

ORDINANCE NO. 593

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE IMPOSING THE LOCAL OPTION SALES AND USE TAX PURSUANT TO RCW 82.14.510 AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of University Place, a municipal corporation (the "City"), has previously begun the development and construction of a mixed-use town center, consisting of a civic building containing a library, City administrative and law enforcement offices, a Town Hall meeting room and retail shops, a public transit and public parking facility, a parking garage, related infrastructure and other public improvements (collectively, the "Town Center Project"); and

WHEREAS, the City has previously established the Town Center Revitalization Area by Ordinance No. 557, enacted by the City Council of the City (the "City Council") on August 24, 2009, and designated as a "local revitalization area" within the meaning of Revised Code of Washington ("RCW") Chapter 39.104 the Town Center Revitalization Area, upon a portion of which the Town Center Project is located; and

WHEREAS, pursuant to RCW Chapter 39.104, the City is authorized to undertake a "local revitalization financing" within the meaning of RCW Chapter 39.104 by using revenues received from a "local option sales and use tax" imposed pursuant to RCW 82.14.510 to pay the principal of and interest on bonds issued to finance "public improvements" within the meaning of RCW Chapter 39.104 within a local revitalization area; and

WHEREAS, the City created the City of University Place Town Center Project Authority, a public authority (the "Authority"), pursuant to Ordinance No. 592, enacted by the City on June 20, 2011, in accordance with RCW 35.21.730 through .757, to undertake on behalf of the City the financing of development and construction of components of the Town Center Project constituting "public improvements" within the "local revitalization area" designated by the City; and

WHEREAS, the Authority, as a public agency, is authorized pursuant to RCW Section 39.34.030 to exercise jointly with any other public agency of the State of Washington (the "State") any powers, privileges or authority capable of exercise by such public agencies, including the issuance of bonds, and to enter into agreements for such joint or cooperative action, and is authorized pursuant to RCW Section 35.21.745, as amended, to loan and borrow funds and issue bonds and other instruments evidencing indebtedness; and

WHEREAS, the Authority intends to issue its Local Option Sales and Use Tax Revenue Bonds, Series 2011 (the "Bonds") pursuant to the Master Trust Agreement, to be dated as of June 1, 2011 (the "Master Trust Agreement"), between the Authority and U.S. Bank National Association, a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee"), as amended and supplemented from time to time, including as supplemented by a First Supplemental Trust Agreement, to be dated as of June 1,

2011 (the "First Supplemental Trust Agreement" and together with the Master Trust Agreement, the "Trust Agreement"), between the Authority and the Trustee, for purposes of financing the public improvements within the Town Center Project, such Bonds to be repaid from the revenues generated from a local option sales and use tax imposed by the City, such revenues to be pledged by the City under a payment agreement between the City and the Authority; and

WHEREAS, such local option sales and use tax is to be imposed by the City on all covered taxable sales of goods and services within its jurisdiction (not just within the revitalization area), the revenues generated by such local option sales and use tax up to an aggregate amount of approximately \$500,000 with respect to each one year period commencing on July 1 and ending on the following June 30 are to be credited against the sales and use taxes imposed by the State of Washington (the "State") pursuant to RCW 82.08.020(1) and 82.12.020; and

WHEREAS, pursuant to RCW 82.14.510, any local option sales and use tax expires the earlier of (i) the date that bonds to which such taxes are pledged are retired, and (ii) 25 years after date the tax is first imposed; and

WHEREAS, pursuant to RCW 39.104.100, the State Department of Revenue (the "Department") has approved a local option sales and use tax of up to 0.24 percent;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DOES ORDAIN as follows:

Section 1. Levy of Local Option Sales and Use Tax. As authorized by and in accordance with RCW 82.14.510, there is imposed a local option sales and use tax for the full duration authorized by law, such tax to be credited against the amount of the tax otherwise required to be collected and paid over to the Department under RCW 82.08.020(1), retail sales tax, or RCW 82.12.020, use tax. Except as provided in RCW 82.14.510(1), this is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the State under Chapter 82.08 RCW, retail sales tax, and Chapter 82.12 RCW, use tax, upon the occurrence of any taxable event within the City limits. The rate of tax imposed hereby shall be 0.24 percent of the selling price, in the case of a sales tax, and 0.24 percent of the value of the article used, in the case of a use tax.

