UNIVERSITY PLACE CITY COUNCIL
Regular Council Meeting Agenda
Monday, April 4, 2016, 6:30 p.m.

Note: Times are approximate and subject to change.

Town Hall Meeting Room
3715 Bridgeport Way West

6:30 pm **1. CALL REGULAR MEETING TO ORDER**

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

3. APPROVAL OF MINUTES – March 21, 2016

4. APPROVAL OF AGENDA

6:35 pm **5. PRESENTATIONS**
- **Volunteer Recognition Month Proclamation**
- **Commissioners Recognition**

BREAK

7:00 pm **6. PUBLIC COMMENTS** – (At this time, citizens have three minutes to address the Council on any matter not scheduled for Public Hearing or Council Consideration. State law prohibits the use of this forum to promote or oppose any candidate for public office, or ballot measure. Public comments are limited to three minutes. Please provide your name and address for the record.)

7:05 pm **7A-7E. CONSENT AGENDA**
Motion: Approve or Amend the Consent Agenda as Proposed

The Consent Agenda consists of items considered routine or have been previously studied and discussed by Council and for which staff recommendation has been prepared. A Councilmember may request that an item be removed for the Consent Agenda so that the Council may consider the item separately. Items on the Consent Agenda are voted upon as one block and approved with one vote.

A. Receive and File: Payroll and Claims.
B. Receive and File: 2015 4th Quarter Financial Report.
C. Adopt a resolution approving the new form of Interlocal Agreement between the City of University Place and Pierce County for the provision of animal services substantially in the form attached hereto.
D. Pass an ordinance amending University Place Municipal Code Chapter 8.10 – Animal Licensing and Chapter 1.30 – Civil Non-Traffic Infractions to align penalty provisions with Pierce County to allow for enforcement under the City's service agreements.
E. Receive and File: Revised 2016-2017 Council Assignments.

COUNCIL CONSIDERATION – (The following item(s) will require Council action.)

7:10 pm **8. MILDRED STREET ROADWAY IMPROVEMENTS BID AWARD**
- **Staff Report**
- **Public Comment**
- **Council Consideration**

7:25 pm **9. PLANNING COMMISSION WORKPLAN ADOPTION**
- **Staff Report**
- **Public Comment**
- **Council Consideration**

7:45 pm **10. COUNCIL COMMENTS/REPORTS**

RECESS TO STUDY SESSION – (At this time, Council will have the opportunity to study and discuss business issues with staff prior to its consideration. Citizen comment is not taken at this time; however, citizens will have the opportunity to comment on the following item(s) at future Council meetings.)

7:50 pm **11. TREE PRESERVATION**

8:15 pm **12. SIX-YEAR TRANSPORTATION IMPROVEMENT PLAN UPDATE**

8:35 pm **13. PHASE 2 PURCHASE AND DEVELOPMENT AGREEMENT WITH VERUS**

9:00 pm **14. ADJOURNMENT**

TOP

*PRELIMINARY CITY COUNCIL AGENDA

April 18, 2016
Regular Council Meeting

May 2, 2016
Regular Council Meeting

May 16, 2016
Regular Council Meeting

June 6, 2016
Regular Council Meeting

Preliminary City Council Agenda subject to change without notice*
Complete Agendas will be available 24 hours prior to scheduled meeting.
To obtain Council Agendas, please visit www.cityofup.com.

American Disability Act (ADA) Accommodations Provided Upon Advance Request
Call the City Clerk at 253-566-5656

APPROVAL OF MINUTES

CITY OF UNIVERSITY PLACE
DRAFT MINUTES
Regular Meeting of the City Council
Monday, March 21, 2016
City Hall, Windmill Village

1. CALL REGULAR MEETING TO ORDER

Mayor Figueroa called the Regular Meeting to order at 7:30 p.m.

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

Roll call was taken by the City Clerk as follows:

Councilmember Belleci	Present
Councilmember Grassi	Present
Councilmember McCluskey	Present
Councilmember Nye	Present
Councilmember Worthington	Present
Mayor Pro Tem Keel	Present
Mayor Figueroa	Present

Staff Present: City Manager Sugg, City Attorney Victor, Public Works & Parks Director Cooper, Deputy Finance Director Blaisdell, Engineering and Capital Projects Director Ecklund, Engineering and Capital Projects Deputy Director Avcular, and City Clerk Genetia.

Councilmember Nye led the Pledge of Allegiance.

3. APPROVAL OF MINUTES

Councilmember Nye noted a correction on page 2, paragraph 5 of the January 23, 2016 minutes. He believes that the Finance Chair was not an appointed or an elected position as reflected in the minutes.

MOTION: By Councilmember Grassi, seconded by Councilmember McCluskey, to approve the minutes of January 23, 2016 and March 7, 2016 as amended.

The motion carried.

4. APPROVAL OF AGENDA

MOTION: By Councilmember Belleci, seconded by Councilmember Grassi, to approve the agenda.

The motion carried.

5. PRESENTATIONS

16th Combat Aviation Brigade Recognition – Councilmember Worthington presented a certificate of recognition to Sgt. John Crutcher and Specialist Kelly Snell of the 16th Combat Aviation Brigade (CAB) for their hard work, dedication, and leadership. Sgt. Crutcher was named the NCO of the Quarter and Specialist Snell the Soldier of the Year by Col. Ryan, Commander of the 16th CAB.

Seahawks Contest Winner Recognition – Councilmember McCluskey presented a small token of appreciation to the Avcular family, the winner of the Seahawks Spirit photo contest.

6. PUBLIC COMMENTS – The following individuals provided public comment: *Betsy Tainer, 3333 Locust Drive West; Dennis Flann, 2623 Lemons Beach Road; Paul Zurfluh, 2734 Locust Avenue West; Glenda Zurfluh, 2734 Locust Avenue West; and Vivian Foster, 3800 Bridgeport Way West.*

7. CONSENT AGENDA

Councilmember Worthington requested that item 7D be pulled for separate consideration. Councilmember Grassi requested that item 7C be also pulled for separate consideration.

MOTION: By Councilmember Grassi, seconded by Councilmember Belleci, to approve the amended Consent Agenda as follows:

A. Receive and File: Payroll for the period ending 02/29/16, signed and dated 03/14/16, in the total amount of Two Hundred Sixty Thousand Five Hundred Eighty-Five and 09/100 Dollars ($260,585.09); Claims dated 03/15/16, check nos. 51977815 through 51977887 and wire no. 17567830, replacement check no. 51977888 for original check no. 51977699, in the total amount of Four Hundred Eighty-One Thousand Two Hundred Eighty-Four and 28/100 Dollars ($481,284.28).

B. Pass an ordinance granting a franchise to Astound Broadband, LLC, to provide telecommunications system within the City of University Place. **(ORDINANCE NO. 665)**

C. Authorize the replacement of the 1998 Dump Truck and the purchase of a 2016 International Freightliner Cab and Chassis, which is on State Contract #01513, and the purchase of the dump box from PMI Truck Bodies, Inc. in the total amount of $114,131.51 including tax, and authorize the City Manager to execute all necessary documents. **(Pulled for separate consideration.)**

D. Adopt a resolution approving a lease with University Place Historical Society, Inc. for Windmill Village D-3 to be used as an interim museum. **(Pulled for separate consideration.**)

The motion carried.

After discussion, a motion was made and was carried to approve items 7C and 7D **(RESOLUTION NO. 805)**.

8. PUBLIC HEARING: SURFACE WATER MANAGEMENT PROGRAM

Staff Report – Engineering and Capital Projects Director Ecklund provided a brief background of the Surface Water Management Program (SWMP) intended to protect the State's surface water. The City is required to annually update the Program under condition of the federally mandated National Pollution Detection Elimination System permit administered by the Department of Ecology. He detailed the policies, actions and activities the City is conducting to meet the requirements in public education and outreach; public involvement and participation; illicit discharge detection and elimination; controlling runoff from new development, redevelopment and construction sites; pollution prevention and operations and maintenance for municipal operations; and monitoring and reporting.

Public Comment – None.

COUNCIL CONSIDERATION

9. SURFACE WATER MANAGEMENT PROGRAM

Council Consideration – **MOTION:** By Councilmember Belleci, seconded by Councilmember Grassi, to adopt the 2016 update to the City of University Place Phase II NPDES Stormwater Management Program.

The motion carried.

10. COUNCIL COMMENTS/REPORTS

City Manager Sugg informed Council that Director Ecklund will be attending the City of Fircrest's Council meeting to brief them on the Mildred Street Improvement Project. Bids for this project will be opened next week and will be brought forward to Council for bid award at its subsequent meeting. He also reported on the Bridgeport Phase 5B project that will be going out to bid tomorrow. Both projects are grant funded.

Councilmember Belleci reported that she and Councilmember McCluskey attended the Pierce County Regional Council (PCRC) meeting and shared information on future plans concerning PCRC's changes to the Regional Growth Center's (RGC) Centers of Local Importance designation criteria and Tacoma's opposition to the County's current regional/candidate/local centers map.

Mayor Pro Tem Keel announced that the Association on Washington Cities (AWC) is seeking applications for AWC Board of Directors district number 6. Application deadline is March 25.

Councilmember McCluskey informed Council that she has applied for AWC position. She also commented on the impacts and challenges that will result from the changes to Centers of Local Importance designation criteria.

The Council concluded its business meeting at 8:31 p.m. and recessed to study session.

STUDY SESSION

11. RECREATIONAL FIRE BAN

City Attorney Victor introduced the legislative proposal on a recreational fire ban submitted by Councilmember McCluskey and Mayor Figueroa. The proposal calls for Council to consider a prohibition on all recreational fires on private property in University Place by defining that activity as a "per se" nuisance in the City's nuisance code. Mr. Victor explained that the Clean Air Act allows recreational fires and is regulated by the Puget Sound Clean Air Agency. Recreation fires are subject to ban and do not require a permit. The Clean Air Act preempts most local air quality regulations, but allows local jurisdictions to adopt greater restrictions within their nuisance code.

Councilmember McCluskey voiced her reasoning for bringing this proposal forward, citing that wood fires are toxic, hazardous and impact people's health, especially in high density residential areas. She thought it prudent to have a proactive approach by providing an alternative to citizens whose complaints to PSCAA have gone unresolved.

Mr. Victor offered explanation of the new legislative proposal system process and stated that should Council decide to proceed with the study of this proposal, then much more detailed staff work would need to be done.

Discussion on enforcement, resources, infractions, policing issues, restrictive banning, violation of property rights, and citizen education aspect regarding recreational fires followed. After discussion Council decided, with a consensus of 6 to 1, to direct staff to promote an education campaign with other local agencies on toxic materials and fire bans.

At 9:00 p.m., a motion was made and was carried to extend the meeting to 9:05 p.m.

12. ADJOURNMENT

The meeting adjourned at 9:03 p.m. No other action was taken.

Submitted by,

Emy Genetia
City Clerk

AGENDA

CITY OF UNIVERSITY PLACE
PROCLAMATION

WHEREAS, the month of April is the National Volunteer Appreciation month; and

WHEREAS, the willingness of our citizens to give their time and talents in assisting charitable, social, and religious organizations on behalf of our community is a significant factor in uplifting the quality of life in our community; and

WHEREAS, these individuals have become a vital and positive force in our community and have demonstrated a common conviction that charity and social responsibility manifest all that is good in the individual, and that the well-being of a community is largely dependent on helping others; and

WHEREAS, through their charitable events and numerous other activities, these individuals have made a significant positive contribution to bettering social, community and cultural conditions of the City of University Place;

NOW, THEREFORE, the City Council of the City of University Place do hereby proclaim the month of April, 2016 as

VOLUNTEER APPRECIATION MONTH

in University Place and we wish to honor and thank the dedicated citizens of our community who give so freely of their valuable time, energy and abilities to make the City of University Place a better place to live, work and play.

PROCLAIMED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE ON APRIL 4, 2016.

_____
Javier H. Figueroa, Mayor

ATTEST:

_____
Emy Genetia, CMC, City Clerk

AGENDA

Certificate of Recognition

The City Council of the City of University Place would like to recognize

JIM BALDES

for offering his time and talent to serve as a member of the Parks and Recreation Commission. His leadership has been an integral part of the Commission's success and the City Council wishes to thank Jim for his commitment, support and contributions.

Presented on April 4, 2016.

_____

Javier H. Figueroa, Mayor

University Place
WASHINGTON

AGENDA

Certificate of Recognition

The City Council of the City of University Place would like to recognize

REBECCA VADER

for offering her time and talent to serve as a member of the Parks and Recreation Commission. Her perspective has been an integral part of the Commission's success and the City Council wishes to thank Rebecca for her commitment, support and contributions.

Presented on April 4, 2016.

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Javier H. Figueroa, Mayor

University Place
WASHINGTON

AGENDA

Certificate of Recognition

The City Council of the City of University Place would like to recognize

DAX XENOS

for his service as a member of the University Place Planning Commission from January 2012 through January 2016. During his term on the Planning Commission, the huge task of a significant review of the City's Comprehensive Plan was accomplished, as well as other policy and regulation review. The dedication to this important work exhibited by Mr. Xenos is greatly appreciated.

Presented on April 4, 2016.

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Javier H. Figueroa, Mayor

University Place
WASHINGTON

AGENDA

Certificate of Recognition

The City Council of the City of University Place would like to recognize

MORRY STAFFORD

for his service as a member of the University Place Planning Commission from January 2012 to October 2013 and then from April 2014 through January 2016. During his term on the Planning Commission, the huge task of a significant review of the city's Comprehensive Plan was accomplished, as well as other policy and regulation review. The dedication to this important work exhibited by Mr. Stafford is greatly appreciated.

Presented on April 4, 2016.

_____

Javier H. Figueroa, Mayor

University Place
WASHINGTON

AGENDA

Certificate of Recognition

The City Council of the City of University Place would like to recognize

MICHAEL SMITH

for offering his time and talent to serve as a member of the Public Safety Commission. His perspective has been a critical part of the Commission's success and the City Council wishes to thank Mike for his commitment, support and contributions.

Presented on April 4, 2016.

_____

Javier H. Figueroa, Mayor

University Place
WASHINGTON

AGENDA

APPROVAL OF CONSENT AGENDA

City of University Place

Voucher Approval Document

#7A

Control No.:57 **Agenda of:** 03/21/16 **PREPAY**

Claim of: Payroll for Pay Period Ending 03/15/16

Check #	Date	Amount	Check #	Date	Amount
318627	03/18/16	87.19	318628	03/18/16	384.47

03/18/16	**118,603.41**	**Direct Deposit**
EMPLOYEE NET	**119,075.07**	

318629	03/18/16	155.00	MALAIER, TRUSTEE, MICHAEL G.
318630	03/18/16	250.00	NATIONWIDE RETIREMENT SOLUTION
WIRE	03/18/16	12,418.84	DEPT. OF LABOR AND INDUSTRIES
WIRE	03/18/16	24,495.46	BANK OF AMERICA
WIRE	03/18/16	19,249.94	- 106006, VANTAGEPOINT TRANSF
WIRE	03/18/16	6,643.87	- 304197, VANTAGEPOINT TRANSF
WIRE	03/18/16	4,372.37	- 800263, VANTAGEPOINT TRANSF
WIRE	03/18/16	28,636.28	WA STATE DEPT OF RETIREMENT SY
WIRE	03/18/16	736.25	PACIFIC SOURCE ADMINISTRATORS
WIRE	03/18/16	254.17	- 705544, VANTAGEPOINT TRANSF
WIRE	03/18/16	2,980.62	- 106006 LOAN, VANTAGEPOINT
WIRE	03/18/16	79.90	AFLAC INSURANCE
WIRE	03/18/16	890.30	WA ST DEPT OF RETIREMENT SYS
WIRE	03/18/16	538.21	- 304197 LOAN, VANTAGEPOINT TR

BENEFIT/DEDUCTION AMOUNT	101,701.21
TOTAL AMOUNT	**220,776.28**

Preparer Certification:
I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the above-named governmental unit, and that I am authorized to authenticate and certify to said claim.

Signed: (Signature on file.) Date

Steve Sugg, City Manager

AGENDA

FINAL CHECK LISTING
CITY OF UNIVERSITY PLACE

Check Date: 03/31/16

Check Range: 51977890 – 51977960 and Wire Transfer: 17716698

Claims Approval

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of University Place, and that I am authorized to authenticate and certify to said claim.

I also certify that the following list of checks were issued to replace previously issued checks that have not been presented to the bank for payment. The original check was voided and a replacement check issued.

Vendor Name	Replacement Check #	Original Check #

Auditing Officer: (Signature on file.) Date: _____

AGENDA

Bank : bofa BANK OF AMERICA

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
17716698	3/28/2016	002072	WA STATE DEPT OF REVENUE	FEB16	3/25/2016	FEB16/B&O TAX/SWM FEES	765.56	765.56
	Voucher:	40366						
51977890	3/18/2016	025855	SMARSH, INC.	INV00142736	2/29/2016	SOCIAL MEDIA ARCHIVING SERV	300.00	300.00
	Voucher:	40351						
51977891	3/18/2016	023438	PETORAK, LISA	MARCH16/AWC	3/18/2016	2016 AWC HEALTHY WORKSITE	28.00	28.00
	Voucher:	40342						
51977892	3/18/2016	002220	HANDS, LISA	MARCH16/AWC	3/18/2016	2016 AWC HEALTHY WORSITE S	85.89	85.89
	Voucher:	40323						
51977893	3/18/2016	025841	KLEBER, AMANDA	MARCH16/AWC	3/18/2016	2016 AWC HEALTHY WORKSITE	28.00	28.00
	Voucher:	40328						
51977894	3/18/2016	022031	SEESZ, LINDA	MARCH16/AWC	3/18/2016	2016 AWC HELATHY WORKSITE	28.00	28.00
	Voucher:	40349						
51977895	3/18/2016	025958	NOBLE, BRITTNEY	MARCH16/AWC	3/18/2016	2016 AWC HEALTHY WORKSITE	28.00	28.00
	Voucher:	40337						
51977896	3/25/2016	025959	NEW BRIDGEPORT 1, LLC	ROW	3/21/2016	ROW EASEMENT PURCHASE - B	750.00	750.00
	Voucher:	40334						
51977897	3/25/2016	025959	NEW BRIDGEPORT 1, LLC	ROW	3/22/2016	ROW EASEMENT PURCHASE- BI	15,000.00	15,000.00
	Voucher:	40335						
51977898	3/25/2016	024139	P.C.COMMUNITY NEWSPAPER GI	143600	2/8/2016	JAN8/JAN29/FEB12/UP PRESS C	5,538.45	5,538.45
	Voucher:	40339						
51977899	3/25/2016	003117	WALGREEN CO	ROW	3/21/2016	ROW EASEMENT PURCHASE FC	2,700.00	2,700.00
	Voucher:	40368						
51977900	3/31/2016	002075	AMERICAN REPROGRAPHICS CC	1402514	3/16/2016	MILDRED ST IMPRVMNT/BID PR	414.98	
	Voucher:	40300		1402414	3/9/2016	DAILY INSPECTION REPORT	91.06	
				1402506	3/9/2016	ELWOOD DR W SAFE ROUTES/P	427.21	
				1369258	1/25/2016	ELWOOD SAFE ROUTES/BID PR	424.82	1,358.07
51977901	3/31/2016	002080	ASPHALT PATCH SYSTEMS, INC.	40303	2/29/2016	ASPHALT CUTTING/HANNA PIER	382.90	382.90
	Voucher:	40301						
51977902	3/31/2016	022368	BARRETT, SALLY	REIMB	3/23/2016	REIMB/PRUNING PARTY SUPPLI	22.69	22.69
	Voucher:	40302						
51977903	3/31/2016	024374	BATTERY SYSTEMS,INC.	3464199	3/22/2016	BATTERY/FIELD GROOMER	81.94	81.94
	Voucher:	40303						
51977904	3/31/2016	001180	BENTLEY, DEAN	APR16/WABO	3/23/2016	TRAVEL EXPENSES/WABO MTG/	484.46	484.46
	Voucher:	40304						

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
51977905	3/31/2016	025573	CANON FINANCIAL SERVICES	15898562	3/13/2016	MARCH16/CONTRACT CHARGE	311.67	311.67
	Voucher:	40305						
51977906	3/31/2016	003155	CDW.GOVERNMENT, INC.	CKH9460	3/14/2016	CREDIT/MS SURFACE BOOK	-1,486.37	
	Voucher:	40306		CJR5137	3/10/2016	WTG BULK CRT	2,519.48	
				CGB4351	2/29/2016	BARRACUDA 1YR ENERGIZE UP	537.72	1,570.83
51977907	3/31/2016	001152	CENTURYLINK	253-566-9558	3/14/2016	PW PUMP CALLOUT LINE	39.37	
	Voucher:	40307		253-564-1992	3/11/2016	PHONE/SR CENTER	247.23	286.60

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
51977909	3/31/2016	001024	CITY TREASURER	100569668	3/16/2016	POWER/2610 SUNSET DR W	104.71	
	Voucher:	40308		100892483	2/3/2016	POWER/5400 BP WAY W	182.58	
				100895144	3/22/2016	POWER/8300 CIRQUE DR W	59.06	
				100312905	3/7/2016	POWER/3715 BP WAY W, #A-3A	37.93	
				100895151	3/7/2016	POWER/7901 CIRQUE DR W	69.17	
				100597956	3/14/2016	POWER/8715 4OTH ST W	549.67	
				100312959	3/7/2016	POWER/3715 BP WAY W, #A1	22.00	
				100079031	3/7/2016	POWER/3715 BP WAY W, #D4	70.42	
				100357178	3/14/2016	POWER/2620 BP WAY W	39.47	
				100129708	3/21/2016	POWER/2702 ELWOOD DR W	19.68	
				100333844	3/21/2016	WATER/4951 GRANDVIEW DR W	158.82	
				100156306	3/18/2016	POWER/5400 ALAMEDA AVE W	174.31	
				100737063	3/21/2016	POWER/2715 ELWOOD DR W	95.11	
				100080586	3/21/2016	POWER/4951 GRANDVIEW DR W	262.61	
				100083325	3/21/2016	POWER/4910 BRISTONWOOD DI	315.00	
				100068203	3/2/2016	POWER/3715 BP WAY W	1,616.76	
				100358203	3/12/2016	POWER/7150 CIRQUE DR W	632.16	
				100940204	3/18/2016	WATER/7299 44TH ST W	126.16	
				100456986	3/3/2016	POWER/5918 HANNAH PIERCE F	49.90	
				100445063	3/7/2016	POWER/3715 BP WAY W, #E2	31.02	
				100052902	3/7/2016	WATER & POWER/3715 BP WWA'	290.17	
				100256491	2/12/2016	POWER/7250 CIRQUE DR W	38.00	
				100360178	3/14/2016	POWER/3900 GRANDVIEW DR W	8.63	
				100360066	3/14/2016	POWER/3850 GRANDVIEW DR W	8.63	
				100360059	3/14/2016	POWER/3800 GRANDVIEW DR W	8.63	
				100109710	3/14/2016	POWER/8902 40TH ST W	9.19	
				100939530	3/7/2016	POWER/3555 MARKET PL W	1,301.25	
				100302273	3/7/2016	POWER/3715 BP WAY W, #D2	31.18	
				100495884	3/7/2016	POWER/3625 DREXLER DR W	91.10	
				100110228	3/7/2016	POWER/3715 BP WAY W, #B5	1,180.66	
				100057089	3/11/2016	POWER/2700 BP WAY W	154.39	
				100125363	3/11/2016	POWER/6817 27TH ST W	24.52	
				100312960	3/7/2016	POWER/3715 BP WAY W, #A2	53.61	
				100714386	3/7/2016	POWER/3609 MARKET PL W, #20	56.00	
				100105615	3/7/2016	POWER/3503 BP WAY W	62.96	

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
				100312961	3/7/2016	POWER/3715 BP WAY W, #A3	89.76	
				100751205	3/7/2016	WATER/3555 MARKET PL W/HSE	162.52	
				100142834	3/7/2016	WATER/3715 BP WAY W	162.52	
				100086165	3/7/2016	POWER/7813 44TH ST W	3.72	
				100156353	3/7/2016	POWER/4720 BP WAY W	41.11	
				100079046	3/7/2016	POWER/3715 BP WAY W, #D5	20.16	
				100802489	3/7/2016	POWER/3904 BP WAY W	12.99	
				100086155	3/7/2016	POWER/7801 40TH ST W	3.72	
				100533758	3/3/2016	POWER/5418 CIRQUE DR W	39.40	
				100895151	3/18/2016	POWER/7901 CIRQUE DR W	17.98	
				100312900	3/7/2016	POWER/3715 BP WAY W, #E3	75.27	
				100820972	3/10/2016	POWER/2700 SUNSET DR W	37.67	
				100176036	3/10/2016	POWER/2695 GRANDVIEW DR W	31.24	
				100077129	3/10/2016	POWER/2701 GRANDVIEW DR W	45.32	
				100672520	3/10/2016	POWER/2208 GRANDVIEW DR W	143.83	
				100401273	3/10/2016	POWER/8420 20TH ST W	25.61	
				100032203	3/10/2016	POWER & WATER/2534 GRANDV	212.40	
				100488528	3/11/2016	POWER/6701 REGENTS BLVD W	71.65	9,132.33
51977910	3/31/2016	001140	CITY TREASURER	90680689	3/7/2016	LANDFILL TEMP CHARGE/PROCI	78.25	
	Voucher:	40309		50004627	3/8/2016	DESIGN ENGINEERING/56TH ST-	4,268.44	4,346.69
51977911	3/31/2016	025161	CITY TREASURER	130297	3/7/2016	DTA RECEIVERS/CITY HALL	84.35	
	Voucher:	40310		129335	3/7/2016	DTA RECEIVERS/SR CENTER	8.27	92.62
51977912	3/31/2016	024565	COMCAST	849835010094487	3/15/2016	MAR25-APRIL24/INTERNET/CITY	140.79	
	Voucher:	40311		849835010094441	3/10/2016	MAR19-APRIL18/ INTERNET/SR C	97.56	
				849835010944363	3/10/2016	MAR19-APRIL18/INTERNET/PW S	137.56	
				849835010073571	3/10/2016	MODEMS/REMOTE SURVEILLAN	80.84	
				849835010073570	3/10/2016	MODEMS/REMOTE SURVEILLAN	80.84	537.59
51977913	3/31/2016	023782	COMPLETE OFFICE SOLUTIONS,	1341537-0	3/4/2016	COPY PAPER	39.76	
	Voucher:	40312		1340595-0	3/3/2016	CALCULATOR PAPER/FINANCE	6.98	
				1344866-0	3/11/2016	TOP BOOK/LOG	7.55	
				1348374-0	3/18/2016	HOLDER/CERTIFICATE/PAPER	240.11	294.40
51977914	3/31/2016	024347	COPIERS NORTHWEST, INC.	INV1353145	3/15/2016	FEB14-MAR13/OVERAGE CHARG	62.92	
	Voucher:	40313		INV1352611	3/14/2016	MAR11-APR10/CONTRACT LEASI	32.31	
				INV1351076	3/23/2016	FEB9-MARCH8/OVERAGE CHAR	47.97	
				INV1352612	3/14/2016	FEB11-MARCH10/OVERAGE PER	2.96	146.16

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
51977915	3/31/2016	002415	COSTCO MEMBERSHIP	000111758007027	3/14/2016	2016 COSTCO MEMBERSHIP RE	165.00	165.00
	Voucher:	40314						
51977916	3/31/2016	025700	DATA IMAGERY	2079	12/2/2015	2016 ANNUAL SUPPORT & SITE I	1,200.00	1,200.00
	Voucher:	40315						
51977917	3/31/2016	002431	DIANE DEMARS	MAR16	3/21/2016	MAR16/YOGA CLASSES/#5112, #	563.60	563.60
	Voucher:	40316						
51977918	3/31/2016	024855	EWING IRRIGATION PRODUCTS I	1068426	3/10/2016	TURFACE MOUND BRICKS/PLAS	315.05	315.05
	Voucher:	40317						
51977919	3/31/2016	022076	EXELTECH CONSULTING INC	1601-02	3/4/2016	DRAFTING SERVICES/MILDRED/	9,008.26	9,008.26
	Voucher:	40318						
51977920	3/31/2016	025455	FLAG FACTORY NORTHWEST	168228	3/10/2016	USA NYLON FLAG/WA ST NYLON	518.28	518.28
	Voucher:	40319						
51977921	3/31/2016	025858	FYLES, MIKE	2	3/11/2016	GIS COLLECTION/DATA PREP	1,760.00	1,760.00
	Voucher:	40320						
51977922	3/31/2016	025936	GRAY CPA CONSULTING, PC	10073	3/16/2016	CASEWARE IMPLEMENTATION/C	13,897.65	
	Voucher:	40321		10062	3/10/2016	CASEWARE IMPLEMENTATION/C	11,499.00	25,396.65
51977923	3/31/2016	001406	GUARDIAN SECURITY GROUP IN	71281	3/11/2016	SPECIALTY/RUBBER HEAD/KEY	30.41	30.41
	Voucher:	40322						
51977924	3/31/2016	022457	JOHN DEERE COMPANY	115127712	3/8/2016	REPLACEMENT GATOR	14,995.40	14,995.40
	Voucher:	40324						
51977925	3/31/2016	025431	JR SIMPLOT COMPANY	212044231	3/11/2016	HERBICIDES/WEED CONTROL	1,983.44	1,983.44
	Voucher:	40325						
51977926	3/31/2016	022801	KATE MCDERMOTT	MARCH16	3/15/2016	HEADLINES COPY	861.25	
	Voucher:	40326		JAN16	1/15/2016	NEWS RELEASES/HEADLINES C	900.00	1,761.25
51977927	3/31/2016	002278	KING LUMINAIRE COMPANY INC	19087	3/7/2016	LUMINAIRES PROVIDED THROU	15,983.00	15,983.00
	Voucher:	40327						
51977928	3/31/2016	025142	KPG, INC PS	20216	3/2/2016	MILDRED & 67TH/TRAFFIC SIGN/	1,584.87	1,584.87
	Voucher:	40329						
51977929	3/31/2016	021981	KUKER-RANKEN INC.	INV-017968	3/8/2016	KOMELON 33'/POWER TAPE	21.83	
	Voucher:	40330		INV-017967	3/8/2016	HP MATTE BLACK INK CARTRIDC	79.25	101.08
51977930	3/31/2016	001797	LOWE'S BUSINESS ACCOUNT/GE	874-3507-900095-	3/17/2016	MISC REPAIR & MAINTAINENCE	176.26	176.26
	Voucher:	40331						
51977931	3/31/2016	025353	MARTIN & JOHNSON CONSTRUC	0246	3/16/2016	CIVIC BUILDING/FRAMED ROOF/	2,486.29	2,486.29
	Voucher:	40332						

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
51977932	3/31/2016	001891	MICROFLEX INC	00022271	3/15/2016	TAX AUDIT PROGRAM	25.04	25.04
	Voucher:	40333						
51977933	3/31/2016	001095	NEWS TRIBUNE	I02217310-011920	1/19/2016	BID AD/ELWOOD DR W/SAFE RO	976.79	
	Voucher:	40336		I02250040-020320	2/3/2016	ORDINANCE PUBLICATION/ORD	113.25	
				I02282898-022020	2/20/2016	ORDINANCE PUBLICATION/ORD	108.43	
				I02284661-022220	2/22/2016	RFP/CHAMBER CRK CANYON TF	188.29	
				I02291832-022520	2/25/2016	DNS MTG/MAR16	209.73	1,596.49
51977934	3/31/2016	001096	NORTHWEST CASCADE, INC.	2-1579420	3/5/2016	PORTA POTTY RENTAL/SKATE P.	72.00	
	Voucher:	40338		2-1579407	3/6/2016	PORTA POTTY RENTAL/CURRAN	72.00	144.00
51977935	3/31/2016	024139	P.C.COMMUNITY NEWSPAPER GI	8095	3/11/2016	MAR11 ISSUE/UP PRESS CONTR	1,846.15	
	Voucher:	40340		8050	2/26/2016	FEB26 ISSUE/UP PRESS CONTR	1,846.15	3,692.30
51977936	3/31/2016	021638	PACIFICSOURCE ADMIN, INC.	0000254516	3/10/2016	MARCH16/ADMIN FEES/FEE ADJ	68.75	68.75
	Voucher:	40341						
51977937	3/31/2016	001109	PIERCE COUNTY BUDGET & FIN/	CI-213558	3/11/2016	FEB16/POLICE SERVICES	273,381.56	
	Voucher:	40343		CI-212766	3/8/2016	APRIL16/I-NET CHARGES	253.00	
				CI-213608	3/15/2016	FEB16/JAIL HOUSING	10,721.50	
				CI-213581	3/14/2016	FEB16/SPECIAL OVERTIME	3,167.66	287,523.72

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
51977939	3/31/2016	001751	PIERCE COUNTY BUDGET & FIN/	0220231116	2/17/2016	2016 PROPERTY TAX	6.69	
	Voucher:	40344		0220221027	2/17/2016	2016 PROPERTY TAX	140.79	
				0220221039	2/17/2016	2016 PROPERTY TAX	6.20	
				0220221018	2/17/2016	2016 PROPERTY TAX	6.76	
				4002560150	2/17/2016	2016 PROPERTY TAX	5.96	
				4002700220	2/17/2016	2016 PROPERTY TAX	5.65	
				4002700240	2/17/2016	2016 PROPERTY TAX	5.65	
				9009660070	2/17/2016	2016 PROPERTY TAX	6.69	
				9009660040	2/17/2016	2016 PROPERTY TAX	122.77	
				9009660050	2/17/2016	2016 PROPERTY TAX	105.94	
				9009680010	2/17/2016	2016 PROPERTY TAX	6.69	
				4002560020	2/17/2016	2016 PROPERTY TAX	2,195.44	
				4002560030	2/17/2016	2016 PROPERTY TAX	5.65	
				4002560140	2/17/2016	2016 PROPERTY TAX	6.07	
				0220221008	2/17/2016	2016 PROPERTY TAX	6.39	
				0220101007	2/17/2016	2016 PROPERTY TAX	5.86	
				0220163014	2/17/2016	2016 PROPERTY TAX	210.42	
				4003090140	2/17/2016	2016 PROPERTY TAX	5.65	
				4003090100	2/17/2016	2016 PROPERTY TAX	5.65	
				4003090120	2/17/2016	2016 PROPERTY TAX	5.65	
				4001460480	2/17/2016	2016 PROPERTY TAX	7.86	
				0220235031	2/17/2016	2016 PROPERTY TAX	6.26	
				3867000320	2/17/2016	2016 PROPERTY TAX	5.65	
				3867000300	2/17/2016	2016 PROPERTY TAX	5.65	
				0220237020	2/17/2016	2016 PROPERTY TAX	5.65	
				4000270200	2/17/2016	2016 PROPERTY TAX	23.82	
				3867000280	3/18/2016	2016 PROPERTY TAX	5.65	
				3867000290	2/17/2016	2016 PROPERTY TAX	5.65	
				9127530200	2/17/2016	2016 PROPERTY TAX	23.83	
				9127530210	2/17/2016	2016 PROPERTY TAX	23.71	
				3867000310	2/17/2016	2016 PROPERTY TAX	5.65	
				0220234202	2/17/2016	2016 PROPERTY TAX	23.55	
				0220232025	2/17/2016	2016 PROPERTY TAX	5.94	
				0220234203	2/17/2016	2016 PROPERTY TAX	7.55	
				0220233012	2/17/2016	2016 PROPERTY TAX	5.99	

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
				4002560040	2/17/2016	2016 PROPERTY TAX	5.65	
				4002560011	2/17/2016	2016 PROPERTY TAX	5,093.86	
				0220151106	2/17/2016	2016 PROPERTY TAX	5.89	
				0220151189	2/17/2016	2016 PROPERTY TAX	5.65	
				4003150230	2/17/2016	2016 PROPERTY TAX	5.65	
				3355000170	2/17/2016	2016 PROPERTY TAX	5.65	
				9435000090	2/17/2016	2016 PROPERTY TAX	5.96	
				0220101009	2/17/2016	2016 PROPERTY TAX	114.28	
				4002260490	2/17/2016	2016 PROPERTY TAX	6.40	
				4002970120	2/17/2016	2016 PROPERTY TAX	5.65	8,283.62
51977940	3/31/2016	001114	PITNEY BOWES GLOBAL FIN. SV	7031321-MR16	3/13/2016	1STQTR16/MAIL MACHINE LEASI	1,167.65	1,167.65
	Voucher:	40345						
51977941	3/31/2016	022955	PLUMB SIGNS, INC.	IV-15453	3/10/2016	NON ILLUMINATED SIGN/GARAG	831.87	
	Voucher:	40346		IV-15451	3/10/2016	PROVIDE/INSTALL GARAGE DIRI	12,085.27	12,917.14
51977942	3/31/2016	025445	PUGET PAVING AND CONSTRUC	1	3/15/2016	ELWOOD SAFE ROUTES	91,950.00	91,950.00
	Voucher:	40347						
51977943	3/31/2016	003149	RODDA PAINT COMPANY	27070344	3/21/2016	PAINT/CIVIC BLDG	338.65	338.65
	Voucher:	40348						
51977944	3/31/2016	001328	SHELL FLEET CARD SERVICES	000000814710012	3/6/2016	81-471-0012-0/SHELL	23.36	23.36
	Voucher:	40350						
51977945	3/31/2016	003008	SPRAGUE PEST SOLUTIONS INC	2818091	3/16/2016	PEST CONTROL/SR. CENTER	43.76	43.76
	Voucher:	40352						
51977946	3/31/2016	002613	SUPERIOR LINEN SERVICE,INC.	38007	3/23/2016	OFFICE MAT RENTAL/PW SHOP	89.00	89.00
	Voucher:	40353						
51977947	3/31/2016	025311	TACOMA WINSUPPLY, INC.	025584-00	3/1/2016	SUPPLIES	245.32	245.32
	Voucher:	40354						
51977948	3/31/2016	025960	TAYLOR, STACIE	REFUND	3/21/2016	REFUND/SR CENTER DAMAGE D	200.00	200.00
	Voucher:	40355						
51977949	3/31/2016	024542	TESTAMERICA LABORATORIES,I	58093747	3/24/2016	POND SAMPLE/PW	286.50	286.50
	Voucher:	40356						
51977950	3/31/2016	002823	THOMPSON ELECTRICAL CONST	0316-8385CG	3/21/2016	REPAIR DAMAGED LIGHT/27TH &	1,095.73	
	Voucher:	40357		0316-8409CV	3/23/2016	TROUBLESHOOTING/CIVIC CEN	205.67	1,301.40
51977951	3/31/2016	001636	THOMSON REUTERS - WEST	833551570	3/1/2016	FEB16/WEST INFORMATION CHA	653.09	653.09
	Voucher:	40358						

Bank : bofa BANK OF AMERICA (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
51977952	3/31/2016	024721	TIGER TAEKWONDO ACADEMY,IN	032216	3/22/2016	TAEKWONDO INSTRUCTION/201	1,020.00	1,020.00
	Voucher:	40359						
51977953	3/31/2016	001035	TYLER TECHNOLOGIES, INC.	045-147720	12/1/2015	ACCOUNTS RECEIVABLE SUPPC	48,906.57	
	Voucher:	40360		045-154718	2/29/2016	CREDIT/CASH REG INTERFACE :	-1,945.34	46,961.23
51977954	3/31/2016	025376	UNIVERSAL FIELD SERVICES, IN(	47402	2/29/2016	BP WAY PH 4A/ROW ACQUISITIC	1,097.21	
	Voucher:	40361		47397	2/29/2016	BP WAY PH 5/ROW ACQUISITION	1,714.30	
				47398	2/29/2016	BP WAY PH 5/ROW ACQUISITION	477.66	3,289.17
51977955	3/31/2016	001331	UNIVERSITY PLACE REFUSE SV,I	895725	3/23/2016	APRIL16/BILLING PERIOD/COMP.	468.41	
	Voucher:	40362		896849	3/23/2016	APRIL16/BILLING PERIOD/REFUS	977.66	1,446.07
51977956	3/31/2016	001151	UNIVERSITY PLACE SCHOOL DISF	22463	2/5/2016	JAN16/CJH & CHS GYM USE/YOU	520.00	520.00
	Voucher:	40363						
51977957	3/31/2016	025957	VENUS NAIL	REFUND	3/8/2016	REFUND BUSINESS LICENSE/DU	50.00	50.00
	Voucher:	40364						
51977958	3/31/2016	001153	VERIZON WIRELESS,LLC.	9761417420	3/1/2016	FEB16/CELL PHONES/CITYWIDE	1,555.85	
	Voucher:	40365		9762083040	3/12/2016	CELL PHONES/PW & PARKS MAI	734.85	2,290.70
51977959	3/31/2016	022590	WA STATE DEPT OF TRANSPORT	RE-313-ATB60314	3/14/2016	GEN PROJ MGMNT/MILDRED/67	33.90	33.90
	Voucher:	40367						
51977960	3/31/2016	022306	WHITWORTH PEST SOLUTIONS I	301273	3/15/2016	SPRAYING OF APPLE TREES IN (	1,340.15	1,340.15
	Voucher:	40369						

Sub total for BANK OF AMERICA: 589,830.70

70 checks in this report.

