ORDINANCE NO. 592

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE CREATING THE CITY OF UNIVERSITY PLACE TOWN CENTER PROJECT AUTHORITY, A PUBLIC AUTHORITY; AUTHORIZING A CHARTER AND BYLAWS FOR THE PUBLIC AUTHORITY; ESTABLISHING A BOARD OF DIRECTORS TO GOVERN THE AFFAIRS OF THE PUBLIC AUTHORITY; PROVIDING HOW THE PUBLIC AUTHORITY SHALL CONDUCT ITS AFFAIRS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to RCW 35.21.730 through RCW 35.21.757 (the "Act"), the City Council (the "City Council") of the City of University Place, Washington (the "City"), may authorize the creation of public corporations, commissions and authorities as separate legal entities; and

WHEREAS, the City has previously begun the development and construction of a mixeduse 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, pursuant to Ordinance No. 557, enacted by the City on August 24, 2009, the City has designated as a "local revitalization area" within the meaning of RCW Chapter 39.104 certain property located within the City, 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 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

WHEREAS, the City Council has been presented with a proposed charter (the "Charter") and bylaws (the "Bylaws") for the establishment of a public authority designated as the "City of University Place Town Center Project Authority" (the "Authority") pursuant to the Act for the sole purpose of undertaking on behalf of the City the financing of the completion of the construction of the components of the Town Center Project constituting "public improvements" within the local revitalization area designated by the City; and

WHEREAS it is necessary and desirable and in the best interest of the City to establish the Authority and to approve the Charter and the Bylaws as now proposed;

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

Section 1. <u>Authority Created – Limited Liability of the City.</u>

- A. <u>Authority Created</u>. The City Council hereby authorizes the creation of a public authority pursuant to the Act. The Authority shall have all of the powers set forth in this Ordinance, the Act and its Charter necessary to undertake on behalf of the City the financing of the completion of the construction of the Town Center Project and matters related thereto.
- B. <u>Name</u>. The name of the public authority shall be the "City of University Place Town Center Project Authority" (the "Authority").
- C. <u>Limited Liability of City</u>. The Authority is an independent legal entity exclusively responsible for its own debts, obligations and liabilities. All liabilities incurred by the Authority shall be satisfied: (a) in the case of obligations or liabilities of the Authority that are not limited recourse in nature, exclusively from the assets, credit, and properties of the Authority, or (b) in the case of obligations or liabilities of the Authority that, by their terms, are limited resource obligations, from such assets, properties or revenues of the Authority as shall be specifically pledged thereto or otherwise identified as being the source of payment of such limited recourse obligations or liabilities, and no creditor or other person shall have any right of action against or recourse to the City, its assets, credit, or services, on account of any debts, obligations, liabilities or acts or omissions of the Authority.
- Section 2. <u>Powers -- Generally.</u> Except as otherwise limited by the State Constitution, State law, this Ordinance or the Charter of the Authority, the Authority shall have and may exercise all lawful powers necessary or convenient to effect the purposes for which the Authority is organized and to perform authorized corporate functions, including, without limitations, the power to:
 - A. Own real and personal property;
- B. Contract for any corporate purpose with the United States, the State and any political subdivision, municipal corporation or agency of either, and with individuals, associations, corporations and other persons;
 - C. Sue and be sued in its name;
 - D. Lend and borrow funds;
 - E. Transfer any funds, real or personal property, property interests or services;
- F. Purchase, lease, exchange, mortgage, encumber, improve, use or otherwise transfer or grant security interests in real or personal property or any interests therein; grant or

acquire options on real and personal property; and contract regarding the income and receipts from real and personal property;

- G. Issue negotiable bonds and notes in conformity with applicable provisions of state law in such principal amounts as in the discretion of the Authority shall be necessary or appropriate to provide sufficient funds for achieving any corporate purposes; provided, however, that all bonds and notes or liabilities occurring thereunder shall be satisfied exclusively from the assets, properties or credit of the Authority, and no creditor or other person shall have any recourse to the assets, credit or services of the City thereby, unless the City Council shall by resolution expressly provide otherwise;
- H. Accept transfers, gifts and loans of funds and property from the United States, the State and any political subdivision, municipal corporation or agency of either, and from individuals, associations, corporations and any other persons;
- I. Manage, on behalf of the United States, the State and any political subdivision, municipal corporation or agency of either, any property acquired by such entity through gift, purchase, construction, lease, assignment, default or otherwise;
 - J. Control the use and disposition of corporate property, assets and credit;
 - K. Invest and reinvest its funds;
 - L. Maintain books and records as appropriate for the conduct of its affairs;
- M. Conduct corporate affairs, carry on its operations, and use its property as allowed by law and consistent with the Act, this Ordinance, its Charter and its Bylaws; name corporate officials and designate agents, prescribing their duties, qualifications and compensation; and secure the services of consultants for professional services, technical assistance or advice; and
 - N. Exercise and enjoy such other powers as may be authorized by law.
- Section 3. <u>Limitations of Powers</u>. The Authority in all activities and transactions shall be limited in the following respects:
- A. The Authority shall not have the power of eminent domain or any power to levy taxes or special assessments.
- B. The Authority may not incur or create any liability that permits recourse by any party or member of the public to any assets, services, resources or credit of the City. All liabilities incurred by the Authority shall be satisfied exclusively from the assets and credit of the Authority; no creditor or other person shall have any recourse to the assets, credit or services of the City on account of any debts, obligations, liabilities, acts or omissions of the Authority.
- C. No funds, assets or property of the Authority shall be used for any partisan political activity or to further the election or defeat of any candidate for public office; nor shall any funds or a substantial part of the activities of the Authority be used for publicity or

educational purposes designed to support or defeat legislation pending before the Congress of the United States, or the legislature of the State or the City Council.

