

RESOLUTION NO. 748

**A RESOLUTION OF THE CITY OF UNIVERSITY PLACE, WASHINGTON,
APPROVING AN INTERLOCAL AGREEMENT WITH THE CITY OF TACOMA FOR
DESIGN OF 56th STREET/CIRQUE DRIVE CORRIDOR BETWEEN THE CITY OF
UNIVERSITY PLACE AND THE CITY OF TACOMA**

WHEREAS, the Cities of University Place and Tacoma jointly applied for a \$778,000 federal grant for the design of improvements to the S. 56th St/Cirque Drive corridor; and

WHEREAS, this project has been approved for funding by the Federal Highway Administration and is included on the State's Transportation Improvement Plan; and

WHEREAS, in accordance with the joint grant application, each City is responsible for half of the required local match associated with the grant (13.5%), which amount is available in the City's biennial budget; and

WHEREAS, in order to proceed with the design of the project, it is necessary for University Place and Tacoma to enter into an interlocal agreement that identifies the allocation of funds and the responsibilities of each City in the administration of the project; and

WHEREAS, Chapter 39.34 of the Revised Code of Washington allows local governments to enter into interlocal agreements to make most efficient use of their powers by enabling them to work with other local jurisdictions on a mutually advantageous basis.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AS FOLLOWS:

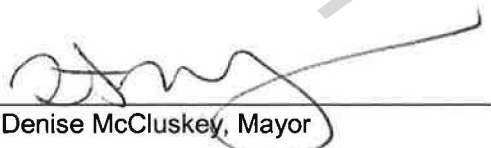
Section 1. Incorporation of Recitals. The recitals are hereby incorporated herein as if set forth in full.

Section 2. Approval of Form of Documents. The City Council hereby approves execution of the Interlocal Agreement for Design of the 56th Street/Cirque Drive Corridor between the City of University Place and the City of Tacoma in substantially the form of the document accompanying this Resolution.

Section 3. Completion of Transaction. The City Manager is authorized to take and execute any additional measures or documents that may be necessary to complete this transaction, which are consistent with the approved form of document attached to this Resolution, and this Resolution.

Section 4. Effective Date. This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL ON MARCH 3, 2014.

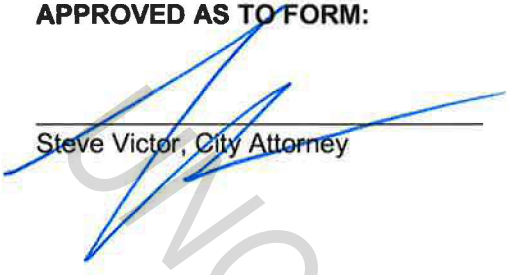

Denise McCluskey, Mayor

ATTEST:



Emily Genetia, City Clerk

APPROVED AS TO FORM:



Steve Victor, City Attorney

**INTERLOCAL AGREEMENT FOR DESIGN OF 56TH STREET/CIRQUE DRIVE CORRIDOR
BETWEEN THE CITY OF UNIVERSITY PLACE AND THE CITY OF TACOMA**

THIS INTERLOCAL AGREEMENT made and entered into, pursuant to the Interlocal Cooperation Act, Chapter 39.34 of the Revised Code of Washington (RCW), on the ____ day of _____, by and between the CITY OF UNIVERSITY PLACE, a municipal corporation of the State of Washington (hereinafter referred to as "University Place"), and the CITY OF TACOMA, a municipal corporation of the State of Washington, (hereinafter referred to as "Tacoma").

WHEREAS, 56th St/Cirque Dr serves as a major arterial providing vital mobility to both Tacoma and University Place; and,

WHEREAS, a joint application was submitted and approved for \$778,500 of Federal funding (FHWA) for design of improvements to 56th Street/Cirque Drive between Interstate 5 and Grandview Drive, with a Local Match requirement of 13.5%, naming University Place as the Lead Agency for the purposes of grant administration; and,

WHEREAS, under said application, Tacoma committed to provide 50% of the required Local Match; and,

WHEREAS, each agency currently is qualified as a Certified Acceptance Agency (CA) under agreement with the Washington State Department of Transportation;

NOW THEREFORE, THE PARTIES HERETO DO HEREBY AGREE as follows:

SECTION 1. PURPOSES. The purposes of this agreement are: to establish roles and responsibilities of each agency in the administration of the grant, billing and payment of local match amounts, awarding of contracts, and project administration.

