

01/08/16
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Agenda Sheet for City Council Meeting of:
 12/14/2015

Date Rec'd	12/1/2015
Clerk's File #	OPR 2015-1056
Renews #	

Submitting Dept	PLANNING & DEVELOPMENT	Cross Ref #	
Contact Name/Phone	ANDREW 625-6991	Project #	
Contact E-Mail	AWORLOCK@SPOKANECITY.ORG	Bid #	
Agenda Item Type	Contract Item	Requisition #	
Agenda Item Name	0650 - INTERLOCAL AGREEMENT - UDPDA		

Agenda Wording

Interlocal Agreement between the City of Spokane and the University District Public Development Authority regarding the expenditure of University District Revitalization Area Funds.

Summary (Background)

The City Council approved Ordinance No. C-34933 on November 5, 2012, creating the University District Public Development Authority, authorized its charter and bylaws and established its Board of Directors. On April 3, 2013, the parties entered into a Memorandum of Understanding, which among other things anticipated a future interlocal agreement to provide for the financing of the Authority's development activities. This proposed Interlocal Agreement will serve that function.

Fiscal Impact	Budget Account
Neutral \$	#
Select \$	#
Select \$	#
Select \$	#

Approvals		Council Notifications	
Dept Head	MEULER, LOUIS	Study Session	
Division Director	SIMMONS, SCOTT M.	Other	Finance Committee
Finance	KECK, KATHLEEN	Distribution List	
Legal	PICCOLO, MIKE	lhattenburg@spokanecity.org	
For the Mayor	SANDERS, THERESA	mpiccolo@spokanecity.org	
Additional Approvals		smsimmons@spokanecity.org	
Purchasing		aworlock@spokanecity.org	

APPROVED BY
 SPOKANE CITY COUNCIL:
 12/14/2015
 [Signature]
 CITY CLERK

#8

INTERLOCAL AGREEMENT BETWEEN THE CITY OF SPOKANE AND THE UNIVERSITY DISTRICT PUBLIC DEVELOPMENT AUTHORITY REGARDING THE EXPENDITURE OF UNIVERSITY DISTRICT REVITALIZATION AREA FUNDS.

THIS AGREEMENT is between the **City of Spokane**, a Washington State municipal corporation, having offices for the transaction of business at 808 West Spokane Falls Boulevard, Spokane, Washington 99201, hereinafter referred to as "CITY" and the **University District Public Development Authority**, an entity created pursuant to chapter 35.21 RCW, having offices for the transaction of business at 10 N. Post Street, #400, Spokane, WA 99201, hereinafter referred to as "Authority," and jointly hereinafter referred to as the "Parties."

WITNESSETH:

WHEREAS, the City of Spokane is a State of Washington first class charter city organized and existing under the Constitution and laws of the State of Washington; and

WHEREAS, the City is authorized by RCW 35.21.730 to create public development authorities to (i) administer and execute federal grants or programs, (ii) receive and administer private funds, goods or services for any lawful public purpose; (iii) improve governmental efficiency and services, (iv) improve the general living conditions in the urban areas in and around the City and (v) perform any lawful public purpose or public function; and

WHEREAS, the City Council approved Ordinance No. C-34933 on November 5, 2012, creating the University District Public Development Authority, authorized its charter and bylaws and established its Board of Directors to govern the affairs of the Authority; and

WHEREAS, Chapter 39.34 RCW (Interlocal Cooperation Act) permits local governmental units to make the most efficient use of their powers by enabling them to cooperate on the basis of mutual advantage; and

WHEREAS, the City Council created the Spokane University District Revitalization Area by Ordinance No. C-34470 on August 17, 2009, within the limitations of RCW 39.104.050 and in accordance with RCW 39.104.040; and

WHEREAS, the City is authorized to implement state sales tax credit awarded to the Spokane University District Revitalization Area under the State's Local Revitalization Financing (LRF) program; and

WHEREAS, the City has imposed a sales and use tax set forth in chapter 8.17 of the Spokane Municipal Code and under the authority of RCW 82.14.510 in accordance with the terms of RCW chapter 82.14; and

WHEREAS, it is the desire of the City to enter into this interlocal operating agreement with the Authority to assist the City in the administration and implementation of the Spokane University District Revitalization Area and in the expenditure of local sales and use tax increment and local property tax allocation revenue as set forth in this agreement; and

WHEREAS, the parties have entered into this agreement in consideration of the mutual benefits to be derived and to coordinate their efforts through the structure provided by the Interlocal Cooperation Act.