- D. All funds, assets or credit of the Authority shall be applied toward or expended upon services, projects and activities authorized by the Charter. No part of the net earnings of the Authority shall inure to the benefit of, or be distributable as such, to the members of the Board of Directors (the "Board of Directors" or the "Board"), officers of the Authority, except that the Authority is authorized and empowered to:
- 1. Compensate persons performing services for the Authority, including legal counsel, a reasonable amount for services rendered and reimburse reasonable expenses incurred in performing their duties;
- 2. Assist Authority officials as members of a general class of persons to be assisted by an Authority-approved project or activity to the same extent as other members of the class as long as no special privileges or treatment accrues to such corporate official by reason of his or her status or position in the Authority;
- 3. Defend and indemnify any current or former Board member or official of the Authority and their successors, spouses and marital communities against all costs, expenses, judgments and liabilities, including attorney's fees, reasonably incurred by or imposed upon him or her in connection with or resulting from any claim, action or proceeding, civil or criminal, in which he or she is or may be made a party by reason of being or having been a corporate official, or by reason of any action alleged to have been taken or omitted by him or her as such official, provided that he or she was acting in good faith on behalf of the Authority and within the scope of duties imposed or authorized by law. This power of indemnification shall not be exclusive of other rights to which corporate officials may be entitled as a matter of law; and
- 4. Purchase insurance to protect and hold personally harmless any of its officials (including its agents) from any action, claim, or proceeding instituted against the foregoing individuals arising out of the performance, in good faith, of duties for the Authority and to hold these individuals harmless from any expenses connected with the defense, settlement or monetary judgments from such actions, claims or proceedings. The purchase of such insurance and its policy limits shall be discretionary with the board, and such insurance shall not be considered to be compensation to the insured individuals. The powers conferred by this subsection shall not be exclusive of any other powers conferred by law to purchase liability insurance.
- E. The Authority shall not issue shares of stock, pay dividends, make private distribution of assets, make loans to its Board members or officials or otherwise engage in business for private gain.
- Section 4. Charter; Proposed Amendments to the Charter. The Charter of the Authority is hereby approved in the form set forth in Appendix A to this Ordinance. Upon the effective date of this Ordinance, the Charter shall be issued in duplicate originals, each bearing the City seal attested by the Clerk of the City (the "City Clerk"). One original shall be filed with

the City Clerk and filed as a public record. One duplicate original shall be provided to the Authority.

The Authority may propose to the City Council that its Charter be amended by resolution of the Board of Directors passed by a procedure outlined in the Charter at a regular or special meeting of which two (2) days' advance written notice was given to Board members. Information regarding a proposed Charter amendment shall be provided to members of the Board two (2) days' prior to the meeting at which a vote will be taken and shall include the proposed amendment and a statement of its purpose and effect.

After adoption of a proposed Charter amendment by the Board of Directors, the Authority shall file two complete copies of the Charter with the City Clerk. One copy shall be in a format that strikes through material to be deleted and underlines new material. The Charter may be amended only by ordinance of the City Council. If the City Council approves the proposed amendment, the revised Charter shall be issued in duplicate originals, each bearing the City seal and attested by the City Clerk. One original and the underlined and struck through copy shall be retained by the City Clerk as a public record and the other original shall be delivered to the Authority. A Charter amendment proposed by the Authority shall take effect and become a part of the Charter upon issuance of the revised Charter by the City Clerk.

When required by law, the Authority shall propose to the City Council an amendment to the Authority's Charter that will conform to the law. As necessary and appropriate, the City Council may amend the Charter by ordinance.

- Section 5. <u>Commencement of Authority's Existence Compliance with Charter.</u> The Authority shall commence its existence upon the issuance of the Charter and appointment and confirmation of the initial officers of the Board as provided in the Charter. The Authority shall conduct its affairs in accordance with the Charter.
- **Section 6. Board of Directors.** The Board of Directors is established to govern the affairs of the Authority. All corporate powers of the Authority shall be exercised by or under the authority of the Board, and the business, property and affairs of the Authority shall be managed under the direction of the Board, except as may be otherwise provided for by law or in the Charter. The members of the Board shall be the members of the City Council from time to time sitting *ex officio*.
- Section 7. Officers. The Board shall have three or more officers as provided in the Charter. The officers shall manage the daily affairs and operations of the Authority. The same person shall not serve as both the chairperson/president of the Authority and the officer responsible for the custody of funds and maintenance of accounts and finances.
- Section 8. Organizational Meeting. The Mayor of the City Council shall call an organizational meeting of the Board within fifteen (15) days after the effective date of this Ordinance, giving at least three (3) days' advance written notice thereof to each member of the Board, unless waived by such member in writing. At such meeting, the Board shall organize itself and take such other action as the Board may deem advisable.

