

**ANNEXATION AGREEMENT BETWEEN
THE CITY OF FIRCREST
and
PIERCE COUNTY**

THIS INTERLOCAL AGREEMENT, hereinafter referred to as the “Agreement,” is entered into under the authority of Chapter 39.34 RCW and RCW 35A.14.460 as of the effective date (defined in Section 4.13 below) by and between the City of Fircrest, a Washington municipal corporation (hereinafter referred to as the “City”) and Pierce County, a Washington municipal corporation (hereinafter referred to as the “County”), subject to the terms and conditions set forth herein.

RECITALS

WHEREAS, the County designated an Urban Growth Area for the City as required by the Growth Management Act (“GMA”), codified as RCW 36.70A;

WHEREAS, RCW 36.70A.110(7) states, “An urban growth area designated in accordance with this section may include within its boundaries...potential annexation areas designated for specific cities or towns within the county.”;

WHEREAS, the City is a non-charter code city incorporated under the Optional Municipal Code, codified as RCW 35A. and has authority under RCW 35A.14 to annex property within its urban growth area;

WHEREAS, the City desires to annex the designated Fircrest Potential Annexation Area (hereinafter referred to as “PAA”) into the City utilizing the annexation method provided in RCW 35A.14.460. The PAA is depicted, for illustration purposes, on Exhibit A attached hereto;

WHEREAS, the City has designated, in its Comprehensive Plan, its PAA located at 62nd Avenue West and 44th Street West;

WHEREAS, RCW 35A.14.460 allows the City of Fircrest and Pierce County to enter into an Interlocal Agreement to annex the City’s affiliated PAA when at least sixty percent (60%) of

the boundary of the area to be annexed are contiguous to the corporate boundary of the City and the area is within the City's PAA;

WHEREAS, the 62nd Avenue West and 44th Street West PAA is within the City's PAA, and more than sixty percent (60%) of its boundary is contiguous with the City of Fircrest's boundary;

WHEREAS, the City Council passed Resolution 1451 on October 25, 2016, directing City staff to negotiate an Interlocal Agreement with Pierce County to annex the PAA subject to this Agreement as required by RCW 35A.14.460(1);

WHEREAS, annexation of the PAA subject to this Agreement is exempt from compliance with the requirements of the State Environmental Policy Act pursuant to RCW 43.21C.222;

WHEREAS, the Annexation ordinances provided for in RCW 35A.14.460 are subject to referendum within forty-five (45) days after adoption;

WHEREAS, after the expiration of the forty-fifth day from, but excluding the date of adoption of the annexation ordinance, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the City of Fircrest;

WHEREAS, the City and County have published notice of adoption of this Agreement as required by RCW 35A.14.460(3);

WHEREAS, the City will publish notice of the proposed effective date of the annexation, together with a description of the property to be annexed, as required by RCW 35A.14.460(4);

WHEREAS, the Fircrest City Council has enacted Resolution Number _____ on _____ authorizing the City Manager to enter into this Agreement; and

WHEREAS, the Pierce County Council has enacted Ordinance Number _____ on _____ authorizing the County Executive to enter into this Agreement;

WHEREAS, the Fircrest City Council held a public hearing pursuant to RCW 35A.14.460(3) on _____, and the Pierce County Council held a public hearing on _____;

WHEREAS, the Fircrest City Council found that the proposed annexation is consistent with the City of Fircrest Comprehensive Plan;

NOW, THEREFORE, in consideration of the foregoing, the parties hereto agree as follows:

AGREEMENT

SECTION 1. ANNEXATION AREAS

1.1 Annexation. The County and City agree that the PAA identified in this Section shall be annexed into the City following the adopting of an ordinance by the City providing for such annexation pursuant to RCW 35A.14.460. The annexation date fixed by ordinance shall not be fewer than forty-five (45) days from the date of adoption of the ordinance pursuant to RCW 35A.14.460(4).

1.2 The 62nd Avenue West and 44th Street West PAA is legally defined as:

That portion of the Northeast quarter of the Southwest quarter of Section 14, Township 20 North, Range 2 East, Willamette Meridian, in Pierce County, Washington described as follows:

Beginning at Southwest corner of lot 7 of Mount Vista Terrace 3rd Addition as recorded under A.F.N 1907450 in said County; Thence South 30 feet on a projected line parallel to the West line of said lot, said point being on centerline of 44th Street West; Thence East along the centerline of said Street, to a point that is projected South and parallel to the West line of Fircrest Greens as recorded under A.F.N 200508255015 in said County; Thence North on said projected line for 30 feet to the Southwest corner of lot 11 of said plat; Thence continuing North on along said West line of said plat to the Northwest corner of lot 21, said West line is also being the City Limits of Fircrest as established by ordinance 668 dated 9/15/1974; Thence West along the South line of Martin and Haddows 1st Addition as recorded under A.F.N 2163963 in said County to the Southwest corner of lot 3 of said plat, said line also being the City limits of Fircrest as established by Ordinance 549 dated 6/15/1966; Thence South along the East line of Maitlands 4th Addition as recorded under A.F.N 2117682 to the Southeast corner of lot 13 of said plat, said line also being the City limits of Fircrest as established by Ordinance 531 dated 10/18/1965;

Thence West along said plat, and City limits line to the Northwest corner of lot 9 Mount Vista Terrace 3rd Addition as recorded under A.F.N 1907450 in said county, said point also being City Limits of Fircrest as established by ordinance 553 dated 8/10/1966; Thence South on the West line of lots 9, 8, and 7, said lines are also being the East line of said City Limits, to the Southwest corner of lot 7, and point of beginning.