Grand Total All Checks: 589,830.70

TOP

University Place
WASHINGTON

FOURTH QUARTER FINANCIAL REPORT
DECEMBER 31, 2015

Introduction

The fourth quarter 2015 financial report is presented here. As has been the custom in the past, the report has been prepared on an accrual basis. There is a one month lag between when monies are collected by other entities (State of Washington and Pierce County) and when they are received by the City. As a result, the City has to accrue those revenues back to the period they were deemed receivable. For comparison purposes, certain revenues have been accrued and charged to the fourth quarter 2015. These include taxes and other state shared revenues.

Overall, general government revenues are up 10.41% over budget estimates, but due largely to increased Sales Tax and Real Estate Excise Tax; and expenditures (excluding reserves and transfers) are under budget by 19.3%. A significant portion of the savings is related to equipment budgeted in the Finance and Administrative Services Department for UPTV capital expenses which have not, as yet, been expended. The continued effort by staff to monitor spending in all areas has also contributed to the savings.

ON-GOING OPERATING REVENUES

Overall the City's on-going operating revenues are 10.41% above 2015 budget estimates. The table bellows lists all on-going revenues with a 2015 Budget to Actual Variance. Details of major variances are discussed following the table.

	2012	2013	2014	2015		Budget to Actual	
	Actual	Actual	Actual	Budget	Actual	$ Variance	% Variance
Property Tax	3,856,992	3,924,801	3,977,589	4,043,684	4,059,416	15,732	0.39%
Sales Tax	1,930,572	2,181,855	2,804,120	2,600,000	3,365,487	765,487	29.44%
Sales Tax - 1% for Parks	221,071	246,225	259,154	224,220	278,851	54,631	24.36%
Sales Tax (LRF)	541,311	551,886	598,236	500,000	522,937	22,937	4.59%
Criminal Justice Sales Tax	401,968	440,297	462,223	371,680	495,865	124,185	33.41%
Criminal Justice - Low Pop	85,888	90,897	95,988	79,500	97,763	18,263	22.97%
Charges for Service/Police	10,013	18,290	7,135	6,500	9,811	3,311	50.94%
SRO Reimbursement	-	-	-	56,752	57,312	560	0.99%
Leasehold Excise Tax	3,435	4,224	1,818	3,500	1,834	(1,666)	-47.59%
Utility Tax	2,468,753	2,419,118	2,366,888	2,459,000	2,323,109	(135,891)	-5.53%
Gambling Tax	75,292	48,985	27,073	30,500	31,856	1,356	4.45%
Real Estate Excise Tax	517,726	626,932	984,609	630,000	1,238,266	608,266	96.55%
Admission Tax (excludes US Open)	212,754	182,025	178,154	176,750	178,514	1,764	1.00%
Business License Fees	77,814	76,404	84,603	78,000	87,922	9,922	12.72%
Franchise Fees	2,214,925	2,317,419	2,430,145	2,406,845	2,523,640	116,795	4.85%
State Shared Revenues	1,030,545	970,211	978,229	907,398	1,042,091	134,693	14.84%
Local Government Assistance	66,002	93,177	98,635	60,000	114,198	54,198	90.33%
Penalty & Interest (Business Taxes)	720	455	217	-	241	241	n/a
Fines & Forfeitures	6,485	6,775	3,768	2,010	3,694	1,684	83.78%
Judgements & Settlements	6,327	10,425	348	500	1,307	807	161.40%
Alarm Permit Fees	4,493	6,434	5,442	3,500	6,061	2,561	73.17%
Building, Engineering & Planning	608,282	608,702	848,651	669,970	506,001	(163,969)	-24.47%
Impact Fees	390,840	539,025	519,174	160,000	326,201	166,201	103.88%
Recreation Revenue	278,778	351,305	336,623	280,550	369,391	88,841	31.67%
SWM Fees	2,699,026	2,819,836	2,745,083	2,781,621	2,780,343	(1,278)	-0.05%
Court Fees	-	-	-	-	24,437	24,437	n/a
Solicitor Permit Fees	200	375	475	250	425	175	70.00%
Administrative Fee from SWM Fund	448,331	459,806	440,659	477,208	432,920	(44,288)	-9.28%
Rents and Leases	119,229	186,201	100,795	96,550	102,357	5,807	6.01%
Investment Interest	8,435	11,745	19,857	20,300	44,078	23,778	117.13%
Animal Control License fees	65,087	60,278	54,568	60,000	51,767	(8,233)	-13.72%
Transportation Benefit District Fees	-	-	175,626	293,600	394,713	101,113	34.44%
Sale of Surplus	-	10,470	2,791	-	16,253	16,253	n/a
Miscellaneous	149,162	29,155	41,906	39,001	62,581	23,580	60.46%
Total	**18,500,456**	**19,293,732**	**20,650,580**	**19,519,389**	**21,551,643**	**2,032,254**	**10.41%**

When compared to the 2014, Property tax is up 2.06% and SWM fees are up 1.28%.

Sales tax is up 29.44% over 2015 budget estimates. Much of this increase reflects volatile construction sales tax revenues as well as sales tax received for the 2015 US Open ($193,918). It also includes taxes generated by Whole Foods which will be ongoing.

Continued improvement in the real estate market have brought in 96.55% more excise tax than projected. Real Estate sales have recovered from the recession, but supply is low.

Franchise fees are up slightly at 4.85% more than 2015 budget estimates at $2,523,640. Keep in mind that franchise fees for electric and water are affected by weather as these fees are based on the prior year's gross receipts to the utility. For example, the recent drought and subsequent water usage cuts by citizens will affect our franchise fees for 2016. Effects of this will be known in early April, 2016. Winter temperatures will affect the electric fees either positively or negatively. Both are budgeted in 2016 based on a 5 year average.

Impact fees show an increase over budget projections due to the Parks Impact fee payment for the Latitude 47 building.

Business Licenses fees are, for the most part, collected during the first part of the year and, at $87,922, are approximately 12.72% more than was budgeted.

Admission Tax, at $178,514, is up 1.00% over budget projections. This amount does not include taxes received for the US Open.

The Administrative Fee from SWM is 9.28% below budget estimates. This fee is based on budget expenditures and transfers are made from the affected departments based on actual expenditures. The decrease in operating expenditures resulted in a decrease in the Administrative Fee from SWM.

Transportation Benefit District fees are up 34.44% over revenue projections. Original projections were based on estimates provided by the Department of Licensing. We now have a full year of collections to help estimate future revenues. All TBD fees are transferred to the Street Fund for street maintenance costs.

GENERAL FUND OPERATING EXPENDITURES

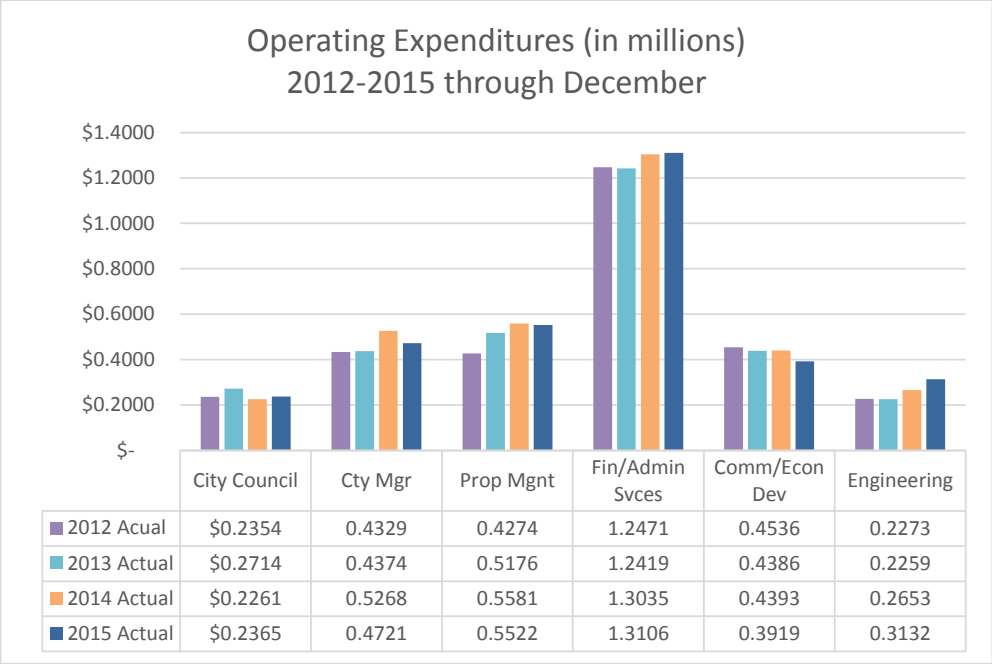
General Fund operating expenditures are presented by Department.

- City Manager's Office includes the budgets for City Manager, Community Events and Beautification
- Finance an Administrative Services includes the budgets for Finance, Reception, City Clerk and Communications,
- Community and Economic Development includes the budgets for Economic Development and Human Resources

Overall, 2015 operating expenditures were 19.3% below budget (excluding Reserves and Contingency). A significant portion of the savings is related to equipment budgeted in the Finance and Administrative Services Department for UPTV which have not, as yet, been expended. The continued effort by staff to monitor spending in all areas has also contributed to the savings. Some of the savings are for items that were not expended in 2015 but will be expended in 2016. Details of the carryforward amounts will be presented in April as part of the carryforward budget amendment.

OPERATING EXPENDITURES
Through December
2012 to 2015

	2012	*2013*	*2014*	*2015*		*Budget Variance*	
	Actual	*Actual*	*Actual*	*Budget*	*Actual*	*$ Variance*	*% Variance*
City Council	$ 235,408	$ 271,430	$ 226,098	$ 278,679	$ 236,538	$ (42,141)	-15.1%
City Manager's Office	432,880	437,403	526,796	532,816	472,078	(60,738)	-11.4%
Property Management	427,380	517,574	558,106	685,083	552,247	(132,836)	-19.4%
Finance and Administrative Services	1,247,095	1,241,937	1,303,474	1,768,168	1,310,638	(457,530)	-25.9%
Community and Economic Development	453,553	438,604	439,342	481,441	391,920	(89,521)	-18.6%
Engineering	227,275	225,936	265,282	294,216	298,568	4,352	1.5%
	3,023,591	**3,132,884**	**3,319,096**	**4,040,403**	**3,261,989**	**$ (778,414)**	**-19.3%**
Reserves/Transfer-Other	7,021,983	4,806,283	5,277,241	6,578,971	4,993,624		
Total	**$ 10,045,573**	**$ 7,939,168**	**$ 8,596,337**	**$ 10,619,374**	**$ 8,255,613**		



POLICE/PUBLIC SAFETY FUND REVENUES AND EXPENSES

Public Safety revenues show a 3.07% increase compared to 2015 budget estimates. Expenditures show a 7.40% decrease when compared to 2015 budget estimates. There are two changes to this fund. In prior years the UP School District reimbursement was recognized against the expenditure, thus reducing expenditure totals. For 2015 we are recognizing this as a revenue to better show the expense costs. The City is now receiving all fees, costs, penalties and fines assessed in the University Place Municipal Court ($24,437 through December) as part of the court contract with the City of Lakewood signed in January, 2015. This unbudgeted revenue source will help the projected deficit in the Police Fund.

The Police budget of $3,780,186 includes the following $3,492,288 for the police services contract with Pierce County; $100,000 for Special Overtime; $100,000 for US Open Security; $17,505 for Arson Investigations; and $70,393 for other supplies and services.

	2012	2013	2014	2015		Budget to Actual	
	Actual	Actual	Actual	Budget	2015 Actual	*$ Variance*	*% Variance*
Beginning Fund Balance	**-**	**249,729**	**684,019**	**950,205**	**950,205**		
REVENUES							
Property Tax	3,856,992	3,924,801	3,977,589	4,043,684	4,059,416	15,732	0.39%
Criminal Justice Sales Tax	401,968	440,297	462,223	371,680	495,865	124,185	33.41%
Animal Control	69,719	64,060	56,635	61,010	53,348	(7,662)	-12.56%
Criminal Just - Low Population	85,888	90,897	95,988	79,500	97,763	18,263	22.97%
Alarm Permit Fees/False Alarm	6,303	9,391	6,937	4,500	7,963	3,463	76.96%
Grants/Contributions	17,965	21,993	25,374	16,114	17,415	1,301	8.07%
Law Enforcement Svces/DUI Response	10,013	18,290	7,135	6,500	9,811	3,311	50.95%
Crime Free Multi-Housing	580	420	850	-	625	625	n/a
Liquor Profits Tax - Public Safety	28,561	56,864	56,334	58,228	55,696	(2,532)	-4.35%
SWM Administrative Fee - City Attorney	43,292	44,331	57,758	62,135	55,833	(6,302)	-10.14%
Court Fees	-	-	-	-	24,437	24,437	n/a
UPSD/SRO Reimbursement	Recognized as a reimbursement			56,752	57,312	560	0.99%
Total Revenues and Beg. Fund Balance	**4,521,281**	**4,921,072**	**5,430,842**	**5,710,308**	**5,885,689**	**175,381**	**3.07%**
Expenditures							
Municipal Court	240,290	238,915	236,935	187,702	170,585	(17,117)	-9.12%
Emergency Preparedness	27,201	27,203	27,525	38,199	30,212	(7,987)	-20.91%
Legal Services	291,076	264,108	344,068	376,577	338,381	(38,196)	-10.14%
Police	3,327,502	3,339,654	3,457,753	3,780,186	3,531,256	(248,930)	-6.59%
Public Safety	81,093	75,559	76,206	104,279	87,334	(16,945)	-16.25%
Animal Control	115,900	95,566	112,271	114,718	112,649	(2,069)	-1.80%
Code Enforcement	82,031	44,494	84,890	92,081	75,049	(17,032)	-18.50%
Jail	106,458	140,787	142,618	154,500	164,590	10,090	6.53%
Transfers Out to Internal Service Funds	-	10,768	-	22,200	-	(22,200)	
Total Expenditures	**4,271,552**	**4,237,054**	**4,482,266**	**4,870,442**	**4,510,056**	**(360,386)**	**-7.40%**

RECREATION FUND REVENUES AND EXPENDITURES

Recreation revenues show a 7.37% increase compared to 2014 (excluding City Share). Much of this increase is due to higher than normal registration for our summer day camp program and an increase in field, picnic shelter and Sr. Center rentals. The variance between "actual" and "budget" revenues for the Donations budget reflects the decision to no longer include a budgeted amount for donations. Recreation expenditures show a 7.26% decrease when compared to 2014. Senior Services expenses show an increase and reflects the decision to budget and charge the salary costs related to the senior center to this line item rather than program management.

	2012	2013	2014	2015		2015 vs 2014 Actual	
	Actual	Actual	Actual	Budget	Actual	*$ Variance*	*% Variance*
Program Revenues							
Beginning Fund Balance	$ -	$ -	$ -	$ 6,006			
Recreation Revenue	278,780	351,305	336,859	280,550	370,347	33,488	9.94%
Donations/Fund Raisers/Grants/Misc	53,807	38,131	29,144	-	14,055	(15,089)	-51.78%
Senior Center Rentals	4,170	8,310	8,670	5,500	12,585	3,915	45.16%
Field/Park/Shelter Rental	18,779	26,156	21,818	20,200	28,720	6,903	31.64%
Total Revenues and Donations	**$ 355,535**	**$ 423,902**	**$ 396,490**	**$ 312,256**	**$ 425,706**	**$ 29,216**	**7.37%**
Recreation - City Share	249,643	245,623	301,764	325,531	214,496	(87,268)	-28.92%
Total Recreation Revenues	$ 605,178	$ 669,525	$ 698,254	$ 637,787	$ 640,202	$ (58,052)	-8.31%
Sales Tax 1% for Parks	Recognized in General Fund			224,220	$ 278,851	19,697	7.60%
Parks - City Share	377,539	380,768	381,969	376,987	323,343	(58,626)	-15.35%
Total Revenues and Transfers	$ 982,717	$ 1,050,293	$ 1,080,223	$ 1,238,994	$ 1,242,396	$ 162,173	15.01%
Program Expenditures							
Program Management	$ 387,547	$ 401,402	$ 411,646	$ 338,019	$ 306,413	$ (105,233)	-25.56%
Senior Services	29,719	22,500	19,861	110,215	93,348	73,487	370.00%
Outdoors	-	2,067	269	2,000	-	(269)	-100.00%
Technology	485	-	-	-	-	-	n/a
Youth Sports	78,031	86,177	84,732	99,523	77,720	(7,013)	-8.28%
Adult Trips & Tours	18,715	26,653	27,576	13,293	23,300	(4,277)	-15.51%
Martial Arts	31	723	1,488	-	595	(893)	-60.00%
Youth Programs	55,463	84,990	98,824	69,064	102,572	3,748	3.79%
Cultural Arts	2,503	3,045	1,076	3,626	9,838	8,763	814.68%
Fitness	10,684	21,676	30,684	22,219	17,456	(13,228)	-43.11%
Community/Senior Center	10,986	12,801	14,127	17,070	14,830	703	4.98%
Field/Park/Shelter Rentals	5,598	7,490	6,480	9,700	136	(6,344)	
Total Recreation Program Expenditures	599,763	669,525	696,762	684,729	646,208	(50,554)	-7.26%
Parks Maintenance	382,954	380,768	377,456	428,062	430,414	52,959	14.03%
Transfer to Debt Service	Recognized in General Fund			126,203	126,203	126,203	
Total Program Expenditures	$ 982,717	$ 1,050,293	$ 1,074,217	$ 1,238,994	$ 1,202,825	$ 128,608	11.97%

US OPEN REVENUE AND EXPENSE

All of the revenues and expenses for the US Open, which was held at Chambers Bay in June have been posted. Revenues are 4.03% above our estimates for the event. Admission tax for the event was received in 2014 and 2015.

Expenses are 8.05% above estimates, largely due to staff time and the permit fee waiver. Staff was asked to track the time spent on US Open related activities (inspections, meetings, EOC, etc.) to accurately reflect the true cost to the City for the event.

	US OPEN	
	Budget Estimate	**Actual**
Revenues (2014 - 2015)		
Revenue Estimate	$ 1,200,000	
Admissions Tax		$ 1,021,987
Sales Tax		193,918
Permit Fee		25,000
Andy Frain (rent)		7,500
	$ 1,200,000	$ 1,248,405
Expense (2014 - 2015)		
US Open related Expenses	$ 126,305	$ 146,918
Donation to Pierce County	50,000	50,000
Security/Outside Ropes	50,000	12,223
Banners/Beautification	61,243	61,243
Permit Fee Waiver		40,308
	$ 287,548	$ 310,692

INDIVIDUAL REVENUES

The information presented below provides a detailed look at the major revenues for the City.

Sales Tax

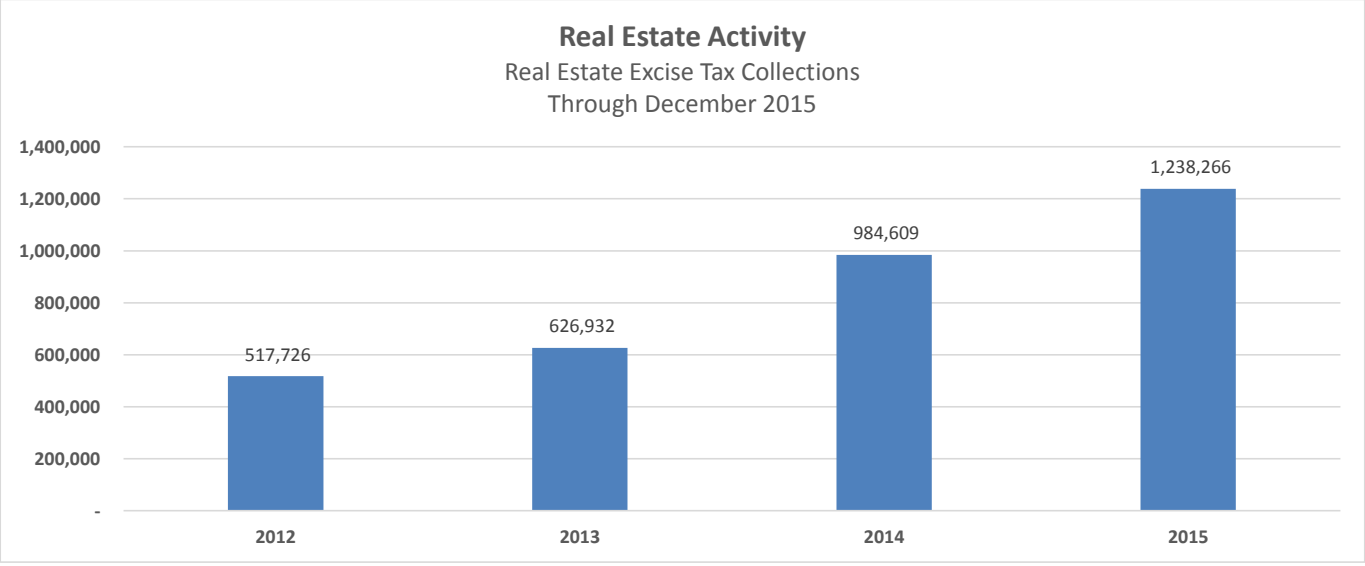
With respect to budget estimates 2015 general sales tax revenues, through fourth quarter, exceeded budget estimates by 29.4% or $765,487. (The sales tax revenues shown below do not include the 1% for Sales Tax for Parks.) Part of this increase is from taxes in the amount of $193,918 generated from the US Open. It also reflects increased construction tax revenue, which may not be sustainable.

	2012	*2013*	*2014*	*2015*		Change (Bud vs Act)	
MONTH	*Actual*	*Actual*	*Actual*	*Budget**	*Actual*	$	%
January	$ 194,463	$ 210,477	$ 255,039	$ 248,093	$ 320,380	72,288	29.1%
February	130,779	161,923	193,118	182,625	234,718	52,094	28.5%
March	144,494	151,974	209,383	190,154	247,286	57,132	30.0%
April	159,292	170,886	244,304	215,954	297,502	81,548	37.8%
May	151,023	157,397	220,783	198,933	261,258	62,325	31.3%
June	160,165	183,798	235,480	217,818	274,894	57,075	26.2%
July	158,481	184,516	259,396	226,446	524,720	298,274	131.7%
August	168,046	186,688	245,837	225,761	269,850	44,089	19.5%
September	162,576	187,932	237,417	221,007	241,420	20,414	9.2%
October	181,777	195,837	240,614	232,398	244,042	11,644	5.0%
November	169,240	197,050	228,463	223,574	236,608	13,034	5.8%
December	150,236	193,377	234,286	217,238	212,810	(4,428)	-2.0%
Total	$ 1,930,572	$ 2,181,855	$ 2,804,120	$ 2,600,000	$ 3,365,487	$ 765,487	29.4%
Taxable Sales	$ 229,829,958	$ 259,744,637	$ 333,823,785	$ 309,523,810	$ 400,653,245	$ 91,129,435	29.4%

* Represents 3 year monthly historical pattern for the 2015 Adopted Budget.

Real Estate Excise Tax

Real Estate Excise Tax, at $1,238,266, is exceeding the $630,000 2015 budget estimate by $608,266 or 96.55%. Revenues are 25.76% higher than 2014.



State-Shared Revenues

Fuel Tax is the largest revenue source of our State-Shared Revenues. This tax is tied to the number of gallons sold, not the price per gallon. As a result, gas price increases or decreases have no effect on revenue. The Fuel Tax is collected at the state level and is distributed to cities based on percent of population as compared with the State.

With the uncertainty of the adjustments the legislature would make, the Liquor Profits and Liquor Excise taxes were budgeted conservatively for 2015. Overall State-Shared Revenues are up 23.4% over our budgeted estimates. We have seen the greatest increase in the Liquor Excise tax which was reinstated to higher levels in 2015.

				2015		Change (Bud vs Act)	
CATEGORY	2012	2013	2014	Budget	Actual	**$**	**%**
Liquor Profits Tax	$ 310,923	$ 281,085	$ 278,467	$ 209,728	$ 275,312	$ 65,584	31.3%
Liquor Excise Tax	78,104	41,719	53,748	37,370	103,523	66,153	177.0%
Local Criminal Justice	401,968	440,297	462,223	371,680	495,865	124,185	33.4%
Fuel Tax	641,519	647,406	646,013	660,300	663,256	2,956	0.4%
Subtotal State Shared Rev	1,432,513	1,410,508	1,440,452	1,279,078	1,537,957	258,879	20.2%
State of WA/City Assistance	66,002	93,177	98,635	60,000	114,198	54,198	90.3%
Criminal Justice Low Pop	85,888	90,897	95,988	79,500	97,763	18,263	23.0%
Total	$ 1,584,403	$ 1,594,581	$ 1,635,075	$ 1,418,578	$ 1,749,918	$ 331,340	23.4%
% Change from prior year	2.4%	0.6%	2.5%	N/A	7.0%	N/A	N/A

Utility Taxes

Overall, utility tax revenue is down 1.85% compared to 2014. Increases in some categories offset reductions in other categories. Natural gas taxes, at $363,501, are down 5.52% when compared to 2014. Cable television taxes for 2015 are $679,761 as compared with $649,700 for 2014 which is an increase of 4.63%. We continue to see a trend of decreased revenue from cell phone and telephone services. Cell phone tax revenues were $546,775 for 2015. This is 10.91% less than revenues in the same period last year. Land line telephone taxes continue to decrease.

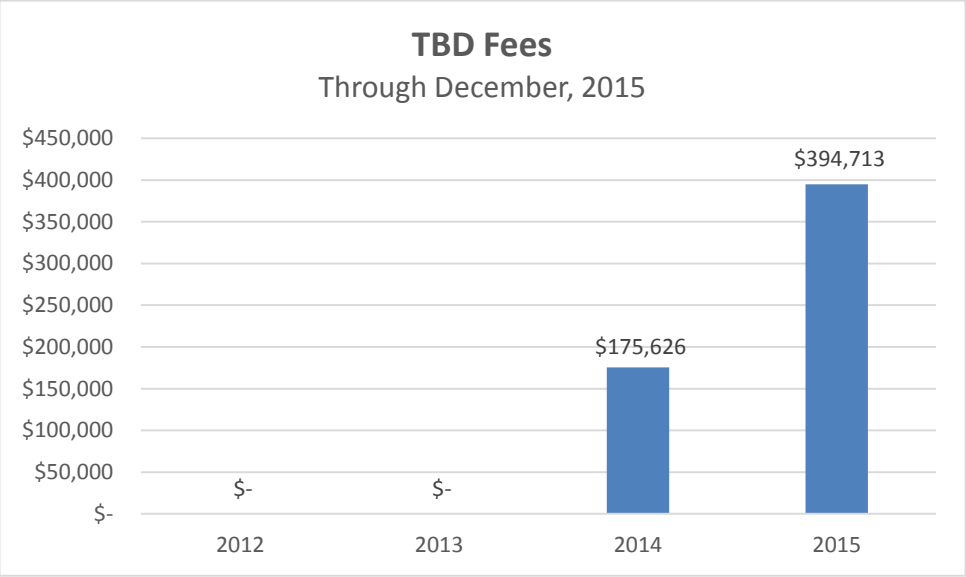
Utility Tax Revenues
Collected through December, 2015

				2015	2015	2015 vs 2014 Actual	
	2012	**2013**	**2014**	**Budget**	**Actual**	**$**	**%**
Gas	452,575	415,580	384,742	460,000	363,501	(21,241)	-5.52%
Garbage	328,598	332,074	344,505	340,000	360,603	16,098	4.67%
Cable	600,951	630,205	649,700	630,000	679,761	30,061	4.63%
Phone	219,881	209,750	195,929	210,000	192,382	(3,547)	-1.81%
Cellular	690,519	653,820	613,752	640,000	546,775	(66,977)	-10.91%
SWM	176,228	177,689	178,260	179,000	180,087	1,827	1.02%
Total Revenue	2,468,753	2,419,118	2,366,888	2,459,000	2,323,109	(43,779)	-1.85%

Transportation Benefit District (TBD) Fees

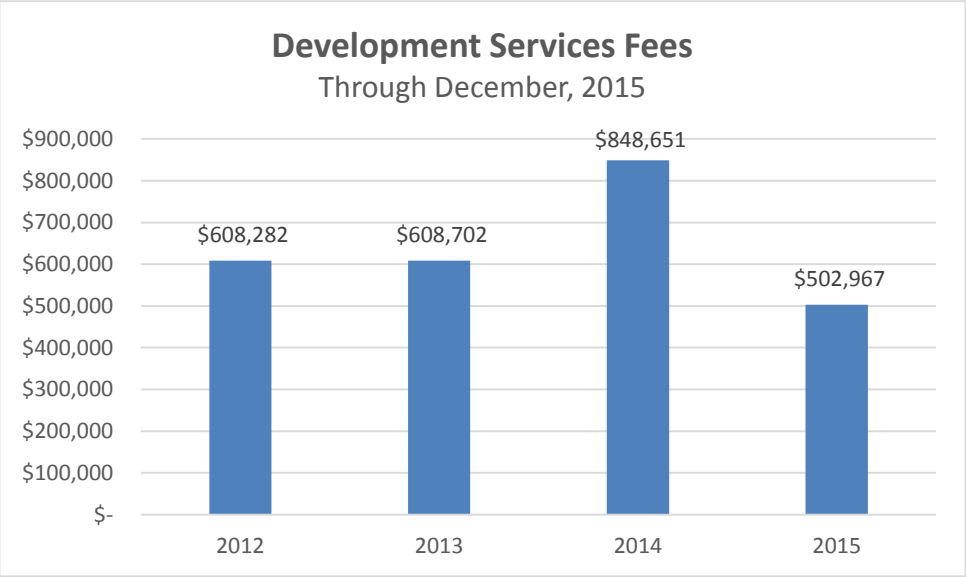
The UPTBD was created in December, 2013 and we began collecting revenues in July, 2014. Total 2014 revenues were $175,626. TBD revenues are up when comparing collections for 2014 to 2015, however we only had 6 months of collection in 2014.

Collections for TBD began in mid-2014 and estimates were based on numbers provided by the Department of Licensing. A full year of collection in 2015 will better enable us to estimate for future budgets.



Development Services Fees

Development Services revenue for 2015 reflects a decrease of 40.7% compared to 2014. Revenues in 2014 include permit fees for the Whole Foods building project and the Latitude 47 project. The revenue shown below does not include the General Fund and SWM Fund transfers for non-fee supported services included in the Development Services expenditures which for 2015, were $486,269.



CAPITAL IMPROVEMENT FUNDS - YTD EXPENSES AND STATUS

The table below reflects the active projects for 2015. The Parks CIP Fund is funded in large part by Parks Impact Fees and will not see any significant increase in monies over the next several years without additional funding sources. Public Works CIP is largely funded by Grants and restricted funds: Arterial Street Fund, REET Fund, SWM Fund and Traffic Impact Fees.

PROJECT	4th QUARTER STATUS	2015 Budget	2015 Actual
Parks Capital Improvement			
Park Property Acquisition/ Grant Match	On-going	$ 188,958	$ -
Homestead Park (Play Structure)	Complete	42,946	37,352
Cirque Park(Skatepark Safety Improvements)	In Progress	27,215	15,825
Kobayashi (Parking Improvements)	On Hold	95,000	-
Kobayashi (fire repair)	Complete	-	30,043
Creekside Park (Master Plan)	On Hold	54,418	-
Paradise Pond Park (Trail Const.)	In Progress	6,814	-
Chambers/Leach Creek Trail (Trail Const. and Easement purchases)	In Progress	67,900	62,926
		$ 483,251	$ 146,147
Public Works Capital Improvement			
CIP Personnel	On-going	$ 357,751	$ -
City Entrance Sign	Complete	18,000	17,585
Cirque Drive Overlay	In Progress	862,971	787,475
Cirque Sidewalk	Complete	90,000	86,586
Bridgeport Way - Phase 3, 3B, and 4	In Progress	883,710	772,022
27th St - Phase 2	Design/Engineering	60,000	1,644
Bridgeport Way - Phase 5	In Progress	2,764,934	308,052
Bridgeport Low Impact	Out for Bid	1,128,329	17,929
Mildred Street	Design/Engineering	2,107,476	66,315
27th St W/Regents TIB	Design/Engineering	1,569,683	34,873
Neighborhood CIP	On-going	12,636	-
Leach Creek Buffer Acq.	On-going	1,482	-
19th Street Pond Retrofit	On Hold	456,333	-
Cirque/56th Street Corridor	In Progress	623,650	69,880
Cirque Drive CDBG	In Progress	341,000	286,631
University Place Main Street Redevelopment	Complete	933,987	1,078,879
SWM - Misc. Flooding	On-going	160,000	6,358
SWM - Storm Drainage for CIP	On-going	50,000	2,950
SWM - Leach Creek Channel Habitat Restoration	On Hold	240,000	-
SWM - Crystal Creek Culvert Repair	In Progress (to be completed in 4th Quarter)	698,813	125,717
SWM - 37th St W	Design/Engineering	270,390	86
SWM - 56th ST. W & 95th	Design/Engineering	118,855	-
SWM - Lemons Beach Outfall	Complete	355,000	326,232
SWM - Soundview Dr. W	Construction In Progress	471,341	25,438
SWM - Olympic Dr. W (Grandview to 31st)	Design/Engineering	343,117	8,522
SWM - Tahoma Place	Design/Engineering	296,156	10,987
SafeRoutes - 27th Street	Construction Complete, Enforcement in Progress	21,576	1,042
SafeRoutes - Beckonridge Dr.	Construction Complete, Enforcement in Progress	52,518	-
SafeRoutes - 44th Street	In Progress	885,435	818,306
SafeRoutes - 56th Street	Complete	397,997	477,586
SafeRoutes - Cirque	Complete	1,045,351	1,034,893
SafeRoutes - Elwood Drive	Design In Progress	1,070,000	55,547
LRF - Market Place Street & Pedestrian Improvements	In Progress	23,189	16,337
LRF - Lot 10 Staircase	On Hold	92,000	-
LRF - Garage & Elevator Improvements	In Progress	206,326	213,449
LRF - Market Place Phase 5	In Progress	140,000	12,309
LRF - Briarview Demolition	Complete	92,672	92,673
LRF - Drexler Power Vault	Complete	20,000	15,809
Contingency		373,649	-
		$ 19,636,327	$ 6,772,111
Municipal Facilities CIP			
Library/Civic Building 2nd Floor Tis	Complete	$ 25,000	$ 29,129
Library/Civic Building Land Sales Costs	Budgeted for next takedown of lot sales	100,000	-
Library/Civic Building Tis	Land Sale proceeds/to be held for future Tis	913,235	-
		$ 1,038,235	$ 29,129

MISCELLANEOUS DATA

OPERATING INDICATORS

	2012	2013	2014	2015
General Government				
Building Permits Issued	715	735	822	752
Police				
Part 1 Crimes*	1,026	882	815	824
DUI Arrests	69	41	51	53
Other Traffic Arrests	266	192	154	132
Fire**				
Emergency Medical Responses	8,716	8,961	9,128	10,545
Fire Responses	312	298	286	448
Other	4,564	4,306	4,593	4,465
Recreation				
Number of Programs Offered	1,116	1,043	1,043	1,043
Public Works				
Feet of Sidewalks Maintained	137,280	144,308	144,308	144,308

** Part 1 Crimes includes Violent Crime (Aggravated Assault, Murder, Rape, Robbery) and Property Crime (Arson Motor Vehicle Theft, Burglary and Theft)*

*** Statistics reflect the total for West Pierce Fire.*

2015 TOP 10 EMPLOYERS

1. University Place School District
2. Franciscan Health System
3. Fred Meyer Stores
4. Soundcare, Inc.
5. Whole Foods
6. Pierce County Government
7. Charles Wright Academy
8. Kemper Sports
9. Safeway Stores, Inc.
10. McDonalds Restaurants

TOTAL PROPERTY TAX LEVY PER $1,000 AV

	2012	2013	2014	2015	2016
UP School District	$ 6.92	$ 7.46	$ 7.17	$ 7.17	$ 6.89
Fire District #3 Expense	$ 3.11	$ 3.29	$ 3.52	$ 3.42	$ 3.33
State	$ 2.41	$ 2.63	$ 2.53	$ 2.39	$ 2.23
County	$ 1.37	$ 1.53	$ 1.50	$ 1.43	$ 1.38
City of University Place	**$ 1.33**	**$ 1.47**	**$ 1.43**	**$ 1.35**	**$ 1.31**
Pierce County Rural Library	$ 0.50	$ 0.50	$ 0.50	$ 0.50	$ 0.50
Port of Tacoma	$ 0.18	$ 0.18	$ 0.18	$ 0.18	$ 0.18
Flood Control Zone	$ -	$ 0.10	$ 0.10	$ 0.10	$ 0.10
Conservation Futures	$ 0.05	$ 0.06	$ 0.06	$ 0.05	$ 0.05
	$15.88	$17.23	$16.99	$16.59	$15.98

REPORT SUMMARY

The report has been produced reflecting City Council's desire for detailed information on individual revenues and expenditures. The report is a continuing work in progress and if there are additional analysis or trend information you would like to see in the report, please let us know and we will endeavor to include your requests in future reports.