- Section 9. <u>Meetings of the Board of Directors</u>. The Board shall meet at least one (1) time each year; special meetings of the Board may be called as provided by the Charter, the Bylaws and RCW Chapter 42.30, as now or hereafter amended (the "Open Public Meetings Act"). All Board meetings, including executive sessions, and all committee meetings shall be open to the public to the extent required by the Open Public Meetings Act or otherwise by law. The Board and committees may hold executive sessions to consider matters enumerated in the Open Public Meetings Act, or privileged matters recognized by law, and shall enter the cause therefor in the minutes of such meeting.
- Section 10. Quorum. The Charter or Bylaws shall establish the requirements for a quorum. The act of a majority of the Board present at a meeting at which a quorum is present shall be the act of the Board, provided, however, that in any event a quorum to commence a meeting shall be no fewer than a majority of the Board's total membership. Any resolution authorizing or approving amendments to the Charter or the Bylaws shall require an affirmative vote of a majority of the Board members voting on the issue, provided that such majority equals not less than three (3) members of the Board.
- Section 11. <u>Bylaws</u>. The initial Bylaws of the Authority are hereby approved in the form attached hereto as Appendix B. The power to alter, amend or repeal the Bylaws or adopt new ones shall be vested in the Board except as otherwise provided in the Charter or the Bylaws. The Bylaws may contain any provisions for the regulation and management of the affairs of the Authority not inconsistent with State law or the Charter. In the event of a conflict between the Bylaws and this Ordinance or the Charter, this Ordinance or the Charter, as the case may be, shall control.
- Section 12. Deposit of Public Funds. All moneys belonging to or collected for the use of the Authority, coming into the hands of any officer thereof, shall be deposited in a qualified public depository as determined by the Washington Public Deposit Protection Commission. Such moneys may be invested at the direction of the Board, by resolution, in investments which would be lawful for the investment of City funds. The use of funds of the Authority for any purpose not authorized by law by an officer having possession or control thereof is prohibited.
- Section 13. <u>Code of Ethics-Conflict of Interest.</u> No member of the Board or any officer or employee of the Authority shall derive a personal profit, direct or indirect, from any contract or in the sale to the Authority or to a contractor supplying the Authority of any land or rights or interest in any land, material, supplies or services, except as provided in Chapter 42.23 RCW. The Board may adopt additional conflict of interest and ethical rules it considers appropriate within its Bylaws.
- Section 14. <u>Equal Employment Opportunity</u>. The Authority shall comply with all applicable Federal, State and local laws, regulations, rules and standards relating to equal employment opportunity.
- Section 15. Access to Records. The Authority shall keep an official journal containing the minutes of proceedings at all meetings of the Board and the resolutions of the Board. Any person shall have access to records and information of the Authority to the extent

required by State law. Minutes with respect to closed executive sessions need not be made available.

Section 16. <u>Maintenance of Office and Records</u>. The Authority shall maintain all of its records in a manner consistent with the Preservation and Destruction of Public Records Act, RCW Chapter 40.14, as now or hereafter amended, and the Public Records Act, RCW Chapter 41.56, as now or hereafter amended.

Section 17. Audits and Inspections. The Authority shall, at any time during normal business hours and as often as the City Council or the State Auditor deem necessary, make available to the City Council and the State Auditor for examination all of its financial records, and shall permit the City Council and State Auditor to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all the aforesaid matters. The City Council and State Auditor shall have no right, power or duty to supervise the daily operations of the Authority, but shall oversee such operations only through their powers to audit, modify the Charter and Bylaws and to remove Board members all as set forth in this Chapter, all for the sole purpose of correcting any deficiency and assuring that the purposes of the Authority are reasonably accomplished.

Section 18. <u>Dissolution</u>. The Authority may be dissolved for any reason by the City Council that dissolution is warranted; provided, that the City Council may not dissolve the Authority so long as any bonds, notes or other obligations of the Authority for borrowed money remain outstanding. Dissolution shall be accomplished as provided in the Charter, and shall not take effect until proper provision has been made for disposition of all Authority assets and liabilities.

Upon dissolution of the Authority and the winding up of its affairs, the City Council may provide for the transfer of the rights, assets and property of the Authority to a qualified entity or entities that will fulfill the purposes for which the Authority was chartered, or title to all remaining property or assets of the Authority shall vest in the City upon such dissolution.