SECTION 2. IDENTIFICATION OF GOALS. The goals in entering into this Agreement are: (1) to facilitate the improvements to 56th St/Cirque Dr that include pavement overlay, curbs, sidewalks, bike lanes, street lighting, landscaping, and other roadway related amenities; (2) produce plans that meet the applicable standards required under the grant and approval of each city (3) and to achieve maximum cost savings for the benefit of the public.

SECTION 3. ALLOCATION OF FUNDS. Under this agreement 50% of the grant funding will be attributable to design work in each City. This percentage may be adjusted if agreed upon by both parties.

SECTION 4. UNIVERSITY PLACE RESPONSIBILITIES.

A. University Place shall provide project lead. University Place shall take the lead role in coordinating the grant administration including: (1) entering into a Local Agency Agreement with the Highways and Local Programs Office of the Washington State Department of Transportation (WSDOT); (2) submitting requests for reimbursement, (3) maintaining project grant records; (4) reporting progress; (5) contract administration for its portion of the project; and (6) when required and as applicable, a University Place representative shall participate in project team meetings;

B. Design. University Place shall be responsible for the design of improvements within the City of University Place.

C. University Place to advance funds. University Place and Tacoma shall share in the cost of the design of the 56th St/Cirque Dr project. University Place agrees to advance funds as necessary to pay for project expenses that will be shared jointly, such as but not limited to; preparation of a biological assessment. University Place shall submit timely requests for reimbursement to the Department of Transportation for its advances and for work performed or paid for by Tacoma. Reimbursement requests shall be made at monthly intervals for the total expended during that period less the proportionate share of the combined University Place and Tacoma match. The project reimbursement period shall begin after

WSDOT has approved a Local Agency Agreement (LAA) authorizing project expenditures. No expenditure made before this date is eligible for reimbursement. University Place shall bill Tacoma for its proportionate match share for any combined expenditures advanced by University Place.

D. University Place shall notify Tacoma within fourteen (14) calendar days from the date of receipt by University Place of reimbursement from the WSDOT, of costs incurred by Tacoma and University Place. University Place shall pay to Tacoma Tacoma's share of said reimbursement.

E. University Place shall notify Tacoma. University Place shall promptly notify Tacoma of any issues it feels are inconsistent with the design, construction documents, plans or this Agreement. University Place shall work cooperatively with Tacoma to resolve design and construction issues to the mutual satisfaction of both parties if reasonably practical.

SECTION 5. TACOMA RESPONSIBILITIES.

A. Tacoma representative to assist in administration of the 56th St/Cirque Dr project. Tacoma shall assign at least one representative to represent Tacoma's interests and verify that the project proceeds in accordance with this Agreement and state and federal requirements. When required and as applicable, Tacoma's representative(s) shall: (1) participate in project team meetings; (2) assist in the interview and selection of a consultant(s) for joint activities; (3) assist with obtaining applicable permits; (4) assist with project success monitoring; (5) contract administration for its portion of the project; and (6) shall maintain its project records as required by state and federal auditing requirements and shall present its records for review as requested.

B. Design. Tacoma shall be responsible for the design of improvements within the City of Tacoma.

C. Tacoma shall pay University Place. Tacoma shall pay all invoices received from University Place within 30 days. If Tacoma disputes a portion of the invoice, it shall pay the undisputed portion within 30 days and immediately meet with University Place to resolve the disputed amount. Interest shall be charged on all past due payments until paid in full. Past due payments shall bear simple interest at a rate of 2% per year.

D. Tacoma shall notify University Place. Tacoma shall promptly notify University Place of any issues it feels are inconsistent with the design, construction documents, plans or this Agreement. Tacoma shall work cooperatively with University Place to resolve design and construction issues to the mutual satisfaction of both parties if reasonably practical.

