

RESOLUTION NO. 190

**A RESOLUTION OF THE CITY OF UNIVERSITY PLACE, WASHINGTON,
AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL
AGREEMENT WITH THE CITY OF FIRCREST CONCERNING FIRCREST
ACRES**

WHEREAS, the Cities of Fircrest and University Place, Washington, have both attempted to annex that portion of unincorporated Pierce County which is commonly known as Fircrest Acres; and

WHEREAS, the Cities value their ongoing good working relationships and prefer to cooperate with each other concerning the annexation of Fircrest Acres rather than continuing to litigate the matter through the courts; and

WHEREAS, the Cities agree that they wish to maximize the opportunity for the registered voters of the Fircrest Acres area to exercise self determination in choosing to which City Fircrest Acres should be annexed; and

WHEREAS, the Cities agree to enter into an Interlocal Agreement to hold an annexation preference poll among the registered voters of the Fircrest Acres area and allow the City which receives the majority vote total to proceed with annexation: NOW THEREFORE,

**BE IT RESOLVED BY THE CITY COUNCIL OF UNIVERSITY PLACE AS
FOLLOWS:**

Section 1. Authorizing Interlocal Agreement with the City of Fircrest. The City Manager is authorized to execute an Interlocal Agreement with the City of Fircrest in the form attached.

Section 2. Authorizing the City Manager to Enter into a Settlement Agreement for the Fircrest Acres Appeal. The City Manager is hereby authorized to enter into a Settlement Agreement to resolve the City's appeal now pending in the Washington Court of Appeals to effectuate the intent of the City Council as reflected in the attached Interlocal.

Section 3. Effective Date. This Resolution shall take effect immediately upon adoption.

ADOPTED BY THE CITY COUNCIL ON OCTOBER 7, 1998


Debbie Klosowski, Mayor

ATTEST:


Susan Matthew, City Clerk

**An Interlocal Agreement Between the
Cities of Fircrest and University Place, Washington
Concerning the Annexation of Fircrest Acres, an
Unincorporated Area of Pierce County**

WHEREAS, the Cities of Fircrest and University Place, Washington, have both attempted to annex that portion of unincorporated Pierce County which is commonly known as Fircrest Acres; and

WHEREAS, there is presently an appeal pending before Division II of the Washington Court of Appeals relating to University Place's efforts to annex Fircrest Acres; and

WHEREAS, the Cities value their ongoing good working relationships and prefer to cooperate with each other concerning the annexation of Fircrest Acres rather than continuing to litigate the matter through the courts; and

WHEREAS, the Cities agree that they wish to maximize the opportunity for the registered voters of the Fircrest Acres area to exercise self determination in choosing to which City Fircrest Acres should be annexed; and

WHEREAS, the Cities agree to hold an annexation preference poll among the registered voters of the Fircrest Acres area and allow the City which receives the majority vote total to proceed with annexation: NOW THEREFORE,

PURSUANT TO RCW 39.34, THE INTERLOCAL COOPERATION ACT, AND OTHER GOVERNING AUTHORITY, THE CITIES OF FIRCREST AND UNIVERSITY PLACE AGREE AS FOLLOWS:

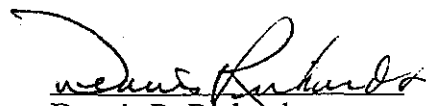
1. Encouraging Pierce County to include the Fircrest Acres area within the City of Fircrest's Urban Service Area. The Cities of Fircrest and University Place jointly request that the Pierce County Council immediately include the Fircrest Acres area within the City of Fircrest's urban service area. This will result in Fircrest Acres being situated within the urban service areas for both Cities.
2. Jointly Petitioning the Court of Appeals to Continue the Oral Argument on the Pending Annexation Appeal to the Spring 1999 term. The Cities agree to immediately petition the Court of Appeals to continue until the Spring 1999 term the oral argument on the pending annexation efforts by the City of University Place now scheduled for oral argument on October 27, 1998.

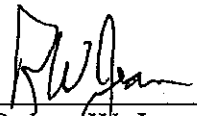
3. Requesting the Pierce County Auditor to Conduct an Annexation Preference Poll Among the Registered Voters of the Fircrest Acres Area. The Cities agree to jointly request the Pierce County Auditor to conduct an annexation preference poll among the registered voters of the Fircrest Acres area to determine to which City the registered voters of Fircrest Acres prefer to be annexed. The annexation preference poll will be conducted at the earliest practical date.
4. Cooperation in the Annexation Preference Poll. The Cities agree: (1) to cooperate in the preparation of the annexation preference poll ballot and any explanation thereto, a copy of which is attached as Exhibit A; (2) to share equally in the costs of the annexation preference poll; (3) that the annexation preference poll ballots will be mailed on October 12, 1998 and must be returned to the County Auditor no later than November 5, 1998; (4) the ballots will be mailed along with a joint letter of explanation by the Mayors of Fircrest and University Place, a copy of which is attached as Exhibit B; and (5) each City will send independently to voters factual information.
5. Agreement to Allow the City Selected by a Majority Vote of the Registered Voters of the Fircrest Acres Area in the Annexation Preference Poll to Proceed with Annexation. The Cities agree that: (1) the City which receives the majority vote from the registered voters of Fircrest Acres who vote in the Annexation Preference Poll should be able to proceed with the annexation process; (2) the City which receives the majority of votes will be able to proceed with annexation of Fircrest Acres by any lawful method allowed in RCW 35A.14., the code city annexation chapter; (3) when the City with the majority of votes proceeds with annexation the other City will refrain from invoking the jurisdiction of the Washington State Boundary Review Board for Pierce County; and (4) that if the jurisdiction of the Boundary Review Board is invoked by any other person or governmental entity, the non-majority vote city will appear and support the annexation of Fircrest Acres to the City which received the majority of votes.
6. Leveling the Playing Field by an Agreed Disposition of the Pending Annexation Petition Brought By the City of University Place. The Cities agree to level the playing field and allow the City which receives the majority vote in the annexation preference poll to proceed with the annexation process by jointly petitioning the Court of Appeals to dismiss the annexation petition brought by the City of University Place with an agreed order or findings that pursuant to this Interlocal Agreement: (1) University Place's petition to annex shall be withdrawn; (2) Fircrest's invocation of Boundary Review Board jurisdiction shall be withdrawn; (3) the Boundary Review Board decision shall be withdrawn; and (4) the appeal should be dismissed with prejudice and without costs to any party.

DATED this 7th day of October, 1998

CITY OF FIRCREST,
a municipal corporation

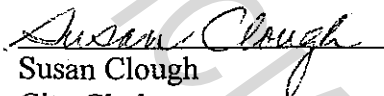
CITY OF UNIVERSITY PLACE,
a municipal corporation

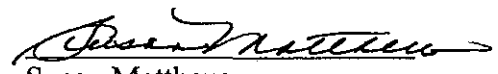
By: 
Dennis R. Richards
City Manager

By: 
Robert W. Jean
City Manager

ATTEST:


ATTEST:

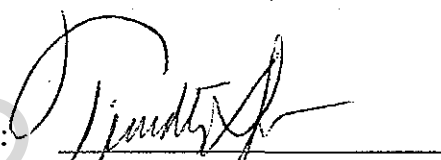
By: 
Susan Clough
City Clerk

BY: 
Susan Matthew
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: 
Michael B. Smith
City Attorney

By: 
Timothy X. Sullivan
City Attorney