Section 19. Bonds and Notes. Bonds and notes issued by the Authority may be secured solely by, and payable solely from, certain revenues and receipts as may be designated in the proceedings under which the issuance of the bonds or notes are authorized. All bonds or notes issued shall carry in a prominent place thereon a statement to the effect that: "[A]ll liabilities incurred by the Authority shall be satisfied exclusively from the assets and properties of the Authority, and no creditor or other person shall have any right of action against the City on account of any debts, obligations, or liabilities of the Authority." All bonds and notes or liabilities occurring thereunder shall be satisfied exclusively from the assets or credit of the Authority, and no creditor or other person shall have any recourse to the assets, credit, or services of the City thereby, unless the City shall expressly, in writing, guarantee such bonds or notes.

Bonds or notes of the Authority may be sold at such price or prices, at public or private sale, in such manner and from time to time as may be determined by the Authority, provided no bonds or notes may be sold at private sale without City approval. Bonds and notes may be

payable at such place or places whether within or without the State, may bear interest at such rate or rates, may be in such form and denominations and of such tenor and maturities, shall be in registered form, may be subject to redemption at such price or prices and after such notice or notices and on such terms and conditions, all as the Authority may determine and provide in the proceedings under which such bonds and notes shall be issued.

The Authority may at the time of the issuance of such bonds and notes make such covenants with the purchasers and holders of said bonds and notes as it may deem necessary to secure and guarantee the payment of the principal thereof and the interest thereon, including, but not limited to, covenants to set aside reserves to secure the payment of principal and interest thereon, to appoint a trustee to safeguard the expenditure of the proceeds of sale of such bonds and notes and to take possession of and use and manage assets securing the bonds and notes in event of default or insolvency of the Authority, with such powers as may be contained in any covenants relating to the bonds and notes, and to limit the amount of time and conditions under which additional bonds and notes may be issued or debts incurred.

The Authority may pay expenses, premiums and commissions that it may deem necessary in connection with the issuance and sale of its bonds and notes and take such other actions or make such commitments as are necessary or convenient in the issuance and servicing of such bonds and notes and as are consistent with this Ordinance although not enumerated herein.

Section 20. <u>Ancillary Authority</u>. The Mayor, the City Manager, the City Clerk, the City Attorney and other appropriate officers and employees of the City are granted all such power and authority as reasonably necessary or convenient to enable them to carry out the purposes of this Ordinance and to perform the duties imposed in this Ordinance or the Charter.

Section 21. 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.

Section 22. Construction. This Ordinance shall be liberally construed so as to effectuate its purpose and the purposes of the Act.

[Signature page follows.]

Section 23. <u>Effective Date</u>. Pursuant to RCW 35A.13.190, given that the creation of the Authority and the issuance by the Authority of its bonds must occur prior to July 1, 2011, this Ordinance shall become effective immediately, and the designation set forth in the third paragraph of RCW 35A.13.190 is incorporated herein by this reference.

CITY OF UNIVERSITY PLACE, WASHINGTON

Mayor

ATTEST:

APPROVED AS TO FORM:

FILED WITH THE CITY CLERK: 4/20/11

PASSED BY THE CITY COUNCIL: 6/20/11

PUBLISHED: 6/22/11

EFFECTIVE DATE: 6/20/11

CHARTER OF THE CITY OF UNIVERSITY PLACE TOWN CENTER PROJECT AUTHORITY

ARTICLE I NAME AND SEAL

Section 1.01 Name. The name of this authority shall be the City of University Place Town Center Project Authority (hereinafter referred to as the "Authority").

Section 1.02 Seal. The Board of Directors (the "Board") may elect to have a seal for the Authority, which shall be a circle with the name of the Authority and the word "SEAL" inscribed therein.

ARTICLE II AUTHORITY AND LIMIT ON LIABILITY

Section 2.01 Authority. The Authority is a public authority organized pursuant to Ordinance No. 592 (the "Enabling Ordinance") of the City of University Place, Washington (the "City"), enacted by the Council of the City of University Place (the "City Council") on June 20, 2011, and pursuant to Revised Code of Washington ("RCW") 35.21.730 through 35.21.757, as amended from time to time (the "Act").

Section 2.02 <u>Limitation on Liability</u>. All liabilities incurred by the Authority shall be satisfied: (a) in the case of obligations or liabilities of the Authority that are not limited recourse in nature, exclusively from the assets, credit, and properties of the Authority, or (b) in the case of obligations or liabilities of the Authority that, by their terms, are limited resource obligations, from such assets, properties or revenues of the Authority as shall be specifically pledged thereto or otherwise identified as being the source of payment of such limited recourse obligations or liabilities, and no creditor or other person shall have any right of action against or recourse to the City, its assets, credit, or services, on account of any debts, obligations, liabilities or acts or omissions of the Authority.

Section 2.03 <u>Mandatory Disclaimers</u>. The following disclaimer shall be posted in a prominent place where the public may readily see it in the Authority's principal and other offices. It shall also be printed or stamped on all contracts, bonds, and other documents that may entail any debt or liability by the Authority.

The Town Center Project Authority is a public authority organized pursuant to Ordinance No. 592 of the City of University Place, Washington adopted on June 20, 2011, RCW 35.21.730 through RCW 35.21.757. RCW 35.21.750 provides as follows: "[A]ll liabilities incurred by such public corporation, commission, or authority shall be satisfied exclusively from the assets and properties of such public corporation, commission or authority and no creditor or other person shall have any right of action against the city, town, or county creating such corporation, commission, or authority on account of any debts, obligations, or liabilities of such public corporation, commission, or authority."

