

ORDINANCE NO. 716

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, AMENDING SECTION 13.05.610 OF THE UNIVERSITY PLACE MUNICIPAL CODE; RELATING TO FINANCIAL GUARANTEES OF PUBLIC WORKS PROJECTS

WHEREAS, the City of University Place required financial guarantees for a broad array of projects from project applicants; and

WHEREAS, all of the City's procedures for the release of financial guarantees contemplate that either the project applicant, the surety on the guarantee or both will make application to release the guarantee; and

WHEREAS, the City has identified a number of financial guarantees which remain valid, but the work has been long-completed, but it is not likely that either the applicant or surety will make the request to release the guarantee; and

WHEREAS, it is now appropriate to amend the municipal code to allow the Director of Engineering to self-release financial guarantees for the long-completed projects.

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

Section 1. Section 13.05.610 of University Place Municipal Code entitled, "General," is amended to read as follows:

A. A financial guarantee is financial security posted with the City to ensure timely and proper completion of improvements, to ensure compliance with this code, and/or to warranty the design, materials, and workmanship associated with improvements. Financial guarantees include assignments of funds, surety bonds, and other forms of financial security acceptable to the City. Other types of financial guarantees may be accepted if approved by the Director. For the purposes of this title, the terms "performance guarantee," "street use guarantee," "erosion and sediment control/street cleaning guarantee," and "maintenance and defect guarantee" are considered subcategories of financial guarantees.

B. Financial guarantees shall be in a form acceptable to the City. Financial guarantees under \$5,000 must be an assignment of funds.

C. All financial guarantees shall: (1) run continuously until released by the City; (2) not be subject to expiration or cancellation without written authorization from the City; (3) be project and site specific; and (4) be nontransferable.

D. The Director shall determine the amount of the financial guarantee. The Director shall consider an engineer's estimate or an executed construction contract between the applicant and a licensed, bonded contractor in determining the amount of the financial guarantee. An engineer's estimate prepared by applicant's engineer shall detail the quantity of work to be done and shall be presented in a format approved by the City. The estimate shall be based on current construction costs and shall be stamped and signed by the engineer. The Director may consider any other reliable evidence in the Director's sole discretion in determining the amount of the financial guarantee.

E. If a property for which a financial guarantee has been posted with the City is sold or otherwise transferred, the applicant is responsible for transferring the financial guarantee liability by having the new owner(s) replace any existing financial guarantees that the City is holding. The City will not release a preexisting financial guarantee until such time as the City accepts a replacement guarantee.

F. The property owner may be required to complete and record a right of entry form prior to acceptance of any financial guarantee covering improvements on private property. The right of entry shall run with the land and shall be recorded with the Pierce County Auditor.

G. Notwithstanding any provision of this chapter, the Director may release a financial guarantee where the work associated with the guarantee has been completed, the work has been stabilized such that there is no further risk to existing facilities, all fees have been paid, and a sufficient time has elapsed that the Director has determined that it is likely that neither the applicant nor surety will make a request to release the guarantee.

GH. All financial guarantees must be reviewed and approved as to form by the City Attorney.

Section 2. Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk or the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 3. Effective Date. This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

PASSED BY THE CITY COUNCIL ON APRIL 1, 2019.



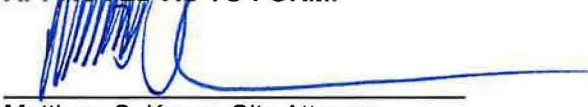
Kent Keel, Mayor

ATTEST:



Emerita J. Genetia, City Clerk

APPROVED AS TO FORM:



Matthew S. Kaser, City Attorney

Date of Publication: 04/03/19

Effective Date: 04/08/19