RESOLUTION NO. 837

A RESOLUTION OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, APPROVING AN AGREEMENT WITH AUSTINCINA, ARCHITECTS FOR DESIGN OF THE NEW CITY HALL OFFICES AND COUNCIL CHAMBERS

WHEREAS, the City has been engaged in a planning and development process for many years to create a visually attractive mixed-use town center to serve as the civic and commercial focal point of the community; and

WHEREAS, in 1999, following a series of public meetings, design workshops and public processes, the City adopted a Town Center Plan that established a vision for redevelopment of the City's central business area and which includes the following core objectives and strategies: (i) create a high quality comprehensive integrated retail, commercial and residential anchor for downtown University Place; (ii) create a special identity and gathering place for the City and its residents with access to downtown businesses; (iii) create a visually attractive and pedestrian oriented space in the downtown area; (iv) enhance public security and provide City residents with additional housing opportunities through the introduction of multi-family residential buildings in downtown; (v) encourage tourism; and (vi) revitalize the business district; and

WHEREAS, in 2002 and again in 2007, the City Council adopted a five-year Economic Development Strategic Action Plan; the Council also established an Economic Development Task Force to promote business growth and development within the City's business districts to ensure an economically sustainable future. The Economic Development Task Force and the Strategic Action Plan identifies as one of the goals of the City the creation of University Place Town Center, with a mix of residential, commercial, cultural, community, public and open spaces. The development concept for Town Center is a mixed-use neighborhood that creates an integrated retail and residential center in the City; and

WHEREAS, the City acquired the Town Center Property, the City has diligently pursued achievement of the goals of the Town Center Plan, including the completion of successful public-private developments on Lots 7, 8, and 10, as well as development on Lots 4, and 11, which will be underway this year; and

WHEREAS, in 2006, the City entered into an Agreement with the Pierce County Rural Library District for development of a joint Library and Civic Building in Town Center. The new Library/Civic Building is complete and open; and

WHEREAS, since the inception of the Town Center Project, the City has planned to move City Hall, including all offices and the Council Chambers, from the old Windmill Village site (Town Center Lot 1) to the upper two floors of the Library/Civic Building; and

WHEREAS, the Windmill Village site (Town Center Lot 1) is under contract for future development to Verus Partners, who developed Lot 7 and are developing Lot 4; and

WHEREAS, the City's 2017-2018 budget includes full funding for relocation of City Hall, including all offices and the Council Chambers, to the upper two floors of the Library/Civic Building; and

WHEREAS, the City selected AustinCina through the statutory competitive selection process, finding the firm best qualified to provide the necessary design service for the new offices and the Council Chambers in the Library/Civic Building;

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

Section 1. <u>Incorporation of Recitals</u>. The recitals are hereby incorporated herein as if set forth in full.

Section 2. <u>Approval of Form of Documents</u>. The City Council hereby approves execution of the Agreement for Architectural Services in substantially the form of the documents accompanying this Resolution.

Section 4. <u>Completion of Work</u>. 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 to this Resolution, and this Resolution.

Section 5. <u>Effective Date</u>. This Resolution shall be effective immediately upon adoption by the City Council.

ADOPTED BY THE CITY COUNCIL ON JUNE 5, 2017.

avier H. Figueroa, Mayor

ATTEST:

intelita Genetia, City Clerk

APPROVED AS TO FORM:

Steve Victor, Oity Attorney

PROFESSIONAL SERVICES AGREEMENT

This Agreement ("Agreement") is dated effective this day of, 20 The parties ("Parties") to this Agreement are the City of University Place, a Washington municipal corporation ("City"), and, ("Contractor").
A. The City seeks the temporary professional services of a skilled independent contractor capable of working without direct supervision in the capacity of a, who is experienced in and is familiar with the City's municipal code, resolutions, regulations and policies.
familiar with the City's municipal code, resolutions, regulations and policies.
B. The Contractor has the requisite skill and experience necessary to provide such services.
NOW, THEREFORE, the Parties agree to the following terms and conditions:
1. <u>SERVICES</u> .
1.1 The Contractor agrees to furnish all personnel, materials, and services and to otherwise do all things necessary for or incidental to the performance of the work set forth in Attachment "," attached hereto and incorporated by this reference ("Services").
[[OR-]]
1.1 The Contractor agrees to furnish all personnel and materials and to do all things necessary or incidental in order to perform the following duties ("Services"): a. b. c.
1.2 <u>Compliance With Laws</u> . All duties of the Contractor or designees shall be performed in accordance with all applicable federal and state laws and city ordinances as now existing or hereafter adopted or amended.
1.3 <u>Control of Work</u> . The Contractor shall control and direct the performance of the work. The City reserves the right to inspect, review and approve the work to assure that it has been completed as specified prior to payment.
1.4 <u>Performance Standard</u> . All duties by the Contractor or his designees shall be performed in a manner consistent with accepted practices for other similar services, performed to the City's satisfaction, within the time period prescribed by this Agreement and pursuant to the direction of the City Manager or designee.
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2. <u>TERM</u>.