Provided that, in the case of any obligations or liabilities of the Authority that, by their terms, are limited recourse in nature, in lieu of the foregoing disclaimer, the following disclaimer shall be printed or stamped on all contracts, bonds and other documents relating to or evidencing such limited recourse obligations or liabilities of the Authority:

The obligations of the Authority with respect to [describe the contract, bond or other limited recourse obligation] shall be and remain limited recourse obligations of the Authority payable solely and only from [describe the particular properties, taxes, assets or revenues of the Authority from which the obligation is payable]. In no event shall such obligations be payable from or by recourse against any properties, assets or revenues of the Authority (other than those described in the preceding sentence), nor shall such obligations be payable from or by recourse against any properties, assets or revenues of the City of University Place, Washington, the State of Washington or any other political subdivision of the State of Washington. No person to whom such obligations are owed shall have any recourse or right of action against the Authority, the City of University Place, Washington, the State of Washington or any other political subdivision thereof on account of such obligations or any liabilities, of whatsoever nature, arising in connection therewith except to enforce for the payment thereof out of [describe the particular properties, assets or revenues of the Authority from which the limited recourse obligation is payable].

ARTICLE III DURATION

The duration of the Authority shall be perpetual except as provided in the Enabling Ordinance.

ARTICLE IV PURPOSE

The sole purpose of the Authority is to provide an independent legal entity under State law to undertake on behalf of the City the financing of the development and the construction of public improvements within 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") within the "local revitalization area" designated by the City in Ordinance No. 557 (the "Town Center Revitalization Area"). Such development within the Town Center Revitalization Area is consistent with City planning and economic development that will build the City's tax base and create jobs, and provide for the development of other public amenities and public parking facilities, all of which is in the public interest.

Such financing activities shall be consistent with development plans for the Town Center Project and the Town Center Revitalization Area adopted by the City. Undertaking the financing of the Town Center Project by the Authority is an essential governmental function to be carried out on behalf of the City.

The specific obligations and responsibilities of both the City and the Authority will be defined in one or more binding contractual agreements between them.

For the purpose of securing the exemption from federal income taxation for interest on obligations of the Authority, the Authority constitutes an authority and instrumentality of the City (within the meaning of those terms in regulations of the United States Treasury and rulings of the Internal Revenue Service prescribed pursuant to Section 103 and Section 145 of the Internal Revenue Code of 1986, as amended).

ARTICLE V POWERS

Section 5.01 Powers. The Authority shall have and may exercise all lawful powers conferred by State laws, the Enabling Ordinance, this Charter and its Bylaws. The Authority in all of its activities and transactions shall be subject to the powers, procedures, and limitations contained in the Enabling Ordinance.

ARTICLE VI BOARD OF DIRECTORS

Section 6.01 Board Composition. Management of all Authority affairs shall reside in the Board of Directors (the "Board"). The Board shall be composed of the members from time to time of the City Council sitting *ex officio*. The City Council may designate City staff support to the Authority, as necessary.

Section 6.02 <u>Vacancies</u>. A vacancy or vacancies on the Board shall be deemed to exist in case of the death, disability, resignation, removal, or forfeiture of office by a member of the City Council or if a member otherwise ceases to be a member of the City Council. The successor to such member of the City Council shall be the successor member of the Board.

Section 6.03 Officers and Division of Duties. The Board shall have three or more officers. The initial officers of the Board shall be the President, Secretary and Treasurer. The Mayor of the City shall serve as President ex officio. The Mayor Pro Tem of the City shall serve as Secretary ex officio. The Chair of the Finance Committee of the City Council shall serve as Treasurer ex officio. The same person shall not occupy both the office of President and any office responsible for the custody of funds and maintenance of accounts and finances. Additional officers may be provided for in the Bylaws of the Authority. The President shall be the agent of the Authority for service of process; the Bylaws may designate additional corporate officials as agents to receive or initiate process.

Section 6.04 Executive Committee. The Bylaws may provide for an Executive Committee, which shall be appointed and/or removed by the Board, and shall have and exercise such authority of the Board in the management between meetings of the Board, as may be specified in the Bylaws.

Section 6.05 Committees. The appointment of other committees shall be provided for in the Bylaws.

Section 6.06 Administration. The City Manager of the City shall serve as the Executive Director of the Authority and shall be responsible to the Board for the administration of the affairs of the Authority. The Executive Director may be authorized or delegated by the Authority to: (i) supervise and be responsible for the effective management of the administrative affairs of the Authority; (ii) sign documents and contracts on behalf of the Authority; and (iii) perform such other duties as delegated or assigned by the Board.

ARTICLE VII MEETINGS OF THE BOARD

Section 7.01 Time and Place of Board Meetings. Regular meetings of the Board shall be held not less than one (1) time a year at a regular place and time to be determined by the Board by resolution. At the last regular meeting of the calendar year, the Board shall adopt a resolution specifying the date, times and place of regular meetings for the upcoming calendar year. A copy of the resolution shall be distributed in the same manner as notice of special meetings is provided pursuant to Section 7.02 below. Special meetings of the Board may be held at any place and time whenever called as provided in the Bylaws.

