

YESLER TERRACE LAND TRANSFER AGREEMENT

This **Yesler Terrace Land Transfer Agreement** (“Agreement”) is made by and between the **Housing Authority of the City of Seattle**, a public body corporate and politic under the laws of the State of Washington (“SHA”), and **The City of Seattle**, a Washington municipal corporation (“City”) as of the 16th day of September, 2014, the date this Agreement has been executed and acknowledged by both parties.

RECITALS

- A. SHA is redeveloping the Yesler Terrace public housing development.
- B. In anticipation of the redevelopment of Yesler Terrace, the City Council granted preliminary approval with conditions of SHA’s street vacation petition on September 4, 2012 (City of Seattle Clerk File 311389) (“Preliminary Street Vacation Approval”) after public hearings on July 17, 2012 and August 8, 2012. The Preliminary Street Vacation Approval provides, among other things, requirements for street dedication by SHA, including a realignment of South Washington Street.
- C. The realigned South Washington Street includes a 2,492 square foot portion of City-owned property, legally described in Exhibit A attached hereto (“City Property”), under the jurisdiction of the Department of Parks and Recreation (“Parks”) that is part of the Yesler Terrace Community Center property and currently improved with a play area.
- D. The Preliminary Street Vacation Approval also requires that SHA submit a preliminary plat to the Department of Planning and Development consistent with the Preliminary Street Vacation Approval.
- E. Pursuant to the decision of the Seattle Hearing Examiner in MUP-13-016(SD), the City granted preliminary plat approval for Yesler Terrace, subject to conditions, on August 30, 2013 (“Preliminary Plat Approval”).
- F. One of the conditions of the Preliminary Plat Approval is that prior to final plat approval a Lot Boundary Adjustment must be recorded between SHA and the City related to the dedication of the new South Washington Street right-of-way.
- G. Ordinance 118477, which adopted I-42, requires that lands and facilities held for park and recreation purposes not be transferred unless the City holds a public hearing regarding the necessity of the transaction and then enacts an ordinance finding the transaction is necessary because there is no reasonable and practical alternative.
- H. Ordinance 118477 also states that the City shall receive in exchange land or a facility of equivalent or better size, value, location, and usefulness in the vicinity, serving the same community and the same park purpose.

I. To comply with the Preliminary Street Vacation Approval, the Preliminary Plat Approval and Ordinance 118477, SHA prepared and received preliminary approval from the Department of Planning and Development (“DPD”) of Lot Boundary Adjustment #3016027 (“LBA”), a copy of which is attached hereto as Exhibit B. The LBA proposes to exchange an equivalently sized parcel of real property, legally described in Exhibit C attached hereto (“Exchange Property”), for the City Property. Exhibit D attached hereto depicts in more detail the dimensions of the exchange properties.

J. In September 2012, the City Council passed Ordinance 123961 authorizing a Cooperative Agreement between SHA and the City for the redevelopment of Yesler Terrace. Subject to additional City Council approval and authorization by the U.S. Department of Housing and Urban Development, the Cooperative Agreement provides that SHA will transfer land adjacent to the Yesler Terrace Community Center property to the City, at no cost, for a neighborhood park (“Neighborhood Park”). SHA and the City agreed to collaborate on park design and to work together to identify additional sources of funding for park development, if necessary.

K. Parks currently operates a public play area on the City Property. The City and SHA intend that the City will construct an improved play area in connection with City construction of the Neighborhood Park, subject to conditions precedent described in the Agreement, below.

In consideration of the covenants and agreements contained in this Agreement, the parties agree as follows:

AGREEMENT

1. Property Exchange. SHA shall convey to the City the Exchange Property, legally described on Exhibit C, and the City shall convey to SHA the City Property, legally described on Exhibit A, on the terms, covenants and conditions set forth in this Agreement.