Please do not hesitate to contact Leslie Blaisdell, Deputy Finance Director, if you have any questions about any information provided in this report.

Revenue and Expense Summary

The City's general government revenues were 10.41% more than 2015 budget estimates. Expenditures (excluding reserves and transfers) are under budget by 19.3%. Some of the savings reflects expenditures that were budgeted in 2015, but will instead take place in 2016.

The increased Real Estate Excise Tax will help boost the general fund ending fund balance by reducing the General Fund contribution to debt service in future years. Adjustments to these transfers will be as part of the 2016 Carryforward budget adjustment.

Utility taxes continue be an area that needs to be monitored. Total utility tax revenues are below budget estimates by 1.85%. The continued decline in Phone and Cellular Phone tax is a concern.

State Shared revenues are also up, but continued funding of the State of Washington City Assistance is not guaranteed.

Budget Strategic Issues

The City's current financial forecast indicates that existing services and legal and contractual obligations can be met with existing revenues through 2016. The Council continues to evaluate other financing options in support of Public Safety and Streets Maintenance. City Council took action on the following options in 2015:

- Property Tax Levy – Council approved a one percent (1%) increase in the regular property tax levy for 2016.
- Recreation Funding – Council approved a resolution eliminating the General Fund Subsidy to Recreation beginning in 2017. Funding for Parks Maintenance remains at current levels with no service level cuts.

AGENDA

Business of the City Council
City of University Place, WA

Proposed Council Action:

Adopt a resolution approving the new form of Interlocal Agreement between the City of University Place and Pierce County for the provision of animal services substantially in the form attached hereto.

Agenda No: 7C

Dept. Origin: City Attorney

For Agenda of: April 4, 2016

Exhibits: Resolution
Interlocal Agreement

Concurred by Mayor: _____
Approved by City Manager: _____
Approved as to Form by City Atty.: _____
Approved by Finance Director: _____
Approved by Dept. Head: _____

Expenditure Required: $81,064.00	Amount Budgeted: $81,064.00	Appropriation Required: $0.00

SUMMARY / POLICY ISSUES

In August 2013, the City adopted Resolution 731 approving an Agreement with Pierce County for Animal Services. While that agreement remains in force, the Pierce County Auditor subsequently entered into other animal control service agreements, and in an effort to ensure consistency in the form of its agreements, has requested that the City approve an updated form of Interlocal Agreement. The terms contained in the new form of Interlocal Agreement are substantively identical to the existing 2013 Agreement.

RECOMMENDATION / MOTION

MOVE TO: Adopt a resolution approving the new form of Interlocal Agreement between the City of University Place and Pierce County for the provision of animal services substantially in the form attached hereto.

AGENDA

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, APPROVING AN UPDATED INTERLOCAL AGREEMENT BETWEEN THE CITY OF UNIVERSITY PLACE AND PIERCE COUNTY FOR ANIMAL SERVICES

WHEREAS, in August 2013, the City adopted Resolution 731 approving an Agreement with Pierce County for Animal Services; and

WHEREAS, that Agreement remains in force, but the Pierce County Auditor subsequently entered into animal control service agreements with other jurisdictions; and

WHEREAS, in an effort to ensure consistency in the form of its agreements, the Pierce County Auditor has requested that the City approve an updated form of Interlocal Agreement; and

WHEREAS, the terms contained in the new form of Interlocal Agreement are substantively identical to the existing 2013 Agreement.

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

Section 1. Interlocal Agreement Approved. The proposed Interlocal Agreement between the City of University Place and Pierce County for provision of animal services is hereby approved substantially in the form attached hereto.

Section 2. Effective Date. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL ON APRIL 4, 2016.

_____
Javier H. Figueroa, Mayor

ATTEST:

_____
Emelita Genetia, City Clerk

APPROVED AS TO FORM:

_____
Steve Victor, City Attorney

COUNCIL BILL

INTERLOCAL AGREEMENT BETWEEN THE CITY OF UNIVERSITY PLACE AND PIERCE COUNTY RELATING TO THE PROVISION OF ANIMAL SERVICES

THIS AGREEMENT ("Agreement") is made and entered into on the _____ day of _____, 2016, by and between the City of University Place, a Washington municipal corporation ("City") and Pierce County, a political subdivision of the State of Washington ("County") (collectively referred to herein as the "parties.") pursuant to RCW Chapter 39.34.

WHEREAS, the Pierce County Auditor's Office and Pierce County Sheriff's Office together, hereinafter referred to as County, are in the business of providing services related to the care and control of animals (code enforcement, pet licensing, shelter) for Pierce County residents; and

WHEREAS, the County has the capability to provide animal control and pet licensing services to other jurisdictions (cities and towns) within the boundaries of Pierce County; and

WHEREAS, the City is in need of animal control and certain animal-related licensing services and wishes to contract for these services with the County; and

WHEREAS, the County is willing to provide animal control and certain animal-related licensing services to the City.

NOW THEREFORE, the County and the City agree to the following for the provision of animal control services:

1. The County agrees to provide the City with the services set forth in Exhibit "A" of this Agreement. No material, labor, or facilities will be furnished by the County, unless otherwise provided for in the Agreement.

2. Payment to the County for services rendered under this Agreement shall be set forth in Exhibit "B".

3. No portion of this Agreement may be assigned or subcontracted to any other individual, firm or entity without the express and prior written approval of the City and the County.

4. This Agreement is subject to review by any Federal or State Auditor.

5. Either party may request changes in the Agreement. Any and all agreed modifications shall be in writing, signed by each of the parties.

6. In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the courts of the State of Washington and in the County of Pierce. This Agreement shall be governed by the laws of the State of Washington.

7. All real and personal property used or acquired in the performance of this agreement will remain within the exclusive custody and control of Pierce County and will be disposed of in accordance with the applicable laws. In the event of partial or complete termination of this agreement, any property acquired by Pierce County will remain with the County.

8. If sufficient funds are not appropriated or allocated by the City under this Agreement for any future fiscal period, the County will not be obligated for the provision of services after the end of the current fiscal period. No penalty or expense shall accrue to the County in the event this provision applies.

9. Differences between the City and the County arising under and by virtue of this Agreement shall be brought to the attention of both parties at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken.

10. The City agrees to defend, indemnify and hold harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reasons of any and all claims and demands upon the County, its elected or appointed officers or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the City, his/her subcontractors, its successor or assigns, or its or their agent, servants, or employees, the County, its appointed or elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this Agreement except as expressly provided herein.

11. All writings, programs, data, public records or other materials prepared by the County and/or its consultants or subcontractors shall be the sole and absolute property of the County.

12. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

13. This written Agreement represents the entire Agreement between the parties and supersedes any prior oral statements, discussions or understandings between the parties.

14. The term of this Agreement shall be _____, 2015 through December 31, 2016. Thereafter, this Agreement shall automatically renew on January 1 of each calendar year unless either party provides a six-month written notice to terminate the Agreement.

15. Contacts for this contract are:

Primary & Emergency Contact for City	**Primary & Emergency Contact for County**
Patrol Sergeant **City of University Place** **3609 Market Place, Ste. 201** **University Place, WA 98466** **Phone: 253.471.4990** **Cell Phone:** **Fax:** **Email:**	**Brian Boman** **Animal Control Supervisor** **Pierce County Auditor's Office** **2401 So 35th Street Suite 200** **Tacoma, WA 98409** **Phone: 253.798.7006** **Cell Phone: 253.377.0580** **Fax: 253.798.7004** **Email: bboman@co.pierce.wa.us**

Contract Administrator – City	Contract Administrator - County
Jennifer Hales, Public Safety Manager **Phone: 253.798.3141** **Cell Phone: 253.377.9147** **Fax: 253.798.4867** **Email: jhales@co.pierce.wa.us**	**Mary Schmidtke** **Phone: 253.798.2583** **Cell Phone: 253.948.6525** **Fax: 253.798.3182** **Email: mschmid@co.pierce.wa.us**
Other Contacts – City	**Other Contacts – County**
Steve Victor, City Attorney **Phone: 253.566.5656** **Email: svictor@cityofup.com**	**Julie Anderson, Pierce County Auditor** **Phone: 253.798.3188** **Email: janders7@co.pierce.wa.us** **Animal Services Dispatch and Support** Lynette Fisher Phone: 253.798.2133 Email: **lfishe1@co.pierce.wa.us** **Communication, Outreach, and Education** Whitney Rhodes Phone: 253.798.3189 Email: **wrhode1@co.pierce.wa.us**

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PIERCE COUNTY
CONTRACT SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2016.

CITY OF UNIVERSITY PLACAE:

Approved As to Legal Form Only:

_____ _____
City Attorney Date

Approved:

_____ _____
City Manager Date

See page 2, item #15 for contact information.

PIERCE COUNTY:

Approved As to Legal Form Only:

_____ _____
Prosecuting Attorney Date

Recommended:

_____ _____
Budget and Finance Date

Approved:

_____ _____
Pierce County Auditor Date

_____ _____
County Executive Date

EXHIBIT "A"
Scope of Work

City Responsibilities:

The City shall:

1. The City has adopted the current Pierce County Code Chapter 6 relating to animal enforcement and Pierce County Code Chapter 5.24 prior to the effective date of this Agreement.

2. Provide the County with a copy of the City's proposed ordinance (set forth above) prior to adoption by the City. This is required to ensure the above modifications have been completed.

3. Authorize Pierce County Animal Control to enforce all State and local laws pertaining to animals within the City's jurisdiction.

4. Request non-emergency services by calling the County Animal Services PETS line at 253-798-PETS. Request emergency dispatch by calling 911 and requesting dispatch through South Sound 911.

5. Provide police protection and services, as needed, to assist Pierce County Animal Control officers in the performance of the work specified in this Agreement.

6. Provide and maintain current immediate emergency contact information for the City. Contact information at time of executing this contract is shown in the table in item #15 on pages 2 and 3 of this Agreement.

7. Be responsible for post-confiscation costs incurred by the County for animal cruelty/neglect confiscation. "Post confiscation costs" are shelter intake, shelter care, veterinary and/or hospital care, and any other costs related to the shelter and/or care of confiscated animals impounded during an animal cruelty / neglect investigation.

8. Provide legal services as required by this contract.

9. Provide a hearing examiner to hear and decide animal control cases.

10. If any animals within the city limits have been declared dangerous or potentially dangerous, provide a copy of the case file to Pierce County Animal Control prior to the effective date of this agreement.

11. Prior to the effective date of this agreement, provide Pierce County Animal Control with a list of any animal related businesses (kennels, grooming parlors, pet shops) that will be exempt from the City's animal related licensing requirements.

The rest of this page is intentionally left blank.

County Responsibilities:

The County shall:

1. Respond to the following types of service requests:

    a) Animal enforcement dispatched through 911.
    b) Injured stray animals.
    c) Animals at large in roadway causing traffic hazards.
    d) Assist law enforcement and other agencies in impounding animals.
    e) Assist law enforcement and other agencies in confiscation of animals as appropriate.
    f) Investigate animal cruelty and neglect which may also include removal of neglected or abused animals. The County shall provide notice to the City within 72 hours of removal.
    g) Impound of injured animals at animal emergency clinic entities which provide such services through contract with Pierce County.
    h) Impound of stray confined animals from residents as deemed appropriate.
    i) Investigate ordinance complaints for leash law and barking.
    j) Impound of owner-surrendered animals, as deemed appropriate.
    k) Investigate dangerous and potentially dangerous animal claims which may include impounding animals and follow up compliance inspections.

2. Determine response priorities. In determining response priorities, several factors are taken into consideration such as public safety, animal safety, and available resources. Immediate threats to public safety will always take priority over any other type of call.

3. Be responsible for providing shelter and veterinary treatment as necessary, except those associated with animal cruelty / neglect cases. In animal cruelty / neglect cases, the City shall be responsible for all post-confiscation costs including shelter and veterinary care.

4. Meet on an annual basis with the City Manager or designee to discuss any issues relative to this Agreement and the provision of these services.

5. At the City's request, the County will not provide pet licensing (cats and dogs).

6. Provide legal services as required by this Agreement.

The rest of this page is intentionally left blank.

City and County responsibilities regarding administrative hearings and court cases.

Civil infractions: Animal control civil infractions shall be filed in University Place Municipal Court. If notice of a contested hearing is provided to Pierce County Animal Control, the Animal Control Officers (ACO's) will attend and testify at the contested infraction hearing. If the court's decision is appealed, then legal representation shall be provided by the City of University Place.

Criminal misdemeanor cases: Criminal misdemeanor cases will be heard in University Place Municipal Court. Criminal misdemeanor cases shall be referred to the City of University Place/Lakewood Prosecuting Attorney, or designee, to determine if criminal misdemeanor charges will be filed. ACO's will attend and testify at criminal trials and hearings when subpoenaed. The City of University Place or designee shall be responsible for prosecuting all criminal misdemeanor cases and all appeals therefrom.

Felony criminal cases: Felony criminal cases will be referred to the Pierce County Prosecutor's office to determine if felony criminal charges will be filed in Pierce County Superior Court. The Pierce County Prosecutor's office shall be responsible for prosecuting all felony cases and all appeals therefrom.

Petitions for the return of animals under RCW 16.52.085: Petitions for the return of abused or neglected animals will be filed in Pierce County District Court as required by statute and legal representation at the petition hearing and during any appeals therefrom shall be provided by the Pierce County Prosecuting Attorney's office.

Dangerous and Potentially Dangerous Animal Appeals: Any appeals of dangerous or potentially dangerous animal declarations shall be heard by the Hearing Examiner retained by the City of University Place. The ACO's may present the case to the Hearing Examiner. If the Hearing Examiner's decision is appealed, then legal representation shall be provided by the City of University Place during the course of the appeal.

Impound Hearings: Any appeals of the decision to impound an animal shall be heard by the Hearing Examiner retained by the City of University Place. ACO's may present the case to the Hearing Examiner. If the Hearing Examiner's decision is appealed, then legal representation shall be provided by the City of University Place during the course of the appeal.

Civil Lawsuits: Civil lawsuits refer to complaints that arise from animal control incidents that occur within the City of University Place. Examples include tort claims and/or constitutional claims. Refer to paragraph 10 on page 2 regarding the duty to defend and duty to indemnify.

General: Where the City or County is assigned the responsibility for prosecuting criminal cases or providing legal representation, said responsibility includes providing an attorney to appear in court to argue the case/appeal, to prepare all court pleadings, briefs, and related documents, and to pay any required court costs and fees. This obligation shall continue throughout the life of each case and at every court level.

EXHIBIT "B"

Payment for Services

1. City shall reimburse the County on a cost of $2.58 per resident annually times the City's population for Animal Control services plus $88.33 per animal intake for Shelter Services. The cost per resident shall be modified on an annual basis beginning January 1 of each year. The County shall notify the City of the change in the per resident rate no later than October 15 of the prior calendar year.

   2015 Annualized Rate for Animal Control Services: Full year 2015 = $2.58 * 31,420 (based on 2014 population) for a total of $81,063.60 or $6,755.30 per month. The 2015 annualized rate shall be prorated to reflect the contract period for 2015 as defined in item #13 of this Agreement.

2. Shelter Services shall be reimbursed at the County's cost of $88.33 per animal intake. (Excludes animal cruelty/neglect cases. As stated in Exhibit "A", the City shall be responsible for all such post-confiscation costs including shelter and veterinary care)

3. The County shall retain all permit and infraction fees as payment for providing the following animal-related licensing services:

   a. Dangerous and Potentially Dangerous Animal permits
   b. Animal related businesses including Kennels, Catteries, Grooming Parlors, and Pet Shops.

4. The City shall retain all license fees for providing pet licensing.

5. This Agreement will serve as an invoice. Payment is payable either monthly or quarterly, to be determined by the City, for each year this Agreement is in force and shall be sent to the Contract Administrator for the County shown in the table in item #15 on page 2 of this Agreement.

EXHIBIT "C"
Code Modifications

1. The City has adopted current Pierce County Code Chapter 6 relating to animal enforcement and Pierce County Code Chapter 5.24 prior to the effective date of this Agreement.

2. The City shall provide its own Hearing Examiner to hear appeals. Where the County Code refers to "Pierce County Hearing Examiner", "Hearing Examiner" or "Examiner", such terms shall be modified in the City's Municipal Code and defined as the Hearing Examiner for the City.

3. All civil infractions and criminal misdemeanor cases shall be filed in the City's municipal court or the court system that the City has contracted with to provide justice services. Where the County Code refers to "Pierce County District Court" or "District Court", those terms shall be the City's Municipal Code to refer to the City's Municipal Court or contract court.

4. PCC Chapter 6.03.010 classifies certain acts as civil infractions. The penalty amounts for these infractions are listed in PCC 1.16.120. The monetary penalties for animal control related civil infractions in the City's municipal code shall be identical to the amounts listed in PCC 1.16.120.

5. Where the County Code refers to "Pierce County", or "County" or "unincorporated Pierce County", such terms shall be modified in the City's Municipal Code to refer to the City.

6. The City has adopted PCC Chapter 8.72, including 8.72.090 "Public Disturbance Noises" and 8.72.100 "Public Nuisance Noise" that pertain to animals.

7. Under this Agreement, Animal Control Officers will investigate felony and misdemeanor violations of RCW Chapter 16.52 "Prevention of Cruelty to Animals". Therefore, the City must incorporate by reference RCW Chapter 16.52, except for felony offenses, into its own municipal code.

Future Amendments

1. The County intends to periodically update and amend the Pierce County Code. If the City intends to incorporate portions of Title 5 and all of Title 6 by reference into the City's code, the City may also include a provision in its ordinance whereby future amendments of the County Code are automatically adopted and incorporated by reference into the City Code with the above-referenced modifications. The City shall be responsible for maintaining consistency between the City's animal control regulations and Pierce County animal control regulations.

COUNCIL BILL

Business of the City Council
City of University Place, WA

Proposed Council Action:

Pass an ordinance amending University Place Municipal Code Chapters 8.10 – Animal Licensing and Chapter 1.30 – Civil Non-Traffic Infractions to align penalty provisions with Pierce County to allow for enforcement under the City's service agreements.

Agenda No: 7D

Dept. Origin: City Attorney

For Agenda of: April 4, 2016

Exhibits: Ordinance

Concurred by Mayor: _____
Approved by City Manager: _____
Approved as to Form by City Atty.: _____
Approved by Finance Director: _____
Approved by Dept. Head: _____

Expenditure Required: $0.00	Amount Budgeted: $0.00	Appropriation Required: $0.00

SUMMARY / POLICY ISSUES

In 2013, the City began contracting with Pierce County for its animal control services. One of the steps necessary to contract with Pierce County for those services was to align the City's Municipal Code related to animals with that of Pierce County's, and after study and discussion, the City revised its Code. There is an additional provision that is needed in UPMC 8.10 – Animal Licensing in order to align our Codes and for Pierce County to be able to assess a penalty for unlicensed pets.

Additionally, in 2015, the City adopted its own civil infraction code, and it is enforced through our contract with Pierce County for police and animal services. We have a different amount set forth as a penalty for an infraction than does Pierce County. In order to enable Pierce County's enforcement of the City's civil infraction code, it is necessary to amend the amount of the penalty for civil infractions to match Pierce County's.

RECOMMENDATION / MOTION

MOVE TO: Pass an ordinance amending University Place Municipal Code Chapters 8.10 – Animal Licensing and Chapter 1.30 – Civil Non-Traffic Infractions to align penalty provisions with Pierce County to allow for enforcement under the City's service agreements.

AGENDA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE WASHINGTON, AMENDING UNIVERSITY PLACE MUNICIPAL CODE TITLE 8 – ANIMAL CONTROL – CHAPTER 8.10 – LICENSING – AND TITLE 1 – GENERAL PROVISIONS – AND CHAPTER 1.30 CIVIL NON-TRAFFIC INFRACTIONS TO ALIGN THE MONETARY PENALTIES WITH PIERCE COUNTY

WHEREAS, since incorporation, the City of University Place has contracted with Pierce County for police services, and in 2013 the City began contracting with Pierce County for its animal control services; and

WHEREAS, in 2015, the City adopted a Civil Infraction Code which may be enforced non-commissioned City staff, and also may be useful tool for the City's contracted law enforcement and animal control officers; and

WHEREAS, in order to allow for enforcement of the City's civil infractions under the City's service contracts with Pierce County for law enforcement and animal services, it is necessary to amend the amount of the penalty for civil infractions to match Pierce County's; and

WHEREAS, in addition, because the City chose to continue to issue pet licenses, and therefore retained its current Chapter 8.10 - Licensing of Dogs and Cats; experience has identified an additional amendment needed to align the City's Municipal Code related to animals with that of Pierce County's; and

WHEREAS, in order to enable Pierce County to impose a penalty for unlicensed pets, the City must amend its Title 8 to include a provision for such a penalty;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Revised Animal Licensing Ordinance. Chapter 8.10 of the University Place Municipal Code (UPMC) (Ordinance 480) is hereby amended to add Chapter 8.10.060 to read as follows:

8.10.060 License Violation – Civil Infraction

Enforcement Officers may issue a Class 3 civil infraction to any person who violates the provisions of this chapter 8.10. The civil infraction amount shall be as set forth in Pierce County Code Chapter 1.16.120.

Section 2. Revised Civil Infraction Ordinance. Chapter 1.30.020 of the University Place Municipal Code (Ordinance 654) is hereby amended to read as follows:

1.30.020 Civil Infraction – Monetary Penalties – Restitution

A. Any person found to have committed a civil infraction shall be assessed a monetary penalty in the sum of ~~$100.00~~ $120.00, not including statutory assessments, unless a greater or lesser sum is specified for a particular infraction within the University Place Municipal Code.

Section 3. Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 4. Published and Effective Date. A summary of this ordinance consisting of its title shall be published in the official Newspaper of the City. This ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON APRIL 4, 2016.

_____
Javier H. Figueroa, Mayor

ATTEST:

_____
Emelita Genetia, City Clerk

APPROVED AS TO FORM:

_____
Steve Victor, City Attorney

Published:
Effective Date:

COUNCIL BILL

University Place
WASHINGTON

Memo

DATE: April 4, 2016

TO: City Council
Steve Sugg, City Manager

FROM: Steve Victor, City Attorney

SUBJECT: Animal Control Infraction Amendment (Previously Studied by Council)

In 2013, the City began contracting with Pierce County for its animal control services. This resulted in both a higher level of service as well as a lower cost of service. One of the steps necessary to contract with Pierce County for those services was to align the City's Municipal Code related to animals with that of Pierce County's, and after study and discussion, the City revised its Code. There is an additional provision that is needed in UPMC 8.10 – Animal Licensing in order to align our Codes and for Pierce County to be able to assess a penalty for unlicensed pets.

Additionally, in 2015, the City adopted its own civil infraction code, and it is enforced through our contract with Pierce County for police and animal services. We have a different amount set forth as a penalty for an infraction than does Pierce County. In order to enable Pierce County's enforcement of the City's civil infraction code, it is necessary to amend the amount of the penalty for civil infractions to match Pierce County's.

These amendments are necessary under Title 2, RCW "Courts of Record" which governs the operations of the third branch of Washington State government, and at RCW 2.56 establishes the Administrative Office of the Courts (AOC). The AOC is responsible for establishing and regulating the input, form and flow of information through all Washington courts. Due to the authorization requirements of the AOC system, in order for the Pierce County Sheriff's Deputies and Animal Control Officers with whom we contract to effectively enter civil infractions into the court systems, the penalties must be aligned with those of Pierce County.

COUNCIL BILL

CITY OF UNIVERSITY PLACE
COMMITTEES AND REPRESENTATIVES ASSIGNMENTS – 2016/2017

Council Committees/ Representatives

City Council Committees/Liaisons	Belleci	Figueroa	Grassi	Keel	McCluskey	Nye	Worthington
Council Meetings	X	X	X	X	X	X	X
Legislative and Intergovernmental	X	XX	X	X*	X	X	X
Community Connector Program (16th CAB)	X*	XX	X	X	X	X	X
Pierce County Cities & Towns	X	X	X	X		X	X
Pierce County Mayors & Executive		XX		X*			
Pierce County Regional Council	XX		X*		XX		
Rainier Communications Commission		XX					
Association of Washington Cities**	X	X	X	X*	X	X	X*
Pierce Transit Board			X*	XX			

XX = Designates Chair or Lead Responsibility
X* = Designates Alternate
**** = By registration**

AGENDA

COUNCIL CONSIDERATION

Business of the City Council
City of University Place, WA

Proposed Council Action:

Authorize the City Manager to award the Mildred Street/67th Avenue Roadway Improvements project to RW Scott Construction in the amount of $1,337,165.00 and execute all necessary contract documents.

Agenda No: 8
Dept. Origin: Engineering
For Agenda of: April 4, 2016
Exhibits: Bid Tabulation Sheet

Concurred by Mayor: _____
Approved by City Manager: _____
Approved as to form by City Atty.: _____
Approved by Finance Director: _____
Approved by Department Head: _____

Expenditure Required: $1,337,165.00	Amount Budgeted: $1,753,400.00	Appropriation Required: $0.00

SUMMARY / POLICY ISSUES

The bid opening for the Mildred Street/67th Avenue Roadway Improvements project was held on March 29, 2016. Six bids were received. RW Scott Construction has submitted the lowest responsive, responsible bid in the amount of $1,337,165.00. The project includes construction of curbs, gutters, sidewalks, bike lanes, storm drainage improvements, paving, landscaping, irrigation, traffic signal modifications and street lights on Mildred Street from Regents Boulevard West to South 19th Street.

This project is funded through an FHWA grant that covers 86.5% of the cost. The local match is funded through a private contribution of $87,671, a contribution from the city of Fircrest in the amount of $87,671 and City of University Place Surface Water Management funds. The local match is included in the adopted budget and no appropriation is required.

ALTERNATIVES CONSIDERED

Company	Total Bid
RW Scott Construction	***$1,337,165.00***
Pivetta Brothers Construction	$1,350,721.00
Miles Resources	$1,383,149.30
Nova Contracting	$1,599,199.00
NW Cascade	$1,799,769.00
Active Construction	$1,829,829.00
Engineers Estimate	***$1,367,129.70***

BOARD OR COMMITTEE RECOMMENDATION

Representatives from WSDOT have reviewed and approved the low bid proposal.

RECOMMENDATION / MOTION

MOVE TO: Authorize the City Manager to award the Mildred Street/67th Avenue Roadway Improvements project to RW Scott Construction in the amount of $1,337,165.00 and execute all necessary contract documents.

AGENDA

City of University Place
Mildred/67th Roadway Improvements
Bid Analysis for Tuesday, March 29, 2016 Bid Opening

Item		Plan		Engineer's Estimate		RW Scott		Pivetta Brothers Construction		Miles Resources		Nova Contracting		NW Cascade		Active Construction	
No.	Item Description Schedule A	Quantity	Unit	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount	Unit Price	Total Amount
1	Demobilization	1	LS	$123,602.70	$123,603	$ 125,000.00	$125,000	$ 20,000.00	$20,000.00	$ 70,000.00	$70,000.00	$ 130,000.00	$130,000.00	$ 162,000.00	$162,000.00	$ 220,957.70	$220,957.70
2	Roadway Surveying	1	LS	$30,147.00	$30,147	$ 12,000.00	$12,000	$ 10,000.00	$10,000.00	$ 13,800.00	$13,800.00	$ 21,000.00	$21,000.00	$ 13,000.00	$13,000.00	$ 20,000.00	$20,000.00
3	Locate Existing Utilities	1	LS	$10,000.00	$10,000	$ 2,000.00	$2,000	$ 3,500.00	$3,500.00	$ 23,700.00	$23,700.00	$ 5,800.00	$5,800.00	$ 15,000.00	$15,000.00	$ 7,500.00	$7,500.00
4	Control	1	LS	$50,000.00	$50,000	$ 125,000.00	$125,000	$ 115,000.00	$115,000.00	$ 160,000.00	$160,000.00	$ 89,000.00	$89,000.00	$ 175,000.00	$175,000.00	$ 250,000.00	$250,000.00
5	Clearing & Grubbing	1	LS	$20,000.00	$20,000	$ 16,000.00	$16,000	$ 5,500.00	$5,500.00	$ 17,900.00	$17,900.00	$ 23,400.00	$23,400.00	$ 75,000.00	$75,000.00	$ 50,000.00	$50,000.00
6	Obstructions	1	LS	$35,000.00	$35,000	$ 21,000.00	$21,000	$ 37,000.00	$37,000.00	$ 33,300.00	$33,300.00	$ 47,500.00	$47,500.00	$ 73,000.00	$73,000.00	$ 75,000.00	$75,000.00
7	Sawcutting	4000	LF	$3.00	$12,000	$ 1.50	$6,000	$ 2.00	$8,000.00	$ 1.75	$7,000.00	$ 6.00	$24,000.00	$ 2.60	$10,400.00	$ 2.20	$8,800.00
8	Compaction and Grading for	1345	CY	$30.00	$40,350	$ 30.00	$40,350	$ 39.00	$52,455.00	$ 42.75	$57,498.75	$ 39.00	$52,455.00	$ 35.00	$47,075.00	$ 34.00	$45,730.00
9	Crushed Surfacing Top Course	809	TN	$35.00	$28,315	$ 30.00	$24,270	$ 38.00	$30,742.00	$ 40.00	$32,360.00	$ 60.00	$48,540.00	$ 50.00	$40,450.00	$ 33.00	$26,697.00
10	Crushed Surfacing Base Course	778	TN	$35.00	$27,230	$ 28.00	$21,784	$ 35.00	$27,230.00	$ 30.00	$23,340.00	$ 43.00	$33,454.00	$ 50.00	$38,900.00	$ 33.00	$25,674.00
11	HMA 1/2" PG 64-22	440	TN	$100.00	$44,000	$ 105.00	$46,200	$ 109.00	$47,960.00	$ 102.00	$44,880.00	$ 107.00	$47,080.00	$ 122.00	$53,680.00	$ 117.00	$51,480.00
12	HMA 1/2" PG 58-22 for Driveway	102	TN	$150.00	$15,300	$ 135.00	$13,770	$ 141.00	$14,382.00	$ 120.00	$12,240.00	$ 137.00	$13,974.00	$ 180.00	$18,360.00	$ 148.00	$15,096.00
13	Temporary Commercial HMA	60	TN	$150.00	$9,000	$ 200.00	$12,000	$ 212.00	$12,720.00	$ 108.00	$6,480.00	$ 137.00	$8,220.00	$ 175.00	$10,500.00	$ 175.00	$10,500.00
14	Cold Mix Asphalt Concrete	25	TN	$150.00	$3,750	$ 250.00	$6,250	$ 350.00	$8,750.00	$ 85.00	$2,125.00	$ 140.00	$3,500.00	$ 175.00	$4,375.00	$ 388.00	$9,700.00
15	Underdrain Pipe 4" Diam.	720	LF	$5.00	$3,600	$ 14.00	$10,080	$ 12.00	$8,640.00	$ 12.00	$8,640.00	$ 50.00	$36,000.00	$ 4.00	$2,880.00	$ 4.00	$2,880.00
16	Gravel Backfill for Drains	50	TN	$20.00	$1,000	$ 50.00	$2,500	$ 34.00	$1,700.00	$ 14.25	$712.50	$ 50.00	$2,500.00	$ 50.00	$2,500.00	$ 50.00	$2,500.00
17	Pipe 12 In. Diam.	190	LF	$40.00	$7,600	$ 60.00	$11,400	$ 85.00	$16,150.00	$ 66.75	$12,682.50	$ 110.00	$20,900.00	$ 80.00	$15,200.00	$ 105.00	$19,950.00
18	12 In. Diam.	112	LF	$50.00	$5,600	$ 80.00	$8,960	$ 137.00	$15,344.00	$ 79.00	$8,848.00	$ 120.00	$13,440.00	$ 100.00	$11,200.00	$ 75.00	$8,400.00
19	Storm Detention Pipe	1	LS	$50,000.00	$50,000	$ 11,500.00	$11,500	$ 15,000.00	$15,000.00	$ 12,660.00	$12,660.00	$ 27,500.00	$27,500.00	$ 28,000.00	$28,000.00	$ 23,000.00	$23,000.00
20	Catch Basin Type 1	10	EA	$1,000.00	$10,000	$ 1,200.00	$12,000	$ 1,400.00	$14,000.00	$ 1,240.00	$12,400.00	$ 1,500.00	$15,000.00	$ 1,250.00	$12,500.00	$ 1,450.00	$14,500.00
21	Catch Basin Type 2, 48"	1	EA	$1,000.00	$1,000	$ 3,600.00	$3,600	$ 5,000.00	$5,000.00	$ 2,800.00	$2,800.00	$ 3,900.00	$3,900.00	$ 2,650.00	$2,650.00	$ 3,250.00	$3,250.00
22	Control Structure	1	EA	$5,500.00	$5,500	$ 6,000.00	$6,000	$ 10,000.00	$10,000.00	$ 4,475.00	$4,475.00	$ 6,100.00	$6,100.00	$ 5,450.00	$5,450.00	$ 4,750.00	$4,750.00
23	Storm Filter Catch Basin	2	EA	$8,500.00	$17,000	$ 7,500.00	$15,000	$ 12,000.00	$24,000.00	$ 9,700.00	$19,400.00	$ 12,100.00	$24,200.00	$ 10,300.00	$20,600.00	$ 10,000.00	$20,000.00
24	New Frame and Grate	14	EA	$750.00	$10,500	$ 600.00	$8,400	$ 950.00	$13,300.00	$ 550.00	$7,700.00	$ 600.00	$8,400.00	$ 625.00	$8,750.00	$ 625.00	$8,750.00
25	Structure	5	EA	$750.00	$3,750	$ 400.00	$2,000	$ 1,800.00	$9,000.00	$ 660.00	$3,300.00	$ 600.00	$3,000.00	$ 2,000.00	$10,000.00	$ 1,000.00	$5,000.00
26	Systems	1	LS	$5,000.00	$5,000	$ 1,000.00	$1,000	$ 2,500.00	$2,500.00	$ 1.00	$1.00	$ 8,500.00	$8,500.00	$ 10,000.00	$10,000.00	$ 200.00	$200.00
27	Pollution/Erosion Control	1	LS	$25,000.00	$25,000	$ 4,000.00	$4,000	$ 8,800.00	$8,800.00	$ 6,200.00	$6,200.00	$ 6,100.00	$6,100.00	$ 32,000.00	$32,000.00	$ 25,000.00	$25,000.00
28	Topsoil Type A	290	CY	$40.00	$11,600	$ 45.00	$13,050	$ 37.00	$10,730.00	$ 37.75	$10,947.50	$ 38.00	$11,020.00	$ 37.00	$10,730.00	$ 52.00	$15,080.00
29	Bark or Wood Chip Mulch	120	CY	$35.00	$4,200	$ 46.00	$5,520	$ 46.00	$5,520.00	$ 47.75	$5,730.00	$ 47.00	$5,640.00	$ 47.00	$5,640.00	$ 46.00	$5,520.00
30	Mulching	100	SY	$20.00	$2,000	$ 4.00	$400	$ 10.00	$1,000.00	$ 5.00	$500.00	$ 5.00	$500.00	$ 5.00	$500.00	$ 7.00	$700.00
31	"Fastigiata" 2 1/2 Cal.	39	EA	$500.00	$19,500	$ 325.00	$12,675	$ 390.00	$15,210.00	$ 400.00	$15,600.00	$ 396.00	$15,444.00	$ 400.00	$15,600.00	$ 500.00	$19,500.00
32	Sod Lawns	11290	SF	$1.00	$11,290	$ 0.80	$9,032	$ 1.00	$11,290.00	$ 0.90	$10,161.00	$ 0.90	$10,161.00	$ 1.00	$11,290.00	$ 1.30	$14,677.00
33	Laural	360	EA	$12.00	$4,320	$ 14.50	$5,220	$ 13.00	$4,680.00	$ 13.00	$4,680.00	$ 13.00	$4,680.00	$ 13.00	$4,680.00	$ 15.00	$5,400.00
34	24" Root Barrier	780	LF	$10.00	$7,800	$ 10.00	$7,800	$ 9.00	$7,020.00	$ 9.00	$7,020.00	$ 9.00	$7,020.00	$ 8.50	$6,630.00	$ 10.00	$7,800.00
35	Automatic Irrigation System	1	LS	$50,000.00	$50,000	$ 37,250.00	$37,250	$ 44,800.00	$44,800.00	$ 46,000.00	$46,000.00	$ 46,000.00	$46,000.00	$ 69,000.00	$69,000.00	$ 75,000.00	$75,000.00
36	Cement Concrete Curb & Gutter	3097	LF	$17.00	$52,649	$ 11.00	$34,067	$ 17.00	$52,649.00	$ 2.85	$8,826.45	$ 16.00	$49,552.00	$ 17.00	$52,649.00	$ 14.50	$44,906.50
37	Curb	400	LF	$10.00	$4,000	$ 9.00	$3,600	$ 8.00	$3,200.00	$ 8.75	$3,500.00	$ 13.48	$5,392.00	$ 8.50	$3,400.00	$ 8.50	$3,400.00
38	Approach	650	SY	$45.00	$29,250	$ 37.00	$24,050	$ 41.00	$26,650.00	$ 34.75	$22,587.50	$ 49.00	$31,850.00	$ 56.88	$36,972.00	$ 50.00	$32,500.00
39	Fence	300	LF	$20.00	$6,000	$ 24.00	$7,200	$ 40.00	$12,000.00	$ 25.00	$7,500.00	$ 26.00	$7,800.00	$ 38.00	$11,400.00	$ 20.00	$6,000.00
40	Monument Cases	1	EA	$100.00	$100	$ 750.00	$750	$ 1,000.00	$1,000.00	$ 315.00	$315.00	$ 600.00	$600.00	$ 475.00	$475.00	$ 1,000.00	$1,000.00
41	Cement Concrete Sidewalk	1516	SY	$40.00	$60,640	$ 33.00	$50,028	$ 34.00	$51,544.00	$ 33.50	$50,786.00	$ 49.00	$74,284.00	$ 52.00	$78,832.00	$ 42.00	$63,672.00
42	Cement Concrete Bus Pad	33	SY	$50.00	$1,650	$ 60.00	$1,980	$ 115.00	$3,795.00	$ 50.50	$1,666.50	$ 78.00	$2,574.00	$ 84.00	$2,772.00	$ 94.00	$3,102.00
43	Bus Shelter	2	EA	$1,000.00	$2,000	$ 5,500.00	$11,000	$ 7,300.00	$14,600.00	$ 6,850.00	$13,700.00	$ 7,500.00	$15,000.00	$ 10,000.00	$20,000.00	$ 5,000.00	$10,000.00
44	Illumination	1	LS	$225,000.00	$225,000	$ 305,000.00	$305,000	$ 313,000.00	$313,000.00	$ 319,000.00	$319,000.00	$ 332,000.00	$332,000.00	$ 270,000.00	$270,000.00	$ 275,000.00	$275,000.00
45	Mildred & 24th	1	LS	$91,650.00	$91,650	$ 63,000.00	$63,000	$ 65,000.00	$65,000.00	$ 66,600.00	$66,600.00	$ 72,000.00	$72,000.00	$ 105,000.00	$105,000.00	$ 100,000.00	$100,000.00
46	Mildred & 19th	1	LS	$62,650.00	$62,650	$ 68,500.00	$68,500	$ 70,000.00	$70,000.00	$ 72,150.00	$72,150.00	$ 71,900.00	$71,900.00	$ 86,000.00	$86,000.00	$ 78,000.00	$78,000.00
47	Permanent Signing	1	LS	$10,000.00	$10,000	$ 4,000.00	$4,000	$ 5,000.00	$5,000.00	$ 5,100.00	$5,100.00	$ 4,500.00	$4,500.00	$ 9,000.00	$9,000.00	$ 8,000.00	$8,000.00
48	Paint Line, Incl.RPM's	7200	LF	$1.50	$10,800	$ 0.60	$4,320	$ 0.60	$4,320.00	$ 0.50	$3,600.00	$ 0.83	$5,976.00	$ 0.50	$3,600.00	$ 0.54	$3,888.00
49	Painted Wide Line	3600	LF	$1.00	$3,600	$ 0.55	$1,980	$ 0.50	$1,800.00	$ 0.50	$1,800.00	$ 0.39	$1,404.00	$ 0.50	$1,800.00	$ 0.48	$1,728.00
50	Plastic Stop Line	180	SF	$3.50	$630	$ 5.00	$900	$ 5.00	$900.00	$ 5.00	$900.00	$ 5.50	$990.00	$ 5.00	$900.00	$ 5.00	$900.00
51	Plastic Crosswalk Line	300	SF	$3.00	$900	$ 5.00	$1,500	$ 5.00	$1,500.00	$ 5.00	$1,500.00	$ 5.50	$1,650.00	$ 5.00	$1,500.00	$ 5.00	$1,500.00
52	Plastic Traffic Arrow	16	EA	$60.00	$960	$ 95.00	$1,520	$ 95.00	$1,520.00	$ 97.50	$1,560.00	$ 99.00	$1,584.00	$ 95.00	$1,520.00	$ 100.00	$1,600.00
53	Plastic Bicycle Lane Symbol	4	EA	$150.00	$600	$ 175.00	$700	$ 200.00	$800.00	$ 166.50	$666.00	$ 420.00	$1,680.00	$ 160.00	$640.00	$ 165.00	$660.00
54	Plastic Traffic Letter	7	EA	$20.00	$140	$ 60.00	$420	$ 100.00	$700.00	$ 49.00	$343.00	$ 99.00	$693.00	$ 50.00	$350.00	$ 50.00	$350.00
55	Colored Pavement Marking	156	SY	$5.00	$780	$ 75.00	$11,700	$ 71.00	$11,076.00	$ 73.25	$11,427.00	$ 60.00	$9,360.00	$ 70.00	$10,920.00	$ 75.00	$11,700.00
56	Removing Paint Line	7200	LF	$2.00	$14,400	$ 0.70	$5,040	$ 0.75	$5,400.00	$ 0.75	$5,400.00	$ 0.66	$4,752.00	$ 0.70	$5,040.00	$ 0.75	$5,400.00
57	Removing Plastic Crosswalk and	716	SF	$2.00	$1,432	$ 3.25	$2,327	$ 3.00	$2,148.00	$ 3.35	$2,398.60	$ 2.50	$1,790.00	$ 3.25	$2,327.00	$ 3.30	$2,362.80
58	Removing Plastic Traffic Marking	28	EA	$25.00	$700	$ 60.00	$1,680	$ 60.00	$1,680.00	$ 61.00	$1,708.00	$ 60.00	$1,680.00	$ 60.00	$1,680.00	$ 60.00	$1,680.00
59	Modular Block Wall	2528	SF	$28.00	$70,784	$ 24.00	$60,672	$ 20.00	$50,560.00	$ 25.00	$63,200.00	$ 26.00	$65,728.00	$ 24.00	$60,672.00	$ 25.00	$63,200.00
60	Gravel Backfill for Walls	168	TN	$20.00	$3,360	$ 40.00	$6,720	$ 42.00	$7,056.00	$ 14.25	$2,394.00	$ 24.00	$4,032.00	$ 22.50	$3,780.00	$ 28.50	$4,788.00
61	Record Drawings	1	LS	$2,500.00	$2,500	$ 500.00	$500	$ 900.00	$900.00	$ 4,440.00	$4,440.00	$ 1,500.00	$1,500.00	$ 1,000.00	$1,000.00	$ 500.00	$500.00
62	Minor Changes	1	FA	$5,000.00	$5,000	$ 5,000.00	$5,000	$ 5,000.00	$5,000.00	$ 5,000.00	$5,000.00	$ 5,000.00	$5,000.00	$ 5,000.00	$5,000.00	$ 5,000.00	$5,000.00
							$1,337,165.00		**$1,350,721.00**		**$1,383,149.30**		**$1,599,199.00**		**$1,799,769.00**		**$1,829,829.00**

COUNCIL BILL

Printed 4/1/2016

Business of the City Council
City of University Place, WA

Proposed Council Action:

Adopt a resolution approving the 2016 Annual Preliminary Planning Commission Work Plan.

