression or age except by minimum age and retirement provisions, unless based upon a bona fide occupational qualifications. Notwithstanding the definition of contract as set forth in K.C.C. chapter 12.19, the provisions of that chapter and related administrative rules shall apply to this Grant Agreement and are incorporated herein by this reference. They are also available online at:

http://kingcounty.gov/operations/procurement/services/equal_benefits.aspx

Grantee shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, chapter 49.60 RCW, and Titles VI and VII of the Civil Rights Act of 1964. Any violation of this provision

shall be considered a default of this Grant Agreement and shall be grounds for cancellation, termination, or suspension, in whole or in part, of the Grant Agreement and may result in ineligibility for further agreements with King County and/or 4Culture.

7.2 Operations. 4Culture shall maintain a high standard of care, conduct its operations in an efficient manner and faithfully perform and do all things necessary so that the County may observe and perform all conditions, covenants, and requirements of the Bond Ordinance.

7.3 Warranty. 4Culture warrants that it is authorized to enter into this Agreement, and any of the other agreements between 4Culture, the County and other entities to carry out the terms of this Agreement.

7.4 Compliance with Historic Landmark Requirements. 4Culture shall provide the County with verification that the plans and specifications for any Projects that are for historic preservation of historic landmarks meet the requirements of any federal, state, and local authority having jurisdiction.

8. Building for Culture Program Funding.

8.1 Building for Culture Program Funding.

8.1.1 4Culture. 4Culture is entitled to receive certain Hotel-Motel Tax Revenue. Through December 31, 2015, and from 2021-2030 4Culture shall annually reserve a portion of its share of the Hotel-Motel Tax Revenue sufficient to pay its agreed upon debt service on the Bonds.

8.1.2 County. The County is entitled to receive certain Hotel-Motel Tax Revenue. From 2021-2030, the County shall reserve annually a portion of its share of the Hotel-Motel Tax Revenue sufficient to pay its agreed upon debt service on the Bonds issued to fund the Building for Culture Program.

8.2 4Culture Funding, 2016-2020. In 2016 4Culture shall allocate and pay the sum of \$1 million to the County.

8.3 4Culture Funding, 2017-2020. Annually, from 2017 through 2020, 4Culture shall allocate and pay the sum of \$2 million to the County.

8.4 4Culture Funding, 2021-2030. Annually, from 2021 through 2030, 4Culture shall allocate and pay the sum of \$300,000 to the County.

8.5 Timing for Funding. Each periodic payment due from 4Culture to the County shall be paid to the County on a date determined by the County that is before the County's debt service payment date for the Bonds.

8.6 Funding as of January 21, 2021. As of January 1, 2021, the County is entitled to receive a portion of the Hotel-Motel Tax Revenue to be dedicated to tourism promotion,

including arts and culture. The County shall allocate a portion of these revenues to pay the outstanding principal of and interest on any County financing for the Building for Culture Program.

8.7 Impact of a reduction in debt service. If the debt service charges are reduced as a result of redemption or defeasance of the bonds with unused bond proceeds, then the reduction in debt service will be shared equally between 4Culture and the County. The resulting reduction in debt service will impact the debt service prospectively.

9. Building for Culture Program Administration

9.1 Grant Agreements. 4Culture shall negotiate and enter into a written Grant Agreement with each Grant Recipient for its Project(s). 4Culture will submit to the County a copy of the executed complete Grant Agreement for each Project prior to requesting Bond proceeds from the County to fund the related Grant.

9.2 Distribution of Bond Proceeds. Upon receiving a copy of the executed Grant Agreement for a Project, together with a written request for funding from 4Culture, the County will transfer sufficient bond proceeds to 4Culture to fund the Grant for that Project.

9.3 Grant Funding. Upon receiving funding for a Grant from the County, 4Culture shall distribute such Grant funding to the appropriate Grant Recipient consistent with its Grant Agreement.

9.4 Project Monitoring. 4Culture shall monitor compliance by each Grant Recipient with the terms of each Grant Agreement.