SECTION 6. PLANS. Final design plans shall adhere to applicable standards of each respective city as well as state and federal requirements.

SECTION 7. TERM OF THE AGREEMENT. This Agreement shall be in full force and effect commencing on the date of execution of this Agreement and terminating on unless extended by the agreement of both parties. Termination of this agreement shall have no effect on the obligations of either party to maintain the improvements installed in their respective rights-of-way.

SECTION 8. INDEMNIFICATION AND DEFENSE.

A. Each Party shall indemnify the other and its agents, employees, and/or officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the other arising out of, in connection with, or incident to the execution of this Agreement and/or the indemnifying parties performance or failure to perform any aspect of this Agreement; provided, however, that this indemnity provision shall be valid and enforceable only to the extent of the negligence of the indemnifying party; and provided further, that nothing herein shall require either party to indemnify the other, its agents, employees and/or officers from any claims arising from the sole negligence of the other party its agents, employees, and/or officers. No liability shall attach to either party by reason of entering into this Agreement except as expressly provided herein.

B. Each party acknowledges its CA status heretofore mentioned and therefore takes its respective responsibility for complying with all state and federal requirements for design, finances, and all other aspects of the project within its corporate limits. Failure to do so will result in the agency being financially responsible to WSDOT under the terms of the Local Agency Agreement. The City of University Place will be lead agency for the project but does not guarantee the adequacy of work performed by Tacoma nor does Tacoma guarantee the adequacy of work performed by University Place.

SECTION 9. NO THIRD-PARTY BENEFICIARY. University Place, by this Agreement, does not assume any contractual obligations to anyone other than Tacoma. Tacoma, by this Agreement, does not assume any contractual obligations to anyone other than University Place. There is no third-party beneficiary to this Agreement.

SECTION 10. INSURANCE COVERAGE. University Place and Tacoma shall maintain at all times during the course of this Agreement a general liability insurance policy or other comparable coverage with a self-insured retention of not more than \$500,000.00 and a policy limit of not less than \$5,000,000.00 dollars.

SECTION 11. NON-DISCRIMINATION. Each of the parties, for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or the presence of any sensory, mental or physical handicap be discriminated against or receive discriminatory treatment by reason thereof.

SECTION 12. ASSIGNMENT. Neither University Place nor Tacoma shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

SECTION 13. NOTICE. Any formal notice or communication to be given by Tacoma to University Place under this Agreement shall be deemed properly given, if delivered, or if mailed postage prepaid and addressed to:

CITY OF UNIVERSITY PLACE
3715 Bridgeport Way West
University Place, WA 98466
Attention: Jack Ecklund, P.E.; City Engineer

Any formal notice or communication to be given by University Place to Tacoma under this Agreement shall be deemed properly given, if delivered, or if mailed postage prepaid and addressed to:

CITY OF TACOMA
747 Market Street
Tacoma WA 98402
Attention: Kurtis Kingsolver, P.E., Public Works Director

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

SECTION 14. WAIVER. No waiver by either party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or a different provision of this Agreement.

SECTION 15. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

SECTION 16. AMENDMENT. Provisions within this Agreement may be amended with the mutual consent of the parties hereto. No additions to, or alteration of, the terms of this Agreement shall be valid unless made in writing, formally approved, and executed by duly authorized agents of both parties.

SECTION 17. FILING. Both parties shall file copies of this Agreement, together with resolutions of the University Place City Council and Tacoma City Council approving and ratifying this Agreement, with the University Place City Clerk and the Tacoma City Clerk after execution of the Agreement.

SECTION 18. SEVERABILITY. If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect.

IN WITNESS WHERE OF, the parties have caused this Agreement to be executed on this _____ day of _____, 2014.

UNIVERSITY PLACE

TACOMA

STEPHEN P. SUGG
CITY MANAGER
Date

T. C. BROADNAX
CITY MANAGER
Date

Attest:

Attest:

EMELITA GENETIA
CITY CLERK

DORIS SORUM
CITY CLERK