Section 2. Findings and Determinations. The City Council hereby finds and determines that the tax rate imposed hereby does not exceed the lesser of:

(a) the rate provided in RCW 82.08.020(1), less:

(1) the aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(2) the aggregate rates of all taxes under RCW 82.14.465 and 82.14.475 and 82.14.510 that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a State contribution by the Department or the State Community Economic Revitalization Board under Chapter 39.104, 39.100, or 39.102 RCW; and

(3) the percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) the rate, as determined by the City in consultation with the Department, reasonably necessary to receive the project award under RCW 39.104.100 over ten months.

Section 3. Statutory Limitations.

(a) The tax will first be imposed on the first day of the State's fiscal year beginning July 1, 2011.

(b) The cumulative amount of tax received by the City in any fiscal year may not exceed \$500,000, which is the amount approved by the Department pursuant to RCW 82.14.510.

(c) The Department must cease distributing the tax for the remainder of any fiscal year in which either:

(1) The amount of tax received by the City equals the amount of distributions approved by the Department for the fiscal year pursuant to RCW 82.14.510; or

(2) The amount of revenue distributed to all sponsoring and cosponsoring local governments from taxes imposed under RCW 82.14.510 equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) above, at the beginning of the next fiscal year, subject to the restrictions in RCW 82.14.510.

(e) The State is entitled to any revenue generated by the tax in excess of the amounts specified in (c) above.

Section 4. Use of Local Option Sales and Use Tax Revenues. The amounts generated by the local option sales and use tax up to an aggregate amount of \$500,000 with respect to each one year period commencing on July 1 and ending on the following June 30 are to be applied solely to pay principal and interest on bonds issued to finance public improvements within the local revitalization area designated by the City, including the Bonds to be issued by the Authority. Any additional amounts are to be retained by the Department. The tax imposed by this Ordinance shall become effective following issuance of the Bonds by the Authority pursuant to the Trust Agreement, which are hereby authorized and approved by the City.

Section 5. Administration – Collection. The administration and collection of the tax imposed by this Ordinance shall be in accordance with the provisions of RCW 82.14.050, as the same now exists or may hereafter be amended.

Section 6. Agreement with Department. The City Manager or Assistant City Manager is authorized to enter into an agreement with the Department for the administration of

the local option sales and use tax, and for payment of the proceeds thereof to the Authority for the benefit of the City or to the Trustee for the Bonds, as the assignee of the Authority.

Section 7. Penalty. It is unlawful for any seller to fail or refuse to collect taxes with intent to violate the provisions of this Ordinance, or to gain some advantage or benefit, whether direct or indirect, or for any buyer to refuse to pay any tax due under the provisions of this Ordinance. Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof punished pursuant to State law or City ordinance.

Section 8. Further Action. The Mayor, the City Manager, the City Clerk, the City Attorney and other appropriate officers and employees of the City shall be and each of them is hereby authorized, empowered and directed to execute and deliver such other documents and agreements in addition to those enumerated herein, and to take such other actions as they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Ordinance and any other documents executed and delivered pursuant to the authority granted in this Resolution. All actions taken by the Mayor, the City Manager, the City Clerk, the City Attorney and other appropriate officers, agents and employees of the City pursuant to or anticipation of the adoption of this Ordinance but prior to its effective date are hereby ratified, confirmed and approved.

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Section 9. Effective Date of Ordinance. This Ordinance shall become effective five days after its passage and publication.

CITY OF UNIVERSITY PLACE, WASHINGTON

Debbie Klossowski
Mayor

ATTEST:

Janina
City Clerk

APPROVED AS TO FORM:

[Signature]

FILED WITH THE CITY CLERK: 6/20/11

PASSED BY THE CITY COUNCIL: 6/20/11

PUBLISHED: 6/22/11

EFFECTIVE DATE: 6/27/11