Agenda No:	9
Dept. Origin:	Planning & Development Services
For Agenda of:	April 4, 2016
Exhibits:	Proposed Resolution Exhibit A Work Plan

Concurred by Mayor: _____
Approved by City Manager: _____
Approved as to form by City Atty.: _____
Approved by Finance Director: _____
Approved by Department Head: _____

Expenditure Required: $0.00	Amount Budgeted: $0.00	Appropriation Required: $0.00

SUMMARY / POLICY ISSUES

Each year the Planning Commission presents an annual work plan to the City Council based on direction from the City Council, State mandates that require plan or regulatory amendments, and advice from staff. This year Staff proposes and the Planning Commission recommends the attached Preliminary 2016 Planning Commission Work Plan with the following explanation:

In the first quarter of 2016, the Planning Commission will continue to work on the development regulation amendments including amendments to Title 9, Public Safety; Title 17, Critical Areas; Title 19, Zoning; Title 21 Subdivisions; Title 22, Administration of Development Regulations; and Title 23, Telecommunications.

In the second quarter the Planning Commission will review the Sign Code as directed by the City Council in Resolution 743 In the latter part of the second quarter and into the third quarter the Planning Commission will study and may recommend changes to the Comprehensive Plan and Zoning Map as directed by the City Council in Resolution 791.

At the end of the year the Planning Commission will review amendments to the Comprehensive Plan including a privately initiated amendment. The Commission will also propose development regulations needed to implement City Council direction regarding changes to the Comprehensive Plan and Zoning Map (Resolution 791) and to study zoning code amendments requested by the Planning Commission.

BOARD OR COMMITTEE RECOMMENDATION

Following review by the Planning Commission on January 6th and 20th, the Planning Commission unanimously recommends the attached 2016 Annual Preliminary Work Plan to the City Council for adoption by Resolution.

RECOMMENDATION / MOTION

MOVE TO: Adopt a resolution approving the 2016 Annual Preliminary Planning Commission Work Plan.

AGENDA

cbform

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, ADOPTING THE 2016 PLANNING COMMISSION PRELIMINARY WORK PLAN

WHEREAS, the City Council established and appointed the Planning Commission to advise the City Council on the following topics: growth management; general land use and transportation planning; long range capital improvement plans; and other matters as directed by the City Council; and

WHEREAS, the Planning Commission is charged with reviewing and holding hearings on proposed development regulations for the City and making recommendations to the City Council on amendments to those regulations; and

WHEREAS, the Revised Code of Washington 36.70A.040 requires the City to adopt development regulations which are consistent with and implement the Comprehensive Plan; and

WHEREAS, in accordance with Council Rules, directives to the City's Commissions including the Planning Commission are to be in the form of a City Council Resolution, and

WHEREAS, each year the City Council adopts an Annual Preliminary Planning Commission Work Plan directing the Planning Commission to review and recommend plan and development regulation amendments, and

WHEREAS, in 2016 the Planning Commission continues work on development regulation amendments directed by the City Council in the 2015 Preliminary Planning Commission Work Plan, and

WHEREAS, by City Council Resolution 743 the City Council directed the Planning Commission to review and recommend amendments to the sign code, and

WHEREAS, by City Council Resolution 791 the City Council directed the Planning Commission to review and recommend amendments to the Comprehensive Plan and Zoning Regulations to ease the process of amending the Comprehensive Plan and development regulations to promote economic growth, and

WHEREAS, in accordance with UPMC 19.90.030 (C), the Planning Commission and Staff requests to study and recommend four amendments to the Zoning Code regarding mixed use, floor area ratio, transition zones, and density rounding; and

WHEREAS, in accordance with UPMC 16.10.080 a privately initiated proposal to amend the Comprehensive Plan has been received and will be reviewed by the Planning Commission before consideration by the City Council in the fourth quarter; and

WHEREAS, the foregoing work items included in the 2016 Annual Preliminary Planning Commission Work Plan attached hereto as Exhibit A have been reviewed and recommended by the Planning Commission on January 20, 2016;

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

Section 1. Adoption of the 2016 Annual Preliminary Planning Commission Work Plan. The City Council directs the Planning Commission to review and make recommendations regarding those items listed in the 2016 Annual Preliminary Planning Commission Work Plan attached hereto as Exhibit A.

Section 2. Effective Date. This Resolution shall take effect immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL ON APRIL 4, 2016.

_____
Javier H. Figueroa, Mayor

ATTEST:

_____
Emelita Genetia, City Clerk

APPROVED AS TO FORM:

_____
Steve Victor, City Attorney

COUNCIL BILL

2016 Draft Planning Commission Preliminary Work Plan			
Date	**Subject**	**Activity**	**Origin**
01/06/16	Development Regulation Amendments	Study	Adopted 2015 Work Plan
01/20/16	Work Plan	Recommendation	Council Rules
	Development Regulation Amendments	Study	Adopted 2015 Work Plan
02/03/16	Development Regulation Amendments	Study	Adopted 2015 Work Plan
02/17/16	Development Regulation Amendments	Study	Adopted 2015 Work Plan
03/02/16	No Meeting		
03/16/16	Election of Officers		Ordinance 338
	Development Regulation Amendments	Study	Adopted 2015 Work Plan
04/06/16	Sign Code Amendments	Study	Resolution 743 + Reed
	Development Regulation Amendments	Public Hearing	Adopted 2015 Work Plan
04/20/16	Sign Code Amendments	Study	Resolution 743 + Reed
	Development Regulation Amendments	Recommendation	Adopted 2015 Work Plan
	Subarea Plan Update	Report	Resolutions 796 & 804
05/04/16	Sign Code Amendments	Study	Resolution 743 + Reed
05/18/16	Sign Code Amendments	Public Hearing	Resolution 743 + Reed
	Subarea Plan Update	Staff Report	Resolutions 796 & 804
06/01/16	Sign Code Amendments	Recommendation	Resolution 743 + Reed
06/15/16	Comprehensive Plan Designations & Zoning	Study	Resolution 791
	Subarea Plan Update	Staff Report	Resolutions 796 & 804
07/06/16	Comprehensive Plan Designations & Zoning	Study	Resolution 791
07/20/16	Comprehensive Plan Designations & Zoning	Study	Resolution 791
	Subarea Plan Update	Staff Report	Resolutions 796 & 804
08/03/16	Comprehensive Plan Designations & Zoning	Study	Resolution 791
08/17/16	Comprehensive Plan Designations & Zoning	Public Hearing	Resolution 791
	Subarea Plan Update	Staff Report	Resolutions 796 & 804
09/07/16	Comprehensive Plan Designations & Zoning	Recommendation	Resolution 791
	Comprehensive Plan and Zoning Code Amendments	Study	Resolution 791/UPMC 19.90[1]
09/14/16	Comprehensive Plan and Zoning Code Amendments	Study	Resolution 791/UPMC 19.90[1]
	Subarea Plan Update	Staff Report	Resolutions 796 & 804
10/05/16	Comprehensive Plan and Zoning Code Amendments	Study	Resolutions 796 & 804
10/19/16	Comprehensive Plan and Zoning Code Amendments	Public Hearing	Resolutions 796 & 804
	Subarea Plan Update	Staff Report	Resolutions 796 & 804
11/02/16	Comprehensive Plan and Zoning Code Amendments	Study	Resolution 791/UPMC 19.90[1]
11/16/16	Comprehensive Plan and Zoning Code Amendments	Recommendation	Resolution 791/UPMC 19.90[1]
	Subarea Plan Update	Staff Report	Resolutions 796 & 804
12/07/16	Make Up Day		
12/21/16	No Meeting		

Footnote 1 Planning Commission, Staff and Public Initiated

COUNCIL BILL

University Place
WASHINGTON

Memo

DATE: March 8, 2016

TO: City Council

FROM: David Swindale, Director, Planning and Development Services

SUBJECT: Four Zoning Code Amendment Requests

1. In accordance with UPMC 19.90.030 (C), Staff requests the Planning Commission study and recommend to the City Council amendments to the Zoning Code as part of their ongoing review of development regulations ***regarding the requirement that retail, office or commercial uses be built prior to or concurrent with any residential development in the Mixed Use District Incentive Overlay Zone.***

   The City has received a proposal to replace the old Red Apple building with a four story 84-unit assisted living and 24-bed dementia care facility. The proposal does not contain the required commercial component. However, the binding site plan associated with the development requires that Lot 3 be developed with a commercial use (currently proposed to be a 3-story medical office building). Without a code amendment, this project cannot go forward as proposed.

2. In accordance with UPMC 19.90.030 (C), the Planning Commission requests to add to the 2016 work plan direction to study and recommend the following amendments to the Zoning Code:

   Floor Area Ratio (FAR) is the ratio of lot area to floor area. For example, an FAR of .4 would allow a 4,000 square foot house to be constructed on a 10,000 square foot lot. An FAR of .4 is the maximum floor area allowed when building on a substandard lot. A substandard lot is a lot that does not meet minimum lot size for the Zone. In the R1 Zone, the minimum lot size is 9,000 square feet and in the R2 Zone, the minimum lot size is 6,000 square feet. Increasing FAR would allow larger houses to be built on substandard lots.

   Transition Properties and Transition Landscaping refers to commercial properties that are across a street or abutting residential-zoned property. Use, design, setback and buffering (transition landscaping) provisions apply to these commercial properties to mitigate the commercial activity's impacts on residential property.

   Density Rounding. Density rounding is the ability to round to the highest number when calculating allowed density. For example, if a property owner wants to subdivide a 43,550 square foot lot in the R1 Zone where the maximum density is 4 dwelling units per acre (1 acre = 43,560), only three lots can be created. However, if density rounding was allowed, 4 lots can be created.

   In a second example, without rounding, the minimum lot size that could be subdivided would be 21,780 square feet. With rounding, the minimum lot size that could be subdivided would be 17,000 square feet. 1 Acre = 43,560 sq. ft. → 43,560/4 = 10,890. → 17,000 sq. f t / 10,890 = 1.56 lots which when rounded up = 2. The use of rounding would result in 2 lots, one of which would be less than the minimum lot size.

COUNCIL BILL

University Place City Hall
3715 Bridgeport Way West
University Place, WA 98466
Tel 253.566.5656
Fax 253.566.5658
www.CityofUP.com

STUDY SESSION

CITY of UNIVERSITY PLACE
3715 Bridgeport Way West ◆ University Place, WA 98466
Phone (253) 566-5656 ◆ FAX (253) 460-2541

PLANNING & DEVELOPMENT SERVICES DEPARTMENT
STAFF REPORT TO THE CITY COUNCIL
April 4, 2016

TREE PRESERVATION AMENDMENTS

SUBJECT: Tree Preservation Amendments, UPMC 19.65

INTRODUCTION: The City Council will study tree retention amendments recommended by the Planning Commission in response to City Council Resolution 698 and in consideration of Staff's experience administering existing code provisions.

BACKGROUND:

On July 29, 2012, the City Council held a study session to discuss the protection of scenic views and raised questions concerning the City's tree retention provisions. The Council requested Planning Commission review of existing regulations and adopted Resolution No. 698, which directed the Commission to recommend language to clarify existing Zoning Code provisions regarding:

a. The number of trees that property owners are allowed to cut down in a three-year period; and
b. City staff's availability to consult on the determination of what constitutes a dangerous or hazardous tree.

The Commission initiated its review of existing code provisions and a discussion draft of possible amendments at its August 5, 2015 meeting. The Commission continued with its review during its September and October meetings and conducted a public hearing on proposed amendments on October 7, 2015. After considering public testimony, the Commission voted on October 21, 2015 to recommend to Council approval of a set of tree retention code amendments. Adopted minutes from each of the Commission meetings where possible amendments were discussed are provided in attachments 3-7.

The City Council studied the Planning Commission's recommendation on January 19, 2016. Each Councilmember asked several questions regarding the proposed amendments. The purpose of this report is to answer those questions and seek direction from the Council to either prepare an ordinance to adopt the Planning Commission's recommendations with any changes the Council specifies or prepare for additional study.

PROCEDURAL COMPLIANCE:

On September 23, 2015, the City submitted a set of draft amendments to the Department of Commerce to initiate the mandatory 60-day state agency review period. This period ended on November 22nd and no agency comments were received. The City also submitted required SEPA documentation to the Department of Ecology on September 13, 2015 to initiate a 14-day SEPA review period. General comments concerning clean-up of properties contaminated by the ASARCO plume that might be affected by tree removal were provided by Ecology.

ORGANIZATION OF THE STAFF REPORT

The questions posed by each Councilmember are underlined then followed by a Staff response and recommendation, if appropriate. Referring to the referenced pages in the Code (Exhibit A) as you review this report will assist in understanding staff responses and Councilmember requested amendments.

Councilmember Belleci:

1. A question was raised as to the extent to which significant trees were being retained in the Orchard Ridge and Woodside Creek projects on Orchard Street.

   Staff response:
   For both projects, the applicable 2007 regulations required 75% retention of perimeter trees and 25% retention of interior trees (≥ 6 inches dbh).

   For Orchard Ridge (the southerly portion of the site) the Code required 20 perimeter trees and 15 interior trees to be retained. The approved plan calls for 19 perimeter and 14 interior trees to be retained, two short of the Code requirement. This two tree deficiency requires 6 replacement trees to be planted (3 per tree). The applicant proposes to plant two trees per lot as part of the overall PDD landscape design. These trees will more than satisfy the replacement tree requirement.

   Woodside Creek Tree Preservation. The Code required 19 perimeter trees and 23 interior trees to be retained. The approved plan calls for 13 perimeter and 17 interior trees to be retained, 12 short of the Code requirement. This 12 tree deficiency requires 36 replacement trees to be planted (3 per tree). The applicant proposes to plant these 36 trees in common open space areas, plus an additional two trees per lot as part of the overall PDD landscape design. These trees will more than satisfy the replacement tree requirement.

2. How do the new options for tree retention benefit the City and preserve trees?

   Staff response: The Commission recommends establishing 5 options for applicants to identify regulated trees that would be retained. The idea is to provide greater flexibility for identifying specific trees for removal or retention.

One approach may prove more beneficial than another at accommodating a superior project design or retaining better trees. Ideally, one option can be identified as the best way of achieving both goals. The options are intended to be roughly comparable in terms of the extent to which existing tree canopy would be preserved. Overall, the options encourage the retention of higher percentages of larger trees on a site and provide greater ability to eliminate relatively smaller trees. The percentages required to be retained are higher than the current code requires, partly to compensate for the proposed increase in tree diameter for regulated trees, from 6" dbh to either 9" dbh (evergreen) or 12" dbh (deciduous).

3. How many complaints has the City received regarding tree removal since the tree preservation provisions in the Code were adopted?

   Staff response: Since 1995 the City has received 26 formal complaints about trees being removed without a permit. About 12 have gone to violation actions where fines of $1,000 per tree have been levied. These complaints are typically filed after trees are removed. The City enforces illegal tree removal by responding immediately to informal tree removal complaints if staff is available to respond (i.e., Monday – Friday). This proactive enforcement may allow the City to intercede while the cutting is occurring and hopefully stop the activity before it becomes illegal. If a property owner is proposing to cut more than 5 trees they are informed of the tree removal permit requirement and asked to halt cutting until a permit is obtained.

4. How much staff time is involved in enforcement of tree code complaints?

   Staff response: Overall, less than 1%.

Councilmember Nye:

1. What is the cost for tree removal permits?

   Staff response: The cost of an *Urban Forest Management (Administrative Use Permit)* depends on the size of the property, as follows:

   Tree Preservation Plan (1/2 acre or less) - $650.00
   Tree Preservation Plan (1/2 acre to 2 acre) - $687.70
   Tree Preservation Plan (over 2 acres) - $1,375.40

2. What was the date of the original tree preservation provisions?

   Staff response: Ordinance 58, which included significant tree preservation provisions, was adopted on August 31, 1995, the same day the City incorporated.

Councilmember McCluskey:

1. Expected to see provisions relating to scenic preservation included in the tree retention amendments.

   Staff response: The Planning Commission's review of view protection regulations was conducted from October 2013 to February 2014 and the results and recommendations were reported to the City Council on March 3, 2014. The Commission recommended minor amendments to the decision criteria for processing CUPs and administrative design reviews for development proposals to ensure consideration of view impacts. The Commission recommended against establishing view corridors or enacting additional view protection regulations. The City Council accepted the recommendations of the Commission and provided no further direction to staff or Commission on this topic.

2. Add new purpose statements to landscaping/trees section 19.65.010, including:
   a. Preservation of scenic views, including views from public property and the City right-of-way
   b. Community enjoyment
   c. Aesthetics
   d. Wildlife preservation

   Staff response: Items relating to preservation of scenic views, community enjoyment and aesthetics have been added to the purpose statement -- see Page 1 19.65.010(B) and (L). Wildlife preservation is addressed in 19.65.010.D.

3. Determine a definition for a heritage or significant tree and begin a list. Councilmember McCluskey may propose for the City Council to study and perhaps implement a heritage tree program.

   Staff response: The Commission discussed the idea of creating a list and/or program of heritage or significant trees but has recommended against establishing a program at this time. Such a program would likely require considerable staff resources to develop and administer. Further study would be needed to determine whether the program should be regulatory or educational in nature, what the criteria would be for including a tree on a list, and who would administer or manage the program. The Commission left the definition of significant tree in the Code as a placeholder, in the event Council were to provide direction to Administration, staff and the Commission to proceed with developing a program in the future.

4. Add criteria for staff to use when making an administrative determination that a tree is hazardous and can be removed without the need for an arborist report. Document all administrative hazardous tree removal determinations.

Staff response: A number of cities reference criteria that are drawn from *A Photographic Guide to the Evaluation of Hazard Trees in Urban Areas* (International Society of Arboriculture). These relate to tree characteristics, tree health, site conditions, target (the type of land use under a tree) and tree defects. Seattle tree regulations state that in order to qualify for removal as a hazard, a protected tree must generally meet all three of the following criteria:

- The tree has structural defects and/or other conditions that make it likely to fall or break;
- There is a permanent structure or an area of moderate-to-high use by people, such as sidewalks or public trails, that would be impacted if the tree failed; and
- The danger cannot be mitigated by pruning the tree or moving the structure or activity.

The following has been added to UPMC 19.65.070 on page 7:

"City staff should consider the following conditions when conducting a tree risk assessment:

- Is the tree dead, diseased, decayed, burned or otherwise damaged;
- Are there multiple weak branch attachments, broken and/or hanging limbs;
- Is the foliage sparse, and/or discolored;
- Is there evidence of root rot/exposed, undermined or pruned roots or a restricted root area;
- If leaning what is the degree of lean. Are roots broken or is the soil heaving or cracking;
- Is the top broken on conifers; and
- Are there targets such as buildings, parking, or traffic or pedestrian facilities below the tree? Can the target(s) be moved?"

Staff will institute a policy to require an investigation case file be opened for all future administrative hazardous tree removal determinations. The City's permit tracking system includes an investigation entry type that can be used for this purpose.

5. Opposes increasing the size threshold for trees to be retained.

Staff response: More than one Councilmember indicated a preference to maintain the exiting 6" tree diameter. The City Council should decide whether or not to maintain the existing definition of a tree.

The recommendation to increase the minimum tree size for regulation stems from the requirement to preserve a higher percentage of larger trees.

6. Provide details about 3 options available to developers, and also about tree-trading, how will that work?

   Staff response: The following provision recommended by the Commission includes five options:

   19.65.270 Tree retention in development situations.
   B. The applicant must show how existing trees, excluding invasive trees, nuisance trees and hazard trees, will be preserved by choosing one of the following options to identify those trees to be retained. Trees located within a critical area or associated buffer are excluded from the following calculations:

   1. Preserve at least 35% of the trees located on the site;
   2. Preserve all trees ≥ 20 inches DBH and at least 20% of the total tree diameter on the site, where there are at least 4 trees ≥ 20 inches DBH on the site;
   3. Preserve at least 50% of all trees ≥ 20 inches DBH and at least 25% of the total tree diameter on the site, where there are at least 4 trees ≥ 20 inches DBH on the site;
   4. Preserve at least 30% of the total tree diameter on the site, where all trees are < 20 inches DBH; or
   5. Preserve at least 35% of the total regulated tree canopy area on the site, if the site is larger than two acres.

   Option 1 is the most similar one to the current Code, which requires 25% of interior trees and 75% of perimeter trees to be saved. Under today's Code, the 75% provision rarely applies since a substantial perimeter buffer is rarely required for new development– and it is this buffer requirement that triggers the 75% retention requirement. Therefore, option 1 (35% of 12" evergreen trees and 9" deciduous trees) is viewed as roughly comparable to the current 25% of 6" interior trees requirement.

7. It appears there is a preference of conifer trees over evergreen. Is this true? To maintain the green wooded character of the City during winter months the City should encourage the planting of evergreens over deciduous trees.

   Staff response: The Code distinguishes between evergreen trees (some of which are conifers that bear cones) and deciduous trees (which lose their leaves in winter). The proposed Code does not intentionally express a preference, although it would regulate somewhat smaller deciduous trees (9 inch) than evergreen trees (12 inch). Many deciduous trees tend to grow more slowly, so the smaller threshold for deciduous trees may be roughly equivalent to the larger threshold for faster growing evergreen trees. In effect, the removal of deciduous trees, which are far less common than evergreens in the City, would be more stringently regulated – meaning there would be more protection for somewhat smaller deciduous trees.

The following Comprehensive Plan policy, located in the Environmental Management Element, was adopted in November 2015:

> ***Policy EN3J***
> *Encourage preservation of significant trees and planting of new trees in locations that allow normal growth patterns, support energy conservation and complement view access, light, privacy and safety needs. Plant deciduous trees where summer shade, winter solar gain, and seasonal change will be beneficial or desired. Plant evergreen trees where year-around beauty, visual screening and noise buffering are desired. Require street trees along all new and substantially modified arterial, collector and local streets.*

It notes that both evergreen and deciduous trees provide benefits to the community. Deciduous trees provide seasonal color and sometimes an added wildlife benefit in terms of making different types of nuts and fruits available to wildlife. Having greater canopy diversity is important for the health of an urban forest. If the City's urban forest is a monoculture and disease strikes, the forest could be significantly impacted. This has occurred with elm, chestnut, and more recently ash populations elsewhere.

Planting evergreens can certainly be beneficial for numerous reasons, but many of the dominant evergreens in the City's forests (Douglas fir, hemlock, etc.) are not always good "city" trees for planting in new development or existing developed neighborhoods. This is due to their unstable characteristics, large scale, and incompatibility with other landscaping. This being said, current regulations *do* encourage like-for-like planting of evergreens intended to replace those evergreens being lost due to development.

8. How do the tree retention provisions preserve neighborhood character?

Staff response: The City's Comprehensive Plan Vision Statement calls for the retention of the green, partially wooded and landscaped character of the City. To realize this Vision, the Plan includes goals and policies that direct the City to protect and enhance the wooded character of the community through the preservation of significant trees. To achieve the Vision and Plan goals and polices, the provisions contained in UPMC 19.65 require the preservation of trees, and replacement of trees that cannot be preserved, with appropriate tree types and sizes.

These implementing regulations are intended to strike a balance with protecting individual property rights and the ability of property owners to manage their trees to their perceived benefit. When the provisions were originally adopted, Council did not wish to impose excessive regulation on small lot owners. As a result, the

preservation of a wooded neighborhood character will depend in large part on how individuals in those neighborhoods feel about their trees.

9. The Councilmember would like to see the options to be provided for tree removal in development situations.

   Staff response: See No. 6 above

10. Concern was expressed about the loss of tree canopy in the City. Allowing invasive trees to be cut without counting them as trees that must be preserved may significantly reduce the tree canopy in the City. An invasive tree canopy is better than no tree canopy.

    Staff response: None of the invasive species listed in proposed Section 19.65.330 is common in University Place. Occasional and limited removal of these trees should have little impact on the overall canopy. Removing these trees should be encouraged to promote a healthy native urban forest.

11. Tree-topping: Noting the destruction tree topping for utility line protection causes, it would be beneficial to place in the Code some standards for pruning trees in the right-of-way.

    Staff response: After consulting with the State Department of Natural Resources Urban Forestry Division the following sentence was inserted on Page 19 in Section 19.65.210.

    All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure. *Tree pruning shall be accomplished in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 How to Prune Trees available on-the web.*

    A new UPMC 19.65.320 on Page 25 was also added

    19.65.320 Tree Maintenance and Pruning
    Trees which are required to be maintained and replacement trees shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure. Tree pruning shall be accomplished in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 How to Prune Trees available on-the web, except that tree pruning for utilities shall be conducted in accordance with the latest edition of the International Society of Arboriculture's Best Management Practices – Utility Pruning of Trees.

12. To discourage the removal of trees, the City should increase fines, educate the public on the value of trees, and consider a tree planting program. Consider the option of requiring replacement tree planting in lieu of fines. If a tree is illegally removed, require a tree be planted in its place.

Staff response: The current fines for removing a tree or trees illegally is:

A monetary penalty shall be assessed that is the greater of:

1. One thousand dollars for each tree cleared, cut, damaged or removed, or for each act of clearing, cutting, damaging, or removing vegetation; or

2. Triple the value of each tree cleared, cut, damaged or removed, or of the vegetation cleared, cut, damaged, or removed. The replacement value shall be determined using the methods described in the Guide for Plant Appraisal published by the International Society of Arboriculture, most current edition; or

3. An amount reasonably determined by the Director to be equivalent to the economic benefit that the violator derives from the violation as measured by the greater of the resulting increase in market value of the property or the value received by the violator, or savings of construction costs realized by the violator.

C. In the case of urban forest management, the City shall impose a six-year moratorium on the development of the subject property when a property owner either fails to obtain a tree removal permit or violates the provisions of a valid tree removal permit, including failure to disclose the intended use of the property.

In most cases the first option is applied. In two cases the second option was initially applied, but lower fines were negotiated in exchange for replanting. The third option has not been applied because of the cost and difficulty associated with determining a defensible fine amount.

Rather than replace a fine with the ability to replant, staff recommends the following new provisions. See Page 3 UPMC 19.65.040.

In addition to the monetary penalties above, each tree illegally removed shall be replaced with new trees of the same species at a replacement rate of three trees for every tree removed. The City may authorize an alternative species or cultivar if it would be a more suitable and beneficial selection for a specific location given unique site characteristics.

Once the tree protection provisions of the Code are amended by the City Council, staff will prepare an article for publication in the UP Press.

13. Has there been any consideration of how trees absorb water in areas that tend to be very wet, and how run-off is impacted when those trees are removed? It would be good to provide some discussion of the benefits of trees in wet areas, not necessarily wetlands. This would be a good public education item and could easily be included as a newspaper article in UP Press.

    Staff response: Staff will write a newspaper article, once Council adopts the amendments. .

Mayor Figueroa:

1. Have any other cities established a definition for hazardous tree? If not, look for minimal characteristics that most people would agree with that identify a hazardous tree.

   Staff response: Most cities reference the criteria described in the ISA Guide rather than establish a more generalized list of criteria. This may be because few cities provide the latitude for staff to make a determination in obvious cases. As noted in a response to a comment from Councilmember McCluskey above, Seattle rules state that a hazard tree must meet three criteria:

   - The tree has structural defects and/or other conditions that make it likely to fall or break;
   - There is a permanent structure or an area of moderate-to-high use by people, such as sidewalks or public trails, that would be impacted if the tree failed; and
   - The danger cannot be mitigated by pruning the tree or moving the structure or activity.

   Staff proposes criteria similar to those found in the ISA guide UPMC 19.65.070(D) for guidance on page 7.

2. The Mayor reiterated his desire to alleviate the burden of the cost of hiring an arborist to make a hazardous tree evaluation by authorizing staff to make such determinations where appropriate.

   Staff response: See No. 1 above.

3. The Mayor suggested that staff document administrative hazardous tree determinations.

   Staff response: Staff will institute a policy to require an investigation case file be opened for all future administrative hazardous tree removal determinations.

4. The Mayor questioned the validity of the added purpose statements and suggested that source citations should be added.

Staff response: The recommended additional purpose statements are found in numerous cities' codes because they are widely accepted benefits. Scientific literature identifies environmental benefits associated with trees, including their absorption of pollutants and contamination, their capture of carbon dioxide, their reduction of energy demand through shading in the summer and protection from wind in the winter. Urban heat islands are documented to exist in many metropolitan areas that have high levels of impervious surface and minimal tree canopy compared to surrounding countryside. Temperatures may be up to 10 degrees warmer in some metro areas compared to surrounding, less developed areas as a result of this effect. Maintenance or expansion of an urban tree canopy can reduce this effect.

The Arbor Day Foundation has provided the following statistics suggesting the importance of trees in a community setting:

- The net cooling effect of a young, healthy tree is equivalent to ten room-size air conditioners operating 20 hours a day. *U.S. Department of Agriculture*
- If you plant a tree today on the west side of your home, in 5 years your energy bills should be 3% less. In 15 years the savings will be nearly 12%. *Dr. E. Greg McPherson, Center for Urban Forest Research*
- A mature tree can often have an appraised value of between $1,000 and $10,000. *Council of Tree and Landscape Appraisers*
- In one study, 83% of realtors believe that mature trees have a 'strong or moderate impact' on the salability of homes listed for under $150,000; on homes over $250,000, this perception increases to 98%. *Arbor National Mortgage & American Forests*
- Landscaping, especially with trees, can increase property values as much as 20 percent. *Management Information Services/ICMA*
- One acre of forest absorbs six tons of carbon dioxide and puts out four tons of oxygen. This is enough to meet the annual needs of 18 people. *U.S. Department of Agriculture*
- There are about 60– to 200-million spaces along our city streets where trees could be planted. This translates to the potential to absorb 33 million more tons of CO^2 every year, and saving $4 billion in energy costs. *National Wildlife Federation*
- Trees properly placed around buildings can reduce air conditioning needs by 30 percent and can save 20–50 percent in energy used for heating. *USDA Forest Service*
- Trees can be a stimulus to economic development, attracting new business and tourism. Commercial retail areas are more attractive to shoppers, apartments rent more quickly, tenants stay longer, and space in a wooded setting is more valuable to sell or rent. *The Arbor Day Foundation*

- Healthy, mature trees add an average of 10 percent to a property's value. *USDA Forest Service*
- The planting of trees means improved water quality, resulting in less runoff and erosion. This allows more recharging of the ground water supply. Wooded areas help prevent the transport of sediment and chemicals into streams. *USDA Forest Service*
- In laboratory research, visual exposure to settings with trees has produced significant recovery from stress within five minutes, as indicated by changes in blood pressure and muscle tension. *Dr. Roger S. Ulrich Texas A&M University*
- Nationally, the 60 million street trees have an average value of $525 per tree. *Management Information Services*

The sources for purpose statements are not typically cited in regulations. However, staff can provide source information in background and supporting documentation that is contained in the official record, which is kept in the project file in accordance with State Records Management requirements.

The following Comprehensive Plan policy was adopted by Council in 2015. The additional purpose statements are generally consistent with this policy direction.

Policy EN3I
Protect and enhance the natural green and wooded character of University Place. Retain an abundance of mature trees and a healthy understory to maintain community identity and contribute to a healthy environment by cleaning the air, producing oxygen, reducing surface water run-off, providing wildlife habitat, absorbing sound and masking noise, and reducing energy costs through shading and windbreak functions.

Mayor Pro-Tem Keel

1. Add criteria staff is to use when making an administrative determination that a tree is hazardous and can be removed without the need for a permit.

   Staff response: Please see previous discussions of this item, above.

2. Will the City need to develop a data base of trees, listing which ones are hazardous, historic or topped and monitor properties to ensure tree retention?

   Staff response: It would be impractical for the City to inventory all the trees in the City and monitor them to ensure tree preservation compliance. Although Development Services staff spends less than 1 % of their time administrating the City's tree preservation provisions, by in large, the City retains its natural, green and wooded character in line with the City's Vision and meeting the Comprehensive Plan goal.

Councilmember Grassi

1. Does the tree fine system work? How much have we collected?

   Staff response: A Tree Account revenue code was set up in 2007. The City has received $8,530.69 since its establishment.

2. Opposed to the provision that allows property owners to remove trees that were required for preservation within 3 years of purchase.

   Staff response: Staff shares some of this concern given the opening this creates for tree removal a short period of time after a project has been constructed. The proposed revision to this section would establish a requirement that replacement trees be planted in exchange for those proposed to be removed. Perhaps this would provide a disincentive to tree removal in some cases. At the very least it would help reestablish and maintain tree canopy. The current Code does not require any replacement trees. See UPMC 19.65.300 on page 25.

3. Opposes increasing the size of trees to be retained.

   Staff response: More than one Councilmember indicated a preference to maintain the exiting 6" tree diameter. The City Council should decide whether or not to maintain the existing definition of a tree.

   The recommendation to increase the minimum tree size for regulation stems from the requirement to preserve a higher percentage of larger trees.

Councilmember Worthington

1. Concerned about utilities topping trees (i.e. Asplundh).

   Staff response: The following new provision added at UPMC 19.65.320 on Page 25 was to address this concern:

   19.65.320 Tree Maintenance and Pruning
   Trees which are required to be maintained and replacement trees shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure. Tree pruning shall be accomplished in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 How to Prune Trees available on-the web, except that tree pruning for utilities shall be conducted in accordance with the latest edition of the International Society of Arboriculture's Best Management Practices – Utility Pruning of Trees.

2. Is there anything in the wording that exempts trees that come down in windstorms, "acts of God"?

Staff response: An existing provision allowing the removal of obviously dead or diseased trees, which is in conflict with the preceding exception provision regarding the removal of dead and diseased hazardous trees was amended to allow the removal of wind throw.

3. It is important to take into account lot size when determining number of trees that are allowed to be removed on a lot.