2. City’s Conditions Precedent to Obligation to Convey. The City’s obligation to convey the City Property to SHA is subject to fulfillment of each of the following conditions:

A. Ordinance. An ordinance shall be in effect finding that the exchange of the City Property for the Exchange Property meets the requirements of Ordinance 118477, which adopted Initiative 42; authorizing the Superintendent of Parks and Recreation (“Superintendent”) or his designee to sign Lot Boundary Adjustment #3016027 (“LBA”); authorizing the Superintendent to accept a deed from SHA for the Exchange Property; and authorizing the Superintendent to convey the City Property to SHA (“LBA Ordinance”).

B. HUD Partial Release. SHA shall have received for recording in the records of King County an original Partial Release executed by the United States Department of Housing and Urban Development (“HUD”), releasing the Exchange Property from the Declaration of Trust recorded June 26, 1942 under King County recording number 3248400 and the

Modification of Declaration of Trust recorded November 21, 1958 under King County recording number 4968302.

C. Title Commitment. SHA shall have delivered to the City a preliminary commitment for title insurance from First American Title Company that shows the Exchange Property to be free and clear of all liens, encumbrances, easements, covenants and restrictions except the Declaration of Trust and Modification of Declaration of Trust described in subsection 2.B. above, which will be removed from title to the Exchange Property as described in subsection 2.B. above, and except for any encumbrances that are approved by the City in writing ("Permitted Exceptions") before recording the Exchange Property deed.

D. Environmental. SHA shall have established to the satisfaction of the City, based on one or more environmental site assessments commissioned by SHA and reviewed and accepted by the City, that the Exchange Property is not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under, above or about the Exchange Property, including but not limited to soil and groundwater conditions.

E. Lot Boundary Adjustment. The LBA shall have been recorded and SHA shall have paid all costs for and in connection with the LBA, including all DPD fees, costs of survey and creation of legal descriptions, and costs of recording the LBA.

F. Exchange Property Deed. SHA shall have executed, acknowledged and delivered to the City a special warranty deed for the Exchange Property, subject to no title exceptions except the Permitted Exceptions.

3. SHA's Conditions Precedent to Obligation to Convey. SHA's obligation to convey the Exchange Property to the City is subject to fulfillment of each of the following conditions:

A. Ordinance. The LBA Ordinance, described in subsection 2.A. above, shall be in effect.

B. HUD Endorsement. SHA shall have an original Partial Release from United States Department of Housing and Urban Development ("HUD"), releasing the Exchange Property from the Declaration of Trust and the Modification of Declaration of Trust described in subsection 2.B. above.

4. Exchange. Upon satisfaction of the City's and SHA's conditions precedent listed in Sections 2 and 3 above, the parties shall complete the exchange as follows:

A. SHA.

(1) SHA will open an escrow account with First American Title Company, Inc. ("Escrow Agent"), 818 Stewart Street, Suite 800, Seattle, Washington, 98101 and shall deliver to them a copy of the LBA Ordinance and a copy of the fully executed Agreement.

(2) SHA shall execute, acknowledge (as applicable) and deliver to the Escrow Agent (a) a special warranty deed for the Exchange Property free and clear of all title exceptions except the Permitted Exceptions; (b) a FIRPTA Affidavit; (c) any affidavits, certifications or instruments, including any lien affidavits or mechanic's lien indemnifications, duly executed and acknowledged by SHA, as reasonably may be required by the City or its title company in order to satisfy the City concerning potential mechanics and materialmens liens and to allow the City's title company to issue a title policy acceptable to the City; and (d) a real estate excise tax affidavit.

B. City.

(1) The City shall execute, acknowledge (as applicable) and deliver to escrow (a) a quit claim deed for the City Property; (b) a FIRPTA Affidavit; and (c) a real estate excise tax affidavit.

C. Title Insurance. First American Title Company of Washington shall issue to the City its standard ALTA Owner's Policy Title Insurance in the face amount of \$5,000.00 subject only to general preprinted exceptions as set forth on the preliminary commitment for title insurance, drainage service charges not yet due and owing, and the Permitted Exceptions (if any). First American Title Company of Washington shall issue to SHA its standard ALTA Owner's Policy Title Insurance in the face amount of \$5,000.00 subject only to general preprinted exceptions as set forth on the preliminary commitment for title insurance, drainage service charges not yet due and owing, and any other exceptions that do not interfere with SHA's intended use of the City Property.

