

**CITY OF SEATTLE**  
**ORDINANCE** 126810  
COUNCIL BILL 120548

AN ORDINANCE relating to the Seattle Department of Finance and Administrative Services (FAS); authorizing the acquisition of real property identified in King County Records as Parcel Number 766620-2390, commonly known as the Bakun Building, from the Washington State Department of Transportation; authorizing acceptance and recording of deeds for general municipal purposes including, but not limited to, the acquisition of the Bakun Building property; and ratifying and confirming certain prior acts.

WHEREAS, the Washington State Department of Transportation (WSDOT) has designated as surplus the Bakun Building property at 1426 Alaskan Way (“Property”); and

WHEREAS, the Seattle Department of Transportation (SDOT) has an outstanding commitment to the Muckleshoot Indian Tribe to provide building space on the Seattle downtown waterfront for a Tribal Interpretive Center, which is a requirement of the Elliott Bay Seawall Project permitting and the Memorandum of Agreement (MOA) between SDOT and the Muckleshoot Indian Tribe dated October 23, 2013; and

WHEREAS, the Muckleshoot Indian Tribe and SDOT have agreed upon the location for the Tribal Interpretive Center (within the Bakun Building), per the Second Amendment to the MOA for the Elliott Bay Seawall Project; and

WHEREAS, the Office of the Waterfront and Civic Projects (OWCP) team has identified the Bakun Building as an ideal candidate to house the City’s waterfront operations: maintenance, programming, and public safety staff who will need dedicated building space to support their ongoing work on the waterfront; and

WHEREAS, WSDOT, the Property owner, is a willing seller and has agreed to sell the Property according to the Real Property Purchase and Sale Agreement between WSDOT and the City, which is conditioned upon approval by the Mayor and City Council; and

1 WHEREAS, The City of Seattle’s 2023-2028 Adopted Capital Improvement Program includes a  
2 \$13 million project titled “Waterfront Operations and Tribal Interpretive Center” (MC-  
3 FA-OWMAINT) in the Department of Finance and Administrative Services (FAS) to  
4 acquire the Bakun Building property and to provide tenant improvements to support City  
5 staff space needs; and

6 WHEREAS, Council Budget Action FG-002-A-001-2023 appropriated \$500,000 in Finance  
7 General to transfer to FAS for the ongoing operating and maintenance costs associated  
8 with the Waterfront Operations and Muckleshoot Tribal Interpretive Center;

9 NOW, THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. The Director of the Department of Finance and Administrative Services or  
12 designee (“Director”) is authorized on behalf of The City of Seattle to acquire the following  
13 described real property (“Property”) situated in the City of Seattle, County of King, State of  
14 Washington identified by King County Parcel Number 766620-2390, together with all rights,  
15 privileges, and other property pertaining thereto, for general municipal purposes including but  
16 not limited to the acquisition of the Bakun Building and associated tenant improvement work to  
17 support City staff and tenant space needs:

18 SEATTLE TIDE LDS POR LOTS 1 & 2 BLK 175 LY SWLY OF LN PLW & 142 FT  
19 SWLY MEAS AT R/A FR WLY LN WESTERN AVE DAF - BEG MOST NLY COR  
20 BLK I AA DENNYS 4TH ADD TH SWLY ALG SLY LN PIKE ST 142 FT TO TPOB  
21 TH SELY PLT WLY LN WESTERN AVE 120 FT M/L TO SLY LN SD LOT 2 TH  
22 SWLY ALG SD SLY LN 24 FT M/L TO WLY LN BLK 175 TH NWLY ALG SD WLY  
23 LN 126 FT M/L TO SLY LN PIKE ST TH NELY ALG SD SLY LN 62 FT M/L TO  
24 TPOB LESS ST

25 Section 2. The Director is authorized, on behalf of The City of Seattle, to purchase the  
26 Property pursuant to the Real Property Purchase and Sale Agreement attached to this ordinance


1 as Attachment A, and execute other documents as deemed necessary or desirable to acquire the  
2 Property for a purchase price not to exceed \$8,668,000.

3           Section 3. The Director is authorized, on behalf of The City of Seattle, to accept a deed  
4 for the Property for general municipal use; and the real property therein is placed under the  
5 jurisdiction of the Department of Finance and Administrative Services.


6           Section 4. Any act consistent with the authority of this ordinance taken after its passage  
7 and prior to its effective date is ratified and confirmed.

1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.


4 Passed by the City Council the 9th day of May, 2023,  
5 and signed by me in open session in authentication of its passage this 9th day of  
6 May, 2023.

7   
8 \_\_\_\_\_  
President \_\_\_\_\_ of the City Council

9  Approved /  returned unsigned /  vetoed this 12th day of May, 2023.

10   
11 \_\_\_\_\_  
Bruce A. Harrell, Mayor

12 Filed by me this 12th day of May, 2023.

13   
14 \_\_\_\_\_  
Anne Frantilla, Interim City Clerk

15 (Seal)

16  
17  
18  
19 Attachments:  
20 Attachment A - Real Property Purchase and Sale Agreement

## REAL PROPERTY PURCHASE AND SALE AGREEMENT

**This Real Property Purchase and Sale Agreement** (the “Agreement”) is made and entered into by and between the **STATE OF WASHINGTON**, acting by and through its DEPARTMENT OF TRANSPORTATION (hereinafter “Seller”) and **THE CITY OF SEATTLE**, a municipal corporation of the State of Washington, acting through its DEPARTMENT OF FINANCE AND ADMINISTRATIVE SERVICES (FAS) (hereinafter “Buyer”). Seller and Buyer shall each be referred to individually as a “Party” or, collectively, as the “Parties.”