   Staff response: Some cities establish a range of thresholds to allow more trees to be cut on larger properties. What may seem reasonable on a 9,000 square foot lot (where 5 trees may be removed without a permit) may seem overly restrictive on a 2-acre site.

   To provide a balance between the desire to protect the community character and honor individual property rights, in 1995 the City Council enacted tree preservation regulations that allow a maximum of five trees to be removed in a three year period. On lots larger than ½ acre or commercial properties with more than 15 trees, tree retention plans are required where a minimum number of trees must be retained depending on their location.

   The logic of requiring tree preservation plans on lots greater than ½ acre and commercial developments with more than 15 trees was based on the size of most lots in the City. The City Council did not want this to be a burden on most single family property owners. The Planning Commission is recommending removal of the provision Page 23 UPMC 19.65.280 subjecting all properties to this requirement. (it is possible the Planning Commission did not know the history behind this provision when reviewing this section).

AGENDA

City of University Place
Tree Retention Code Amendments
Planning Commission Recommended Draft
and City Council-Requested Amendments
April 4, 2016

Chapter 19.65 Landscaping/Trees

19.65.010 Purpose.

The purposes of this chapter are:

A. To implement the City's vision statement and the goals and policies of the Comprehensive Plan;

B. To protect and enhance the natural green and wooded character of University Place for aesthetics and community ~~;~~enjoyment;

C. To promote the compatibility between land uses and zones by reducing the visual, noise and lighting impacts of development on users of the site and abutting uses;

D. To protect critical areas from the impacts of development, by facilitating aquifer recharge, protecting urban wildlife habitat, reducing stormwater runoff and pollution of surface waters, and controlling dust, erosion and sedimentation;

E. To promote the use and protection of vegetation native and common to the Puget Sound region;

F. To promote the application of water-efficient techniques in the design, installation and maintenance of landscaping; ~~and~~

G. To provide physical safety of pedestrians and motorists through the proper location and placement of vegetation; ~~.~~

H. To protect public health through the absorption of air pollutants and contamination, and by capturing carbon dioxide;

I. To provide visual screening and summer cooling;

J. To reduce energy demand and urban heat island impacts; ~~and~~

K. To enhance property values; and ~~.~~

L. To preserve scenic views, including views from public property and the City right-of-way.

19.65.020 Authority.

The Department shall review and may approve, disapprove or approve with modification all permits, site plans, and/or landscape plans for all uses and developments which are required to comply with the provisions of this section. This section includes landscaping requirements and urban forest management. Chapter 76.09 RCW and Chapter 222-20 WAC authorize the urban forest management provisions of this chapter.

19.65.030 Disclaimer of liability.

The City is not liable for any damage to property or injury to persons that results because of landscaping or trees that must be retained as required by this section whether by natural and/or other causes. It shall be the responsibility of property owners to question the safety of landscape requirements or the health and safety of trees and to request modification of landscape requirements or review of diseased and/or dangerous trees as provided for in this section.

19.65.040 Enforcement and penalties.

A. It shall be unlawful to remove any tree or vegetation in a manner inconsistent with this chapter, an approved tree preservation plan and/or a plat note which requires the preservation of trees and/or vegetation.

B. In addition to any other sanction or penalty or any remedial or administrative procedure available under the University Place Municipal Code or State law for a violation of any provision of this chapter or failure to comply with any permit or other written order or decision issued pursuant to this chapter, a monetary penalty shall be assessed that is the greater of:

1. One thousand dollars for each tree cleared, cut, damaged or removed, or for each act of clearing, cutting, damaging, or removing vegetation; or

2. Triple the value of each tree cleared, cut, damaged or removed, or of the vegetation cleared, cut, damaged, or removed. The replacement value shall be determined using the methods described in the Guide for Plant Appraisal published by the International Society of Arboriculture, most current edition; or

3. An amount reasonably determined by the Director to be equivalent to the economic benefit that the violator derives from the violation as measured by the greater of the resulting increase in market value of the property or the value received by the violator, or savings of construction costs realized by the violator.

C. In the case of urban forest management, the City shall impose a six-year moratorium on the development of the subject property when a property owner either fails to obtain a tree

removal permit or violates the provisions of a valid tree removal permit, including failure to disclose the intended use of the property.

D. In addition to the monetary penalties above, each tree illegally removed shall be replaced with new trees of the same species at a replacement rate of three trees for every tree removed. The City may authorize an alternative species or cultivar if it would be a more suitable and beneficial selection for a specific location given unique site characteristics.

19.65.050 Permits.

A. Tree Removal Permit. A tree removal permit is required to cut or otherwise remove six or more trees in any consecutive 36-month period. An application for a tree removal permit and any information required by this section shall be submitted for any tree removal activity not exempt by this section. If six or more trees are to be removed, a tree removal permit application shall be submitted at the same time an application for a building permit, development permit or land use permit is submitted. The application shall be on a form provided by the City and shall be accompanied by documents and information as are determined to be necessary by the Director. Notification of abutting and adjacent property owners is required.

B. The City may refer applications to an urban forester for comments. Any permit granted shall expire one year from the date of issuance. Upon a showing of good cause, a permit may be extended by the Director for one six-month period. The permit may be suspended or revoked by the Director because of incorrect information supplied or any violation of the provisions of this chapter. No work shall begin until a public notice has been posted on the subject site in a conspicuous location. The notice shall remain posted until the project has been completed.

19.65.060 Definitions.

"Brushing" means the practice of removing significant groundcover by hand or hand-operated equipment to create better visibility on a property for purposes such as marketing or surveying of said property.

"Christmas tree" means any evergreen tree or the top thereof, commonly known as a Christmas tree, with limbs and branches, with or without roots including fir, pine, spruce, cedar and other coniferous species.

"Clearing" means the cutting, moving on site, or removal of standing or fallen timber (including stumps); the removal or moving on site of stumps; or the cutting or removal of brush, grass, groundcover, or other vegetative matter from a site in a way which exposes the earth's surface of the site.

"Conversion" means converting the use of land from forestry to non-forestry uses.

“Critical root zone” is an area where the tree’s roots are located. This root zone is generally the area surrounding a tree at a distance which is equal to one-foot radius for every diameter-inch measured at breast height (DBH) or four and one-half feet above ground.

“Crown” is the area of a tree containing leaf- or needle-bearing branches.

“Development” is the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargements of any structure; any mining, excavation, landfill, stockpiling, clearing or land disturbance; and any use or extension of use of the land.

“Diameter at breast height” (DBH) is a tree’s diameter in inches at four and one-half feet above the ground. On multi-stemmed or multi-trunked trees, the diameter shall be the diameter equivalent to the sum of trunk areas measured at four and one-half feet above ground.

“Drip line” of a tree means an imaginary line on the ground created by the vertical projection of the foliage at its greatest circumference.

“Forest practices” means any activity relating to growing trees and harvesting or processing timber including but not limited to road and trail construction; harvesting; thinning; reforestation, fertilization, prevention and suppression of diseases and insects; salvage of trees; and brush control.

“Groundcover” means types of vegetation which are normally terrestrial such as shrubs, vines, grasses, and herbaceous plants.

“Hazard tree” is any tree with a structural defect and/or disease which makes it subject to a high probability of failure and with a proximity to persons or property that makes it an imminent threat.

“Invasive tree” is a species that was introduced by humans to locations outside of their native range that spread and persist over large areas. Invasive species negatively impact natural ecosystems by displacing native species, reducing biological diversity, and interfering with natural succession. Tree species known to be invasive in the Pacific Northwest are listed in UPMC 19.65.330.

“Limited tree removal” is the removal of five trees or less in any 36 consecutive months for the purposes of property development, solar access, general property and utility maintenance, landscaping or gardening. ~~Tree removal in a landslide and erosion hazard area, a wildlife habitat area or a wetland or wetland buffer is prohibited unless specified otherwise.~~

“Nuisance tree” is a species that is known to be weak-wooded and unstable, or one that exhibits other traits that render it prone to creating nuisance conditions for persons and property located in close proximity to such trees. Tree species categorized as nuisance trees in University Place are listed in UPMC 19.65.340.

"Outdoor storage area" means an area on a site where materials, merchandise and/or equipment is stored outdoors.

"Remove" or **"removal"** is the act of removing a tree by digging up, cutting down, or any act which causes the tree to die within a period of three years, including, but not limited to, damage inflicted on the root system by machinery, storage of materials, or soil compacting, or changing the ground level in the area of the tree's root system; damage inflicted on the tree permitting infections or infestation; excessive pruning; topping; paving with concrete, asphalt, or other impervious material within the drip line; or any other action which is deemed harmful to the tree.

"Replacement tree" means any self-supporting perennial woody plant that ~~matures at a height greater than six feet and~~ measures at least six feet in height at the time of planting and at 24 inches above the root ball has a diameter of at least three inches for evergreen trees, and is fully branched and has a minimum caliper of two inches and a minimum height of 10 feet at time of planting~~one and one-half inches~~ for deciduous trees.

"Significant tree" means a tree identified on the City's inventory of significant trees.

"Tree" means a~~ny~~ living woody plant characterized by one or more main stems or trunks and many branches, with the trunk or at least one main stem having a diameter of at least twelve~~six~~ inches DBH ~~or more at breast height (DBH)~~ for evergreen trees and at least nine inches DBH for deciduous trees. Invasive, nuisance or hazard trees, of any size, as determined by the City, are not considered trees for the purposes of this chapter.

- **"Tree removal permit"** means a permit issued by the City to permit clearing and/or tree removal pursuant to the provisions of this chapter.

"Tree Topping" is an extreme form of crown reduction that removes whole tops of trees or large branches and/or trunks from the tops of trees, leaving stubs or lateral branches that are too small to assume the role of a terminal leader – the vertical stem at the top of the trunk. Tree topping severely cuts back large trees to a predetermined size in a manner that:

- leaves large exposed wounds that can become infested;
- ruins tree structure;
- removes too much foliage, disrupting the tree's energy storage;
- stimulates vigorous new growth, which is prone to breakage;
- increases tree maintenance costs; and
- destroys a tree's appearance and value.

"Understory" means small trees and shrubs growing below the canopy of larger trees.

"Urban forest management" means the management of trees in the City, whether on public or private property, for the purposes of but not limited to maintaining the wooded character of

the City and property values; providing wildlife habitat, buffering, and wind protection; facilitating aquifer recharge and slope stabilization and enhancing our healthy, safe, and attractive environment.

"Urban forester" is a licensed professional approved by the City with academic and/or field experience that makes him or her a recognized expert in tree preservation and management. For City approval, an urban forester shall be a Society of American Foresters (SAF) Certified Forester, ~~a certified arborist with the~~ an International Society of Arboriculture (ISA) Certified Arborist, or an American Society of Consulting Arborists (ASCA) Registered Consulting Arborist. ~~Submittal of additional credentials including those of a registered arborist with the American Association of Consulting Arborists is encouraged. An urban forester shall have the necessary training and experience to use and apply the International Society of Arboriculture's guide to evaluation and management of trees, "Guide to the Evaluation of Hazard Trees in Urban Areas," and to successfully provide the necessary expertise relating to management of trees specified in this chapter.~~

19.65.070 Exemptions.

The following shall be exempt from the tree removal permit requirements of this chapter but shall satisfy all standards and requirements of UPMC 19.65.240 and other sections as noted below. Except for limited tree removal, a written exemption must be obtained from the City prior to commencing any clearing or tree removal.

A. Limited tree removal except in the following critical areas: landslide and erosion hazard area, fish and wildlife habitat area or its buffer, and/or wetland or wetland buffer -- unless authorized pursuant to Title 17 Critical Areas~~otherwise specified. City notification is required to assist in record keeping.~~

B. Removal of trees where the trunks are located ~~and groundcover in conjunction with new construction~~ within ~~a maximum of~~ 10 feet of an existing~~the perimeter of the new~~ building that will remain on a site.~~and any area proposed to be cleared for driveway and septic purposes as indicated on a plot plan submitted with a building permit application; provided, however, the Director may require minor modifications in siting and placement of driveways, utilities and septic tank drain field systems where such modifications will promote the goals of this chapter and still satisfy the need and function of improvements. This exemption does not allow tree removal prior to preliminary plat, final plat, or short plat approval.~~

C. Removal of hazard trees~~ and groundcover~~ in emergency situations involving immediate danger to life or property or substantial fire hazards as determined by the City. Replacement of any trees removed is required in accordance with the replacement provisions of this chapter.

D. Removal of a hazard tree(s) following an affirmative recommendation by an ISA ~~-~~Certified Arborist or ASCA Registered Consulting Arborist that the tree is a safety hazard and should be removed. The ~~Certified~~ arborist shall conduct an assessment in accordance with ANSI A300

(Part 9) – 2011 Tree Risk Assessment and provide a written report that includes: identification and location of the specified trees; a description of the methods used; tree risk assessment data; recommendations for mitigating risk or additional assessments; and, recommendations for monitoring and follow-up. The arborist performing this work shall have a Tree Risk Assessment Qualification (TRAQ) or equivalent. The City may, at its discretion and in consideration of ISA tree risk assessment guidance, waive the certified or registered arborist requirement if City staff conducts an on-site inspection and determines that a tree clearly and obviously constitutes a hazard. City staff should consider the following conditions when conducting a tree risk assessment:

- Is the tree dead, diseased, decayed, burned or otherwise damaged;
- Are there multiple weak branch attachments, broken and/or hanging limbs;
- Is the foliage sparse, and/or discolored;
- Is there evidence of root rot/exposed, undermined or pruned roots or a restricted root area;
- If leaning what is the degree of lean. Are roots broken or is the soil heaving or cracking;
- Is the top broken on conifers; and
- Are there targets such as buildings, parking, or traffic or pedestrian facilities below the tree? Can the target(s) be moved

Upon such inspection, staff may determine that further review by a certified or registered arborist is required before making a determination as to whether a tree constitutes a hazard. ~~use the most recent edition of the Photographic Guide to the Evaluation of Hazard Trees in Urban Areas and the Tree Hazard Evaluation Form published by the International Society of Arboriculture.~~

E. Removal of ~~obviously dead or diseased groundcover or~~ windthrow~~trees~~. ~~Replacement of any trees removed is required in accordance with the replacement provisions of this chapter.~~

F. Emergencies. Removal of trees necessary to protect public safety or public or private property from imminent danger in response to emergencies declared by the City, County, State or Federal governments. In the case of a declared emergency, the written approval requirement shall be waived.

G. Removal of street trees, when performed by or on behalf of the City to maintain rights-of-way and in the interest of public safety.

H. Removal of trees that interfere with existing utility transmission lines when pruning is not sufficient to alleviate the interference condition. Topping is prohibited. Utility pruning shall be conducted in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 *How to Prune Trees* available on-the web, except that tree pruning for utilities shall be conducted in accordance with the latest edition of the International Society of Arboriculture's Best Management Practices – Utility Pruning of Trees.

19.65.080 Required water conservation.

During periods when water conservation is required, new landscaping and maintenance of existing required landscaping shall not be required. However, following the lifting of water restrictions, any landscaping required during the period of the required conservation shall be installed and all required landscaping shall be restored to a healthy condition. Any required landscaping that has died shall be replaced in accordance with UPMC 19.65.220.

19.65.090 Landscaping.

Landscaping shall be located along street frontages, around the perimeter, in parking areas and/or on other areas of a site in accordance with the following sections and the landscape tables in UPMC 19.65.150(A) and (B). This subsection shall apply to the following:

A. New Development. All new-uses shall provide landscaping in accordance with the requirements of this chapter. The landscape tables indicate the particular landscape category which applies to proposed uses. The tables and other sections of this chapter shall be used as standards when landscaping requirements are imposed as part of a discretionary permit review process.

B. Expansions of or Alterations to Existing Uses. The requirements of this section shall apply to remodeling or expansion of existing uses under either of the following conditions: (1) when the remodeling or expansion results in the remodeling of or addition of 10 percent or more of the gross floor area of the existing principal building or, collectively, to any principal buildings in a development project~~commercial center~~; or (2) when the remodeling or expansion results in cumulative improvements to the interior and/or exterior of a structure (except for normal maintenance, repair, and life/safety improvements including but not limited to reroofing, painting, recarpeting, fire sprinkler installation, and improved exiting and accessibility), which within a 12-month period exceeds a cumulative value of 10 percent of the assessed value of the structure as assessed by the Pierce County Assessor's Office. All landscape requirements of this section shall apply to the entire property. The landscape tables indicate the particular landscape category which applies to proposed expansion or alteration. Where conformance with this section would create a nonconformity of parking standards or would conflict with the location of existing buildings on the lot, the Director shall determine how the code is to be applied. The Director shall use landscape averaging by requiring more landscaping in one area and reducing it in another. In determining how to apply the landscaping requirements in such circumstances, the Director shall use the following criteria in deciding which of the landscaping requirements to adjust, listed in the order of highest importance:

1. Compliance with street frontage landscaping standards;

2. Compliance with perimeter landscaping standards;

3. Compliance with internal area of parking lot standards;

4. Compliance with other landscaping standards of this title.

C. Change of Use or Occupancy. When the use of a building or lot changes to another use which does not involve expansion or remodeling as provided in subsection (B) of this section, such use need not provide additional landscaping except under the following circumstances:

1. Additional off-street parking is required, in which case the landscaping required by UPMC 19.65.110 shall be required for all new parking spaces or parking facilities provided.

2. The use is subject to special use permit in which case the review authority shall establish the minimum landscape requirements for the specific use.

3. New uses, storage or other activities will take place outdoors, in which case the requirements of UPMC 19.65.120 shall apply.

4. The previous use did not comply with the requirements of the landscaping regulations in effect at the time it was established.

5. Difference of Standards. Where there is a difference in the standards listed in this section and the specific requirements listed for specific uses, the more stringent will apply. The Director may permit alternative landscaping, as provided in UPMC 19.65.170, when the overall site development plan proposed provides equivalent or better results than required by this title.

6. If contiguous lots are developed jointly, the requirement for perimeter buffering between the jointly developed lots shall not be required.

7. No street frontage landscaping is required for single-family or duplex~~two-family~~ dwellings constructed on a lot of record that existed on the effective date of this code.

19.65.095 Difference of standards.

Where there is a difference between the standards listed in this chapter and the specific requirements listed for specific uses, the more stringent will apply. Landscaping design standards and guidelines specified for small lot development, multifamily development, and projects located within the Town Center, Mixed Use, Mixed Use – Office, Mixed Use – Maritime, or Community Commercial zones shall prevail when conflicts between this chapter and these specific requirements exist. The Director may permit alternative landscaping, as provided in UPMC 19.65.170, when the overall site development plan proposed provides equivalent or better results than required by this title.

19.65.100 Street frontage landscaping.

Any portion of any use, except individual single-family or duplex~~two-family~~ lots, that abuts a public right-of-way shall install Level III landscaping unless otherwise specified. See Figure 1 in UPMC 19.65.140.

19.65.105 Transition landscaping requirements.

Development or redevelopment of uses not permitted in the R1 or R2 zones on those portions of properties that abut or are across a local street (as defined in Chapter 13.20 UPMC) from an R1 or R2 zoned property shall:

A. Install Level I landscaping within the front yard setback abutting all local streets. See Figure 1~~3~~ in UPMC 19.65.140.

B. Install a solid 100 percent sight-obscuring six-foot-high fence or wall within or along the required setback along all local streets. The location of the fence or wall shall be approved by the Director. For the purposes of this section, a cyclone fence with slats is not a sight-obscuring fence.

19.65.110 Parking lot and impervious surface area landscaping.

A. The intent of this section is to break up and reduce the barren appearance of parking, circulation, loading, storage and other large impervious surface areas of a site. To the extent practicable, landscaped areas shall be dispersed throughout the impervious surface area.

B. Perimeter Street Landscaping. Any portion of a parking lot, outdoor sales area or other large impervious surface area that is within 20 feet of a public road right-of-way shall install Level III landscaping along that portion of the parking lot perimeter. See Figure 3 in UPMC 19.65.140.

C. Interior Landscaping. All surface parking lots with 10 or more spaces or combined outdoor sales areas greater than 1,600 square feet must provide interior landscaping as follows:

1. Row Requirement. The maximum number of consecutive vehicle parking or sales display spaces without an intervening island or peninsula is 10, unless the row fronts on a landscaping area with a minimum planting width of eight feet. For such rows, the maximum consecutive parking spaces without an intervening island or peninsula is 20 spaces. A landscaping island or peninsula is required at the end of each row of four or more automobile parking spaces that terminates within a parking or circulation area.

2. Island/Peninsula Requirement. Landscape islands and peninsulas shall have a minimum planting width and length of eight feet and minimum planting area of 120 square feet. There shall be at least one tree planted on every island and peninsula.

3. Planting Type and Density. The following landscaping is the minimum required for each 300 square feet of impervious surface landscaping: one two-inch caliper deciduous tree or one six-foot-tall evergreen tree; five five-gallon shrubs; and groundcover. There shall be a minimum of one deciduous canopy tree per four parking spaces or vehicle storage or sales display spaces. Deciduous canopy trees shall be selected in accordance with the Approved Street Tree Palette provided in the streetscape standards adopted pursuant to Chapter 19.54 UPMC.

4. Curb/Curb Edge. Planting areas shall be fully protected by curbs as a means of preventing injury to plants from pedestrian or vehicular traffic and to prevent landscaping material from entering the storm drainage system. No trees or shrubs shall be planted within two feet of a curb edge. Groundcover is required within this two-foot area.

19.65.120 Perimeter landscape buffering.

A. Intent. The intent of this section is to provide for a physical, visual and noise buffer and transition between uses. Different landscape/buffer levels are used to address different uses, compatibility and in conjunction with new subdivisions.

B. General Requirements. Refer to the tables in UPMC 19.65.150(A) and (B) for the landscape level required by the proposed use, expansion or alteration. Each lot line will have a required landscape level based on the abutting land use except that, when two or more properties abut and share a common driveway or parking area, perimeter landscaping along the shared property line may be waived. Pedestrian walkways shall be permitted to cross required landscape areas. Refer to Figures 1, 2, and 3 in UPMC 19.65.140 for illustration of perimeter landscaping requirements.

C. If contiguous lots are developed jointly, the requirement for perimeter buffering between the jointly developed lots shall not apply.

D.Maintenance: Where landscaping has been required or a natural buffer has been set aside, no other use including, but not limited to, the construction of structures is allowed unless authorized by the original permit.

19.65.125 Residential development canopy tree requirement.

A minimum of one deciduous tree per 3,000 square feet of lot area shall be planted on each new single-family or duplex lot created through the short plat or conventional preliminary plat/final plat process after the effective date of the ordinance codified in this section. In addition, a minimum of one deciduous or evergreen tree per 2,000 square feet of dedicated common open space shall be planted within a project's open space area. If the calculation of the number of trees results in a fraction of one-half or greater, the fraction and the number of trees shall round up to the next whole number. If this calculation results in a fraction of less than one-half, the fraction and the number of trees shall round down to the previous whole number.

Planting on an individual lot shall occur prior to the building permit being finaled for a new dwelling unit on the lot. Trees required under this provision shall be in addition to any street trees required to be planted within a public street right-of-way or replacement trees required to be planted in accordance with UPMC 19.65.310. This section shall not apply to small lot developments designed in accordance with Chapter 19.53 UPMC.

19.65.130 Interior landscaping/site stabilization.

All interior portions of lots, parcels or tracts which are not developed with buildings, parking areas and/or accessory uses or where other more specific landscaping regulations are required shall be landscaped with Level IV landscaping, unless native vegetation already exists, and shall be maintained. This includes temporary stabilization of development sites.

19.65.140 Landscape levels.

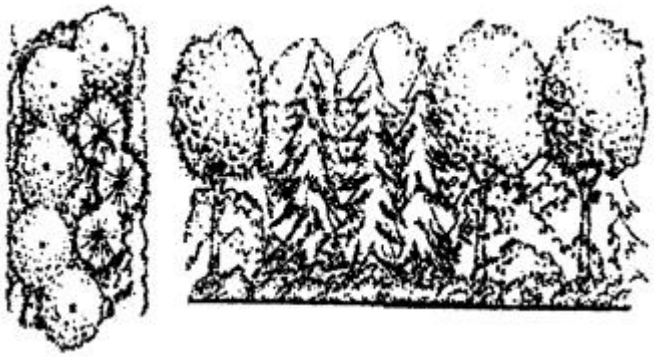
A. Level I: Visual Screen. Level I landscaping is intended to provide a very dense sight barrier to significantly separate uses and zoning districts. It shall generally consist of a mix of predominantly evergreen plantings including living trees, shrubs and groundcovers. The choice and spacing of plantings shall be such that they will form a dense hedge sufficient to obscure sight through the screen within three years after planting. Where a sight-obscuring fence is required, chain-link fencing with slats shall not be considered to be sight-obscuring. Level I landscaping shall consist of the following:

1. A minimum of two staggered rows of evergreen trees planted along the entire length of the required buffer. Trees shall be chosen and spaced so as to form an effective visual screen, which creates a solid sight-obscuring barrier within three years of planting. Evergreen trees shall be planted no greater than 15 feet on center in each row.

2. The width of a Level I landscape buffer shall be no less than 20 feet. The area which is not planted with trees shall be planted with shrubs and groundcover. Shrubs shall be spaced no greater than five feet on center. Shrubs and groundcover shall be planted to attain a coverage of 90 percent of the planting area within three years.

3. Lawns may be used to cover up to 75 percent of the landscape area which is not planted with trees or shrubs.

Figure 1. Landscaping Level I, Visual Screen

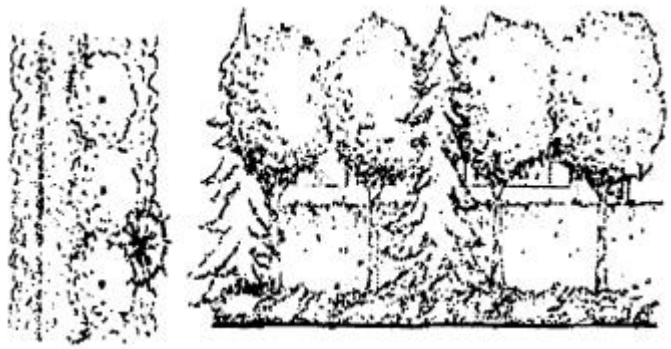


B. Level II: See-Through Buffer. Level II landscaping is intended to create a visual separation between uses and zones. Level II landscaping shall consist of:

1. A mix of evergreen and deciduous trees, with no more than 30 percent being deciduous. All trees shall be planted at intervals no greater than 10 feet on center.

2. The width of a Level II landscape buffer shall be no less than 12 feet. The area which is not planted with trees shall be planted with a mix of evergreen and deciduous shrubs, with not more than 30 percent being deciduous, planted at a density of seven per 100 square feet of planting area, together with other living groundcover planted to attain a coverage of 90 percent within three years of planting.

Figure 2. Landscaping Level II, See-Through Buffer



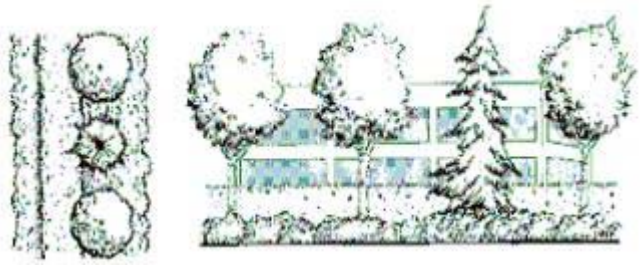
C. Level III: Ornamental Effects Landscaping. Level III landscaping is intended to provide a visual separation of uses from streets; and visual separation of compatible uses so as to soften the appearance of the development from public streets and soften the appearance of parking areas, buildings, and other improvements. Level III landscaping shall consist of:

1. Canopy-type deciduous trees or spreading evergreen trees planted in clumps or strips with a mix of living evergreen and deciduous groundcovers and low shrubs. Up to 100 percent of the trees may be deciduous. Trees shall be spaced at intervals no greater than 30 feet on center.

2. The width of a Level III landscape buffer shall be no less than five feet. The area which is not planted with trees shall be planted with shrubs and living groundcover chosen and planted to attain a coverage of 90 percent within three years of planting. Shrubs shall be planted at a density of five shrubs per 100 square feet of that portion of the landscape area which is not planted in lawn. Lawn may be used for up to 75 percent of the required groundcover.

3. Landscaping located within public rights-of-way shall be approved by the Department, prior to planting, as part of the review of landscape plans required by UPMC 19.65.200. Landscaping in the public right-of-way shall be in accordance with the “Design Standards and Guidelines for Streetscape Elements” adopted pursuant to Chapter 19.54 UPMC.

Figure 3. Landscaping Level III, Ornamental Effects



D. Level IV: Soil Stabilizing Vegetation/Landscaping. Level IV landscaping is intended to provide soil stability, prevent erosion and prevent sedimentation of off-site properties and improvements. Level IV landscaping shall consist of lawn, other living groundcover, shrubs and trees with a root structure which stabilizes soil where necessary to prevent erosion and sedimentation. Type IV landscaping may include other organic and/or inorganic soil-stabilizing materials such as rockeries, retaining walls or other similar slope and soil stabilization devices. Level IV landscaping shall be established on all portions of development sites that are or have remained undeveloped for a period of six months.

Figure 4. Landscaping Level IV, Soil Stabilizing

19.65.150 Perimeter landscape tables.

A. Residential, Commercial and Industrial Table.

Existing Uses						
	School or Park	**Single-~~ or Two-~~ Family or Duplex Dwellings**	**Multifamily and Senior Housing**	**Offices and Services**	**Commercial Uses**	**Industrial Uses**
Proposed Uses						
Single-~~ or Two-~~Family or Duplex Subdivisions	L3	X	L3	L1	L1	L1
Short Plats**	L3		L3	L3	L3	L3
Multifamily and Senior Housing*	L1	L1	L2	L1	L1	L1
Mixed Use	L1	L1	L1/L2***	L3	L3	L2
Religious Assembly and Day Care	L1	L1	L2	L1	L1	L1
Offices and Services	L1	L1	L1	L3	L3	L2
Commercial Uses	L1	L1	L1	L3	L3	L2
Industrial Uses	L1	L1	L1	L2	L2	L3

*Includes mobile home parks

**Required on newly created vacant lots only as a condition of building permit issuance. Installation required prior to building permit final.

***Mixed use projects that are predominantly commercial shall use an L1 buffer. Mixed use projects that are predominantly residential shall use an L2 buffer.

Note: Perimeter landscaping not required when development is adjacent to vacant land.

B. Public Facilities and Utilities Table.

Existing Uses						
	Single-~~-or Two-~~ Family or Duplex Dwellings	**Single-~~-or Two-~~Family or Duplex Subdivisions**	**Multifamily and Senior Housing**	**Offices and Services**	**Commercial Uses**	**Industrial Uses**
Proposed Uses						
Government and Utility Offices	L1	L1	L1	L3	L3	L2
Schools and Parks	L1	L1	L1	L2	L2	L1
Government and Utility Maintenance Facilities	L1	L1	L1	L2	L2	L3
Sewage Treatment Plants	L1	L1	L1	L1	L1	L1
Accessory Utility Facilities	L2	L2	L2	L3	L3	L3

19.65.160 Not required in wetlands or across streams.

The landscape requirements of this chapter are not required in a wetland, wetland buffer, fish and wildlife buffers or across streams.

19.65.170 Modification of landscaping requirements.

A. Upon written request supported by one or more of the following instances the Director may authorize a reduced width of planting or waive some or all of the landscaping requirements:

1. Where, except those areas where Level IV landscaping is required, the requirement of this chapter would require more than 50 percent of the site area (excluding parking lots) to be landscaped, the Director may modify the requirements so that not more than 50 percent of the site area (excluding parking lots) must be landscaped. The Director may require more intensive landscaping if the reduction in the required planting area would reduce the effectiveness of the landscaping to a point where the intent of the landscape level cannot be satisfied.

2. When the inclusion of existing vegetation on the site would result in landscaping equivalent to or better than the requirements of this chapter in achieving the intent of the required landscape level.

3. When existing conditions on or abutting the site, including, but not limited to, differences in elevation, existing vegetation, location of buildings or utilities would render the requirements of this chapter ineffective.

4. When Level I visual screening is required, an applicant may request to use plantings that can be expected to form a healthy sight-obscuring evergreen hedge within three years in lieu of two rows of trees. In reviewing such a request for modification, the Director shall consider the applicant's request in light of the intent of Level I landscaping and the nature of the use or development which is being screened.

5. When the applicant proposes an alternative method of landscaping that would achieve the intent and purpose of the landscaping required in this chapter and which the Director determines to provide superior quality through the use of native vegetation existing on site, preservation of groves of trees, preservation of wetlands and/or wildlife habitat, increasing perimeter landscape width in strategic locations, providing unique focal points of interest, or through other means.

6. When development will occur in phases and development of subsequent phases will result in removal of landscaping required by this title.

B. When approving a request for a modification of landscaping requirements, the Director shall issue findings upon which the approval is based. The Director may attach conditions to any such approval of a request for modification of landscaping requirements if necessary to assure that the intent of the landscape level and any modification thereof is maintained.

19.65.180 Planter boxes.

In limited circumstances the director may approve the use of planter boxes in lieu of Level III landscaping where such planter boxes will not obstruct sight distance.

19.65.190 Sizes and types of landscaping.

Landscape areas required pursuant to UPMC 19.65.090 through 19.65.150 shall conform to the following standards. All plant material shall meet or exceed ANSI Z60.1-1996 American Standards for Nursery Stock.

A. Trees, Evergreen. Size: Coniferous and broadleaf evergreen trees may be comprised of a mixture of sizes but shall not be less than six feet in height at time of planting. Tree material at time of planting shall be of a sufficient size to meet applicable ~~the minimum height and~~ landscape buffer or screening requirements within 10 years of installation.

B. Trees, Deciduous. Size: Deciduous trees may be comprised of a mixture of sizes but shall be fully branched, have a minimum caliper of two inches and a minimum height of 10 feet at time of planting unless the City determines that a particular species or cultivar, which is available only in a smaller size, is the preferred selection for a specific location. Tree material at time of

planting shall be of a sufficient size to meet any applicable ~~the minimum height and~~ landscape buffer or screening requirements within 10 years of installation.

C. Shrubs and Hedges. Size: Shrubs may be comprised of a mixture of sizes but shall not be less than 24 inches at time of planting. Shrub and hedge material at time of planting shall be of a sufficient size to meet the minimum height and screening requirements within three years of installation.

D. Groundcover, Vegetative. Size: Groundcover shall be planted to achieve a minimum planting area coverage of 90 percent of required coverage within three years of installation and shall achieve 100 percent of required coverage within five years of installation.

E. Groundcover, Inert. Wood chips, bark, decorative rock or other appropriate inert organic material may be used.

F. Lawn Sodded and Seeded. Newly seeded lawns or installed sod shall be comprised of drought-resistant and hardy varieties which, when properly installed and maintained, are capable of surviving under conditions of restricted water use.

19.65.200 Landscape plans.

A. A Landscape plan includes a planting plan and an irrigation plan and is required to be prepared for any landscape areas required in UPMC 19.65.100 through 19.65.130 including active recreation areas in formal subdivisions and short subdivisions. Other areas require only a planting plan. Plans shall be submitted to the Department for review and approval.

B. Landscape plans shall be prepared by a Washington State registered landscape architect, a Washington State certified nurseryperson, or a Washington State certified landscaper, except that landscape plans for short subdivisions and for street tree requirements may be prepared by the applicant. A certified irrigation designer shall prepare the irrigation plan.

C. A planting plan is required to ensure that the proposed plantings are in conformance with the standards and requirements of this chapter. A planting plan drawn to the same scale as the other development plans shall include, at a minimum, the following components:

1. The location of existing vegetation to be retained, proposed vegetation, property lines, impervious surfaces, existing or proposed buildings, natural or manmade water features or bodies, existing or proposed fences and retaining walls, critical lands and associated buffers, and designated recreational open space areas.

2. A plant schedule containing the botanical and common names of the new plant material, existing plant material proposed to be retained, the planting size of the material, the number of each plant, and any special planting instructions.

3. Whenever possible the landscape plan shall incorporate the recommendations contained in the City's publication on root control, water conservation and suggested plant material.

D. An irrigation plan is required to ensure that the planting will be watered at a sufficient level to ensure plant survival and healthy growth. All landscaped areas must provide an irrigation method as stated below:

1. Option 1. A permanent underground irrigation method with an automatic controller plus an overriding rain switch.

2. Option 2. An irrigation method which provides sufficient water to ensure that the plants will become established. The method shall be required to be permanent unless the plant materials selected are determined to be drought-tolerant by the Department, in which case irrigation standards shall be required only during the first growing season following installation. Even if drought-tolerant plants are used in the landscape design, there must be an identified method to easily provide water to the plants in the case of a prolonged drought. Any automatic/ mechanical system designed under this option shall be fitted with an overriding rain switch.

E. Planting is encouraged to take place in the spring or fall planting season following final development permit approval, and shall be completed prior to final occupancy approval of the building. The Director may allow a postponement of the landscaping due to weather conditions, with appropriate financial guarantees to ensure completion, but in no case shall planting be postponed beyond 90 days after the certificate of occupancy is issued or final inspection. However, the Director may approve an alternative timeline associated with a phased project.

F. Following installation of the landscaping and irrigation, the person or persons who prepared the planting and irrigation plans shall submit, within 30 days, a signed affidavit that the landscaping and irrigation system has been installed per the approved plans. The City will conduct an inspection prior to final approval of the landscape plan.

19.65.210 Maintenance.

A. The following standards shall be followed for all required landscaping:

1. The property owner shall maintain all landscaping for the life of the land use.

2. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure. Tree pruning shall be accomplished in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 *How to Prune Trees* available on-the web.

3. All landscape areas shall be kept free of trash.

B. Uses permitted by special use permits issued before the City's incorporation where landscaping was required as a condition of approval shall be subject to the maintenance provisions of this section.

19.65.220 Replacement.

The following standards apply to the replacement of vegetation within required landscape areas:

A. Any installed plant material located within required landscape areas which dies shall be replaced during the spring or fall growing season following plant loss but not greater than 180 days from time of loss. This standard applies for the life of the project.

B. Any tree existing on site at the time of development, greater than four inches DBH, located within a required perimeter landscape buffer or parking lot landscape areas, shall be replaced during the spring or fall growing season following death or following a determination by an urban forester or the City that the tree is diseased or damaged and has a significant chance of toppling in high winds, but not greater than 180 days from time of loss. The existing tree shall be replaced on a two-for-one basis. Any future replacement of the initial replacement trees shall occur at a one-for-one ratio. This standard applies for the life of the project.

19.65.230 Financial guaranty.

A. Performance bonds or other appropriate security (including but not limited to an assignment of funds) in the amount of 125 percent of the approved estimated landscaping cost shall be required if landscaping is not installed. The financial guaranty shall be provided prior to issuance of occupancy, for nonresidential building permits, before final inspection of residential construction, and prior to final subdivision or short plat approval, whichever is applicable. Prior to accepting a financial guaranty, the City shall have approved the landscape plans and a cost estimate for completing the landscaping. The cost estimate shall include the cost of plant material, irrigation and labor, installation, and materials.