The T	erm	of this	Agreement	shall	commence	upon	the	effective	date	of this
Agreement and shall	cont	inue unt	il the compl	etion (of the Service	es, but	t in a	ıny event	no lat	ter than
, 200)	This Ag	greement ma	y be	extended for	additi	onal	periods	of tim	e upon
the mutual written ag	reem	ent of the	ne City and t	he Co	ntractor.					

3. <u>TERMINATION</u>.

During any term, this Agreement may be terminated, with or without cause by either Party, by giving thirty (30) days written notice to the other party.

[[OR]]

Prior to expiration of the term, this Agreement may be terminated immediately, with or without cause, by the City. The Contractor may cancel this Agreement only upon thirty (30) days prior written notice to the City.

4. <u>COMPENSATION</u>.

- 4.1 <u>Total Compensation</u>. In consideration of the Contractor performing the Services, the City agrees to pay an amount not to exceed \$______, which includes taxes, fees, and reimbursable expenses.
- 4.2 <u>Compensation Rates</u>. Compensation for Services shall be based on the following rates:

[[OR]]

- 4.2 <u>Compensation Rates</u>. Compensation for Services shall be in accordance with the rates set forth in Attachment "," attached hereto and incorporated by this reference.
- 4.3 <u>Method of Payment</u>. Payment by the City for the Services will only be made after:
 - a. The work has been performed and/or items provided and an itemized invoice has been submitted which describes the specific work performed and/or items provided, the name of the entity or person performing the work or providing the services or items, and the cost broken down by work, hourly rate, or item cost as applicable; and
 - b. The invoice has been submitted to and approved by the City representative who is managing the contract.

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4.4 <u>Contractor Responsible for Taxes</u>. The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of performance and payment under this Agreement.

5. REPRESENTATIONS.

The Contractor warrants that it has the requisite training, skill and experience necessary to provide the Services and is appropriately accredited and licensed by all applicable agencies and governmental entities.

The Contractor has a Business License from the City of University Place.

6. <u>INDEPENDENT CONTRACTOR</u>.

It is the intention and understanding of the Parties that the Contractor shall be an independent contractor. The Contractor or his or her employees or agents performing under this Agreement are not employees or agents of the City. The Contractor will not hold himself or herself out as nor claim to be an officer or employee of the City. The Contractor will not make any claim of right, privilege, or benefit which would accrue to an employee under law. The City shall neither be liable for nor obligated to pay sick leave, vacation pay or any other benefit of employment, nor to pay any social security or other tax which may arise as an incident of employment. The Contractor shall pay all income and other taxes as due. Industrial or any other insurance which is purchased for the benefit of the Contractor shall not be deemed to convert this Agreement to an employment contract.

It is recognized that the Contractor may or will be performing professional services during the term for other parties and that the City is not the exclusive user of the Contractor's services; provided, however, that the performance of other professional services shall not conflict with or interfere with the Contractor's ability to perform the Services. The Contractor agrees to resolve any conflict in favor of the City.

7. INDEMNIFICATION.

Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the Contractor in performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability, including the duty and cost to defend, hereunder shall be only to the extent of the Contractor's negligence. It

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is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

8. <u>INSURANCE.</u>

8.1 Insurance Term

The Contractor shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

8.2 No Limitation

Contractor's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the Public Entity's recourse to any remedy available at law or in equity.

8.3 Minimum Scope of Insurance

Contractor shall obtain insurance of the types and coverage described below:

- a. <u>Automobile Liability</u> insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability Coverage.
- b. Commercial General Liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury and advertising injury. The Public Entity shall be named as an additional insured under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the Public Entity using an additional insured endorsement at least as broad as ISO CG 20 26.
- c. <u>Workers' Compensation</u> coverage as required by the Industrial Insurance laws of the State of Washington.
- d. <u>Professional Liability</u> insurance appropriate to the Contractor's profession.