D. Costs. SHA shall bear all costs of conveyance and closing, including, without limitation, escrow fees, recording fees, real estate excise tax if any is due, and the cost of the premium for a standard ALTA Owner's Title Insurance Policy. Since the parcels to be transferred hereunder are the same size, all general assessments, surface water management fees and other fees (if any) payable to governmental entities applicable to the Exchange Property or the City Property will be paid outside of closing by each respective party.

5. SHA's Post-Exchange Obligations.

A. License. From the date of the transfer of the City Property to SHA until the date of recording of the final plat of Yesler Terrace Community, SHA shall grant to the City, free of charge, a continuing license to use and occupy the City Property for a public play area in connection with the Yesler Terrace Community Center.

B. Street Use Permit. From the date of recording of the final plat of Yesler Terrace Community until the earlier of the date that SHA or any successor begins grading for construction of street infrastructure improvements in the new South Washington Street right-of-way in front of the Yesler Terrace Community Center or the date of completion of a new play area in a neighborhood park to be located in Block 1 of final plat of Yesler Terrace Community

(“Neighborhood Park”), whichever first occurs, SHA, at its sole cost and expense, will obtain a street use permit from the Seattle Department of Transportation for the benefit of Parks for the operation of the existing Yesler Terrace Community Center play area on the City Property.

C. Removal of Structures. On or before the date that SHA or any successor begins grading for construction of street infrastructure improvements in that portion of the new South Washington Street right-of-way that includes the City Property, SHA, without cost to the City, shall have removed all structures and improvements, including, without limitation, pavement and fencing, from the Exchange Property and from the City Property; provided that SHA shall give the City 60 days notice prior to commencement of removal of the play area improvements from the City Property.

D. Neighborhood Park. SHA shall complete or cause to be completed without cost or expense to the City all of the following obligations:

- (1) Demolition of all structures, including existing buildings, on the property depicted as Block 1 on the final plat of Yesler Terrace Community (“Block 1).
- (2) Delivery to the City of one or more environmental site assessments commissioned by SHA and reviewed and accepted by the City establishing that Block 1 is not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under, above or about Block 1, including but not limited to soil and groundwater conditions, or, if such environmental site assessment(s) establish that Block 1 is in violation of any of the foregoing, then completion of environmental remediation of Block 1 acceptable to the City.
- (3) Completion of utility relocations and removal of all unused utilities in Block 1.
- (4) Rough grading of Block 1 as required pursuant to 90% plans for Early Site Demolition and Grading infrastructure, pages CG11.01 and CG11.02 (and grading addenda, if applicable) Project # 216740 (Department of Planning and Development).
- (5) Establishment and construction of the grades for the new South Washington Street, and construction of the permanent sidewalk along the north side of the new South Washington Street from Yesler Way to 10th Avenue South, in accordance with Street Improvement Plans approved by the Seattle Department of Transportation (“SDOT”), not later than the completion of the construction of the Neighborhood Park.
- (6) Completion of right-of-way improvements on the south side of Yesler Way, between Broadway and 8th Avenue, in accordance with Street Improvement Plans approved by SDOT, not later than the completion of the construction of the Neighborhood Park.

(7) After satisfaction of the conditions described in subsection 5.D.(1)-(4) above and subsection 6.A. below, conveyance of Block 1 to the City free of charge as follows:

(i) SHA will open an escrow account with First American Title Company, Inc. ("Escrow Agent"), 818 Stewart Street, Suite 800, Seattle, Washington, 98101.