10. Building for Culture Program Expenses

To the extent 4Culture incurs capitalizable administrative expenses related to the Building for Culture Program, including the selection of Projects, on or before issuance of the Bonds, those expenses will be reimbursed from Bond proceeds, in a total amount not exceeding \$50,000.

11. Reporting

11.1 Reports. Annually, beginning June, 2016, 4Culture shall submit a report to the Office of Performance, Strategy and Budget as well as the County Council detailing the status of each Project that received a Grant.

11.2 Access to Records; Audits. The County and its designated agents shall have access at any time during normal business hours and as often as necessary to any bank account and 4Culture books, records, documents, accounts, files, reports and other property and papers of 4Culture relating to the Projects funded by the Building for

Culture Program as described in this Agreement for the purpose of making audits, surveys, examinations, excerpts, and transcripts.

4Culture shall have an annual audit of its operations conducted. The audit will be conducted by the Washington State Auditor's Office or an independent certified public accountant, and the auditor shall determine whether:

- D. The financial statements of 4Culture present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;
- E. 4Culture has internal accounting and other control systems to provide reasonable assurance that it is managing bond proceeds in compliance with applicable laws and regulations; and
- F. 4Culture has complied with laws and regulations that have material effect on its financial statements.

The audit shall be submitted to the County within 30 days after 4Culture receives the audit report, or six months after the close of 4Culture's fiscal year, whichever occurs first.

11.3 Annual Certification. Commencing with the sale of the Bonds, 4Culture shall submit an annual certification to the County's Finance and Business Operations Division to the effect that 4Culture is not in default of any of its obligations, covenants or undertakings under this Agreement or alternatively, if 4Culture is in default of any of its obligations, covenants or undertakings under this Agreement, explaining the nature thereof and specifying the steps being taken to remedy the same.

12. Issuance of Bonds

12.1 Conditions of Bonds. Subject to the terms of this Agreement, the County agrees to issue not less than \$25,800,000 nor more than \$29,000,000 in Bonds to provide financing for the Building for Culture Program and to pay costs of issuing the Bonds (not less than \$25,300,000 nor more than \$28,500,000 for the Building for Culture Program, up to \$450,000 for Bond issuance costs, and up to \$50,000 for capitalizable 4Culture preissuance expenses). The Bonds shall mature in not greater than fifteen (15) years. The County shall not adopt a Bond Ordinance nor issue Bonds prior to authorization and execution of this Agreement by both Parties, as well as County Council approval of the Projects, all of which may be done simultaneously.

12.2 Bond Proceeds.

12.2.1 Bond proceeds shall only be used to make Grants for the Projects and to pay capitalizable costs of 4Culture for administering the Building for Culture Program.

12.2.2 All proceeds from the sale of any Tax-Exempt Bonds and any investment earnings thereon shall be deposited by FBOD into the 2016 Tax-Exempt G.O. Bonds Building for Culture Subfund of the Arts and Cultural Development Fund. All proceeds from the sale of any Taxable Bonds and any investment earnings thereon shall be deposited by FBOD into the 2016 Taxable G.O. Bonds Building for Culture Subfund of the Arts and Cultural Development Fund.

12.2.3 The County, through FBOD, shall be responsible for transferring these funds to 4Culture. 4Culture will manage and disperse these funds to the Grant Recipients consistent with their respective Grant Agreements and the Building for Culture Program.

12.2.4 The County shall be responsible for arbitrage calculations and related actions required by the Code, to ensure compliance with applicable arbitrage regulations.