NOW, THEREFORE, the parties hereby agree as follows:

SECTION NO. 1: PURPOSE

The purpose of this Agreement is to set forth the provisions whereby the City may transfer to or make available to the Authority funds generated by the implementation of the local sales and use tax increment and local property tax allocation revenue under the Spokane University District Revitalization Area (UDRA) and State Local Revitalization Financing (LRF) program.

SECTION 2: RESPONSIBILITIES OF THE PARTIES

City's Responsibilities: The City's obligation under this Agreement is to provide local revitalization financing from the Spokane University District Revitalization Area's local sales and use tax increment and local property tax allocation revenue to the Authority to be expended by the Authority consistent with local and state law, including Ordinance No. C-34470. The City, within its sole discretion, shall determine the appropriate legislative or administrative action to set forth the mechanism and amount of such funding. The City is further obligated to review and act upon the request of the Authority regarding expenditure of UDRA funding. Such request shall be submitted to the City's Chief Financial Officer (CFO) and City Attorney for approval, which shall be based upon whether the requested expenditure is authorized under Ordinance No. C-34470.

Authority's Responsibilities: The Authority's obligation is to expend UDRA funds provided by the City on authorized expenditures pursuant to Ordinance No. C-34470. The Authority shall submit its request for expenditures to the City's CFO and City Attorney for review and approval prior to expenditure of UDRA funds. The Authority is not required to obtain any further approval for UDRA fund expenditures, including approval from the City Council or City administration. All expenditures shall comply with state law and SMC requirements pertaining to public procurement. The Authority shall provide the City with an annual report of its activities.

SECTION NO. 3: DURATION

This Agreement shall take effect on January 1, 2016 and continue unless one or all of the parties give notice of termination as provided for in Section 9 of this Agreement.

SECTION NO. 4: COMPENSATION

There shall be no direct compensation to or from either party. Any financial contribution from either party shall be set forth in the creation and operation of the UD PDA.

SECTION NO. 5: RELATIONSHIP OF THE PARTIES

The parties' relationship is set forth in Ordinance No. C-34933, which established the University District Public Development Authority pursuant to state law and the Memorandum of Understanding dated April 3, 2013 (OPR 2013-0215).

SECTION NO. 6: LIABILITY

6.1 The Authority hereby agrees to indemnify and hold harmless the City, its officers, and employees from any and all claims, actions, causes of action, judgments, or liens occasioned by or arising out of the Authority's negligence or the Authority's failure to comply with applicable laws in the Authority's performance of this agreement (except for any willful misconduct or negligence of the City and except for matters for which the City has agreed to indemnify the Authority hereunder) and to defend for and on behalf of the City, its officers and employees, at its own expense, any such claim or cause of action, and, in the event of recovery thereon, to pay any judgment or lien arising therefrom, including any and all costs as a part thereof.

6.2 The City hereby agrees to indemnify and hold harmless the Authority, its officers and employees from any and all claims, actions, causes of action, judgments or liens occasioned by or arising out of the City's negligence or the City's failure to comply with applicable laws in the City's performance of this agreement (except for any willful misconduct or negligence of the City and except for matters for which the Authority has agreed to indemnify the City hereunder), and to defend for and on behalf of the Authority, its officers and employees, at its own expense, any such claim or cause of action, and, in the event of recovery thereon, to pay any judgment or lien arising therefrom, including any and all costs as a part thereof.

6.3 As the Authority's activities, operations, and assets change, the Authority agrees to acquire and maintain appropriate insurance, including but not limited to public liability insurance and errors and omissions insurance, in an amount as specified by the City and approved by the appropriate City department sufficient to cover potential claims that may arise from or be related to the Authority's projects or activities. The Authority agrees to name City as an additional insured on such insurance policies.

6.4 Pursuant to state law, the Parties expressly understand and agree that any obligation or liability arising out of and/or incurred by the Authority by reason of this agreement, or the carrying out of any activity in connection therewith, shall be satisfied

exclusively from the assets and credit of the Authority, and no creditor or any other person or entity shall have any recourse to any of the assets, credit, or services of the City on account of any debts, obligations, or liabilities of the Authority. No member of the Board, other officer, employee or agent of the Authority shall be individually and personally liable on any obligation assumed by the Authority by this agreement, nor shall any Board member, other officer, employee or agent be individually and personally liable on any obligation assumed by the City by this agreement.