(ii) SHA shall execute, acknowledge (as applicable) and deliver to the Escrow Agent (a) a special warranty deed for Block 1 free and clear of all title exceptions except for a restrictive covenant, required by HUD, concerning use of the property for park purposes, an easement for public utility purposes, described and depicted as easement 1.3 on the final plat of Yesler Terrace Community, and any other exceptions approved in writing by the City ("Permitted Exceptions"); (b) a FIRPTA Affidavit; (c) any affidavits, certifications or instruments, including any lien affidavits or mechanic's lien indemnifications, duly executed and acknowledged by SHA, as reasonably may be required by the City or Escrow Agent in order to satisfy the City concerning potential mechanics and materialmens liens and to allow the Escrow Agent to issue a title policy acceptable to the City; and (d) a real estate excise tax affidavit.

(iii). First American Title Company of Washington shall issue to the City its standard ALTA Owner's Policy Title Insurance in the face amount of \$5,000 only to general preprinted exceptions as set forth on the preliminary commitment for title insurance and a restrictive covenant, required by HUD, concerning use of the property for park purposes, an easement for public utility purposes, described and depicted as easement 1.3 on the final plat of Yesler Terrace Community, drainage service charges not yet due and owing, and Permitted Exceptions (if any).

(iv) SHA shall bear all costs of conveyance and closing, including, without limitation, escrow fees, recording fees, real estate excise tax if any is due, and the cost of the premium for a standard ALTA Owner's Title Insurance Policy.

6. City's Post-Exchange Obligations.

A. Ordinance. Parks shall seek funding, by ordinance, from the Seattle City Council, for design and construction of the proposed Neighborhood Park in Block 1, as provided in the Cooperative Agreement, which limits City contribution to up to \$3,000,000. In addition, Parks shall seek authority, by ordinance, to accept a special warranty deed from SHA for Block 1 subject to satisfaction of the conditions in subsections 5.C. and 5.D.(1)-(4) and (7) above.

B. Design, Construction and Funding.

(i) Subject to recording of the final plat of Yesler Terrace Community, an effective ordinance appropriating funding up to \$3,000,000 for the design and construction of the Neighborhood Park, and further subject to satisfaction of the conditions described in subsections 5.C. and 5.D.(1)-(4) and (7) above, the City shall design and construct, or cause to be designed and constructed, the Neighborhood Park.

(ii) The City and SHA will collaborate on the design of the Neighborhood Park during both the schematic design and design development phases. During the schematic design phase, the City and SHA shall reach agreement on the schematic design of the Neighborhood Park, the budget for park development, and sources of funds for park development. During design development SHA will provide comments on the design as it evolves. Public comment and review by the Seattle Design Commission will also be part of the design process.

C. Opening of Neighborhood Park. Subject to satisfaction of the conditions described in subsection 5.D.(5)-(6) above, the City shall open the Neighborhood Park for public access after completion of construction of all improvements in accordance with design and permits approved through applicable City process. The City shall complete construction of all improvements for the Neighborhood Park within one year of the later of (a) SHA completion of pre-transfer obligations hereunder or (ii) June 15, 2015.

7. Amendment. This Agreement may not be amended other than by a written agreement executed by both parties.

8. Applicable Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Washington.

9. Notice. Any notice under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return-receipt requested, addressed as follows, or to such other address as the receiving party specifies in writing:

If to Seattle Parks:
Property Management
Department of Parks and Recreation
800 Maynard Avenue South
Seattle, Washington 98134

If to SHA:
Executive Director
Seattle Housing Authority
190 Queen Anne Avenue North
P.O. Box 19028
Seattle, Washington 98109

10. Enforceability. The invalidity or unenforceability of any clause, part or provision of this Agreement shall not affect the validity or enforceability of any other portions hereof.

11. Waiver. Failure, waiver or delay on the part of a party to exercise any right, power or privilege under this Agreement shall not operate as a waiver thereof. No waiver by a party of any breach or default under this Agreement shall be deemed to be a waiver of any other subsequent breach or default hereunder.