12.3 Disposition of Remaining Monies

The Bond Ordinance shall provide that the Building for Culture Program may be modified where deemed advisable or necessary in the judgment of the County Council, and implementation or completion of any component thereof will not be required if the County Council determines that it has become inadvisable or impractical. If all components of the Building for Culture Program have been completed, or their completion has been duly provided for, or completion of all or any of them is found by the County Council to be inadvisable or impractical, the County may pay, redeem or defease Bonds, or apply any remaining proceeds of the Bonds, or any portion thereof, to the acquisition or improvement of other tourism promotion, including arts and culture, capital projects as the County Council may determine. In the event that the proceeds of the sale of the Bonds, plus any other money of the County legally available therefor, are insufficient to accomplish all components of the Building for Culture Program, the County shall use the available funds to finance those components of the Building for Culture Program deemed by the County Council to be most necessary and in the best interest of the County.

13. Federal Tax Law Covenants

13.1 Preservation of Tax-Exempt Status

In the event the County issues Tax-Exempt Bonds to provide funds for the Building for Culture Program, and in addition to the requirements set forth above, as long as the Bonds are outstanding:

A. 4Culture and the County will take all actions necessary to prevent interest on any Tax-Exempt Bonds from being included in gross income for federal income tax purposes, and they will neither take any action nor make or permit any use of proceeds from the sale of such Tax-Exempt Bonds (or of any other funds that may be deemed to be proceeds of such Tax-Exempt Bonds pursuant to Section 148 of the Code), at any time during the term thereof, that will cause interest on such Tax-Exempt Bonds to be included in gross income for federal income tax purposes.

B. 4Culture and the County will, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to any Tax-Exempt Bonds, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with such Tax-Exempt Bonds, including the calculation and payment of any penalties that the County has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on such Tax-Exempt Bonds from being included in gross income for federal income tax purposes.

C. 4Culture and the County will: (i) provide certificates required by bond counsel or in accordance with the Code, when any Series of Tax-Exempt Bonds is sold and/or later, in order to establish or maintain the tax exempt status of such Tax-Exempt Bonds; (ii) comply with changes in applicable provisions of the Code or regulations promulgated thereunder in order to preserve the tax exempt status of any Tax-Exempt Bonds; (iii) comply with any requirements imposed in the Code in order to preserve the tax exempt status of any Tax-Exempt Bonds; and (iv) cooperate in any examination or audit of any Tax-Exempt Bonds by the Internal Revenue Service, including disclosure of any records, contracts, and other materials required by the Internal Revenue Service, as may be required to establish or preserve such exemption or as may be required by the Code.

13.2 Indemnification. To the extent permitted by law, and except to the extent caused by the sole negligence of the County, 4Culture agrees, at its expense, to pay, and to indemnify and hold the County, its officers, employees or agents harmless of, from and against, any and all claims, damages, demands, losses, liens, liabilities, penalties, fines, taxes, lawsuits and other proceedings and costs and expenses (including attorneys' fees) of every conceivable kind, character or nature whatsoever, arising directly or indirectly from or out of, or in any way connected with any examination or audit of any Tax-Exempt Bond by the Internal Revenue Service, or any determination by the Internal Revenue Service or a court of competent jurisdiction that the interest on any Tax-Exempt Bond is or should be subject to federal income taxation; provided, however, that 4Culture shall not be liable for any payment made by the County with respect to any settlement of any such examination or audit, or of any other proceeding related thereto, entered into without the consent of 4Culture.

14. Default

14.1 Default of 4Culture.

- C. An "Event of Default" shall be deemed to occur if:
- (iii) 4Culture fails to perform any of the obligations of this Agreement for more than 30 days after receipt of written notice of such failure; provided, however, if the default is of such a nature that it cannot reasonably be cured within such 30-day period, then 4Culture shall not be in default, so long as it commences cure within such 30-day period

and thereafter diligently pursues cure to completion within a time period acceptable to the County;

- (iv) 4Culture dissolves or becomes insolvent;
- (v) Acts or omissions of 4Culture cause the interest on any Tax-Exempt Bond to become subject to federal income taxation.