B. For all projects which require landscaping except short plats, an 18-month landscaping maintenance guaranty equal to the cost of the landscaping less the irrigation system shall be required prior to final project approval or release of the landscape performance bond. At the end of the 18-month period, the applicant shall request that the City inspect the landscaping to ensure all planted material is alive and healthy. Any plant material needing replacement shall be replaced in accordance with UPMC 19.65.220 and inspected prior to the release of the maintenance guaranty. After the maintenance bond is released, landscaping shall be maintained in accordance with UPMC 19.65.210.

19.65.240 Urban forest management.

The intent of this section is best stated in Comprehensive Plan policy EN3.1~~G~~, which states, "Protect and enhance the natural green and wooded character of University Place." Therefore, projects shall be designed around existing trees, preserving the maximum number~~amount~~ of significant trees and retaining existing native vegetation to the extent ~~as~~ possible. The intent is ~~not~~ to discourage ~~allow~~ clear-cutting of a project site, mass grading and reliance on ~~then~~ replanting with smaller trees as mitigation for the loss of tree canopy. Forest practices except

for Christmas tree cultivation are prohibited in University Place. Because of the likelihood that much of the remaining undeveloped privately-owned ~~all~~ land~~s~~ within the City will be converted to urban development in the foreseeable~~near~~ future, all trees shall be managed in accordance with this chapter.

19.65.250 City tree account.

Funds kept for planting and maintenance of trees on City property and in public rights-of-way shall be kept in a City tree account. Funds shall be placed in the account by the City Council, from fines collected as a result of violations of this chapter, from payments in lieu of replacement trees, from private donations and from grants and loans for the purpose of establishing and maintaining trees in the City. A schedule of tree costs including tree purchase, installation and maintenance is adopted by separate resolution.

19.65.260 Significant trees.

The City may maintain an inventory of significant trees.

19.65.270 Tree retention in development situations.

A. This section regulates the removal of trees associated with the development process to encourage development, where practicable, to incorporate existing trees, particularly high quality or larger trees, into a design. It is the intent of these provisions to lessen the aesthetic and ecological impacts of tree removal.

~~A. Except as provided in subsection (C) of this section, a maximum of five trees may be removed within a 36-month period without a permit. Additional trees can only be removed in accordance with this chapter.~~

B. ~~The following trees shall be retained:~~ The applicant must show how existing trees, excluding invasive trees, nuisance trees and hazard trees, will be preserved by choosing one of the following options to identify those trees to be retained. Trees located within a critical area or associated buffer are excluded from the following calculations:

1. Preserve at least 35% of the trees located on the site;

2. Preserve all trees ≥ 20 inches DBH and at least 20% of the total tree diameter on the site, where there are at least 4 trees ≥ 20 inches DBH on the site;

3. Preserve at least 50% of all trees ≥ 20 inches DBH and at least 25% of the total tree diameter on the site, where there are at least 4 trees ≥ 20 inches DBH on the site;

4. Preserve at least 30% of the total tree diameter on the site, where all trees are < 20 inches DBH; or

5. Preserve at least 35% of the total regulated tree canopy area on the site, if the site is larger than two acres.

~~1. The maximum number of trees located within any required perimeter landscaping area and in no case less than 75 percent;~~

~~2. Twenty-five percent of the trees located in the interior of the lot, excluding critical areas or their buffers;~~

C. In addition to those trees identified for retention in subsection B, the following trees shall be retained:

~~3~~1. All trees within a critical area including wetlands or wetland buffers, fish and wildlife habitat buffers, or landslide and erosion hazard areas with slopes requiring preservation, ~~(trees and vegetation shall be maintained in these critical areas in accordance with~~ unless removal is authorized pursuant to UPMC Title 17~~)~~. If the city determines that a tree located within a critical area is a hazard, the city may authorize conversion of the tree to a "habitat snag" by cutting the tree at the highest point possible that still eliminates a tree's hazard risk. The lower portion of the tree remains in place as a habitat snag to provide habitat value for fish and wildlife. In addition, the upper portion of the tree is usually left on the ground to provide extra habitat value. Also, in order to compensate for the loss in habitat value, additional tree plantings in the critical area and/or buffer may be required as mitigation;

~~4~~2. All trees within an identified scenic road corridor, wildlife corridor, or scenic trail identified in the City's ~~p~~Parks, ~~and r~~Recreation and Open Space ~~p~~Plan or the Comprehensive Plan;

~~5~~3. All significant trees; and

~~6~~4. Trees located within a shoreline vegetation conservation area except when their removal is authorized in accordance with UPMC 18.25.100(F) and (G).

~~C~~D. Except as provided in subsection (C)(1)~~(B)(3)~~ of this section, trees to be retained shall not include hazard trees that are determined to be exempt under UPMC 19.65.070(D).~~, following inspection and a report in the format recommended by the International Society of Arboriculture's Guide to the Evaluation of Hazard Trees in Urban Areas prepared by an urban forester and reviewed and approved by the City, are determined to be:~~ Hazard trees may include:

1. Damaged or diseased trees;

2. Trees that pose a safety hazard due to potential root, trunk or primary limb failure;~~,~~ or

3. ~~exposure of m~~Mature trees that ~~which~~ have grown in a ~~closed, forested situation~~dense stand of trees and recently become exposed to windthrow due to nearby development activity.

~~D. The urban forester shall use the most recent guidelines established by the International Society of Arboriculture in its guide to the professional evaluation of landscape trees, shrubs and evergreens to make the determination that a tree is either damaged, diseased and/or a safety hazard.~~D~~E~~. At the discretion of the City, damaged or standing dead trees may be retained

and counted toward the tree requirement, if demonstrated that such trees will provide important wildlife habitat and are not classified as hazard trees.

E. A tree removal permit is required when the development activity will result in the removal of more than five trees. Up to 5 trees may be removed in development situations before calculating the number of trees that shall be retained as set forth in UPMC 19.65.270(B).

19.65.275 Tree retention – No Associated Development.

A. The purpose of this section is to manage and conserve the urban forest when development activity is neither proposed nor occurring.

B. Trees listed in UPMC 19.65.270(C) shall be retained.

C. A maximum of five trees not listed in UPMC 19.65.270(C) may be removed within a 36-month period without a tree removal permit. In addition, trees determined to be hazard trees as provided in UPMC 19.65.270(D), invasive trees as provided in UPMC 19.65.330, and nuisance trees as provided in UPMC 19.65.340 may be removed and will not count toward the five-tree limit.

D. Removal of additional trees beyond those provided for in subsection B may only be authorized through issuance of a tree removal permit in accordance with the tree retention standards set forth in UPMC 19.65.270 and this chapter.

19.65.280 Tree retention plans.

~~On timbered property greater in size than one-half acre or commercial property with more than 15 trees, or other sites the City deems it necessary because of special circumstances or complexity, the City shall review the site and be involved~~The City shall participate in the ~~following~~ three phases of tree retention described below. The City may retain an urban forester ~~consulting arborist~~ to work on the City's behalf. The urban forester~~consulting arborist~~ shall be paid by the City and the applicant shall reimburse the City for all urban forester~~consulting arborist~~ costs. Urban forester~~Consulting arborist~~ expenses shall be reimbursed prior to the issuance of any building permits or final approval, whichever is first required following the work done by the urban forester~~consulting arborist~~.

A. Survey and Evaluation ~~Planning~~ Phase.

1. Individual tree survey. The applicant shall provide a survey of the location of all trees and place them on the site plan. ~~If there is an overwhelming number of trees, the City may do a preliminary site evaluation to delineate where the better trees are located based on species, condition, size, soils, and exposure.2.~~ All trees located near existing and proposed~~future~~ buildings, roads, common open space areas, and ~~high to moderately used areas~~ other activity areas shall be evaluated. The tree identification number, species, size, condition, vigor, structure, risk of failure, and maintenance recommendations shall be documented in the plan.

2. Statistical sampling. For large stands of trees proposed to be retained in their entirety or largely in their entirety, statistical sampling may be used to estimate the total tree DBH and total number of trees present. Sampling must be carried out by an SAF Certified Forester based on standard methodologies. Statistical sampling may be used in these stands in lieu of individual tree survey.

3. Tree canopy. When calculating the amount of regulated tree canopy on a site, the total canopy area must be based on the most recent aerial photograph available. The aerial photograph must be no more than five years old. Other data such as LiDAR may be used to help in calculating tree canopy as appropriate. Regulated tree canopy excludes invasive trees, nuisance trees, hazard trees and trees within critical areas or their buffers.

~~3. once the survey and evaluation is completed, the applicant can begin to plan the project to avoid the more favorable trees and vegetation. The applicant shall work with the City to help determine which trees can be preserved based on location, grade changes, and proposed uses and improvements.~~

B. Planning and Design Phase.

1. Detailed planning and design should not proceed until the survey and evaluation phase is completed so that the project design may achieve the most beneficial tree retention plan from the standpoint of maximizing ecological and aesthetic benefit to the community. The applicant shall work with the City to determine which trees can be preserved based on location, grade changes, and proposed uses and improvements.

2~~1~~. The critical root zone (CRZ) of all trees to be retained near clearing, grading, or other disturbances shall be shown on all site plan construction documents. Any grading, construction, or utility installation within the CRZ shall be called out on the plan. Required work in these areas shall be under the direction or instruction of the City.

3~~2~~. The locations of ~~the~~ tree protection barriers shall be shown on the clearing and grading plans. ~~The t~~Tree protection barriers shall be shown along the edge of the CRZ or adjusted under the direction of the City.

C. Construction Phase.

1. A preconstruction meeting is required before any clearing takes place. The City shall point out retained trees to the general contractor, review tree preservation guidelines, and answer questions regarding tree protection.

2. The City shall inspect and approve the tree protection barrier prior to any work on the site, make adjustments where necessary, and discuss techniques to work within CRZs as needed.

3. The City shall establish a schedule to periodically monitor the tree retention plan based on the number of trees and difficulty of protecting trees during construction.

4. When clearing and grading activities are completed, the applicant shall request an inspection. The City may require tree maintenance and remedial action to improve tree health and vigor. If any unauthorized trees are removed, the City shall take action in accordance with UPMC 19.65.040.

19.65.290 Tree protection.

A. To provide the best protection for remaining trees:

1. No tree removal that requires a permit shall be allowed on a site until approval of the tree removal permit.

2. An area free of disturbance, generally corresponding to the CRZ of each tree, shall be identified on the site plan. During construction a temporary five-foot-high chain link or plastic net fence shall be installed around the trees or group of trees to be retained.

3. No impervious surfaces, fill, excavation, or storage of construction materials shall be permitted within the area enclosed by such fencing.

4. A rock wall shall be constructed if the grade level around a tree is to be raised by more than one foot. The inside diameter of the wall shall be equal to the diameter of the drip line of the tree.

5. The grade level shall not be lowered within the larger of the two areas defined as follows:

a. The drip line of the tree(s); or

b. An area around the tree equal to one-foot diameter or each inch of tree trunk diameter measured four feet above the ground.

B. The City may approve use of tree protection techniques, other than those listed above, if the trees will be protected to an equal or greater degree than by the techniques listed above. Alternative techniques shall be those recommended by an urban forester.

C. No impervious surface or fill shall be placed within the drip line of the tree unless the City determines that the long-term health of the tree will not be significantly harmed.

19.65.300 Tree removal in subdivisions.

When subdividing property by preliminary plat, trees and groundcover shall not be removed prior to preliminary plat approval. When subdividing property by either short or preliminary plat, no clearing of trees or groundcover may take place until a tree preservation plan and site development permit have been approved by the City. Road locations must be staked prior to clearing. Prior to issuance of a building permit, a title notification shall be recorded that states:

Trees which are required to remain on this lot pursuant to the city's tree preservation regulations (Chapter 19.65 UPMC) shall not be removed for a period of three years from the date of original purchase by individual lot owners except as provided for in UPMC 19.65.270(~~C~~D) and only then following consent by the city. Regulated trees removed subsequent to this three year period shall be replaced in accordance with UPMC 19.65.190 and UPMC 19.65.310.

19.65.310 Tree replacement.

A. When the required number of trees cannot be retained as determined at the sole discretion of the City, trees that are removed shall be replaced with new trees of the same species ~~in accordance with UPMC 19.65.220,~~ at a replacement rate of three trees for every tree removed. The City may authorize an alternative species or cultivar if it would be a more suitable and beneficial selection for a specific location given unique site characteristics.

B. When the required number of trees cannot be physically retained or replaced on site, the applicant has the option of:

1. Planting the required number of replacement trees at locations approved by the City prior to the time of occupancy of the building or final approval of the subdivision at the same rate as the replacement rate required for on-site replacement of trees; or

2. Payment in lieu of replacement may be made to the City tree account for planting of trees in priority off-site locations ~~various areas of~~within the City. These are public street rights-of-way, public parks, and other public open spaces. The payment is an equivalent amount to the estimated cost of buying and planting the trees that would otherwise have been required to be planted on site, as determined by the City's tree replacement cost schedule. The payment in lieu of planting trees on site shall be made prior to the issuance of any building permit or final subdivision approval.

19.65.320 Tree Maintenance and Pruning

Trees which are required to be maintained and replacement trees shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure. Tree pruning shall be accomplished in accordance with the latest edition of the United States Department of Agriculture's Publication NA-FR-01-95 *How to Prune Trees* available on-the web, except that tree pruning for utilities shall be conducted in accordance with the latest edition of the International Society of Arboriculture's Best Management Practices – Utility Pruning of Trees.

19.65.3~~2~~30 Common area management plans.

In those cases where a ~~subdivision or planned~~residential development has common areas that~~,~~ ~~which~~ are managed by a homeowner's association, a common area management plan may be developed in lieu of obtaining consecutive tree removal permits. A common area management plan shall be developed by a certified or registered arborist and submitted to the City for review and approval.

19.65.3~~3~~40 Invasive tree species list.

Tree species known to be invasive in the Pacific Northwest are listed below. The City may determine that additional tree species should be classified as invasive if the species clearly exhibits the detrimental characteristics of invasive species.

Common Name	**Species Name**
Norway maple	*Acer platanoides*
Sycamore maple	*Acer pseudoplatanus*
Horse chestnut	*Aesculus hippocastanum*
Tree-of-heaven	*Ailanthus altissima*
European white birch	*Betula pendula*
English/European hawthorn	*Crataegus monogyna*
English holly	*Ilex aquifolium*
Princess tree	*Paulownia tomentosa*
White poplar	*Populus alba*
Sweet cherry	*Prunus avium*
Cherry laurel	*Prunus laurocerasus*
Portugal	*Prunus lusitanica*
Black locust	*Robinia pseudoacacia*
European mountain ash	*Sorbus aucuparia*
Siberian elm	*Ulmus pumila*

19.65.3450 Nuisance tree species list.

Tree species categorized as nuisance trees in University Place are listed below. The City may determine that additional tree species should be classified as nuisance trees if the species clearly exhibits the detrimental characteristics of nuisance species.

Common Name	Species Name
Red alder	Alnus rubra
Black cottonwood	Populus trichocarpa

STAFF REPORT

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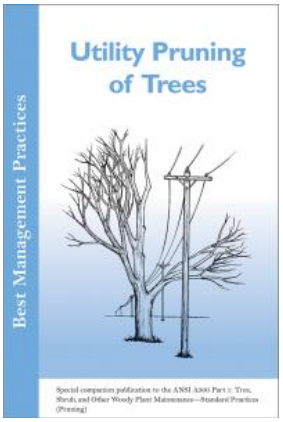

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Best Management Practices - Utility Pruning of Trees

By Geoffrey P. Kempter

Reviews

Item #: P1316

Member Price: $9.95 (US Dollars)

Non-member Price: $11.95 (US Dollars)

Quantity: 1 Add to Cart

Email to a Friend

ISA has developed a series of Best Management Practices (BMPs) for the purpose of interpreting tree care standards and providing guidelines of practice for arborists, tree workers, and the people who employ their services.

This BMP describes current best practices in utility tree pruning based on scientific research and proven methodology for the safe and reliable delivery of utility services, while preventing unnecessary injury to trees to the greatest extent possible.

Topics in this BMP include:

- Utility Pruning Safety
- Utility Pruning Tools and Equipment
- Utility Pruning Methods and Practices
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- Emergency Service Restoration

(©2004, softcover, 22 pp., glossary)

Also available in Spanish.

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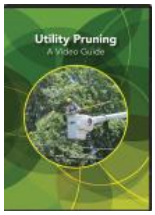

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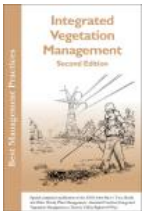

STAFF REPORT

HOW to

Prune Trees

United States
Department of Agriculture

Forest Service
Northeastern Area
State and Private Forestry

NA-FR-01-95

STAFF REPORT

Revised August 2012

University Place
WASHINGTON

Memo

DATE: March 31, 2016

TO: Steve Sugg, P.E., City Manager

FROM: Jack Ecklund, P.E., Director of Engineering and Capital Projects

SUBJECT: Six Year Transportation Improvement Plan 2016-2021 update

I am recommending that the City conduct a minor update to its 2016-2021 Six Year Transportation Improvement Plan in order to better align with a recent grant award as well as to be more competitive for project funding in future grant competitions. Attached for reference is the current 2016-2021 TIP.

This update would impact the following projects:

- Projects 2b and 2c – Cirque Drive phase 4b and 4c should be combined into one project and be renamed to 56th Street/Cirque Drive Corridor Improvements Phase 3.
- Projects 13a and 13b – Bridgeport Way Phase 4a and 4b would be revised to include an asphalt overlay into the projects.
- Project 16 – 67th Avenue Phase 3 would be broken out into three separate projects: 67th Ave – Regents to 40th; 67th Ave – 40th to Cirque; and 67th Ave Cirque to Bridgeport.
- Project 21 – Larson Lane North/35th Street would be revised to remove the 35th Street portion of the project.
- Projects 24 and 25 – 35th Street Phases 1 and 2 would be combined into one project named 35th Street Improvements.
- Project 37 – Street Overlay Program would be updated to reflect some anticipated expenditures in 2017 and 2018.
- The above noted project schedules, costs, and funding status would also be updated

Approval of the Six-Year Transportation Plan does not commit the City to any financial expenditures. Rather, each project will be reviewed individually by the City Council in each relevant budget cycle as a component of the Capital Improvement Plan. Approval, however, does create eligibility for the City to apply for various grant opportunities. In addition, the TIP provides an indication to other jurisdictions of the City's planning direction for transportation needs.

AGENDA

University Place City Hall
3715 Bridgeport Way West
University Place, WA 98466
Tel 253.566.5656
Fax 253.566.5658
www.CityofUP.com

MPO: **PSRC Puget Sound Regional Council**
Agency: **CITY OF UNIVERSITY PLACE**
County: **Pierce County**

City of University Place, WA.
Six-Year Transportation Plan
2016 - 2021

Adoption Date: _____

Resolution Number: _____

Improvement Type: 01-New Construction; 05-Minor Widening; 06-Other Enhancements; 07-Resurfacing; 12-Safety/Traffic Ops; 32-Non Motor Vehicle
Utilities Legend:G-Gas, C -Cable TV, P-Power, S-Sewer, T-Telephone, W-Water, O-Other
Functional Classification: 00 - No Class; 14 - Major; 16 - Minor; 17 - Collector; 19 - Local

(Project Costs in 2016 Dollars X 1000)

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Phase Data: Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total	Expenditure Schedule (Local Agency Use)	1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
		1 - Cirque Drive - Phase 3															
14	P/F	City of University Place	06	1.000	G C P S T W	PE / 15	F	150			23	173	**PE**	173	0	0	0
		67th Avenue to Orchard Street				RW / 15			P	100	0	100	**RW**	100	0	0	0
						CN / 16	F	2,000	P	1,000	300	3,300	**CN**	2,300	1,000	0	0
		* Construct curbs, gutters, sidewalk and bike lanes filling in the gaps where none exist.											**Total**	2,573	1,000	0	0
		Streetlighting on both sides															
					PROJECT TOTAL			2,150		1,100	323	3,573					
		2a - Cirque Drive - Phase 4a															
16	P/F	City of University Place	06	0.600	G C P S T W	PE / 16	F	100			15	115	**PE**	115	0	0	0
		Sunset Dr to 83rd Ave				RW / N/A				0	0	0	**RW**	0	0	0	0
						CN / 17			S	380	60	440	**CN**	0	440	0	0
		Curb & gutter, bike lane, sidewalk, street lights and landscaping on south side.											**Total**	115	440	0	0
					PROJECT TOTAL			100		380	75	555					
		2b - Cirque Drive - Phase 4b															
16	P/F	City of University Place	06	0.600	G C P S T W	PE / 18	F	100			15	115	**PE**	0	0	115	0
		83rd Ave to Beckonridge Dr				RW / N/A							**RW**	0	0	0	0
						CN / 21	P	400	P		62	462	**CN**	0	0	0	462
		Curb & gutter, bike lane, sidewalk, street lights and landscaping on south side.											**Total**	0	0	115	462
					PROJECT TOTAL			500		0	77	577					
		3 - Cirque Drive - Phase 4c															
16	P/F	City of University Place	06	0.750	G C P S T W	PE / 18	F	100			15	115	**PE**	0	0	115	0
		Grandview Dr to Beckonridge Dr				RW / N/A				0	0	0	**RW**	0	0	0	0
						CN / 21	P	1,235		0	190	1,425	**CN**	0	0	0	1,425
		Curb & gutter, bike lane, sidewalk, street lights and landscaping on both sides.											**Total**	0	0	115	1,425
					PROJECT TOTAL			1,335		0	205	1,540					
		4 - Mildred St Phase 1															
16	P	City of University Place			G C P S T W	PE / 18			P	100	0	100	**PE**	0	0	100	0
		Int. of 67th Ave and Regents Blvd. to 19th	12	0.341		RW / 19			P	150	0	150	**RW**	0	0	0	150
						CN / 20			P	825	0	825	**CN**	0	0	0	825
		* Construct intersection improvements.											**Total**	0	0	100	975
					PROJECT TOTAL			0		1,075	0	1,075					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total		1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
							Phase Data						Expenditure Schedule (Local Agency Use)				
		5 - Mildred St - Phase 2															
16	F	City of University Place			G C P S T W	PE / 15	F	**			**	0	**PE**	0	0	0	0
		Regents Blvd. To 19th Street	12	0.341		RW / 15	F	**			**	0	**RW**	0	0	0	0
						CN / 16	F	1,517			237	1,754	**CN**	1,754	0	0	0
		* Construct curb, gutter, sidewalk, planter strip, bike lane and street lighting on both sides of the street.											**Total**	1,754	0	0	0
		** Spent in previous period															
					PROJECT TOTAL			1,517		0	237	1,754					
		5a - Mildred St - Utility Underdround															
16	F	City of University Place			G C P S T W	PE / 16					50	50	**PE**	50	0	0	0
		Regents Blvd. To 19th Street	12	0.341		RW / NA					0	0	**RW**	0	0	0	0
						CN / 16					750	750	**CN**	750	0	0	0
		* Underground utilities											**Total**	800	0	0	0
					PROJECT TOTAL			0		0	800	800					
		6 - Bridgeport Way W. Phase 5															
14	F	City of University Place	06	0.511	G C P S T W	PE / 14	F	**			**	0	**PE**	0	0	0	0
		19th Street W. to 27th Street W.				RW / 14	F	**			**	0	**RW**	0	0	0	0
						CN /16	F	1,995			311	2,306	**CN**	2,306	0	0	0
		* Construct concrete curb, gutter and sidewalk on both sides of the street.											**Total**	2,306	0	0	0
		Include bicycle lanes, storm drainage, and street lighting.															
		** Spent in previous period			PROJECT TOTAL			1,995		0	311	2,306					
		7a - 27th St W - Phase 2a															
16	P	City of University Place	06	0.625	G C P S T W	PE / 16	F	51		0	9	60	**PE**	60	0	0	0
		Grandview Drive to Bridgeport Way				RW / N/A	F			0	0	0	**RW**	0	0	0	0
						CN / 17	F	1,224		0	216	1,440	**CN**	0	1,440	0	0
		* Construct concrete curb, gutter, bicycle lanes, sidewalk and planter strip on south side of the street.											**Total**	60	1,440	0	0
		Include bicycle lanes, storm drainage, and street lighting.															
					PROJECT TOTAL			1,275		0	225	1,500					
		7b - 27th St W - Phase 2b															
16	P	City of University Place	06	0.625	G C P S T W	PE / 16				0	10	10	**PE**	10	0	0	0
		Grandview Drive to Bridgeport Way				RW / N/A				0	0	0	**RW**	0	0	0	0
						CN / 17				0	1,000	1,000	**CN**	0	1,000	0	0
		*Underground utilities											**Total**	10	1,000	0	0
					PROJECT TOTAL			0		0	1,010	1,010					
		8- 27th St W/Regents Blvd - Phase 3															
14	P	City of University Place	06	0.800	G C P S T W	PE / 15			F	**	**	0	**PE**		0	0	0
		Bridgeport Way to 67th Ave/Mildred				RW / NA			F	0	0	0	**RW**	0	0	0	
						CN / 15			F	1,128	357	1,485	**CN**	1,485	0	0	0
		*Construction of sidewalks, curb, gutter, bicycle lanes, street lighting, and landscaping.											**Total**	1,485	0	0	0
		** Spent in previous period															
					PROJECT TOTAL			0		1,128	357	1,485					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Phase Data: Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total	Expenditure Schedule (Local Agency Use)	1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
		9 - 27th/Bridgeport Intersection															
14	P	City of University Place	12	n/a	G C P S T W	PE / 14				0	**	0	**PE**	0	0	0	0
		27th Street and Bridgeport Intersection				RW / 15				0	**	0	**RW**	0	0	0	0
						CN / 16				0	350	350	**CN**	350	0	0	0
		*Construct intersection improvements											**Total**	350	0	0	0
		** Spent in previous period															
					PROJECT TOTAL			0		0	350	350					
		10 - Cirque/67th Intersection															
16	P	City of University Place	12	n/a	G C P S T W	PE / 17				0	60	60	**PE**	0	60	0	0
		Cirque Drive and 67th Avenue Intersection				RW / 18				0	100	100	**RW**	0		100	0
						CN / 20				0	340	340	**CN**	0	0	0	340
		*Construct intersection improvements											**Total**	0	60	100	340
					PROJECT TOTAL			0		0	500	500					
		11 - Chambers Creek Rd/Chambers Ln															
16	P	City of University Place	06	1.420	G C P S T W	PE / 17	P	190		0	30	220	**PE**	0	220	0	0
		64th Street to Bridgeport Way				RW / 17	P	285		0	45	330	**RW**	0	130	200	0
						CN / 18	P	2,160		0	340	2,500	**CN**	0	0	1,500	1,000
		* Construct curb, gutter, sidewalk and bike lane both sides and intersection improvements											**Total**	0	350	1,700	1,000
					PROJECT TOTAL			2,635		0	415	3,050					
		12 - Bridgeport Way LID															
14	F	City of University Place	06	0.250	G C P S T W	PE / 15			F	**	**	0	**PE**	0	0	0	0
		67th Ave to South City Limits				RW / NA				0	0	0	**RW**	0	0	0	0
						CN / 15			F	650	200	850	**CN**	850	0	0	0
		* Construct concrete curb, gutter, bikelane, pervious sidewalk , and low impact development strom drainage improvements on south/west side of the street.											**Total**	850	0	0	0
		** Spent in previous period															
					PROJECT TOTAL			0		650	200	850					
		13a - Bridgeport Way Phase 4a															
14	F/P	City of University Place	06	1.477	G C P S T W	PE / 10	F	**			**	0	**PE**	0	0	0	0
		Chambers Lane to 67th Ave				RW / 16	P	346		0	54	400	**RW**	400	0	0	0
						CN / 17	P	1,211		0	189	1,400	**CN**	0	1,400	0	0
		* Construct concrete curb, gutter, bikelane, street lighting, landscaping median island and sidewalk											**Total**	400	1,400	0	0
		** Spent in previous period															
					PROJECT TOTAL			1,557		0	243	1,800					
		13b - Bridgeport Way Phase 4b															
14	F/P	City of University Place	06	1.477	G C P S T W	PE / 10	F	**			**	0	**PE**	0	0	0	0
		67th Ave to South City Limits				RW / N/A	P	0		0	0	0	**RW**	0	0	0	0
						CN / 17	P	600	P	0	93	693	**CN**	0	693	0	0
		* Construct concrete curb, gutter, bikelane, street lighting, landscaping and sidewalk on north of the street 67th Ave to City Limits.											**Total**	0	693	0	0
		** Spent in previous period															
					PROJECT TOTAL			600		0	93	693					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total		1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
							Phase Data						Expenditure Schedule (Local Agency Use)				
		14- 44th Street W Phase 1b															
17	P	City of University Place	06	0.511	G C P S T W	PE / 18	P	87			13	100	**PE**	0	0	100	0
		Bridgeport Way to 67th Avenue				RW / 19	P	78			12	90	**RW**	0	0	0	90
						CN / 21	P	690			110	800	**CN**	0	0	0	800
		* Construct curbs, gutters, sidewalks, bike lanes, street lighting and landscaping south side of the street											**Total**	0	0	100	890
					PROJECT TOTAL			855		0	135	990					
		15 - Alameda North Phase 2															
17	P	City of University Place	01	1.023	G C P S T W	PE / 18	P	87			13	100	**PE**	0	0	100	0
		Cirque Drive W. to 40th St. W.				RW /19	P	43			7	50	**RW**	0	0	0	50
						CN / 20	P	1,522			238	1,760	**CN**	0	0	0	1,760
													Total	0	0	100	1,810
		* Construct curbs, gutters, sidewalks, bike lane, street lights west side.															
					PROJECT TOTAL			1,652		0	258	1,910					
		16 - 67th Avenue - Phase 3															
16	P	City of University Place	06	2.690	G C P S T W	PE / 17	P	520			80	600	**PE**	0	600	0	0
		Bridgeport Way to Regents Blvd.				RW / 17	P	1,038			162	1,200	**RW**	0	800	400	0
						CN / 18	P	7,612			1,188	8,800	**CN**	0	0	8,800	0
		* Construct concrete curb, gutter and sidewalk on both sides.											**Total**	0	1,400	9,200	0
					PROJECT TOTAL			9,170		0	1,430	10,600					
		17 - 40th Street Phase 3															
17	P	City of University Place	06	0.800	G C P S T W	PE / 17	P	87			13	100	**PE**	0	100	0	0
		7200 Block to 67th Avenue				RW / 18	P	89			21	110	**RW**	0	0	110	0
						CN / 19	P	650			100	750	**CN**	0	0	0	750
		* Construct curb, gutter, sidewalk and bike lane on the north side											**Total**	0	100	110	750
					PROJECT TOTAL			826		0	134	960					
		18 - Grandview Drive - Phase 5b															
17	P	City of University Place	06	0.500	G C P S T W	PE / 19	P	87			13	100	**PE**	0	0	0	100
		27th Street to 19th Street				RW / 20	P	103			17	120	**RW**	0	0	0	120
						CN / 21	P	1,065			165	1,230	**CN**	0	0	0	1,230
		* Construct curb, gutter, sidewalk and bike lane on the east side											**Total**	0	0	0	1,450
					PROJECT TOTAL			1,255		0	195	1,450					
		19 - Alameda South															
17	P	City of University Place	01	0.152	G C P S T W	PE /17					65	65	**PE**	0	65	0	0
		From current southern terminus to 67th Ave. W. (South extension)				RW /17					15	15	**RW**	0	15	0	0
						CN / 18					800	800	**CN**	0	0	800	0
													Total	0	80	800	0
		* Construct curbs, gutters, sidewalks, bike lane both sides in addition to traffic calming measures,															
					PROJECT TOTAL			0		0	880	880					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total		1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
							Phase Data						Expenditure Schedule (Local Agency Use)				
		20 - 40th/Bridgeport Intersection															
14	P	City of University Place	12	n/a	G C P S T W	PE / 17				0	60	60	**PE**	0	60	0	0
		40th Street and Bridgeport Intersection				RW / 18				0	340	340	**RW**	0	0	340	0
						CN / 19				0	350	350	**CN**	0	0	0	350
		*Construct intersection improvements											**Total**	0	60	340	350
					PROJECT TOTAL			0		0	750	750					
		21 - Larson Lane North/35th Street															
19	P	City of University Place	01	0.600	G C P S T W	PE / 17					85	85	**PE**	0	85	0	0
		3600 blk to 35th Street/Larson Lane to Bridgeport				RW / 17					460	460	**RW**	0	460	0	0
						CN / 18					1,210	1,210	**CN**	0	0	1,210	0
		* Construct concrete curb, gutter, and sidewalks on both sides											**Total**	0	545	1,210	0
					PROJECT TOTAL			0		0	1,755	1,755					
		22 -Sunset Drive															
17	P	City of University Place	06	2.008	G C P S T W	PE / 18	P	140			25	165	**PE**	0	0	165	0
		Cirque Drive to 19th Street				RW / 19	P	56			9	65	**RW**	0	0	0	65
						CN / 20	P	3,025			475	3,500	**CN**	0	0	0	3,500
		* Construct concrete curb, gutter, bike lane and sidewalk on one side.											**Total**	0	0	165	3,565
					PROJECT TOTAL			3,221		0	509	3,730					
		23 - Elwood Drive Phase 2															
17	P	City of University Place	06	0.133	G C P S T W	PE / 18	P	56			9	65	**PE**	0	0	65	0
		29th Street to 27th Street				RW /NA	P				0	0	**RW**	0	0	0	0
						CN / 19	P	173			27	200	**CN**	0	0	0	200
		* Construct concrete curb, gutter, bike lanes and sidewalks on the west side of the street.											**Total**	0	0	65	200
					PROJECT TOTAL			229		0	36	265					
		24 - 35th Street - Phase 1															
17	P	City of University Place	06	0.500	G C P S T W	PE / 17	P	82			13	95	**PE**	0	95	0	0
		Grandview Drive to Larson Lane				RW / 18	P	35			5	40	**RW**	0	0	40	0
						CN / 19	P	1,730			270	2,000	**CN**	0	0	0	2,000
		*Construction of curb, gutter, sidewalk and bicycle lanes on both sides of street.											**Total**	0	95	40	2,000
					PROJECT TOTAL			1,847		0	288	2,135					
		25 - 35th Street - Phase 2															
17	P	City of University Place	06	0.500	G C P S T W	PE / 18	P	82			13	95	**PE**	0	0	95	0
		Drexler Drive to 67th Avenue				RW / 19	P	87			13	100	**RW**	0	0	0	100
						CN / 19	P	1,730			270	2,000	**CN**	0	0	0	2,000
		*Construction of curb, gutter, sidewalk and bicycle lanes on both sides of street.											**Total**	0	0	95	2,100
					PROJECT TOTAL			1,899		0	296	2,195					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total		1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
							Phase Data						Expenditure Schedule (Local Agency Use)				
		26 - Beckonridge Drive Phase 2															
17	P	City of University Place	06	0.530	G C P S T W	PE / 20	P	130			20	150	**PE**	0	0	0	150
		Grandview Drive to Cirque Drive				RW / NA	P				0	0	**RW**	0	0	0	0
						CN / 21	P	650			100	750	**CN**	0	0	0	750
		* Construct concrete curb, gutter, sidewalk, and bike lane on the east side of the street.											**Total**	0	0	0	900
					PROJECT TOTAL			780		0	120	900					
		27 - Lemmons Beach/31st Street/Parkway															
17	P	City of University Place	06	1.000	G C P S T W	PE / 19	P	87			13	100	**PE**	0	0	0	100
		City Limits to Elwood Drive				RW / 20	P	56			9	65	**RW**	0	0	0	65
						CN / 21	P	2,950			460	3,410	**CN**	0	0	0	3,410
		* Construct concrete curb, gutter and sidewalk on both sides of the street.											**Total**	0	0	0	3,575
					PROJECT TOTAL			3,093		0	482	3,575					
		28 - 44th Street Phase 2a															
17	P	City of University Place	06	0.549	G C P S T W	PE / 15	F	**			**	0	**PE**	0	0	0	0
		Elwood Dr to Sunset Dr				RW / NA					0	0	**RW**	0	0	0	0
						CN / 16	F	200			20	220	**CN**	220	0	0	0
		* Construct curb, gutter, sidewalk, bike lane, and street lights on south side of street.											**Total**	220	0	0	0
		** Spent in previous period															
					PROJECT TOTAL			200		0	20	220					
		29 - 44th Street Phase 2b															
17	P	City of University Place	06	0.549	G C P S T W	PE / 18	P	87			13	100	**PE**	0	0	100	0
		Elwood Dr to Sunset Dr				RW / 19	P	48			7	55	**RW**	0	0	0	55
						CN / 20	P	190			30	220	**CN**	0	0	0	220
		* Construct curb, gutter, sidewalk, bike lane, and street lights on north side of street.											**Total**	0	0	100	275
					PROJECT TOTAL			325		0	50	375					
		30 - 44th Street Phase 2c															
17	P	City of University Place	06	0.549	G C P S T W	PE / 18	P	87			13	100	**PE**	0	0	100	0
		Sunset Dr to Bridgeport Way				RW / 18	P				0	0	**RW**	0	0	0	0
						CN / 19	P	577			90	667	**CN**	0	0	0	667
		* Construct curb, gutter, sidewalk, bike lane, street lights, and landscaping on south side of the street.											**Total**	0	0	100	667
					PROJECT TOTAL			664		0	103	767					
		31 - 27th Street															
17	P	City of University Place	06	0.625	G C P S T W	PE / 19	P	173			27	200	**PE**	0	0	0	200
		Grandview Drive to City Limits				RW / 20	P	56			9	65	**RW**	0	0	0	65
						CN / 21	P	951			149	1,100	**CN**	0	0	0	1,100
		*Construction of curb, gutter, sidewalk, bicycle lane one side and enclosed storm drainage system.											**Total**	0	0	0	1,365
					PROJECT TOTAL			1,180		0	185	1,365					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Phase Data: Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total	Expenditure Schedule (Local Agency Use)	1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
		32 - Chambers Creek Road "C"															
17	P	City of University Place	06	0.511	G C P S T W	PE / 18	P	130			20	150	**PE**	0	0	150	0
		Chambers Lane to Bridgeport Way				RW / 18	P	78			12	90	**RW**	0	0	90	0
						CN / 19	P	1,900			300	2,200	**CN**	0	0	0	2,200
		* Construct curb, gutter, sidewalk sand bike lanes both sides side.											**Total**	0	0	240	2,200
					PROJECT TOTAL			2,108		0	332	2,440					
		33 - 54th Street Phase 2															
17	P	City of University Place	06	0.379	G C P S T W	PE / 18	P	56			9	65	**PE**	0	0	65	0
		79th Avenue to Bridgeport Way				RW / 19	P	39			6	45	**RW**	0	0	0	45
						CN / 20	P	333			52	385	**CN**	0	0	0	385
		* Construct concrete curb, gutter and sidewalks on the south side of the street.											**Total**	0	0	65	430
					PROJECT TOTAL			428		0	67	495					
		34 - Elwood Drive Phase 1a															
17	P	City of University Place	06	0.625	G C P S T W	PE / 15	F	**			0	0	**PE**	0	0	0	0
		Cirque Drive to 40th Street				RW / NA					0	0	**RW**	0	0	0	0
						CN / 16	F	611			160	771	**CN**	771	0	0	0
		* Construct curb, gutter, sidewalk, bike lane, and street lights on east side of street.											**Total**	771	0	0	0
		** Spent in previous period															
					PROJECT TOTAL			611		0	160	771					
		35 - Elwood Drive Phase 1b															
17	P	City of University Place	06	0.625	G C P S T W	PE / 19	P	87			13	100	**PE**	0	0	0	100
		Cirque Drive to 40th Street				RW / 20	P	78			12	90	**RW**	0	0	0	90
						CN / 21	P	779			121	900	**CN**	0	0	0	900
		* Construct curb, gutter, sidewalk, bike lane, and street lights on west side of street.											**Total**	0	0	0	1,090
					PROJECT TOTAL			944		0	146	1,090					
		37 - Street Overlay Program															
14/16	P	City of University Place	07		G C P S T W	varies	P	87			13	100	**PE**	0	0	0	100
17/19		Various Locations				RW / NA						0	**RW**	0	0	0	0
						varies	P	3,460			540	4,000	**CN**	0	0		4,000
		*Overlay program to be completed on various City streets.											**Total**	0	0	0	4,100
					PROJECT TOTAL			3,547		0	553	4,100					
		38 - Mildred Street Overlay															
	P	City of University Place	07		G C P S T W	PE / 16	P	17			3	20	**PE**	20	0	0	0
16		19th St to Regents Blvd				RW / NA						0	**RW**	0	0	0	0
						CN / 16	P	260			40	300	**CN**	300	0	0	0
		Asphalt overlay - full street											**Total**	320	0	0	0
																	0
					PROJECT TOTAL			277		0	43	320					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Phase Data: Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total	Expenditure Schedule (Local Agency Use)	1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
		39 - Bridgeport Way Overlay															
	P	City of University Place	07		G C P S T W	PE / 17	P	17			3	20	**PE**	0	20	0	0
16		67th Ave to Southern City Limits				RW / NA						0	**RW**	0	0	0	0
						CN / 17	P	260			40	300	**CN**	0	300	0	0
		Asphalt overlay - full street											**Total**	0	320	0	0
																	0
					PROJECT TOTAL			277		0	43	320					
		40 - 37th Street															
19	P	City of University Place	01	0.080	G C P S T W	PE / 17	P	87			13	100	**PE**	0	100	0	0
		Bridgeport Way to Drexler Dr.				RW / NA					0	0	**RW**	0	0	0	0
						CN / 17	P	475			75	550	**CN**	0	550	0	0
		* Regrade street and construct curb, gutter, sidewalk, and streetlights.											**Total**	0	650	0	0
					PROJECT TOTAL			562		0	88	650					
		41 - 37th Street Pedestrian Connection															
19	P	City of University Place	01	0.114	G C P S T W	PE / 18	P	70			10	80	**PE**	0	0	80	0
		Sunset Drive to 7900 Block				RW / 17					0	0	**RW**	0	0	0	0
						CN / 19	P	433			67	500	**CN**	0	0	0	500
		* Construct Pedestrian connection to Sunset Drive											**Total**	0	0	80	500
					PROJECT TOTAL			503		0	77	580					
		42 - 57th Avenue Connection															
19	P	City of University Place	01	0.152	G C P S T W	PE / 17					100	100	**PE**	0	100	0	0
		Cirque Drive to 5800 Block				RW / 17					65	65	**RW**	0	65	0	0
						CN / 18					800	800	**CN**	0	0	800	0
		* Construct roadway to complete connection											**Total**	0	165	800	0
					PROJECT TOTAL			0		0	965	965					
		43a - Drexler Drive North															
19	P	City of University Place	01	0.150	G C P S T W	PE / 17					25	25	**PE**	0	25	0	0
		37th Street to Homestead Park boundary				RW / NA					0	0	**RW**	0	0	0	100
						CN / 17					50	50	**CN**	0	50	0	700
		*Construct sidewalks, and final overlay											**Total**	0	75	0	800
					PROJECT TOTAL			0		0	75	75					
		43b - Drexler Drive South															
19	P	City of University Place	01	0.150	G C P S T W	PE / 18					150	150	**PE**	0	0	150	0
		40th Street to 42nd Street				RW / 19					100	100	**RW**	0	0	0	100
						CN / 20					700	700	**CN**	0	0	0	700
		* Construct roadway for town center grid											**Total**	0	0	150	800
					PROJECT TOTAL			0		0	950	950					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total		1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
							Phase Data						Expenditure Schedule (Local Agency Use)				
		44 - Larson Lane South Phase 1															
19	P	City of University Place	01	0.100	G C P S T W	PE / 16					50	50	**PE**	50	0	0	0
		37th Street to 38th Street				RW / 16					295	295	**RW**	295	0	0	0
						CN / 17					200	200	**CN**	0	200	0	0
		* Construct roadway for town center grid											**Total**	345	200	0	0
					PROJECT TOTAL			0		0	545	545					
		45 - Larson Lane South Phase 2															
19	P	City of University Place	01	0.250	G C P S T W	PE / 19					150	150	**PE**	0	0	0	150
		38th Street to 40th Street				RW / 20					1,475	1,475	**RW**	0	0	0	1,475
						CN / 21					965	965	**CN**	0	0	0	965
		* Construct roadway for town center grid											**Total**	0	0	0	2,590
					PROJECT TOTAL			0		0	2,590	2,590					
		46 - Larson Lane South Phase 3															
19	P	City of University Place	01	0.250	G C P S T W	PE / 19					150	150	**PE**	0	0	0	150
		40th Street to 42nd Street				RW / 20					1,100	1,100	**RW**	0	0	0	1,100
						CN / 21					880	880	**CN**	0	0	0	880
		* Construct roadway for town center grid											**Total**	0	0	0	2,130
					PROJECT TOTAL			0		0	2,130	2,130					
		47 - 42nd Street Phase 1															
19	P	City of University Place	01	0.110	G C P S T W	PE / 19					50	50	**PE**	0	0	0	50
		Drexler Drive to Bridgeport Way				RW / 20					250	250	**RW**	0	0	0	250
						CN / 21					650	650	**CN**	0	0	0	650
		* Construct roadway for town center grid											**Total**	0	0	0	950
					PROJECT TOTAL			0		0	950	950					
		48 - 42nd Street Phase 2															
19	P	City of University Place	01	0.110	G C P S T W	PE / 19					75	75	**PE**	0	0	0	75
		Bridgeport Way to Larson Lane				RW / 20					300	300	**RW**	0	0	0	300
						CN / 21					539	539	**CN**	0	0	0	539
		* Construct roadway for town center grid											**Total**	0	0	0	914
					PROJECT TOTAL			0		0	914	914					
		49 - 54th Street Phase 2															
17	P	City of University Place	01	0.300	G C P S T W	PE / 16			S	80	20	100	**PE**	100	0	0	0
		79th Avenue to 83rd Avenue				RW / NA				0	0	0	**RW**	0	0	0	0
						CN / 17			S	665	110	775	**CN**	0	775	0	0
		*Construct curb, gutter, sidewalk, and streetlights along the north side of 54th Street.											**Total**	100	775	0	0
					PROJECT TOTAL			0		745	130	875					