Section 7.02 Open Public Meetings. All Board meetings, including executive and other committee meetings, shall be open to the public to the extent required by Chapter 42.30 RCW, as now or hereafter amended (the "Open Public Meetings Act"). The Board and any committees may hold executive sessions to considered matters enumerated in the Open Public Meetings Act or privileged matters recognized by law, and shall enter the cause therefor in its official journal. Notice of meetings of the Board shall be given as provided in the Bylaws and in a manner consistent with the Open Public Meetings Act. In addition, the Authority shall routinely provide reasonable notice of meetings to any individual specifically requesting it in writing. At such meeting, any citizen shall have a reasonable opportunity to address the Board either orally or by written petition.

Section 7.03 Board Concurrence and Quorum Defined. A quorum to commence a Board meeting shall be no fewer than four (4) members. The Bylaws of the Authority may prescribe Board quorum restrictions that equal or exceed the quorum restrictions imposed in this Section 7.03. Board members present at a duly convened meeting may continue to transact business notwithstanding the withdrawal of enough members to leave less than a quorum.

Any resolutions may be adopted and any action taken at any regular or special Board meeting by an affirmative vote of a majority of the Board members voting on the issue, provided that such majority equals not less than three (3) votes. Any amendments to the Charter or the Bylaws shall be approved as provided in Section 9.03 hereof.

Voting by telephone or by proxy is not permitted.

Section 7.04 Parliamentary Authority. The Robert's Rules of Order (revised) shall govern the Authority in all cases to which they are applicable, where they are not inconsistent with the Charter or with the special rules of order of the Authority set forth in the Bylaws.

Section 7.05 Business Conducted at Meetings. Any business may be transacted at any regular meeting of the Board. No business shall be transacted at any special meeting of the Board except as is specified in the notice calling for the meeting.

<u>Section 7.06</u> <u>Minutes</u>. Copies of the minutes of all regular or special meetings of the Board shall be available to any person or organization that requests them as required by state law; minutes with respect to closed executive sessions need not be made available. The minutes of all Board meetings shall include a record of individual votes on all matters requiring Board concurrence.

ARTICLE VIII BYLAWS

The Authority shall adopt Bylaws to provide rules for governing the Authority and its activities that are not inconsistent with this Charter. The Board may provide in the Bylaws for all matters related to the governance of the Authority, including but not limited to any matters set forth in the Enabling Ordinance and matters referred to elsewhere in the Charter for inclusion therein. The adoption of the Bylaws and any amendments thereto require the vote of the Board as provided in Article IX of this Charter.

ARTICLE IX AMENDMENT TO CHARTER AND BYLAWS

Section 9.01 Proposals to Amend Charter and Bylaws. Any Board member may introduce a proposed amendment to the Charter or to the Bylaws (which may consist of new Bylaws) at any regular meeting or at any special meeting of which two (2) days' advance notice has been given to members of the Board. Proposals to amend the Charter or Bylaws shall be presented in a format that strikes over material to be deleted and underlines new material.

Section 9.02 Board Consideration of Proposed Amendments. If notice of a proposed amendment to the Charter or to the Bylaws, and information, including the text of the proposed amendment and a statement of its purpose and effect, is provided to members of the Board two (2) days prior to any regular Board meeting or any special meeting of which two (2) days' advance notice has been given, then the Board may vote on the proposed amendment at the same meeting as the one at which the amendment is introduced. If such notice and information is not so provided, the Board may not vote on the proposed amendment until the next regular Board meeting or special meeting of which two (2) days' advance notice has been given and at least two (2) days prior to which meeting such notice and information is provided to Board members. Germane amendments to the proposed amendment within the scope of the original amendment will be permitted at the meeting at which the vote is taken.

Section 9.03 Vote Required for Amendments to Charter or Bylaws. Resolutions of the Board approving proposed amendments to the Charter or Bylaws require an affirmative vote of a majority of the Board members voting on the issue, provided that such majority equals not less than three (3) votes.

Section 9.04 <u>City Council Approval of Proposed Charter Amendments.</u> Proposed Charter amendments adopted by the Board shall be submitted to the City Council. The Authority's Charter may be amended only by ordinance as provided in the Enabling Ordinance.

ARTICLE X COMMENCEMENT OF AUTHORITY

The Authority shall commence its existence and be authorized to take action at such time as this Charter is approved by the City Council and sealed and attested by the City Clerk and the initial officers of the Board shall have been appointed at the first meeting of such Board.

ARTICLE XI INDEMNIFICATION

To the extent permitted by law, the Authority shall protect, defend, hold harmless and indemnify any person who becomes a director or officer of the Authority, and who is a party or threatened to be made a party to a proceeding by reason related to that person's conduct as a director or officer, against judgments, fines, penalties, settlements and reasonable expenses (including attorneys' fees) incurred by him or her in connection with such proceeding, if such person acted in good faith and reasonably believed his or her conduct to be in the Authority's best interests and if, in the case of any criminal proceedings, he or she had no reasonable cause to believe his or her conduct was unlawful. The indemnification and protection provided herein shall not be deemed exclusive of any other rights to which a person may be entitled as a matter of law or by contract or by vote of the Board of Directors. The Authority may purchase and maintain appropriate insurance for any person to the extent provided by the applicable law.