D. Default Remedies.

- (iii) In the Event of Default resulting in any Tax-Exempt Bonds becoming taxable, the County shall have the remedy of the indemnification provisions set forth herein;
- (iv) In the Event of Default, the County shall have the right to any or all of the following remedies at its option:
 - a. The County may require 4Culture to pay the County the amount necessary to redeem any outstanding Bonds as of the next immediately occurring Bond redemption date (as described in the Bond Ordinance) following the date the County is notified of 4Culture's Event of Default, and any additional amounts necessary to fulfill the indemnification requirements set forth herein.
 - b. The County may institute suit for damages for specific performance and nothing herein shall be deemed to impair or limit in any way any legal rights or remedies of the County.

15. General Provisions

15.1 Relationship of the Parties. The Parties have entered into this Agreement only for the purpose set forth in Section 2. Neither of the Parties is an employee, agent, partner, or joint venture with the other. None of the Grant Recipients or other entities with whom 4Culture may contract or be associated in any way is an employee, agent, partner, or joint venture with the County.

15.2 Binding on Successors and Assigns. This Agreement shall be binding upon the successors and assigns of the 4Culture.

15.3 Notices. Any notice, consent, demand, or other communication hereunder shall be in writing and shall be deemed to have been given if delivered in person or deposited in any United States Postal Service mailbox, sent by registered or certified mail, return receipt requested and first-class postage prepaid, addressed to the Party for

whom it is intended as follows (as may be changed by written notice to the other Party pursuant to this provision):

4Culture: 4Culture Executive Director, 101 Prefontaine Pl S, Seattle, WA 98104

County: Ken Guy, Director of FBOD, 401 5th Avenue, CNK-ES-0300, Seattle, WA 98104

15.4 Interpretation. The section and subsection captions in this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

15.5 Severability. Each provision of this Agreement is severable from all other provisions. In the event any court of competent jurisdiction determines that any provision of this Agreement is invalid or unenforceable for any reason, all remaining provisions will remain in full force and effect.

15.6 Amendment. This Agreement may not be amended or modified except by written instrument signed by the Parties and approved by the King County Council.

15.7 Non-waiver. No failure or delay on the part of the County in exercising any of its rights and remedies hereunder or otherwise shall constitute a waiver thereof, and no single or partial waiver by the County of any default or other right or remedy which it may have shall operate as a waiver of any other default, right, or remedy or of the same default, right or remedy on a future occasion.

15.8 Entire Agreement. This Agreement contains the entire agreement and understanding of the Parties with respect to the subject matter hereof, and supersedes all prior oral and written understandings, agreements, or other undertakings between the Parties.

15.9 Time. Time is of the essence with respect to the performance of all obligations of this Agreement.

15.10 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. The venue of any suit or arbitration arising under this Agreement shall be in King County, Washington and if a lawsuit, in King County Superior Court.

15.11 Third Parties. Except as expressly provided herein, nothing in this Agreement shall be construed to permit anyone other than the Parties hereto and their successors and assigns to rely upon the covenants and agreements herein contained nor to

give any such third party a cause of action (as a third-party beneficiary or otherwise) on account of any nonperformance hereunder.

IN WITNESS WHEREOF, authorized representatives of the Parties have signed their names in the spaces below.