Funding: F-Secured: S-Subject to Selection: P-Planning

Functional Class.	Fund Status	Project Identification	Improvement Type	Length (miles)	Utility Codes	Start Date	Federal Fund Code	FF Cost by Phase	State Fund Code	State Funds	Local Funds	Total		1st 2016	2nd 2017	3rd 2018	4th-6th 2019-2021
							Phase Data						Expenditure Schedule (Local Agency Use)				
		50 - 40th Street/67th Avenue Intersection															
16	P	City of University Place	12	n/a	G C P S T W	PE / 18				0	60	60	**PE**	0	0	60	0
		40th Street and 67th Avenue Intersection				RW / 19				0	100	100	**RW**	0	0	0	100
						CN / 20				0	340	340	**CN**	0	0	0	340
		*Construct intersection improvements											**Total**	0	0	60	440
					PROJECT TOTAL			0		0	500	500					
		51 - 56th Street Phase 2															
17	P	City of University Place	01	0.250	G C P S T W	PE / 19	P	173		0	27	200	**PE**	0	0	0	200
		89th Ave to 8500 block of 54th Street				RW / 20	P	692		0	108	800	**RW**	0	0	0	800
						CN / 21	P	1,645		0	255	1,900	**CN**	0	0	0	1,900
		Connect 56th Street to 54th Street. Construct roadway and pedestrian improvements											**Total**	0	0	0	2,900
					PROJECT TOTAL			2,510		0	390	2,900					
		52 - 70th Avenue Phase 2															
17	P	City of University Place	01	0.246	G C P S T W	PE / 19	P	87		0	13	100	**PE**	0	0	0	100
		27th Street to 19th Street				RW / 19				0	0	0	**RW**	0	0	0	0
						CN / 21	P	346		0	54	400	**CN**	0	0	0	400
		*Sidewalk, curb, gutter, landscaping, bike lane, and streetlights on the east side between 27th and 19th											**Total**	0	0	0	500
					PROJECT TOTAL			433		0	67	500					
		53 - 37th Street Phase 2															
19	P	City of University Place	01	0.057	G C P S T W	PE / 18	P	87			13	100	**PE**	0	0	0	100
		7900 Block to Bridgeport Way				RW / N/A					0	0	**RW**	0	0	0	0
						CN / 20	P	562			88	650	**CN**	0	0	0	650
		* Construct sidewalk and street lighting along both sides of the street Bridgeport to Larson and along the north side of the street Larson to current end of street .											**Total**	0	0	0	750
					PROJECT TOTAL			649		0	101	750					
		54 - ADA Transition Plan Improvements															
17	P	City of University Place	01		G C P S T W	PE / 20				0	50	50	**PE**	0	0	0	50
		Varies				RW / 21				0	50	50	**RW**	0	0	0	50
						CN / 21				0	100	100	**CN**	0	0	0	100
		Update existing ADA facilities to current standards											**Total**	0	0	0	200
					PROJECT TOTAL			0		0	200	200					
		GRAND TOTAL						**53,709**		**5,078**	**25,063**	**83,850**		**12,459**	**10,848**	**15,950**	**45,393**

STAFF REPORT

Funding: F-Secured: S-Subject to Selection: P-Planning

University Place
WASHINGTON

Memo

DATE: April 4, 2016

TO: Mayor Javier Figueroa
Members of the City Council
Steve Sugg, City Manager

FROM: Steve Victor, City Attorney

SUBJECT: Verus Town Center Phase 2 Development

Introduction

Mayor and Members of the City Council,

I am pleased to report that after an enormous amount of productive work by the City and Verus Partners, LLC, we are prepared to present an agreement for the second phase of Verus' Town Center development. The purpose of this memo is to describe key features of the transaction, answer foreseeable questions, discuss a potential beneficial to the Development Agreement, and briefly touch on the marketing of the Town Center areas not under contract to Verus.

Current Status with Verus Partners LLC under the Existing Agreement

Town Center Lots 1, 2, 3, 4, and 11 currently remain under contract to Verus Partners, LLC. As contemplated in the Development Agreement, Verus has completed and opened the University Place Whole Foods Market on Lot 7 as the northern anchor of Town Center. The Development Agreement allows Verus to continue to develop on any of the remaining contracted Lots in any sequence they choose.

At Section 1.3 of the Agreement, Verus' right to close on subsequent Lots occurred when Verus had both closed on Lot 7, and executed a lease with a major regional anchor use of approximately 38,000 square feet. (Whole Foods Market is 40,000 square feet.) The Agreement also requires the City to be able to provide all Town Center parcels with no material exceptions to title, and full surveys. Once all the foregoing conditions are met, Verus has six months to close on one or more additional Lots, with a continuing six-month extension following each closing. The six months are tolled (delayed) by any amount of time it takes the City to fulfill any of its reciprocal obligations.

After completion of the Lot 7 project, Verus notified the City of its intent to exercise its phasing rights for a second phase project under Paragraph 2 of the Development Agreement. However, to date Verus has been unable to proceed to a second phase because of the City due diligence activities described below, which cannot be counted against Verus' six-month clock.

Clearing title to Town Center property. Following the closing of Lot 7, the City could not provide any subsequent parcels with no material exceptions to title, or with full ALTA surveys (a survey made to American Land Title Association standards) as required within Paragraph 3 of the Development Agreement. In contrast to standard best practices, in closing on the acquisition of all the Town Center parcels, the City knowingly accepted an array of material disclosed exceptions to title in the interest of haste, and never required or performed surveys of any of the Lots, even after adopting a binding site plan. Through intense and sustained effort by my office, the many material exceptions to title that existed across all the remaining parcels were removed and confirmed by a new preliminary title report on September 2, 2015.

Pre-development design. In addition, though the Development Agreement contemplates second phase development design to occur after a second phase agreement is reviewed for approval, and approved by, the City Council in order to be able to bring more information, including conceptual designs to better inform the City Council, the City's administration requested, and Verus agreed to undertake, substantial pre-design due diligence. This entailed significant work by Verus' architects and the City Planning and Development Services Department, with the beneficial result that the City Council will also have conceptual development designs as additional information in considering the second phase project. That said, it is important to note that the legislative decision cannot be based on subjective aesthetic taste, but rather whether the second phase is consistent with the Development Agreement and the Town Center Plan.

The pre-development design commenced in 2015 and was complete on February 18, 2016. The original 6-month deadline runs from February 18, 2016. Verus is prepared to proceed with their Phase 2 Project upon approval of the Phase 2 Agreement, well within the original 6-month time frame.

The Purchase Price

The land sale price of the Phase 2 Project and the remaining future phases is set by the Development Agreement approved by City Council Resolution No. 739 on November 4, 2013, at $15.00 psf, for a sale price of $415,935.00 for Lot 4. This figure was based off analysis, and negotiation intended to set a price that was higher than the market at the time, but gave Verus the benefit of fixing a price that would not penalize them for the increased property value that they created by bringing Whole Foods to Town Center. The market for Town Center property in 2013 was in the $4 - $5 psf range. The $15.00 psf remains appropriate in today's market, accounting for the increase in value from the presence of the successful University Place Whole Foods. But it is important to understand this price is built into the Development Agreement and is not negotiable.

The Phase 2 Project

The Phase 2 Project will be developed on Lot 4 of the Town Center Property which is the lot west of the Clearview 100 building, and south of Whole Foods, bounded by Bridgeport Way on the west and Market Place on the east. The Project is anticipated to be a commercial building of approximately 25,000 square feet, for multiple commercial tenants designed in conformity with recorded Town Center Overlay Design Standards, and with attention paid to consistency and harmony with the buildings completed or under construction on Lots 7, 8, 9, and 10. The construction and operation of such a commercial building by Verus is consistent with, and in furtherance and fulfillment of, the Town Center Plan.

The Legislative Policy Decision on the Phase 2 Project

In considering the Phase 2 Project Agreement, it is important to be aware that the legislative decision on the Phase 2 Agreement is more constrained than the decision on the original Development Agreement. In considering the original Development Agreement, all manner of considerations from Verus' capabilities and track record, to the establishment of price, to their vision for the project, were on the table. For the Phase 2 Project the sole legislative policy consideration is whether Verus has met the requirement of the original Development Agreement to be allowed to proceed to Phase 2. As this memorandum documents, the administration has thoroughly reviewed the matter and determined that Verus, as a matter of fact and law, has met the requirements of the Development Agreement, and consequently are recommending the Phase 2 Project for approval.

Recommended Future Revision to the Overall Development Agreement

This following issue is not part of the Phase 2 Agreement, but would be considered separately by the Council in the future. The original Development Agreement imposed a somewhat arbitrary, but fully negotiated, six-month base time frame between development of one phase and closing on the next phase. While that approach was deemed necessary at the time, it is completely unconnected to market conditions. In fact, the market has been slower to absorb new commercial space within Town Center than we would have hoped and a hard 6-month trigger risks forcing additional empty space on a slow commercial market. I will be recommending that we consider amending the overall Development Agreement to add a clause to the 6-month trigger that activates once the building or buildings constructed in a prior phase are 80% occupied. This will prevent market saturation with empty space.

AGENDA

Business of the City Council
City of University Place, WA

Proposed Council Action:

Adopt a Resolution approving a Phase 2 Purchase and Development Agreement between the City of U.P. and Verus Partners, LLC for U.P. Town Center Lot 4 substantially in the form attached hereto.

Agenda No: 13

Dept. Origin: City Attorney

For Agenda of: April 4, 2016

Exhibits: Resolution
Phase 2 Purchase & Development Agreement

Concurred by Mayor: _____
Approved by City Manager: _____
Approved as to Form by City Atty.: _____
Approved by Finance Director: _____
Approved by Dept. Head: _____

Expenditure Required: $0.00	Amount Budgeted: $0.00	Appropriation Required: $0.00

SUMMARY / POLICY ISSUES

Town Center Lots 1, 2, 3, 4, and 11 currently remain under contract to Verus Partners, LLC. As contemplated in the Development Agreement, Verus has completed and opened the University Place Whole Foods Market on Lot 7, as the northern anchor of Town Center. The Development Agreement allows Verus to continue to develop on any of the remaining contracted Lots in any sequence they choose.

Verus' right to close on subsequent Lots occurred when Verus had both closed on Lot 7, and executed a lease with a major regional anchor use of approximately 38,000 square feet. (Whole Foods Market is 40,000 square feet.)

The Phase 2 Project will be developed on Lot 4 of the Town Center Property which is the lot west of the Clearview 100 building, and south of Whole Foods, bounded by Bridgeport Way on the west and Market Place on the east. The Project is anticipated to be a commercial building of approximately 25,000 square feet, for multiple commercial tenants designed in conformity with recorded Town Center Overlay Design Standards, and with attention paid to consistency and harmony with the buildings completed or under construction on Lots 7, 8, 9, and 10.

For the Phase 2 project the legislative policy consideration is whether Verus has met the requirements of the original Development Agreement to be allowed to proceed to Phase 2. The administration has thoroughly reviewed the matter and determined that Verus, as a matter of fact and law, has met the requirements of the Development Agreement, and consequently are recommending the Phase 2 Project for approval. The construction and operation of such a commercial building by Verus is consistent with, and in furtherance and fulfillment of, the Town Center Plan.

RECOMMENDATION / MOTION

MOVE TO: Adopt a Resolution approving a Phase 2 Purchase and Development Agreement between the City of U.P. and Verus Partners, LLC for U.P. Town Center Lot 4 substantially in the form attached hereto.

STAFF REPORT

RESOLUTION NO. ____

A RESOLUTION OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, APPROVING A PHASE 2 PURCHASE AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF UNIVERSITY PLACE AND VERUS PARTNERS, LLC FOR DEVELOPMENT OF LOT 4 OF UNIVERSITY PLACE TOWN CENTER

WHEREAS, Pursuant to Resolution 739 of the University Place City Council, and the Development Agreement approved therein, Town Center Lots 1, 2, 3, 4, and 11 are under contract to Verus Partners, LLC, and as contemplated in the Development Agreement, Verus has completed and opened the University Place Whole Foods Market on Lot 7 as the northern anchor of Town Center, and the Development Agreement allows Verus to continue to develop on any of the remaining contracted Lots in any sequence it chooses; and

WHEREAS, Verus' right to close on subsequent Lots occurred when Verus had both closed on Lot 7, and executed a lease with a major regional anchor use of approximately 38,000 square feet. (Whole Foods Market is 40,000 square feet.); and

WHEREAS, the Phase 2 Project will be developed on Lot 4 of the Town Center Property which is the lot west of the Clearview 100 Building, and south of Whole Foods, bounded by Bridgeport Way on the west and Market Place on the east, and is anticipated to be a commercial building of approximately 25,000 square feet, for multiple commercial tenants designed in conformity with recorded Town Center Overlay Design Standards, and with attention paid to consistency and harmony with the buildings already completed or under construction on Lots 7, 8, 9, and 10.

WHEREAS, for the Phase 2 Project the legislative policy consideration is whether Verus has met the requirement of the original Development Agreement to be allowed to proceed to Phase 2, and the City's administration has thoroughly reviewed the matter and determined that Verus, as a matter of fact and law, has met the requirements of the Development Agreement, and consequently are recommending the Phase 2 Project for approval; and

WHEREAS, the construction and operation of such a commercial building by Verus is consistent with, and in furtherance and fulfillment of, the Town Center Plan, the original Development Agreement and Resolution 739 of the University Place City Council;

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 Phase 2 Agreement in substantially the form of the documents 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 documents attached, and the terms of this Resolution.

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

ADOPTED BY THE CITY COUNCIL ON _____, 2016.

_____
Javier H. Figueroa, Mayor

ATTEST:

_____
Emelita Genetia, City Clerk

APPROVED AS TO FORM:

_____
Steve Victor, City Attorney

STAFF REPORT

PHASE 2 PURCHASE & DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF UNIVERSITY PLACE AND VERUS PARTNERS, LLC

THIS PHASE 2 PURCHASE & DEVELOPMENT AGREEMENT ("Phase 2 Agreement") is dated this _____ day of _____, 2016 (the "Effective Date"), between the City of University Place (the "City"), a Washington municipal corporation, acting in its proprietary capacity, and Verus Partners, LLC (the "Developer"), a Washington limited liability company and its assigns (hereinafter collectively referred to as "Parties") and is made pursuant to the following recitals and the terms and conditions herein.

RECITALS

A. In furtherance of the City's Town Center Plan, the City, over the course of several years, acquired for private redevelopment certain lots located within the Town Center Planned Action Area which are depicted on the Town Center Binding Site Plan and referred to as Lots 1, 2, 3, 4, 7, 8, 9, 10, 11 and 12, and Tracts A & B, and the public right of way in and about the foregoing (the "Town Center Property"). The City currently owns in its proprietary capacity the undeveloped Lots 1, 2, 3, 4, 11, 12, and Tracts A & B of the Town Center Property.

B. The City and Developer entered into a Purchase and Development Agreement dated November 15, 2013, (the "Development Agreement") under which the Developer acquired Lot 7 of the University Place Town Center Binding Site Plan (the "BSP") for development of a facility for an anchor retail tenant, as well as the right to acquire in phases, Lots 1, 2, 3, 4, and 11 of the BSP ("Phased Properties"), on terms established in the Development Agreement, which remains in full force and effect. The Developer has fully performed its first phase obligations and is now exercising its right to acquire and develop Lot 4 of the BSP as the Phase 2 of its development, pursuant to the terms of the Development Agreement.

C. Upon Developer's successful closing on Lot 4, Developer will have further extended Developer's Phasing Rights and the Phasing Rights Period as to the remaining Phased Properties for an additional six (6) months. To exercise the Phasing Rights as to a remaining Phased Property, Developer shall give notice to the City within six (6) months of the Closing on Lot 4 of Developer's intent to acquire a Phased Property.

E. The Developer desires to acquire Lot 4 of the Town Center Property (the "Lot 4 Property") identified as Lot 4 on the BSP for purposes of constructing a structure(s) of between 15,000 and 25,000 square feet core/shell building for commercial tenants and related exterior structures and site improvements (i.e., parking and landscaping) thereon (the "Phase 2 Project"). The construction and operation of such commercial facilities by

the Developer would be consistent with, and in furtherance and fulfillment of, the Town Center Plan.

F. As described in this Phase 2 Agreement, consideration from the Developer to the City for acquisition of the Lot 4 Property includes cash and the obligation to construct certain improvements on the Lot 4 Property.

G. The cash price to be paid by the Developer for all future Lot acquisition was established in the Development Agreement, and establishment of that future acquisition Lot price was a material portion of the consideration for the Developer bringing Whole Foods Market as an anchor use to Town Center. Both Parties understand and agree that the opening of Whole Foods Market increased the value and viability of the Town Center, and the establishment of Developer's future acquisition Lot price was full consideration to the Developer for that increased value and viability.

H. By Resolution No. _____, adopted _____ 2016, the University Place City Council found and determined that the consideration to be provided by the Developer established in the Development Agreement was sufficient consideration for acquisition of the Lot 4 Property and approved the execution of this Phase 2 Agreement.

I. The Parties intend by this Agreement to set forth their mutual agreement and undertakings with regard to the Phase 2 Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party and in future consideration of the benefit to the general public by the creation and operation of the Phase 2 Project upon the Lot 4 Property, and as a direct benefit to the City and other valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

1. Recitals.

1.1 Incorporation of Recitals; Definitions. Each of the recitals set forth above is incorporated into this Phase 2 Agreement as though fully set forth herein. Capitalized terms not otherwise defined herein shall have the meaning set forth in Exhibit A attached hereto.

2. Acquisition of Lot 4.

2.1 Acquisition of Lot 4. In consideration of the mutual covenants set forth in this Phase 2 Agreement, the City agrees to convey to Developer, and Developer agrees to accept from the City on the terms and conditions set forth in this Phase 2 Agreement,

the Lot 4 Property, subject to the terms and conditions set forth in this Phase 2 Agreement.

2.2 Consideration from Developer for Acquisition of the Lot 4 Property. The Developer will pay the City the sum of four hundred fifteen thousand nine hundred thirty five dollars ($415,935.00) for the Lot 4 Property (subject to a proportionate revision for any change in size of the Lot 4 area based upon $15 per square foot), which sum was previously established in the Development Agreement dated November 15, 2013, at the Closing of the purchase of the Lot 4 Property, and shall be bound by this Phase 2 Agreement to construct the Phase 2 Project. Developer shall get a credit at Closing in accordance with Section 2.3.1 of the Development Agreement.

2.3 Phased Properties Period and Pricing. The Phasing Rights shall extend for six (6) months commencing on the Closing date of the Lot 4 Property (the "Phasing Rights Period"). Developer's subsequent successful closing on any of the Phased Properties will further extend the Phasing Rights and the Phasing Rights Period as to the remaining Phased Properties for an additional six (6) months. The Developer will pay the City the sum of $15.00 per square foot for the purchase of Lots 1, 2, 3, and 11.

2.4 Exercise of Rights(s). At any time during the Phasing Rights Period the Developer may give notice to the City of its intent to exercise any or all of the rights on the Phased Properties. Upon delivery of such notice, the City and Developer will negotiate in good faith to reach agreement on purchase and development agreement(s) which shall be substantially in the form of this Agreement for the Phased Property or Phased Properties for which Developer has provided notice of its intent to acquire. Closing on a Phased Property shall be pursuant to the process and timeline set forth in the purchase and development agreement(s). If the Parties successfully negotiate additional purchase and development agreements for any Phased Property, such agreements remain subject to approval by resolution of the University Place City Council.

3. Developer's Review and Permitting Period.

3.1 Review Period. Developer shall have one hundred twenty (120) calendar days from the Effective Date to review the feasibility of the Lot 4 Property for development of the Phase 2 Project, including, without limitation, survey, property condition, environmental reports and zoning (the "Review Period"). If Developer, in its sole and absolute discretion, is dissatisfied with any of the items above at any time during the Review Period including any allowed extension(s), Developer shall be permitted to terminate this Phase 2 Agreement, in which event neither Party shall have any further obligation or liability to the other. Any and all funds or deposits shall be immediately returned to Developer. All activities performed by Developer during the Review Period shall be at Developer's sole expense.

3.2 Title and Survey Review. Title Company shall provide the City Representative and Developer with a preliminary title commitment for the Lot 4 Property together with complete, legible copies of any exceptions identified in Schedule B thereof (the "Title Commitment) within twenty (20) days following the Effective Date of this Phase 2 Agreement. The City shall provide Developer with an ALTA Survey of Lot 4 certified to Developer within twenty (20) days following the Effective Date of this Phase 2 Agreement. Developer shall conduct its review of the Title Commitment and ALTA Survey in accordance with the following procedures:

3.2.1 Developer's Notice. Developer shall have sixty (60) business days after receipt of the Title Commitment and the ALTA Survey to notify the City Representative of its approval or disapproval of each exception in Schedule B of the Title Commitment or any exception or item on the ALTA Survey. Failure to deliver such notice by that date shall constitute Developer's approval of all exceptions in Schedule B or the ALTA Survey.

3.2.2 City's Notice. The City Representative shall have ten (10) business days after receipt of Developer's notification in which to notify Developer whether or not it elects to cure or remove any of the disapproved exceptions of which the City Representative receives timely notice. The City Representative's failure to so notify Developer shall constitute the City Representative's election to not remove all such exceptions. The City Representative shall remove all exceptions and cure all ALTA Survey objections it elects to remove or cure on or before the Closing Date.

3.2.3 Developer's Election. If the City Representative does not elect to remove or cure all exceptions or items disapproved by Developer, Developer may elect to terminate this Phase 2 Agreement by written notice to the City Representative given within five (5) business days following the City Representative's notice, in which event this Phase 2 Agreement shall automatically terminate, and neither Party hereto shall have any further rights or obligations under this Phase 2 Agreement. If Developer does not elect to terminate this Phase 2 Agreement within the time frame set forth herein, disapproved exceptions that the City Representative has not elected to remove shall become Permitted Exceptions for the Lot 4 Property.

3.3 Permitting Period. Developer shall have 120 days from the expiration or earlier waiver of the Review Period to design the Phase 2 Project and file a complete permit application for construction of the Phase 2 Project which will comply with the recorded Town Center Overlay Design Standards (the "Permitting Period"). If Developer, in its sole and absolute discretion, is dissatisfied with any conditions, restrictions, limitations, mitigation measures or other matters affecting the feasibility of the Phase 2 Project in Developer's sole judgment at any time during the Design and Permitting Period including any allowed extension(s), Developer shall be permitted to terminate the Phase

2 Agreement, in which event neither Party shall have any further obligation or liability to the other. Any and all funds or deposits shall be immediately returned to Developer. Except for an ALTA and Topographic survey for Lot 4 ("Lot 4 Survey") and Phase I environmental review costs to be borne by the City as set forth in Section 4.9, all activities performed by Developer during the Permitting Period shall be at Developer's sole expense.

3.4 Developer's Access. Developer and its authorized contractors, consultants and agents shall have access to the Lot 4 Property at all reasonable times during the Design and Permitting Period. Upon request by the City, Developer shall provide the City with a list of the contractors, consultants and agents, including contact information for each party that Developer has engaged to perform any inspections. Before any soils sampling or other invasive testing, Developer shall submit a plan for such sampling for the City's approval, which will not be unreasonably withheld, conditioned or delayed. Developer shall restore the Lot 4 Property, including filling test holes, to eliminate any damage to the Lot 4 Property caused by Developer, its contractors, consultants or agents in the conduct of the inspections; provided, however, Developer shall have no obligation to remediate any prior-existing defects or other conditions in or on the Lot 4 Property, including, without limitation, remediation of any existing Hazardous Substances. If Developer discovers any defects or conditions in or on the Lot 4 Property that create a dangerous condition, including the discovery of any Hazardous Substances, Developer shall promptly notify the City of such defect or condition. Developer agrees to indemnify the City and to hold the City, the City's agents and employees harmless from and against any and all losses, costs, damages, claims or liabilities including, but not limited to, construction, mechanic's and materialmen's liens and attorneys' fees, to the extent caused by Developer's entry upon the Lot 4 Property, including the conduct of Developer or its contractors, consultants or agents; provided, however, such indemnity obligations shall not apply to any and all losses, costs, damages, claims or liabilities to the extent caused by (i) any existing environmental contamination in or on the Lot 4 Property that may be discovered or adversely impacted by Developer's conduct of its Inspections and such losses, costs, damages, claims or liabilities shall be the sole responsibility of the City, or (ii) the negligence or willful misconduct of the City.

4. Closing of Acquisition of Lot 4.

4.1 Timing. Closing of the Lot 4 Property shall occur within thirty (30) days following the satisfaction of all conditions precedent as stated in Sections 4.6 and 4.7 below.

4.2 Title to Lot 4 Property. Upon Closing, the City Representative shall execute and deliver to Developer a statutory warranty deed ("Deed") conveying fee title to the Lot 4 Property free and clear of all defects and encumbrances and subject only to those exceptions that Developer approves pursuant to Section 3.2 above. The conveyance of

any interest in the Lot 4 Property and appurtenant rights shall be subject to the provisions of this Phase 2 Agreement.

4.3 Title Insurance. On the Closing Date, the City Representative shall cause Title Company to issue to Developer a standard coverage Owner's Policy of Title Insurance ("Title Policy") insuring good and marketable fee simple title in Developer against any loss or damage by reason of defects in the City's title, other than the Permitted Exceptions. Developer may, at its sole cost and expense, request extended coverage or endorsements to the Title Policy, but the availability of extended coverage or such endorsements shall not be a condition precedent to Closing; provided, however, that the City Representative shall sign any owner's affidavit or similar document required by Title Company to enable Developer to obtain extended coverage.

4.4 "AS-IS" Conveyance. Upon electing to proceed with Closing of the acquisition of the Lot 4 Property, Developer represents that it has had an opportunity to and has conducted a thorough investigation of the Lot 4 Property and is in all respects knowledgeable and familiar with the present condition and state of repair of the Lot 4 Property. Developer acknowledges that it is concluding the acquisition of the Lot 4 Property based solely upon Developer's inspection and investigation of the Lot 4 Property and that, except as otherwise provided herein, the Lot 4 Property is being conveyed to Developer in an "AS-IS" condition and state of repair, and with all faults, of any kind or nature and without any representations or warranties, express, implied or statutory, except that the City owns the Lot 4 Property. IN PARTICULAR, BUT WITHOUT LIMITATION, THE CITY MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE PHYSICAL CONDITION OR VALUE OF THE LOT 4 PROPERTY, SOILS CONDITIONS, OR OTHER PHYSICAL CHARACTERISTICS OF ALL OR ANY PORTION OF THE LOT 4 PROPERTY OR THE SUITABILITY OF ALL OR ANY PORTION OF THE LOT 4 PROPERTY FOR DEVELOPER'S INTENDED DEVELOPMENT. THE CITY MAKES NO REPRESENTATION WHATSOEVER REGARDING THE FINANCIAL FEASIBILITY OF ALL OR ANY PORTION OF THE PHASE 2 PROJECT. Upon recording of the Deed, Developer shall be deemed to have accepted the Lot 4 Property in its "AS-IS, WHERE-IS" condition and state of repair and does hereby waive and release and agrees to defend, indemnify and hold the City, its officials, officers, employees and agents harmless from any and all damages, losses, liabilities, costs and expense whatsoever (including, without limitation, reasonable attorneys' fees and costs) and claims thereof, whether direct or indirect, known or unknown, foreseen or unforeseen, which may arise on account of or in any way arising out of or in connection with the physical or environmental condition of the Lot 4 Property or any requirements of law applicable thereto.

4.5 Receipt of City Disclosure Statement. Prior to execution of this Phase 2 Agreement, the City Representative has provided Developer with a City Disclosure Statement in the form set forth in RCW 64.06.013. As provided by Washington law, the

City Disclosure Statement is for disclosure only and shall not be considered a part of this Phase 2 Agreement, and does not constitute any representation or warranty by the City.

4.6 Conditions Precedent to City's Obligation to Convey the Lot 4 Property. The City's obligation to close the acquisition of the Lot 4 Property is subject to satisfaction of each of the following conditions which must be met to the reasonable satisfaction of the City Representative, and any or all of which may be waived by the City Representative in writing at its option:

4.6.1 Compliance by Developer. Developer shall have performed, observed and complied with all of the material covenants, agreements, obligations and conditions required by this Phase 2 Agreement to be performed, observed and complied with by it prior to or as of the Closing Date.

4.6.2 Correctness of Representations and Warranties. The representations and warranties of Developer set forth in this Phase 2 Agreement shall be true and correct on and as of the Closing Date.

4.6.3 No Bankruptcy. Neither Developer nor any of its managing members/partners/directors: (a) has applied for or consented to the appointment of a receiver, custodian or trustee for it or any of its property, (b) has become insolvent, (c) has failed generally or admitted in writing its inability to pay its debts as they become due, (d) has consolidated, liquidated or dissolved, (e) has filed a petition or action for relief relating to any federal or state bankruptcy, reorganization, insolvency, moratorium or similar statute or any other law or laws for the relief of or relating to debtors, or (f) has made an assignment for the benefit of its creditors or entered into an agreement of composition with its creditors, nor (g) has a petition been filed by or against Developer under any federal or state bankruptcy, reorganization, insolvency, moratorium or similar statute, or any other law or laws for the relief of or relating to debtors. The foregoing conditions are solely for the benefit of the City. If any of the foregoing conditions are not met to the reasonable satisfaction of the City Representative prior to the Closing Date, or been waived in writing by the City Representative on or before the Closing Date, the City Representative shall have the right, in his sole discretion, to terminate this Phase 2 Agreement at any time thereafter, upon written notice to Developer, whereupon this Phase 2 Agreement shall terminate, and except as otherwise expressly provided herein, neither Party hereto shall have any further rights, duties, liabilities or obligations to the other.

4.7 Conditions Precedent to Developer's Obligation to Acquire the Lot 4 Property. Developer's obligation to close the acquisition of the Lot 4 Property is subject to satisfaction of each of the following conditions which must be met to the reasonable satisfaction of Developer, and any or all of which may be waived by Developer in writing at its option:

4.7.1 Compliance by City. The City shall have performed, observed and complied with all of the covenants, agreements, obligations and conditions required by this Phase 2 Agreement to be performed, observed and complied with by it prior to the Closing Date.

4.7.2 Correctness of Representations and Warranties. The representations and warranties of the City set forth in this Phase 2 Agreement shall be true and correct on and as of the Closing Date.

4.7.2.1 City's Representations.

4.7.2.1.1 The City is a municipal corporation duly organized and validly existing under the laws of the State of Washington and has full legal right, power and authority to own its property and carry on its business as now being conducted. All corporate action on the part of the City necessary for the authorization, execution, delivery and performance of this Phase 2 Agreement has been duly taken. The City has full power and authority to enter into, execute and deliver this Phase 2 Agreement and to perform its obligations under this Phase 2 Agreement.

4.7.2.1.2 This Phase 2 Agreement, when executed and delivered by the City, and assuming it has been duly authorized, executed and delivered by Developer, will be the legal, valid and binding agreement of the City, enforceable in accordance with its terms.

4.7.2.1.3 No consent, approval, permission, authorization, order or license of any person or any Governmental Body (except as described in the Phase 2 Agreement, and building and other permits necessary for construction) is necessary in connection with the execution, delivery and performance of this Phase 2 Agreement by the City or any transaction contemplated hereby, except as may have already been obtained by the City prior to the date of this Phase 2 Agreement. There is no provision in the City's organizational documents which would be contravened by the execution and delivery of this Phase 2 Agreement or by the performance of any provision, condition, covenant or other term required to be performed by the City under this Phase 2 Agreement.

4.7.2.1.4 There is no pending or threatened litigation, tax claim, action, dispute or other proceeding (including condemnation proceeding) of any nature whatsoever contemplated by or affecting the City or any officer, trustee or managerial member of the City which could have a material adverse effect on the legal existence or powers of the City or its financial conditions or operations or have a material adverse effect on the ability of the City to perform its obligations under this Phase 2 Agreement and the

City is not in default with respect to any Requirements of Law that might result in any such effect.