SECTION NO. 7: NOTICES

All notices shall be in writing and served on the other party either personally or by certified mail, return receipt requested. Notices sent by certified mail shall be deemed served when deposited in the United States mail, postage prepaid.

CITY: Mayor or designee
 City of Spokane
 Fifth Floor, City Hall
 808 West Spokane Falls Boulevard
 Spokane, Washington 99201

AUTHORITY: Executive Director
 University District Public Development
 10 N. Post Street, #400
 Spokane, WA 99201

SECTION NO. 8: ANTI-KICKBACK

No officer or employee of the CITY, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in the Agreement, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in the Agreement.

SECTION NO. 9: TERMINATION

There shall be no specific termination date applicable to this Agreement. However, either party may, solely within its own discretion, terminate this Agreement with one hundred and eighty days' notice to the non-terminating party.

SECTION NO. 10: MISCELLANEOUS

- A. **NON-WAIVER:** No waiver by either party of any of the terms of this Agreement shall be construed as a waiver of the same or other rights of that party in the future.
- B. **HEADINGS:** Headings are inserted for convenience of reference only and are not to be deemed part of or to be used in construing this Agreement.

- C. **ENTIRE AGREEMENT:** This Agreement contains the entire understanding of the Parties. No representation, promises, or agreements not expressed herein have been made to induce either party to sign this Agreement.
- D. **MODIFICATION:** No modification or amendment to this Agreement shall be valid until put in writing and signed with the same formalities as this Agreement.
- E. **ASSIGNMENT:** This Agreement shall be binding upon the Parties, their successors and assigns. Neither party may assign, transfer, or subcontract its interest in this Agreement without the written approval of the other party.
- F. **SEVERABILITY:** In the event any portion of this Agreement should become invalid or unenforceable, the rest of the agreement shall remain in full force and effect.
- G. **COMPLIANCE WITH LAWS:** The Parties shall observe all federal, state and local laws, ordinances and regulations, to the extent that they may be applicable to the terms of this Agreement.
- H. **NON-DISCRIMINATION:** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Agreement because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation, national origin, the presence of any sensory, mental or physical disability, or use of a service animal by a disabled person.
- I. **VENUE:** This Agreement shall be under the laws Washington State. Any action at law, suit in equity or judicial proceeding regarding this Agreement, or any provision hereto, shall be instituted only in courts of competent jurisdiction within Spokane County, Washington.
- J. **COUNTERPARTS:** This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same.

SECTION NO. 11: RCW 39.34 REQUIRED CLAUSES

- A. **PURPOSE:** See Section No. 1 above.
- B. **DURATION:** See Section No. 3 above.
- C. **ORGANIZATION OF SEPARATE ENTITY AND ITS POWERS:** The Authority is established pursuant to legislative action of the City of Spokane pursuant to Chapter 39.104 RCW. The powers of the Authority as set forth by state law and legislative actions of the City Council.
- D. **RESPONSIBILITIES OF THE PARTIES:** See Section No. 2 above.

- E. **AGREEMENT TO BE FILED:** The CITY shall file this Agreement with its City Clerk or place it on its web site or other electronically retrievable public source.
- F. **FINANCING:** Each party shall be responsible for the financing of its contractual obligations under its normal budgetary process.
- G. **TERMINATION:** See Section No. 9 above.
- H. **PROPERTY UPON TERMINATION:** Title to all property acquired by the Authority shall remain with the Authority unless otherwise provided for in Ordinance No. C-34470 (establishing the University District Revitalization Area) or No. C-34933 (established the University District Public Development Authority) or as otherwise agreed to by the Parties.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on date and year opposite their respective signatures.

DATED: 12/18/15



CITY OF SPOKANE

By: David A. Cunniff
Its: (12.18.15)

Attest:

Len Hjorts
City Clerk

Approved as to form:

John W. Kelley
Assistant City Attorney

UNIVERSITY DISTRICT
PUBLIC DEVELOPMENT AUTHORITY

By: Kim Spearman-Sillman
Its: Board Chair