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8.4 Minimum Amounts of Insurance

Contractor shall maintain the following insurance limits:

- a. <u>Automobile Liability</u> insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
- b. <u>Commercial General Liability</u> insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
- c. <u>Professional Liability</u> insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

8.5 Other Insurance Provision

The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain that they shall be primary insurance as respect the City. Any Insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

8.6 Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

8.7 Verification of Coverage

Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Contractor before commencement of the work.

8.8 Notice of Cancellation

The Contractor shall provide the City with written notice of any policy cancellation within two business days of their receipt of such notice.

8.9 Failure to Maintain Insurance

Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion,

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procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

8.10 City Full Availability of Contractor Limits

If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

9. EQUAL OPPORTUNITY EMPLOYER.

The Contractor agrees to take all steps necessary to comply with all federal, state, and City laws and policies regarding non-discrimination and equal employment opportunities. The Contractor shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status, or the presence of any sensory, mental or physical handicap. In the event of non-compliance by the Contractor with any of the non-discrimination provisions of this Contact, the City shall be deemed to have cause to terminate this Contract, in whole or in part.

10. CONFIDENTIALITY.

The Contractor agrees that all materials containing confidential information received pursuant to this Agreement shall not be disclosed without the City's express written consent. Contractor agrees to provide the City with immediate written notification of any person seeking disclosure of any confidential information obtained for the City.

11. WORK PRODUCT.

All work product, including records, files, documents, plans, computer disks, magnetic media or material which may be produced or modified by the Contractor while performing the Services shall belong to the City. Upon written notice by the City during the Term of this Agreement or upon the termination or cancellation of this Agreement, the Contractor shall deliver all copies of any such work product remaining in the possession of the Contractor to the City.

12. BOOKS AND RECORDS.

The Contractor agrees to maintain books, records, and documents that sufficiently and properly reflect all direct and indirect costs related to the performance of the Services and

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maintain such accounting procedures and practices as may be deemed necessary by the City to assure proper accounting of all funds paid pursuant to this Agreement. These records shall be subject, at all reasonable times, to inspection, review, or audit by the City, its authorized representative, the State Auditor, or other governmental officials authorized by law to monitor this Agreement.

13. NON-APPROPRIATION OF FUNDS.

If sufficient funds are not appropriated or allocated for payment under this Agreement for any future fiscal period, the City will not be obligated to make payments for Services or amounts incurred after the end of the current fiscal period, and this Agreement will terminate upon completion of all remaining Services for which funds are allocated. No penalty or expense shall accrue to the City in the event this provision applies.

14. GENERAL PROVISIONS.

- 14.1 <u>Entire Agreement</u>. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.
- 14.2 <u>Modification</u>. No provisions of this Agreement may be amended or modified except by written agreement signed by the Parties.
- 14.3 <u>Full Force and Effect</u>. Any provision of this Agreement which is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.
- 14.4 <u>Assignment</u>. Neither the Contractor nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other party.
- 14.5 <u>Successors in Interest</u>. Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.
- 14.6 <u>No Waiver</u>. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.
- 14.7 <u>Governing Law</u>. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington.

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- 14.8 <u>Venue</u>. The venue for any dispute related to this Agreement or for any action to enforce any term of this Agreement shall be Pierce County, Washington.
- 14.9 <u>Authority</u>. Each individual executing this Agreement on behalf of the City and the Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the Contractor or the City.
- 14.10 <u>Notices</u>. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.
- 14.11 <u>Performance</u>. Time is of the essence of this Agreement in each and all of its provisions in which performance is a factor.
- 14.12 <u>Remedies Cumulative</u>. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law or in equity.
- 14.13 <u>Counterparts</u>. This Agreement may be executed in any number of counter-parts, which counterparts shall collectively constitute the entire Agreement.

Executed on the dates written below.

CONTRACTOR	CITY OF UNIVERSITY PLACE
By:	
Printed Name:	Printed Name:
Title:	Title:
Address:	Address: 3715 Bridgeport Way W.
	University Place, WA 98466-4456
Date:	Date:
	Approved as to form:
	Steve Victor, City Attorney

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