4.7.2.1.5 To the best of the City's knowledge the Lot 4 Property is free of any contamination by hazardous and/or toxic materials ("Hazardous Substances") and that at the time of transfer of title there will be no conditions or circumstances related to the Lot 4 Property that could directly or indirectly impose or give rise to any costs or liability, contingent or otherwise, to Developer under any applicable Environmental Standards.

4.7.2.2 Developer's Representations.

4.7.2.2.1 Developer is a limited liability company duly organized and validly existing under the laws of the State of Washington, and has the power to own its property and carry on its business as now being conducted. All actions on the part of Developer and all other actions on the part of its members necessary for the authorization, execution, delivery and performance of this Phase 2 Agreement have been duly taken. Developer has full power and authority to enter into, execute and deliver this Phase 2 Agreement and to perform its obligations under this Phase 2 Agreement.

4.7.2.2.2 This Phase 2 Agreement, when executed and delivered by Developer, and assuming it has been duly authorized, executed and delivered by the City, will be the legal, valid and binding agreement of Developer, enforceable in accordance with its terms.

4.7.2.2.3 No consent, approval, permission, authorization, order or license of any person or of any governmental body (except as described in the Phase 2 Agreement, and building and other permits necessary for construction) is necessary in connection with the execution, delivery and performance of this Phase 2 Agreement by Developer or any transaction contemplated hereby, except as may have already been obtained by Developer prior to the date of this Phase 2 Agreement. There is no provision in Developer's organizational documents which would be contravened by the execution and delivery of this Phase 2 Agreement or by the performance of any provision, condition, covenant or other term required to be performed by Developer under this Phase 2 Agreement.

4.7.2.2.4 There is no pending or threatened litigation, tax claim, action, dispute or other proceeding of any nature whatsoever affecting Developer or any managing member or officer of Developer which could have a material adverse effect on the legal existence or powers of Developer or its financial conditions or operations or have a material adverse effect on the ability of Developer to perform its obligations under this Phase 2 Agreement and

Developer is not in default with respect to any Requirements of Law that might result in any such effect.

4.7.2.3 Duration of Representations. Each of the foregoing representations and warranties shall expire and be of no further force or effect, unless either Party shall have made a claim based upon an alleged breach of such representations and warranties within seven (7) years following Final Completion of the Phase 2 Project.

4.7.3 Condition of Lot 4 Property. The City shall deliver sole and exclusive possession of the Lot 4 Property to Developer at Closing (free of any visible debris) and not subject to any encumbrance not approved by Developer.

4.7.4 Title Policy. Title Company shall be prepared to issue to Developer the Title Policy (or later date commitment) for the Lot 4 Property.

4.7.5 Entitlements. The City shall have approved a binding site plan for the Town Center Property and all zoning and entitlements necessary for Developer to construct the Phase 2 Project and operate a retail project on the Lot 4 Property.

4.7.6 Permits. The City, any governing authority and all utility providers shall have issued all permits necessary for Developer to construct the Phase 2 Project including but not limited to: site construction permits, building construction permits, signage permits, off-site construction permits, utility extension permits, etc.

4.7.7 Easements/Approvals. The City and any other governing authority or party shall have authorized any and all approvals and granted any easements necessary for the construction and operation of the Phase 2 Project.

4.8 Closing Date. As used in this Phase 2 Agreement, “Closing” and “Closing Date” mean the date on which the Deed and all other documents required to be recorded by this Phase 2 Agreement are recorded. Developer and the City Representative shall place into escrow with Title Company all instruments and documents necessary to complete the acquisition of the Lot 4 Property in accordance with this Phase 2 Agreement. In the event either the City or Developer has been unable, despite its reasonable, good faith efforts to satisfy all of the conditions for Closing set forth in this Phase 2 Agreement by the Closing Date, then unless the City Representative and Developer agree to a further extension of the Closing Date, this Phase 2 Agreement shall automatically terminate, and except as otherwise expressly provided herein, neither Party hereto shall have any further rights, duties, liabilities or obligations to the other. If the City is the party that is unable to perform all of its obligations hereunder at the Closing, the City agrees also to reimburse Developer for all of its cost and expenses in preparing to close this transaction. If

Developer is the party that is unable to perform all of its obligations hereunder at the Closing, the City shall not have the right to sue Developer for specific performance.

4.8.1 Escrow. On or before the Closing Date, the following documents shall be delivered to Title Company, as Escrowee, each of which shall be in form and substance reasonably acceptable to the attorney for the other party:

4.8.1.1 By City. The City Representative shall deliver the following original documents, duly executed and acknowledged by the City:

4.8.1.1.1 The Deed.
4.8.1.1.2 Real Estate Excise Tax Affidavit.
4.8.1.1.3 FIRPTA Affidavit.
4.8.1.1.4 Any easements pertaining to the Lot 4 Property.
4.8.1.1.5 Owner's affidavit.
4.8.1.1.6 Any and all such other documents as may be necessary, and as are consistent with the provisions of this Phase 2 Agreement.

4.8.1.2 By Developer. Developer shall deliver the following original documents, duly executed and acknowledged by Developer:

4.8.1.2.1 Real Estate Excise Tax Affidavit.
4.8.1.2.2 Any and all other documents and agreements as may be required by the City or Title Company and as are consistent with the terms of this Phase 2 Agreement.

4.9 City's Closing Costs. In connection with the Closing, the City shall pay the cost of the Title Policy with standard owner's coverage, the Lot 4 Surveys and Phase I environmental review costs, one–half of the Closing escrow fees, the cost of recording documents to clear the City's title, transfer or excise taxes if applicable, and the City's attorneys' fees.

4.10 Developer's Closing Costs. In connection with the Closing, Developer shall pay the cost of the Title Policy to the extent in excess of the premium for standard owner's coverage (if Developer elects to obtain extended coverage), together with all endorsements to the Title Policy requested by Developer, one–half of the Closing escrow fees, all recording fees for the Deed, and Developer's attorneys' fees.

4.11 Prorations. All utilities and special assessments shall be prorated as of the Closing Date. Because the City is exempt from property taxes, no proration of ad valorem property taxes is required; however, Developer shall be responsible for payment of all property taxes and all special assessments and local improvement district assessments which affect the Lot 4 Property, from and after the Closing Date. The City represents that

no special assessments or local improvement district assessments currently exist or are contemplated in connection with the Phase 2 Project.

4.12 Possession. Developer shall be entitled to sole and exclusive possession of the Lot 4 Property on the applicable Closing Date, free and clear of all liens, encumbrances and exceptions other than the Permitted Exceptions, and any liens, encumbrances or other exceptions arising through the actions of Developer or its agents, employees or consultants.

4.13 Memorandum of Phase 2 Agreement. The parties agree to record a Memorandum of this Phase 2 Agreement which will include only the Developer's construction obligations for the Phase 2 Project, a description of Developer's right to acquire Lot 4, and a description of Developer's Phasing Rights with respect to the Phased Properties.

5. Development.

5.1 Development Conditions. The following development conditions shall apply to the Phase 2 Project:

5.2 Developer's Commencement of Construction. Developer shall commence construction of the Phase 2 Project on Lot 4 within twelve (12) months of Closing, subject to extension as provided herein, or by mutual agreement, or due to Unavoidable Delay. This timeline represents the outside date for commencement and shall not preclude the Developer and the City Representative from agreeing to a shorter schedule. Notwithstanding anything in this Agreement to the contrary, Developer shall not be obligated to demolish and replace existing improvements, including curb, gutter sidewalk and landscaping, except where Developer may choose to do so as part of its Phase 2 Project.

5.3 Enforcement. In the event Developer fails to commence construction within the time described above and any extension for Unavoidable Delay, the City will have the right, but not the obligation, to reacquire the Lot 4 Property from Developer prior to the commencement of construction, together with all improvements thereon and appurtenances thereto, for a price equal to any cash paid by Developer at Closing, but not including impact fees or permit costs. Closing of the City's reacquisition shall occur within thirty (30) days following written notice and Developer will transfer title to the Lot 4 Property to the City by statutory warranty deed, free and clear of all liens and encumbrances except Permitted Exceptions. Title Company, as Escrow Agent, shall conduct the Closing, and Closing costs and prorations shall be handled in the same manner as provided in Section 4 Closing of Acquisition of Lot 4. If the City notifies Developer that it intends to reacquire the Lot 4 Property, but fails to close the reacquisition within sixty (60) days thereafter, the City shall not be in default under this Phase 2 Agreement, but Developer shall have the right to convey the Lot 4 Property to another

Developer expressly subject, however, to all of the terms, covenants, conditions and provisions set forth in this Phase 2 Agreement.

5.4 Certificate of Completion. Upon the issuance of a certificate of occupancy for the Phase 2 Project, Developer shall file a Notice of Completion with the City. Within three (3) business days after receipt of the Notice of Completion, the City shall inspect the Phase 2 Project and if the City concurs that all Developer construction obligations are complete, the City shall furnish the Developer with a Certificate of Completion in substantially the form attached as Exhibit B. If the City should find that Final Completion has not occurred upon its inspection then the City shall immediately set forth in writing the deficiency(s) and any required corrective measures to remedy the deficiency(s). In such event the City shall re-inspect the Improvements and follow the procedure set forth above. The Certificate of Completion shall be a conclusive determination that the Parties' agreements with respect to the Developer's construction obligations for the Phase 2 Project have been met. The Certificate shall be in a form that enables it to be recorded in the official records of Pierce County, Washington, and shall have the effect of completing Developer's obligations with respect to the Lot 4 Property and Phase 2 Project and shall terminate the Memorandum of Phase 2 Agreement as recorded.

6. Indemnification.

6.1 Developer's Indemnification of City. Developer shall protect, defend, indemnify, and save harmless the City and its respective officers, officials, employees and agents (collectively, the "City Indemnified Parties"), from any and all claims, demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever arising out of or in any way resulting from Developer's officers, employees, agents, contractors and/or subcontractors of all tiers, acts or omissions, performance or failure to perform this Phase 2 Agreement. Developer's obligations under this Section shall include, but not be limited to:

6.1.1 The duty to promptly accept tender of defense and provide defense to the City at Developer's own expense.

6.1.2 The duty to indemnify and defend the City from any claim, demand and/or cause of action brought by or on behalf of any of Developer's employees or agents. The foregoing duty is specifically and expressly intended to constitute a waiver of Developer's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the City only, with a full and complete indemnity and defense of claims made by Developer's employees or agents. The Parties acknowledge that these provisions were mutually negotiated and agreed upon by them.

6.1.3 In the event the City incurs any judgment, award, and/or costs arising therefrom, including attorneys' fees, to enforce the provisions of this Section, all such fees, expenses, and costs shall be paid by Developer.

6.1.4 Notwithstanding the provisions contained above, Developer's obligation to indemnify the City shall not extend to any claim, demand or cause of action to the extent caused by the negligence or willful misconduct of the City or breach of this Phase 2 Agreement by the City.

6.2 City's Indemnification of Developer. The City shall protect, defend, indemnify, and save harmless Developer and its respective officers, officials, employees and agents (collectively, "Developer Indemnified Parties"), from any and all claims, demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever arising out of or in any way resulting from the City's officers, employees, agents, contractors and/or subcontractors of all tiers, acts or omissions, performance or failure to perform this Phase 2 Agreement. The City's obligations under this Section shall include, but not be limited to:

6.2.1 The duty to promptly accept tender of defense and provide defense to Developer at the City's own expense.

6.2.2 The duty to indemnify and defend Developer from any claim, demand and/or cause of action brought by or on behalf of any of the City's employees or agents. The foregoing duty is specifically and expressly intended to constitute a waiver of the City's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects Developer only, with a full and complete indemnity and defense of claims made by the City's employees or agents. The Parties acknowledge that these provisions were mutually negotiated and agreed upon by them.

6.2.3 In the event Developer incurs any judgment, award, and/or costs arising therefrom, including attorneys' fees, to enforce the provisions of this Section, all such fees, expenses, and costs shall be paid by the City.

6.2.4 Notwithstanding the provisions contained above, the City's obligation to indemnify Developer shall not extend to any claim, demand or cause of action to the extent caused by the negligence of Developer or breach of this Phase 2 Agreement by Developer.

6.3 Notice of Claim. Any person making a claim for indemnification pursuant to this Section (an "Indemnified Party") must give the Indemnifying Party written notice of such claim (an "Indemnification Claim Notice") promptly after the Indemnified Party receives any written notice of any action, lawsuit, proceeding, investigation or other claim (a "proceeding") against or involving the Indemnified Party, or otherwise discovers the

liability, obligation or facts giving rise to such claim for indemnification; provided that the failure to notify or delay in notifying the Indemnifying Party will not relieve the Indemnifying Party of its obligations pursuant to this Section except to the extent that the Indemnifying Party's ability to defend against such claim is actually prejudiced thereby. Such notice shall contain a description of the claim and the nature and amount of such loss (to the extent that the nature and amount of such loss is known at such time).

7. Damage and Destruction; Condemnation.

7.1 Damage and Destruction. In the event there is any damage or destruction to the Phase 2 Project prior to Final Completion, Developer shall give the City prompt written notice thereof generally describing the nature and cause of such casualty and the extent of the damage or destruction to the Phase 2 Project. Developer shall cause reconstruction and restoration of the Phase 2 Project in accordance with the applicable Construction Documents and the provisions of this Phase 2 Agreement. Developer will assign all insurance proceeds which Developer may be entitled to receive prior to Final Completion of the Phase 2 Project with respect to damage or destruction to the Construction Lender, or if there is no Construction Lender, a third party insurance trustee mutually acceptable to the City and Developer who shall disburse insurance proceeds to reimburse Developer for the cost of restoration or repair in accordance with the terms, covenants, conditions, provisions and procedures set forth in the Construction Loan Documents or if there are no Construction Loans outstanding at the time of such damage or destruction in periodic installments based upon the percentage of completion and otherwise in accordance with standard commercial construction loan administration.

7.2 Condemnation. As used in this Phase 2 Agreement, the term "condemnation" refers to a taking by any public or governmental authority under power of eminent domain or any transfer in lieu thereof.

7.2.1 Condemnation Prior to Closing Date. In the event condemnation proceedings are threatened against a material portion of the Lot 4 Property prior to the Closing Date, either party shall have the right by giving written notice of such decision to the other within fifteen (15) days after receiving written notice of such condemnation proceedings to terminate this Phase 2 Agreement, and except as otherwise expressly provided herein, neither party shall have any further rights or obligations to the other under this Phase 2 Agreement and all condemnation awards payable to the property owner by reason of such condemnation, if any, shall be paid to the City. If neither party elects to terminate this Phase 2 Agreement, the Phase 2 Agreement shall remain in full force and effect, Developer shall accept the Lot 4 Property affected thereby in its then condition and state of repair, and all condemnation awards payable to the property owner by reason of such condemnation, if any, shall be paid or assigned to Developer upon Closing.

7.2.2 Condemnation After Closing Date. In the event of a condemnation of the Lot 4 Property after the Closing Date, to the extent that the Phase 2 Project may still be constructed in accordance with the Construction Documents and may be constructed in accordance with the Construction Documents as modified by changes acceptable to Developer and the City, Developer shall proceed to construct the Phase 2 Project in accordance with the Construction Documents, as modified, if applicable.

8. Default.

8.1 The following events shall constitute a "Default" or an "Event of Default":

8.1.1 The failure of either Party to keep, observe, or perform any of its duties or obligations under this Phase 2 Agreement; or

8.1.2 If Developer files a petition for bankruptcy or makes a general assignment for the benefit of Developer's creditors, or if a receiver is appointed on account of Developer's insolvency and any such petition or appointment is not dismissed within ninety (90) days.

8.2 City Remedies Upon Developer Event of Default. Upon any Event of Default by Developer, the City shall give Developer written notice of the same, whereupon following receipt of such written notice Developer shall have thirty (30) days within which to commence all necessary action to cure any such Event of Default, (and if such cure is commenced, proceed to diligently and continuously prosecute such cure to completion within a reasonable period of time thereafter not to exceed sixty (60) days), except with respect to Events of Default for which a shorter cure period is stated herein. In the event Developer fails to cure such Event of Default within the time period set forth above, the City shall be entitled to exercise the specific remedies identified in this Phase 2 Agreement for particular defaults by the Developer, and where no specific remedy is identified, the City may exercise one or more of the following remedies:

8.2.1 Prior to Closing on the Lot 4 Property. If Developer fails to perform any material obligation under this Phase 2 Agreement, the City shall give the Developer written notice of same, whereupon following receipt of such written notice, Developer shall have thirty (30) days within which to commence all necessary action to cure any such failure (and if cure is commenced within such thirty (30) day period, proceed to diligently complete such cure within a reasonable period of time). In the event Developer fails to cure such default within the time period set forth herein and provided the City is not in default hereunder, then the City will have the right, as its sole and exclusive remedy, to terminate this Phase 2 Agreement, and except as otherwise expressly provided herein neither party shall thereafter have any further rights or obligations under this Phase 2 Agreement.

8.2.2 After Closing. With respect to a Developer Event of Default occurring after Closing, and provided City is not in default hereunder, the City may pursue any available legal remedy except specific performance.

8.3 Developer Remedies Upon City Default. Upon any Event of Default by the City, Developer shall give the City written notice of the same, whereupon following receipt of such written notice the City shall have thirty (30) days within which to commence all necessary action to cure any such Event of Default, (and if such cure is commenced, proceed to diligently and continuously prosecute such cure to completion within a reasonable period of time thereafter not to exceed 60 days), except with respect to Events of Default for which a shorter cure period is stated herein. In the event the City fails to cure such Event of Default within the time period set forth above, Developer shall be entitled to exercise the specific remedies identified in this Phase 2 Agreement for particular defaults by the City, and where no specific remedy is identified, the Developer may exercise one or more of the following remedies:

8.3.1 Prior to Closing on the Lot 4 Property. If the City fails to perform any material obligation under this Phase 2 Agreement, Developer shall give the City written notice of same, whereupon following receipt of such written notice, the City shall have thirty (30) days within which to commence all necessary action to cure any such failure (and if cure is commenced within such thirty (30) day period, proceed to diligently complete such cure within a reasonable period of time). In the event the City fails to cure such default within the time period set forth herein and provided Developer is not in default hereunder, then Developer will have the right, as its sole and exclusive remedy, to terminate this Phase 2 Agreement, and except as otherwise expressly provided herein neither party shall thereafter have any further rights or obligations under this Phase 2 Agreement.

8.3.2 After Closing. With respect to a City Event of Default occurring after Closing, and provided Developer is not in default hereunder, the Developer may pursue any other available legal remedy except specific performance.

8.4 Limitation on Damages. Notwithstanding anything to the contrary set forth in this Phase 2 Agreement, the City and Developer agree that the recovery by either party of any damages suffered or incurred by it as a result of any breach by the other party of any of its obligations under this Phase 2 Agreement shall be limited to the actual damages suffered or incurred by the non-breaching party of its obligations hereunder. In no event shall either party be liable to the other party for any consequential, exemplary, special, indirect, incidental or punitive damages (including any damages on account of lost profits or opportunities or business interruption and the like), whether by statute, in tort or under contract, under any indemnity provision or otherwise.

8.5 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Phase 2 Agreement, the rights and remedies of the Parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

8.6 Waiver. Any waiver by either of the Parties of any breach of any covenant herein contained to be kept and performed by the other party shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the damaged party from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

9. Dispute Resolution. The Parties shall use good faith efforts to resolve all claims, disputes and other matters in question between the Parties arising out of or relating to this Phase 2 Agreement (each a "Matter in Dispute") using the procedures set forth herein.

9.1 Senior Management. If a Matter in Dispute arises, the aggrieved party shall promptly notify the other party to this Phase 2 Agreement in writing of the dispute, but in any event within fifteen (15) days after the dispute arises. If the Parties shall have failed to resolve the Matter in Dispute within fifteen (15) days after delivery of such notice, each party shall nominate a senior administrator or manager within its organization with authority to bind such party to meet at a mutually agreed location to attempt to resolve the Matter in Dispute. Should the senior officers be unable to resolve the Matter in Dispute within fifteen (15) days of their nomination, the Parties shall submit the Matter in Dispute to Mediation as provided as a condition precedent to pursuing other alternative dispute procedures or litigation.

9.2 Mediation. If prior to completion of construction of the Phase 2 Project a Matter of Dispute arises between the City and Developer, the Parties shall proceed in good faith to resolve such dispute as expeditiously as possible and shall cooperate so that the progress of design and construction of the Phase 2 Project is not delayed. If, however, the Parties are unable to resolve the dispute, they agree to utilize the mediation process contained herein, which will be nonbinding but a condition precedent to having said dispute decided in court by a judge or jury; provided, however, that the City and Developer may agree in writing to waive this condition.

9.2.1 Mediation Process. The City or Developer, by delivering written notice to the other, may refer any dispute described above to any natural person not employed by either the City or Developer or an affiliate of either who shall be approved by mutual agreement of the City and Developer ("Mediator").

9.2.2 Consideration of Disputes or Claims. Upon receipt by the Mediator of written notice of a dispute, either from the City or Developer, the Mediator shall convene a hearing to review and consider the dispute. Both the City and

Developer shall be given the opportunity to present their evidence at this hearing. Both the City and Developer are encouraged to provide exhibits, calculations and other pertinent material to the Mediator for review prior to the hearing.

9.2.3 Procedures. Upon the first referral to the Mediator of a Matter in Dispute hereunder, the Mediator shall, with the agreement of the Parties, establish procedures for the conduct of any hearings for consideration of disputes and claims. The conduct of the Mediator's business shall, in general, be based on this Phase 2 Agreement. Unless the City and Developer agree otherwise, the Mediator shall issue its recommendation as soon as possible but in any event not later than sixty (60) days following referral of the dispute to the Mediator.

9.2.4 Independence of Mediator. It is expressly understood that the Mediator is to act impartially and independently in the consideration of facts and conditions surrounding any dispute presented by the City and Developer, and that the recommendations concerning any such dispute are advisory only. The Mediator's recommendations shall be based on the pertinent Phase 2 Agreement provisions, and the facts and circumstances involved in the dispute. The recommendations shall be furnished in writing to the Parties.

9.2.5 City's Responsibility. The City shall furnish the Mediator one copy of all documents it might have, other than those furnished by the Developer, which are pertinent to the performance of the Mediator.

9.2.6 Developer Responsibility. Developer shall furnish the Mediator one copy of all documents it might have, other than those furnished by the City, which are pertinent to the performance of the Mediator.

9.2.7 Coordination. The Parties will coordinate to effectively assist the Mediator's operation.

9.2.8 Payment. The fees charged by the Mediator shall be shared equally by the Parties. Payments shall be full compensation for work performed, services rendered, and for all materials, supplies, travel, office assistance and support and incidentals necessary to serve. Payment for services rendered by the Mediator and for the Mediator's expenses shall be at the rate or rates established by the Mediator. The Mediator may submit invoices for payment for work completed not more often than once per month during the progress of the work. Such invoices shall be in a format approved by both Parties, and accompanied by a general description of activities performed during that period. The value of work accomplished for payment shall be established from the billing rate and hours expended by the Mediator. The invoiced amount shall be divided in half and clearly stated. A copy is to be sent to the City and Developer for payment. Satisfactorily submitted invoices shall be paid within sixty (60) days.

9.3 Litigation. Only after the mediation has concluded, may either party seek resolution of the Matter in Dispute through litigation and for any such litigation, jurisdiction and venue shall thereafter be in the Superior Court of the State of Washington for Pierce County.

10. Miscellaneous.

10.1 Assignment. Developer shall not voluntarily or involuntary sell, transfer, convey, assign or otherwise dispose of its rights under this Phase 2 Agreement, in whole or in part to any entity not affiliated with Developer or its principals, without the prior written consent of the City Manager, which consent shall not be unreasonably withheld, conditioned or delayed. Such restrictions or prohibitions shall not apply to (i) any residential lease of any unit in the Phase 2 Project (but shall apply to a ground lease of all or substantially all of the Lot 4 Property or any substantial portion thereof to any person or entity not a resident of the Lot 4 Property); (ii) any mortgage, deed of trust, security agreement or security instrument granted or entered by Developer to provide financing for Developer's purchase of the Lot 4 Property or performance of its obligations to the City with regard to the Lot 4 Project; or (iii) a Transfer, or series of Transfers which in the aggregate, does not or do not result in a change of control of the Developer's interests in the Lot 4 Property or in Developer. The foregoing is intended to allow the Developer to add debt and/or equity-related investment partners to the ownership of the Lot 4 Property or a phase thereof, within the limits expressed in this Section 10. These provisions can be reasonably modified or waived by the City Manager from time to time upon request of the Developer.

10.2 Burden and Benefit. The covenants and agreements contained herein shall be binding upon and inure to the benefit of the successors and permitted assigns of the respective Parties hereto.

10.3 Neutral Authorship. In connection with the execution and delivery hereof, each party has been represented by counsel. Each of the provisions of this Phase 2 Agreement has been reviewed and negotiated, and represents the combined work product of both Parties hereto. No presumption or other rules of construction which would interpret the provisions of this Phase 2 Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Phase 2 Agreement.

10.4 Terminology. All personal pronouns used in this Phase 2 Agreement, whether used in the masculine, feminine and neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

10.5 Complete Agreement; Amendment. This Phase 2 Agreement, together with the exhibits annexed hereto or referred to herein, is intended to be the entire agreement

of the Parties with regard to the subject matter hereof and may only be amended with the written consent of both Parties.

10.6 Severability. Each provision of this Phase 2 Agreement shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of the Phase 2 Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Phase 2 Agreement that are valid.

10.7 Relationship of Parties. Developer and the City shall not be construed as having a joint venturer or partnership, and neither shall have the power to bind or obligate the other party except as set forth in this Phase 2 Agreement. Developer shall have no right or authority, express or implied, to commit or otherwise obligate the City in any manner whatsoever except to the extent specifically provided herein or specifically authorized in writing by the City.

10.8 No Third Party Rights. The provisions of this Phase 2 Agreement are intended solely for the benefit of, and may only be enforced by, the Parties hereto and their respective successors and permitted assigns. None of the rights or obligations of the Parties herein set forth (or implied) is intended to confer any claim, cause of action, remedy, defense, legal justification, indemnity, contribution claim, set-off, or other right whatsoever upon or otherwise inure to the benefit of any contractor, architect, subcontractor, worker, supplier, mechanic, insurer, surety, guest, member of the public, or other third parties having dealings with either of the Parties hereto or involved, in any manner, in the Phase 2 Project.

10.9 Representatives.

10.9.1 Representatives of Developer. Developer shall designate a Project Manager for the Phase 2 Project who shall be the single point of contact for the City on all matters arising under this Phase 2 Agreement and shall promptly render decisions to avoid delay in the orderly process of design and construction of the Phase 2 Project. The Developer's Project Manager may be changed from time to time.

10.9.2 Representatives of City. The City Representative shall designate a Project Manager who shall be the single point of contact for the Developer on all matters arising under this Phase 2 Agreement and shall promptly render decisions to avoid delay in the orderly process of design and construction of the Phase 2 Project. The City's Project Manager may be changed from time to time.

10.10 Notices. Any notices or other communications required or permitted by this Phase 2 Agreement or by law to be served on, given to, or delivered to either party hereto by the other party, shall be in writing and shall be deemed duly served, given, or delivered

when personally delivered to the party to whom it is addressed or in lieu of such personal service, three (3) days after it is deposited in the United States mail, first-class postage prepaid, certified or registered, return receipt requested, addressed as follows, or sent via facsimile or email transmission to the fax numbers or email address set forth below, with machine confirmation of receipt followed by a "hard copy" mailed regular mail, within one (1) business day to the addresses listed as follows:

City:	City of University Place 3715 Bridgeport Way University Place, WA 98466
Attention:	City Manager
Facsimile:	253.460.2546
Email	
Developer:	Verus Partners, LLC 224 Westlake Ave. North, Suite 500 Seattle, WA 98109
Attention:	John Maus
Facsimile:	602-956-4998
Email:	jrmaus@verusholdings.com

Either party may change its address for the purposes of this Section by giving written notice of such change to the other party in the manner provided in this Section.

10.11 Non Waiver of Governmental Rights. Nothing contained in this Phase 2 Agreement shall require the City to take any discretionary action relating to development of the Improvements to be constructed on the Lot 4 Property as part of the Phase 2 Project, including, but not limited to, zoning and land use decisions, permitting, or any other governmental approvals.

10.12 Captions. The captions of this Phase 2 Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Phase 2 Agreement.

10.13 Counterparts. This Phase 2 Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

10.14 Further Assurance. Each party hereto agrees that it will execute or furnish such documents and further assurances to the other or to proper authorities as may be necessary for the full implementation and consummation of this Phase 2 Agreement and the transactions contemplated hereby.

10.15 Authority. Each of the persons signing below represent and warrant that they have the requisite authority to bind the party on whose behalf they are signing.

10.16 Time is of the Essence. Time is of the essence of this Phase 2 Agreement. All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Washington, except that if the last day of any period falls on any Saturday, Sunday or such holiday, the period shall be extended to the next business day.

10.17 Independent Contractor. Developer is acting under this Phase 2 Agreement as an independent contractor and nothing herein contained, or any acts of Developer or the City, nor any other circumstances, shall be construed to establish Developer as an agent of the City. Developer shall be responsible for each of Developer's employees or other persons performing services to be performed by Developer hereunder and for determining the manner and time of performance of all acts to be performed by Developer hereunder.

10.18 Attorneys' Fees. Each party shall be responsible for payment of the legal fees and costs of its own counsel in the event of any litigation, arbitration or other proceeding brought to enforce or interpret or otherwise arising out of this Phase 2 Agreement.

10.19 Survival of Provisions. Except as otherwise expressly provided herein, the covenants, representations, agreements, terms and provisions contained herein shall survive and shall not be deemed to have merged with or into the Deed.

10.20 Exhibits. The Exhibits hereto are made a part of and incorporated into this Phase 2 Agreement.

10.21 Conflicts of Interests. No member, official or employee of the City shall make any decision relating to the Phase 2 Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

10.22 Non-Liability of City, Officials, Employees, and Agents. No member, official, employee or agent of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or on any obligation under the terms of this Phase 2 Agreement.

10.23 Applicable Law. This Phase 2 Agreement shall be construed and enforced in accordance with the laws of the State of Washington, without regard to principles of conflicts of laws, and venue of any action brought to enforce this Phase 2 Agreement shall lie exclusively in Pierce County, Washington. Jurisdiction shall lie with the Superior

Court of the State of Washington. The Parties hereto consent to the jurisdiction of the Pierce County Superior Court and waive the right to file suit elsewhere.

11. Term of Phase 2 Agreement. This Phase 2 Agreement shall commence on the Effective Date and shall continue in force for a period of ten (10) years from the Effective Date unless sooner terminated or extended as provided herein. Following the termination hereof, this Phase 2 Agreement shall have no force and effect, subject to post-termination obligations of the Developer or the City which by the terms hereof or by applicable law survive or extend beyond such termination.

IN WITNESS WHEREOF, the Parties have executed this Phase 2 Agreement effective as of the date first above written.

CITY OF UNIVERSITY PLACE	VERUS PARTNERS, LLC
_____	_____
Stephen P. Sugg, City Manager	John R. Maus Authorized Signer

Attest:

_____
Emelita Genetia, City Clerk

Approved as to form:

_____
Steve Victor, City Attorney

EXHIBIT “A”

Definitions

The following terms within the Phase 2 Agreement are defined as follows:

“City Council” or “Council” means the University Place City Council.

“Certificate of Completion” means a certificate issued by the City to Developer pursuant to Section 5 Development of this Phase 2 Agreement.

"City Representative" means the City Manager of University Place or designee upon reasonable approval of Developer. Upon approval of this Phase 2 Agreement by the City Council, the City Representative for this Phase 2 Agreement shall be the City Manager and every reference to the City herein including but not limited to decisions of the City or actions to be taken at the discretion of the City shall mean a decision of the City Manager or at the discretion of the City Manager.

“Closing” and “Closing Date” mean the date on which the Statutory Warranty Deed and all other documents required to be recorded by this Phase 2 Agreement are recorded.

“Effective Date” means the date set forth in the first paragraph of this Phase 2 Agreement.

“Environmental Standards” means all federal, state and local environmental laws and ordinances and all regulations promulgated thereunder, whether currently in effect or enacted or amended from time to time in the future

“Event(s) of Default” shall be as defined in Section 8 herein.

“Final Completion” means that the City has issued final unconditional certificates of occupancy for the Phase 2 Project.

“Improvements” means all buildings, structures, improvements and fixtures placed or constructed in, under or upon the Lot 4 Property and all access ways, pedestrian areas, public amenities, fences, paved areas, utility distribution facilities, lighting, signage and other infrastructure improvements to be built by Developer on the Lot 4 Property.

“Mortgagee” means the holder of a first mortgage or deed of trust (“Mortgage”) encumbering Developer’s interest in any portion of the Lot 4 Property, the proceeds of which are used to finance or refinance the construction of Improvements.

"Permitted Exceptions" means exceptions to title identified in the Title Policy approved or not disapproved by Developer within the time period set forth in this Phase 2 Agreement.

"Phase 2 Project" means the development of the Lot 4 Property, including construction of all Improvements and all related obligations of Developer under this Phase 2 Agreement.

"Lot 4 Property" means the real property identified as Lot 4 of the University Place Town Center Property in University Place, Washington, as identified in the Town Center Binding Site Plan.

"Substantial Completion" or "substantially complete" means the date on which all of the following have occurred: (i) the Improvements required to be developed by this Phase 2 Agreement are complete according to approved Plans, except for punchlist items that do not substantially prevent the use of the Improvements for their intended purposes; and (ii) the City Representative has issued a temporary or final certificate of occupancy for the building portions of the Improvements.

"Title Company" means Chicago Title Insurance Company at 4717 South 19th Street, Suite 101, Tacoma, Washington 98405.

"Unavoidable Delay" means subject to the exclusions in subsection 2 of this definition, and as more specifically defined below, any act, event or condition that is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Phase 2 Agreement, and that directly affects the performance of this Phase 2 Agreement, by materially expanding the scope of the obligations of either party hereunder, materially interfering with, or materially delaying the performance of the obligations of either party hereunder, to the extent that such act, event or condition is not the result of the willful or negligent act, error or omission, failure to exercise reasonable diligence, or breach of this Phase 2 Agreement on the part of such party.

a. Inclusions. Subject to the foregoing, Unavoidable Delay may include, but is not limited to, the following:
    i. A change in law, except as otherwise provided in this Phase 2 Agreement;
    ii. Naturally occurring events (except weather conditions reasonably anticipated for the City) occurring within a fifty (50)-mile radius of University Place and directly affecting the performance of this Phase 2 Agreement, such as landslides, underground movement, earthquakes, fires, tornadoes, floods, lightning, epidemics and other acts of God;

iii. Explosion, terrorism, sabotage or similar occurrence, war, blockade or insurrection, riot or civil disturbance occurring in the state of Washington and directly affecting the performance of obligations under this Phase 2 Agreement;

iv. The failure of any subcontractor (other than the Developer or any affiliate) to furnish services, materials, chemicals or equipment on the dates agreed to, but only if such failure is the result of an event which would constitute an Unavoidable Delay event if it affected the Developer directly, and the Developer is not able after exercising all reasonable efforts to timely obtain substitutes;

v. The preemption, confiscation, diversion, destruction or other interference in possession or performance of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain of any material portion of the Lot 4 Property;

vi. A violation of Applicable Law by a person other than the affected party or its subcontractors.

b. Exclusions. It is specifically understood that, without limitation, none of the following acts, events or circumstances shall constitute Unavoidable Delay:

i. Any act, event or circumstance that would not have occurred but for the affected party's failure to comply with its obligations hereunder;

ii. Changes in economic conditions, including, but not limited to, changes in interest rates, inflation rates, wage rates, insurance premiums, commodity prices, currency values, exchange rates;

iii. Changes in the financial condition of the Developer, or its affiliates or subcontractors affecting the ability to perform their respective obligations under this Phase 2 Agreement;

iv. The consequences of error, neglect or omissions by the Developer, any subcontractor, any of their affiliates or any other person in performing its obligations under this Phase 2 Agreement;

v. Union or labor work rules, requirements or demands which have the effect of increasing the number of employees employed by the Developer or otherwise increasing the cost to the Developer of performing its obligations under this Phase 2 Agreement;

vi. Weather conditions reasonably anticipated for the City of University Place, Washington;

vii. Any act, event, circumstance or Change in Law occurring outside of the United States;

viii. Mechanical failure of equipment used or supplied by a Party to the extent not resulting from a condition that is listed in the "Inclusions" section of this definition;

ix. Labor disputes involving employees of the Developer, its Affiliates, or its Subcontractors;

x. Failure of the City in its governmental capacity to approve any design submittals due to its sole judgment that such submittal does not comply with the standard against which it is required to undertake the review;

xi. Failure of any Party to secure intellectual property rights which are or may be necessary for the performance of its obligations under the Phase 2 Agreement.

xii. The inability of any Party to secure financing.

EXHIBIT "B"

Form of Certification of Completion

After recording return to

CERTIFICATE OF COMPLETION

GRANTOR: CITY OF UNIVERSITY PLACE

GRANTEE:

Legal Description

Assessor's Tax Parcel No(s):

Related Document: Phase 2 Purchase and Development Agreement (Doc. No. _ _____)

The City of University Place, a Washington municipal corporation, acting in its proprietary capacity (the "City"), hereby certifies that _____, a _____ ("Developer"), has satisfactorily completed construction of the Phase 2 Project on the Lot _____ Property described above (the "Property"), as such Project is described in the Memorandum of Phase 2 Agreement dated _____ (the "Phase 2 Agreement"), which was recorded in the Records of the Pierce County Auditor, Washington, as Document No. _____, on _____, ____.

This Certificate of Completion is and shall be a conclusive determination that the Developer has satisfied, or the City has waived, each of the agreements, covenants and conditions contained in the Phase 2 Agreement as to the construction of the Phase 2 Project.

Notwithstanding this Certificate of Completion, the Phase 2 Purchase and Development Agreement dated _____ includes certain covenants between the City and Developer that survive and continue after issuance of a Certificate of Completion, and nothing in this Certificate of Completion affects such survival.

The Phase 2 Agreement is hereby terminated to the extent it is an encumbrance on the Lot 4 Property.

IN WITNESS WHEREOF, the City has caused this instrument to be executed this _____ day of _____, _____.

CITY OF UNIVERSITY PLACE

By

_____
Stephen P. Sugg, City Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Stephen P. Sugg is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of University Place to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, _____.

Notary Public

Print/Type Name_____

My commission expires _____

(Use this space for notary seal)

EXHIBIT “C”

[DEVELOPER IMPROVEMENT AREA]

The improvements depicted below shall be constructed by developer at its cost. Any existing improvements in the improvement area depicted below will be repaired to the condition existing prior to any disturbance by Developer in the course of Developer’s construction activity.

STAFF REPORT