12. Authority. Subject to the express terms and conditions precedent contained in this Agreement, each individual executing this Agreement on behalf of the respective entity represents and warrants that he or she is duly authorized to execute and deliver this Agreement on behalf of such entity, and that this Agreement is binding upon that entity in accordance with its terms.

13. Survival. The covenants contained in this Agreement shall survive recording the deeds described in this Agreement.

(Signatures follow on next page)

IN WITNESS WHEREOF, the parties have executed this Yesler Terrace Land Transfer Agreement effective as of the date executed and acknowledged by both parties.

CITY OF SEATTLE,

A municipal corporation of the State of Washington

By:

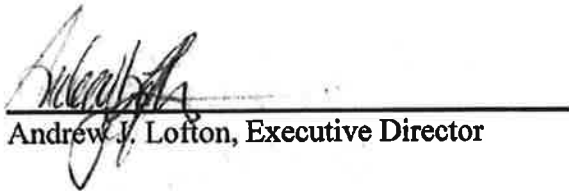


Christopher Williams, Acting Superintendent of Parks and Recreation

HOUSING AUTHORITY OF THE CITY OF SEATTLE,

A Washington public body corporate and politic:

By:

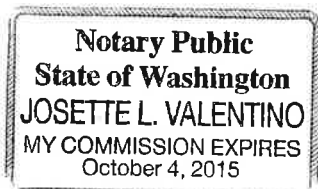


Andrew J. Lofton, Executive Director

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day of 15TH, September, 2014, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ERIC A. FRIEDLI, to me personally known (or proved on the basis of satisfactory evidence) to be the ACTIVE DEPUTY SUPERINTENDENT of the Department of Parks and Recreation, a department of The City of Seattle, a Washington municipal corporation that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the entity for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the instrument.

WITNESS my hand and seal hereto affixed the day and year in this certificate above written.



Jolette L. Valentino
Printed Name JOSETTE L. VALENTINO
NOTARY PUBLIC in and for the State of Washington,
residing at KING COUNTY
My Commission Expires 10/5/2015

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day of September 15, 2014, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared ANDREW L. FORT, to me personally known (or proved on the basis of satisfactory evidence) to be the Executive Director of the Housing Authority of the City of Seattle, the Washington public body corporate and politic that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of the entity for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument.

WITNESS my hand and seal hereto affixed the day and year in this certificate above written.



Carol A. Wellenberger
Printed Name CAROL A. WELLENBERGER
NOTARY PUBLIC in and for the State of Washington,
residing at Kent
My Commission Expires 5-18-16

EXHIBIT A

CITY PROPERTY

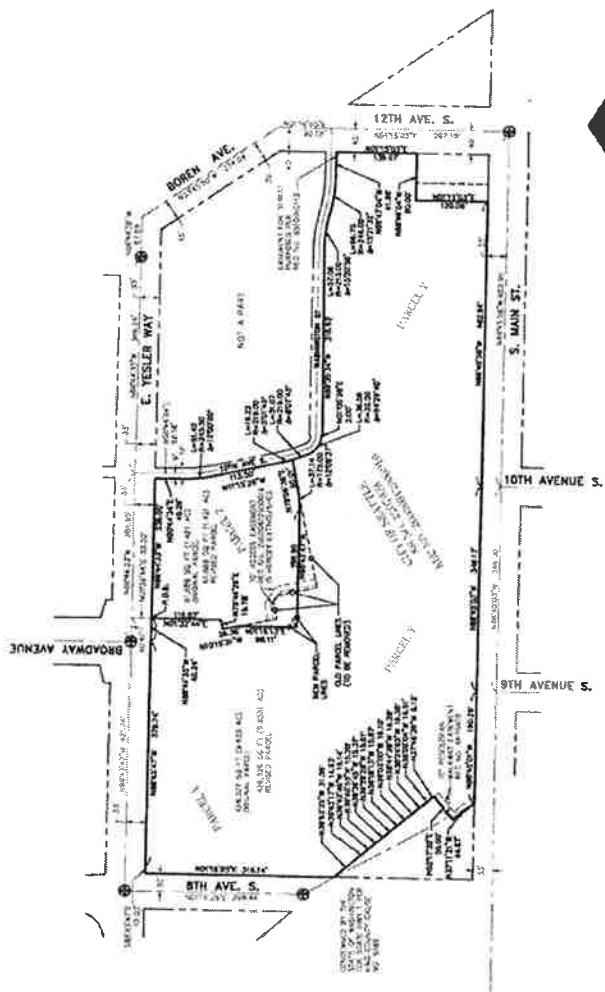
A PORTION OF PARCEL B OF CITY OF SEATTLE SHORT PLAT NO. 2207828, RECORDED UNDER KING COUNTY RECORDING NO. 20030612900016, MORE PARTICULARLY AS FOLLOWS;