SECTION 2. GOVERNMENTAL SERVICES

2.1 Transition of Governmental Services. The transition of governmental services is provided for in the *Annexation Memorandum of Understanding* as set forth in Exhibit B to Pierce County Ordinance No. _____.

SECTION 3. TERM

3.1 Duration. This Agreement shall remain in effect for five (5) years after the Annexation date unless terminated earlier in accordance with Section 3.2.

3.2 Termination.

3.2.1 Either party may terminate the Agreement upon ninety (90) days' advance written notice to the other party. Notwithstanding the expiration or earlier termination of the Agreement, the County and City shall remain responsible for fulfilling any outstanding obligations under this Agreement that were incurred prior to the date on which the Agreement expired or terminated.

3.2.2 This Agreement shall be terminated immediately if a referendum petition is filed within the allotted time period and the resulting annexation vote defeats the proposed annexation(s).

SECTION 4. GENERAL PROVISIONS

4.1 Notices, Demands, and Communications. Formal notices, demands, and communications between the City and the County shall be sufficient if given and shall not be deemed given unless dispatched by certified mail, postage prepaid, returned receipt requested, or delivered personally, to the principal offices of the City and the County as follows:

City:
City Manager
City of Fircrest
115 Ramsdell Street
Fircrest, WA 98466

County:
Office of the Pierce County Executive
County-City Building
930 Tacoma Avenue South, Room 737
Tacoma, WA 98402

Director:
Pierce County Planning and Public Works
Public Services Building
2401 South 35th Street, Room 175
Tacoma WA 98409

4.2 Indemnification and Defense.

4.2.1 The City agrees to defend, indemnify, and save harmless the County, its appointed and elected officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees, and costs by reason of any and all claims and demands upon the County, its elected or appointed officials, or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons, and for damages to property including loss of use thereof, when such injury to persons or damage to property is due to the negligence of the City, its subcontractors, its successor or assigns, or its or their agent, servants, or employees.

4.2.2 The County agrees to defend, indemnify, and save harmless the City, its appointed and elected officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees, and costs by reason of any and all claims and demands upon the City, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons, and for damages to property including loss of use thereof, when such injury to persons or damage to property is due to the negligence of the County, its subcontractors, its successor or assigns, or its or their agent, servants, or employees.

4.2.3 Should Pierce County be determined liable for said damages caused by, or resulting from, the concurrent negligence of the County and the City, the City shall indemnify Pierce County only to the extent of the City's negligence, and Pierce County shall indemnify the City only to the extent of Pierce County's negligence.

4.2.4 In the event that one party defends the other, the defending party shall have the sole right to select legal counsel to defend against the claim, demand, or cause of action. In the event that defense is undertaken, the defending party shall be empowered to settle or compromise the claim, demand, or cause of action, and the defended party shall not interfere therewith, provided that if the defending party settles a claim, demand, or cause of action against the other party without that party's consent, the non-consenting party shall not be liable for any settlement or fees.

4.3 Amendments. This Agreement may be amended or modified in accordance with applicable laws, rules or regulations, and upon mutual consent of the parties, such mutual consent of the Parties shall be evidenced by a written amendment signed by the Parties.

4.4 Rights Reserved. Nothing in this Agreement is intended to waive or limit the rights of the Parties to require mitigation for any impact as allowed by federal, state, or local laws and ordinances including, but not limited to, environmental impacts governed by Chapter 43.21C RCW or mitigation fees governed by RCW 82.02.050.

4.5 Title of Parts and Sections. Any titles of the parts, sections, or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provisions.

4.6 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington.

4.7 Severability. If any term, provision, covenant, or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of

the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding, or unenforceability.

4.8 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement, or to collect damages as a result of any breach of the Agreement, the party prevailing in any such action shall be entitled to recover against the party not prevailing all reasonable attorneys' fees and costs incurred in the action.

4.9 Joint Board. This Interlocal Agreement does not establish or create a separate legal administrative entity, joint board, or joint budget authority to accomplish the purposes of the Agreement.

4.10 Recordation. Within ten (10) days after the effective date of this Agreement, the Clerk of the County Council shall have this Agreement recorded with the County Auditor/Recorder of Pierce County. In the alternative, the parties may mutually agree to post this Agreement electronically on their websites.

4.11 Execution of Other Documentation. The City and the County agree to execute any further documentation that may be necessary to carry out the intent and obligations under this Agreement.

4.12 Complete Understanding of the Parties. This Agreement is executed in two (2) duplicate originals, each of which is deemed to be an original. This Agreement consists of eight (8) pages and constitutes the entire understanding and agreement of the Parties.

4.13 Effective Date. The Effective Date of this Agreement shall be the date upon which the Agreement is approved by official action of the legislative bodies of each of the Parties, and the MOU is signed by the duly authorized representative of each of the Parties.

CITY OF FIRCREST

PIERCE COUNTY

City Manager

Bruce F. Dammeier
Pierce County Executive

By direction of the Fircrest City Council

in Open Public Meeting on _____

Dated: _____

Dated: _____

Authenticated by:

Attested by:

Fircrest City Clerk

Pierce County Council Clerk

Approved as to Form:

Approved as to Form:

City of Fircrest Attorney

Pierce County Attorney