ARTICLE XII DISSOLUTION

Dissolution of the Authority shall be in the form and manner required by State law, the Enabling Ordinance, and the Bylaws.

ARTICLE XIII APPROVAL OF CHARTER

ORIGINAL CHARTER APPROVED by Ordinance No. 592 adopted by the City Council of the City of University Place on June 20, 2011.

CITY OF UNIVERSITY PLACE, WASHINGTON

ATTEST:

CERTIFICATE

I, the undersigned, City Clerk of the City of University Place, Washington (the "City") DO HEREBY CERTIFY that the attached CHARTER OF THE CITY OF UNIVERSITY PLACE TOWN CENTER PROJECT AUTHORITY is a true and correct original of such Charter as authorized by Ordinance No. 592 of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of

the City this 20th day of June, 2011.

City Clerk of the City of University Place, Washington

BYLAWS OF THE CITY OF UNIVERSITY PLACE TOWN CENTER PROJECT AUTHORITY

ARTICLE I

Board of Directors

Section 1.01. Quorum. At least four (4) members of the Board of the Directors (the "Board") must be present at any regular or special meeting to comprise a quorum. A lesser number in attendance at such a meeting may adjourn the meeting and reconvene it within forty-eight (48) hours of the adjourned meeting without further notice.

ARTICLE II

Board Meetings

<u>Section 2.01.</u> Regular Board Meetings. Regular meetings of the Board shall be held at such place and time as shall be fixed by resolution of the Board.

Section 2.02. Special Board Meetings. Subject to Article VII of the Charter (the "Charter") of the City of University Place Town Center Project Authority (the "Authority") and Section 9 of the Ordinance No. 592 adopted by the City Council on June 20, 2011 (the "Enabling Ordinance"), special meetings of the Board shall be held at any place and at any time whenever called by the President or a majority of the members of the Board.

Section 2.03. Notice of Regular Board Meetings. No notice of regular meetings shall be required, except for the first regular meeting after any change in the time or place of such meeting adopted by resolution of the Board as provided in Section 7.01 of the Charter. Notice of such changed regular meeting shall be given by the Secretary or by the person or persons calling the meeting by delivering written notice personally, by email or by facsimile to each Board member at least 24 hours prior to the time of the meeting, or by delivering written notice by mail, telegram or written communication at least two (2) days prior to the time of the meeting. If mailed, notice shall be mailed by United States mail, postage prepaid, to the last known address of each Board member.

Section 2.04. Notice of Special Board Meetings. Notice of all special meetings of the Board shall be given by the Secretary or by the person or persons calling the special meeting in accordance with Chapter 42.30 RCW, as now or hereafter amended (the "Open Public Meetings Act"), by delivering written notice personally, by email or by facsimile at least 24 hours prior to the time of the meeting, or by delivering written notice by mail, telegram or written communication at least two (2) days prior to the time of the meeting, to each Board member and to each local newspaper of general circulation and to each radio or television station that has requested notice as provided in the Open Public Meetings Act. In addition, the Authority shall provide notice of special meetings to any individual specifically requesting it in writing. If the President deems that an emergency exists, the President may shorten the notice of a special meeting to not less than twenty-four (24) hours.

The time and place of the special meeting and the business to be transacted must be specified in the notice. Final disposition shall not be taken on any other matter at such meetings.

Section 2.05. Waiver of Notice. Notice as provided in Sections 2.03 and 2.04 hereof may be dispensed with as to any member of the Board who at or prior to the time the meeting convenes files with the Board of the Authority a written waiver of notice or who is actually present at the meeting at the time it convenes. Such notice may also be dispensed with as to special meetings called to deal with an emergency involving injury or damage to persons or property of the likelihood of such injury or damage, where time requirements of such notice would make notice impractical and increase the likelihood of such injury or damage. Notice, as provided in Article IX of the Charter concerning proposed amendments to the Charter or the Bylaws and votes on such amendments, may not be waived.

<u>Section 2.06.</u> <u>Notice to the City Council of the City of University Place</u>. Notice of all meetings and minutes of such meetings of the Board shall be given to the City Clerk of the City of University Place.

ARTICLE III

Officers and Committees

Section 3.01. Officers Designated. The officers of the Board shall be a President, a Secretary, and a Treasurer, each of whom shall be elected by the Board. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by resolution of the Board. No person may simultaneously hold more than one office. In addition to the powers and duties specified below, the officers shall have such powers and perform such duties as the Board may prescribe.

Section 3.02. Ex Officio Officers. The Mayor of the City shall serve as President ex officio. The Mayor Pro Tem of the City shall serve as Secretary ex officio. The Chair of the Finance Committee of the City Council shall serve as Treasurer ex officio.