*BEGINNING AT THE SOUTHEAST CORNER OF SAID PARCEL B;
THENCE SOUTH 79°06'36" WEST, A DISTANCE OF 50.01 FEET TO THE TRUE POINT OF BEGINNING "B", ALSO BEING THE BEGINNING OF A TANGENTIAL CURVE, CONCAVE TO THE NORTH, WITH A RADIUS OF 175.00 FEET;
THENCE ALONG SAID CURVE A DISTANCE OF 37.14 FEET AND THROUGH A CENTRAL ANGLE OF 12°09'37";
THENCE NORTH 88°43'47" WEST, A DISTANCE OF 136.54 FEET;
THENCE SOUTH 10°53'24" EAST, A DISTANCE OF 32.69 FEET;
THENCE NORTH 79°06'36" EAST, A DISTANCE OF 170.34 FEET TO THE POINT OF BEGINNING;*

SITUATE IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON.

Also referred to as a portion of Parcel Y of LBA No. 3016027.

LOT BOUNDARY ADJUSTMENT NO. 3016027



PROPOSED LOT LAYOUT
 BUSH, REED & HITCHINGS, INC.
 2000 NINTH AVENUE EAST
 SEATTLE, WA 98102

SURVEY IN
 NW 1/4, NE 1/4,
 SEC. 34, T 24N, R 4E, W.M.