KING COUNTY

4CULTURE

King County Executive

Date: _____
Date: _____

EXHIBIT A**LIST OF APPROVED PROJECTS**

Project Organization	Project Funding
5th Avenue Theatre Association	\$217,645
A Contemporary Theatre (ACT)	\$60,000
Admiral Cinema LLC	\$95,000
Auburn Masonic Temple (King Solomon 60)	\$53,318
Barn Again	\$500,000
Bing Kung Bo Leung Incorporated	\$182,379
Blessed Sacrament Church	\$100,000
Burke Museum Association	\$1,400,000
Center for Wooden Boats	\$300,000
Central Area Senior Center	\$27,500
Chong Wa Benevolent Association	\$100,000
City of Auburn	\$200,000
City of Bellevue Parks and Community Services	\$75,000
City of Burien	\$10,000
City of Des Moines Parks and Recreation Department	\$33,000
City of Duvall	\$40,000
City of Federal Way	\$2,000,000
City of Shoreline Parks, Recreation & Cultural Services	\$20,000
City of Tukwila Parks and Recreation Department	\$200,000
Coyote Central	\$17,500
Craig Glazier	\$62,341
Delridge Neighborhood Development Association	\$100,000
Delta Masonic Temple Inc.	\$83,000
Dennis Schilling	\$45,190
Dock Street Properties LLC	\$90,000
Duvall Foundation for the Arts	\$420,000
El Centro de la Raza	\$222,000
Enumclaw Expo and Event Center	\$77,026
Eritrean Association In Greater Seattle	\$75,000
Evergreen City Ballet	\$5,000
Freehold Theatre Lab Studio	\$75,000
Friends of Jimi Hendrix Park	\$200,000
Friends of KEXP	\$1,000,000
Friends of Mukai	\$100,000
Good Ground	\$25,000
Highline Historical Society	\$1,000,000
Historic Seattle	\$986,000
Holocaust Center for Humanity	\$150,000
Ilze Jones	\$80,500
Jack Straw Productions	\$68,000

James Ackley	\$200,000
James and Janie Washington Foundation	\$30,000
Japanese Cultural and Community Center of Washington	\$32,500
KidsQuest Children's Museum	\$1,000,000
Kirkland Arts Center	\$75,000
Kenmore Community Club	\$10,000
Kong Yick Investment Company Incorporated	\$36,937
Mini Mart City Park	\$200,000
Mount Baker Park Presbyterian Church	\$25,000
Museum of Flight	\$650,000
Museum of History and Industry	\$100,000
Music Works Northwest	\$50,000
Nordic Heritage Museum	\$1,000,000
Northwest African American Museum	\$75,000
Northwest Film Forum	\$50,000
Northwest Railway Museum	\$150,000
On the Boards	\$12,450
Pacific Hospital Preservation & Development Authority	\$50,000
Pacific Northwest Ballet	\$400,000
Pacific Science Center Foundation	\$136,322
Paul Barry	\$75,000
Performing Arts Center Eastside	\$1,200,000
Phinney Neighborhood Association	\$47,945
Pottery Northwest	\$11,300
Pratt Fine Arts Center	\$600,000
Preservation Action Fund	\$2,000,000
Puget Sound Access / Carco Theatre	\$30,000
Renton Historical Society	\$20,500
Richard Hugo House	\$205,000
Richmond Masonic Center Association	\$14,000
Robert S. Yerkes	\$34,947
Sammamish Heritage Society	\$43,600
Sea Mar Community Health Centers	\$220,000
Seattle Art Museum	\$1,400,000
Seattle Children's Theater	\$84,000
Seattle City Light (Environmental Affairs)	\$100,000
Seattle Opera	\$3,000,000
Seattle Rep	\$200,000
Seattle Symphony Orchestra	\$200,000
Seattle Theatre Group	\$246,042
Shoreline Historical Museum	\$250,000
Si View Metropolitan Park District	\$150,000
SIFF	\$200,000
Skykomish Masonic Temple	\$34,790
SouthEast Effective Development (SEED)	\$115,000

Steamer Virginia V Foundation	\$40,000
Town Hall Association	\$1,200,000
Town of Skykomish	\$48,000
University Heights Center for the Community Association	\$23,000
Vashon Allied Arts	\$1,000,000
Vashon-Maury Island Heritage Association	\$20,000
Velocity Dance Center	\$27,000
Village Theatre	\$175,000
Voice of Vashon	\$22,750
Wa Sang Foundation	\$62,550
Washington State Jewish Historical Society	\$7,500
Washington State Labor Council	\$69,345
Washington Trust for Historic Preservation	\$100,000
Wayne Gullstad	\$136,839
White River Valley Museum	\$175,000
Wing Luke Museum of the Asian Pacific American Experience	\$20,000
Women's University Club of Seattle Foundation	\$29,000

EXHIBIT B to Attachment A

Project Selection

Selection of PAF Projects shall be consistent with the goals and mission of the PAF Project selection criteria as follows:

1. Properties and projects under consideration must further the PAF's mission by saving and preserving a threatened building or site of historic or architectural significance.
2. Consensus must be reached by the four participating members of the PAF Advisory Team for a project to be selected. If no consensus is reached, then 4Culture shall determine the PAF Projects.
3. The PAF Advisory Team will evaluate feasibility of potential PAF Projects based on the following selection goals, objectives and criteria described below:
 - A. Identify, acquire, rehabilitate, and ensure long-term protection of threatened historic properties that contribute to the local communities' sense of place and provide tangible public benefits;
 - B. Rehabilitate historic properties to provide a viable economic use;
 - C. Select properties that after rehabilitation have high probability of being sold at cost on the open market;
 - D. Stimulate economic development opportunities in local communities;
 - E. Seek partnerships with and support from members of the community in which the property is located to leverage additional resources; and
 - F. Generate enthusiasm for historic preservation among community members, public officials and citizens of King County.

The following criteria will be used to determine PAF Project feasibility by the PAF Advisory Team in making its recommendations to 4Culture:

- A. ProForma analysis based upon market income and expense
- B. Predicted valuation of property pre- and post- rehabilitation
- C. Market condition analysis
- D. Sources and Uses analysis based upon practical sources of income and verifiable use of funds for purchase and rehabilitation
- E. Project Staffing and Development Team
- F. SWOT (Strengths, Weaknesses, Opportunities and Threats) Analysis
- G. Operations Plan
- H. Exit Strategy

All properties in the PAF shall be protected by one of the following mechanisms:

- (i) be designated a King County Landmark;
- (ii) be designated a landmark in a suburban city with which King County has an interlocal agreement to provide landmark services;
- (iii) be designated a landmark in a city within King County that has its own preservation program (other than the City of Seattle); or,
- (iv) if located in a city that does not participate in King County's landmark program, would otherwise meet the landmark designation criteria set forth in KCC 20.62.040

In addition, all properties in the PAF must be under a historic preservation easement placed on the property and held by Historic Seattle.

EXHIBIT C to Attachment A

PAF Mission, Goals, and Guiding Principles

1. Mission. The PAF program's mission is to proactively and creatively preserve King County's historic buildings and sites, to promote appreciation of local heritage, and to catalyze economic development and tourism promotion in local communities.

2. Goals. The PAF will be used to accomplish the following goals:

- A. Preserve King County Heritage by:
 - Saving threatened historic buildings and sites through acquisition and rehabilitation
 - Highlighting the importance of preserving historic buildings in local communities
 - Promoting local history
 - Increasing local awareness of and affiliation with all participating historic preservation partners
 - Providing direct investment into communities through economically and environmentally sustainable preservation projects
 - Utilizing County landmark designation or consistency with landmark criteria, as well as permanent historic preservation easements to protect property and public investment

- B. Create and Seize Opportunities to Promote Economic Development
 - Create economic development and tourism promotion opportunities throughout King County, outside the City of Seattle
 - Provide trades-centered jobs
 - Provide opportunities for local business to locate within historic buildings
 - Provide opportunities for economically viable housing
 - Increase tax base to County and local municipalities
 - Utilize local materials, tradespeople, consultants and contractors
 - Utilize the fund as leverage for additional investment from non-public sources including private, corporate and foundation giving
 - Utilized the fund as leverage for additional equity from New Market, Historic, and Low Income Tax Credits

3. Guiding Principles. The PAF will be managed in accordance with the following guiding principles:

- Use the fund strategically to accomplish program goals
- Approach projects with caution exercising due diligence to determine financial viability
- Utilize well-reasoned development strategies based upon pre-determined project selection criteria and exit strategy
- Broaden support for historic preservation from local advocates, business leaders, elected officials and history organizations
- Explore a variety of projects both residential and commercial
- Focus on opportunities for partnerships with like-minded private and public entities to achieve multiple complimentary goals
- Revolve funds from one successful project to another while continually attracting additional leverage