Section 3.03. Powers and Duties.

- a. <u>President</u>. The President shall be the chief executive officer of the Authority and shall have general supervision over the business of the Authority, subject, however, to the control of the Board. The President shall preside at all meetings of the Board. The President may sign and execute, in the name of the Authority, deeds, mortgages, leases, bonds, contracts and other instruments duly authorized by the Board, and generally shall perform all duties incident to the office of President and such other duties as may from time to time be assigned to such office by the Board.
- b. <u>Secretary</u>. The Secretary shall: (i) certify and keep at the office of the Authority, or at such other place as the Board may order, the original or a copy of the Bylaws, as amended or otherwise altered; (ii) keep minutes of all meetings of the members of the Board and of the resolutions of the Board, recording therein the time and place of holding such meetings, whether regular or special, and, if special, how authorized, the notice thereof given, and the proceedings there at; (iii) see that all notices are duly given in accordance with the provisions of these Bylaws

or as required by law; (iv) be custodian of the records and seal of the Authority; (v) exhibit at all reasonable times to any director, upon application, the Bylaws and minutes of the proceedings of the directors of the Authority; and (vi) in general perform such other duties as may from time to time be assigned to such office by the Board or the President.

- c. <u>Treasurer</u>. The Treasurer shall: (i) receive and have charge of all funds of the Authority and shall disburse such funds only as directed by the Board; (ii) perform all duties incident to the office of Chief Financial Officer; and (iii) in general perform such other duties as may from time to time be assigned to such office by the Board or the President.
- Section 3.04. Removal. The President, Secretary and Treasurer shall serve ex officio. Pursuant to the terms of the Charter and upon reasonable prior notice to all Board members of the alleged reasons for dismissal, the Board by an affirmative vote of the majority of the whole Board may remove any officer of the Board (other than the President, Secretary or Treasurer) from his or her office whenever in its judgment the best interests of the Authority will be served thereby.
- Section 3.05. <u>Vacancies</u>. The President, Secretary and Treasurer shall serve *ex officio*. The Board shall fill any office (other than the President, Secretary or Treasurer) that becomes vacant with a successor who shall hold office for the unexpired term and until his or her successor shall have been duly elected and qualified.
- <u>Section 3.06.</u> <u>Establishment of Committees</u>. The Board, by resolution adopted by a majority of the full Board, may designate from among its members one or more committees, each consisting of at least three or more members, to represent the Board and act for and on behalf of the Board. The designation of any such committee and the delegation thereto of authority shall not operate to relieve any member of the Board of any responsibility imposed by law.
- <u>Section 3.07.</u> Executive Committee. The Executive Committee of the Authority, if established, shall consist of the President, the Secretary and the Treasurer of the Board and one member-at-large elected by the Board. The provisions for election, qualifications, term of office and removal of the member-at-large of the Executive Committee shall be identical to those provided herein in Sections 3.02, 3.04, and 3.05 of this Article III.

The Executive Committee shall have and exercise such powers of the Board of the Authority as the Board may from time to time provide by resolution.

Section 3.08. Executive Director. The Executive Director shall be the chief administrative officer of the Authority responsible for the day-to-day operations of the Authority and for carrying out the policies and directives of the Board. The Executive Director shall make recommendations to the Board on practices, policies and programs of the Authority. He or she shall have such powers and perform such duties as may be prescribed from time to time by the Board.

ARTICLE IV

Administrative Provisions

Section 4.01. Books and Records. The Authority shall keep current and complete books and records of account and shall keep minutes of the proceedings of its Board and its committees having any of the authority of the Board.

Section 4.02. <u>Indemnification of Board Members</u>. The Authority elects to defend and indemnify its present and former officials and their successors, spouses and marital communities to the full extent authorized by law and the Charter. In addition, the right of indemnification shall inure to each Board member or officer and his or her spouses and marital communities upon his or her appointment to the Board and in the event of his or her death shall extend to his or her heirs, legal representatives and estate. Each person who shall act as Board member or officer or the Authority shall be deemed to do so in reliance upon such indemnification, and such rights shall not be exclusive of any other right which he or she may have.

Section 4.03. Principal Office. The initial principal office of the Authority shall be the University Place City Hall, 3715 Bridgeport Way West, University Place, Washington 98466. The Authority may establish by resolution a different location as its principal office.

Section 4.04. Fiscal Year. The Fiscal Year for the Authority shall begin January 1 and end December 31 of each year, except the first Fiscal Year, which shall run from the date the Charter is issued to December 31, 2011.

ARTICLE V APPROVAL OF BYLAWS

ORIGINAL BYLAWS APPROVED by Ordinance No. 592 adopted by the City Council of the City of University Place on June 20, 2011.

CERTIFICATE

I, the undersigned, City Clerk of the City of University Place, Washington (the "City") DO HEREBY CERTIFY that the attached BYLAWS OF THE CITY OF UNIVERSITY PLACE TOWN CENTER PROJECT AUTHORITY is a true and correct original of such Bylaws as authorized by Ordinance No. 592 of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City this 20th day of June, 2011.

City Clerk of the City of University Place, Washington