DRAWN BY: LMK
 DATE: 04/30/2014
 JOB NO: 2008097.02
 SCALE: 1"=100'
 SHEET 2 OF 3

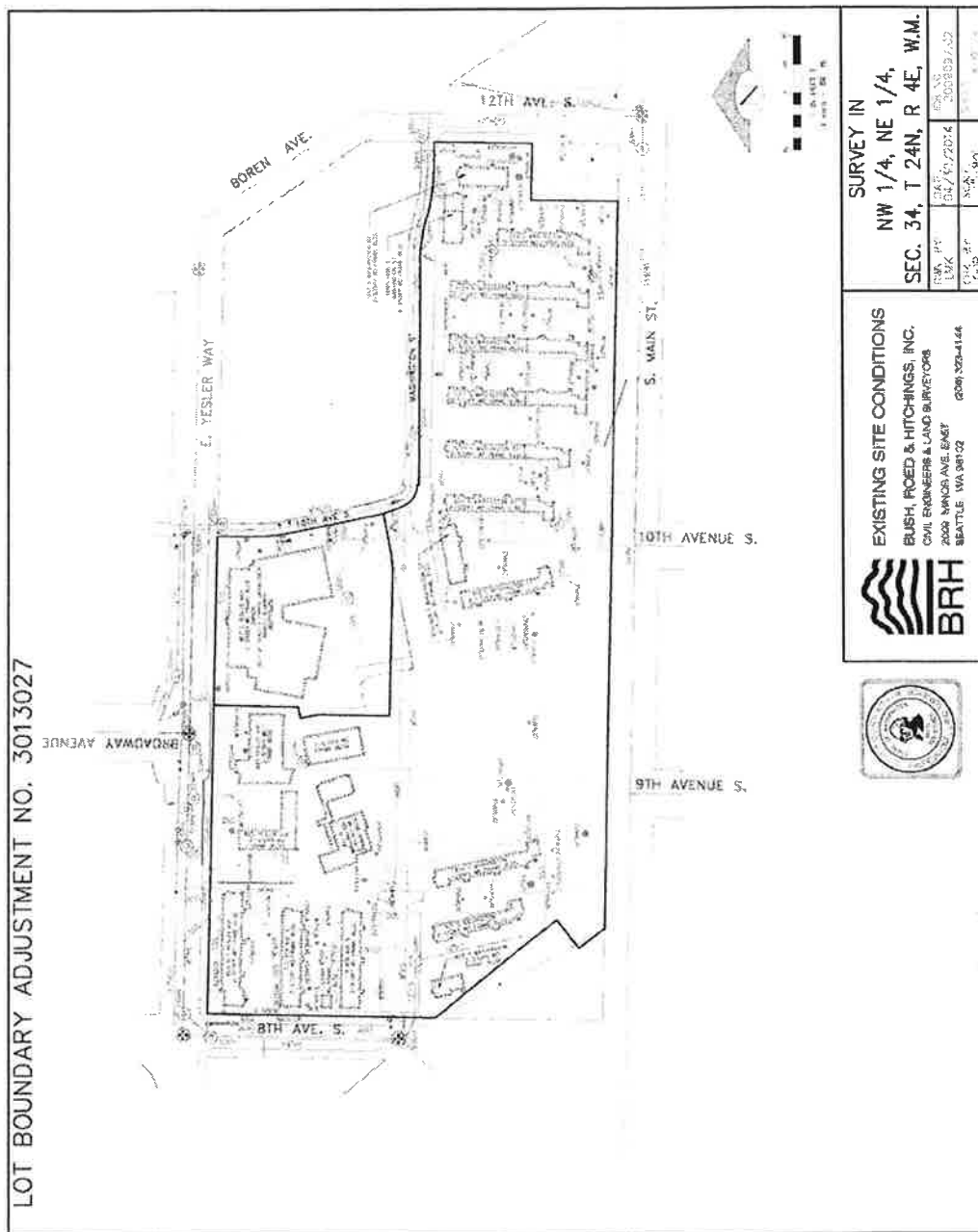


EXHIBIT C

EXCHANGE PROPERTY

A PORTION OF PARCEL A OF CITY OF SEATTLE SHORT PLAT NO. 2207828, RECORDED UNDER KING COUNTY RECORDING NO. 20030612900016, MORE PARTICULARLY AS FOLLOWS;

BEGINNING AT THE NORTHWEST CORNER OF PARCEL B OF SAID SHORT PLAT NO. 2207828;

THENCE SOUTH 01°32'44" WEST, A DISTANCE OF 116.92 FEET;

THENCE SOUTH 79°44'29" WEST, A DISTANCE OF 15.78 FEET;

THENCE SOUTH 10°15'31" EAST, A DISTANCE OF 26.36 FEET TO THE TRUE POINT OF BEGINNING "A";

THENCE CONTINUING SOUTH 10°15'31" EAST, A DISTANCE OF 64.75 FEET;

THENCE NORTH 79°23'43" EAST, A DISTANCE OF 30.01 FEET;

THENCE SOUTH 54°46'18" EAST, A DISTANCE OF 13.04 FEET;

THENCE SOUTH 10°53'24" EAST, A DISTANCE OF 34.33 FEET;

THENCE NORTH 88°43'47" WEST, A DISTANCE OF 60.36 FEET;

THENCE NORTH 01°16'13" EAST, A DISTANCE OF 98.12 FEET TO THE TRUE POINT OF BEGINNING;

SITUATE IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON.

Also referred to as a portion of Parcel Z of LBA No. 3016027.

EXHIBIT D

DEPICTIONS OF EXCHANGE PROPERTIES: **EXCHANGE PROPERTY ("AREA BEING GRANTED TO PARCEL B") AND CITY** **PROPERTY ("AREA BEING GRANTED TO PARCEL A") (2 pages)**