### RECITALS

WHEREAS, Seller is the owner of certain real property located in King County, Washington, referenced as King County Tax Parcel No. 7666202390 and Seller Inventory Control Number 1-17-07888, and more particularly described in **Exhibit A**, attached hereto and by this reference incorporated herein (hereinafter, “the Property”); and

WHEREAS, Seller has determined that the Property is surplus to its needs as a department of the State of Washington and has offered the Property for sale to other public entities; and

WHEREAS, Buyer believes the Property may be suitable for certain municipal purposes and uses, Buyer wishes to acquire the Property from Seller, and Seller wishes to sell the Property to Buyer; with the Property consisting of approximately 4,372 square feet and visually depicted on the Site Plan attached hereto as **Exhibit A-1** attached hereto and by this reference incorporated herein; and

WHEREAS proposed Legislation authorizing a capital project that includes a request for funds sufficient to purchase the Property at the Purchase Price has been transmitted by the Mayor to the Council as part of the 2023 Proposed Budget.

NOW THEREFORE, in consideration of the mutual covenants, conditions, contingencies, and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

### ARTICLE I PROPERTY

1.1. Purchase and Sale. Seller hereby agrees to sell and convey to Buyer, and Buyer hereby agrees to purchase from Seller, subject to the terms and conditions set forth herein, the Property, together with all rights, privileges, and easements appurtenant to said real property, and all improvements on or associated with the Property.

### ARTICLE II PURCHASE PRICE

2.1. Purchase Price. The total purchase price for the Property is EIGHT MILLION SIX HUNDRED SIXTY-EIGHT THOUSAND and 00/100 Dollars (\$8,668,000.00).

2.2. Payment of Purchase Price. Buyer shall pay the entire purchase price stipulated herein in cash upon closing which will occur on or before, but no later than June 30, 2023. If not paid in full by the date designated, and absent an agreement between the Parties to extend the closing date made in accordance with Section 11.6, this Agreement will be null and void and Seller will move forward with other sale options.

2.3. Agreement Date. The effective date of this Agreement shall be the date that this Agreement has been executed by both Parties (hereinafter the "Agreement Date").

### ARTICLE III TITLE TO PROPERTY

3.1. Conveyance of the Property. Seller shall convey to Buyer at the Closing, fee simple title to the Property by execution and delivery of a Quit Claim Deed subject to all existing encumbrances, including easements, restrictions and reservations, if any.

3.2. Title Commitment. Following the date of this Agreement, Buyer may, at no expense to Seller, obtain a preliminary commitment for an ALTA owner's standard coverage title insurance policy issued by a Title Company describing the Property, showing all matters pertaining to the Property and identifying Buyer as the prospective named insured. Such preliminary commitment, Supplemental Reports (as defined below) and true, correct and legible copies of all documents referred to in such preliminary commitment and Supplemental Reports as conditions or exceptions to title to the Property are collectively referred to herein as the "Title Commitment." Buyer may elect to obtain extended coverage owner's title insurance, or endorsements to the Title Policy, and Buyer shall pay the increased cost of such endorsements and/or any excess premium over the premium charged for a standard coverage owner's policy and the cost of any ALTA survey required by the Title Company in connection therewith. At no expense Seller agrees to execute any customary affidavits, agreements, forms which the Title Company customarily requires of sellers in order to issue extended title insurance or to otherwise remove standard exceptions in the Title Policy.

3.3. Review of Title Commitment. Buyer shall give written notice to Seller of any disapproved exceptions in the Title Commitment. If Buyer so objects to any exceptions in the Title Commitment, Seller shall, within fifteen (15) days after receiving Buyer's written notice of objections, deliver to Buyer written notice that either (a) Seller will, at Seller's expense, cause some or all of the exception(s) to which Buyer has objected to be removed at or prior to Closing, or (b) Seller is unable to eliminate such exception(s). If Seller so fails to notify Buyer or is unable to remove any such exception at or prior to Closing, Buyer may elect to terminate this Agreement by written notice to Seller delivered no later than ten (10) days after the deadline for Seller's 15-day notice as described in the immediately preceding sentence, in which event Buyer and Seller shall have no further obligations under this Agreement. If Buyer does not terminate this Agreement pursuant to the immediately preceding sentence, then Buyer shall be deemed to have waived any objectionable exceptions that Seller is unable to remove, all of which exceptions shall be included as Permitted Exceptions.

If any new title matters are disclosed in a supplemental title report issued by the Title Company (a "Supplemental Report") or related document, the proceeding objection, Seller response

and termination / waiver provisions shall apply to the new title matters, except that Buyer's written notice of objections must be delivered within seven (7) days of delivery of the Supplemental Report or document and Seller's response must be delivered within five (5) days of Buyer's written notice of objections. The Closing Date (as defined below) shall be extended to the extent necessary to permit time for the foregoing notices.

If Seller gives written notice that it will cause one or more objectionable non-monetary exceptions to be removed but is unable to remove any of them on or before the Closing Date, Buyer will have the right in its sole discretion to either (a) proceed with the purchase and take the Property subject to those non-monetary exceptions not approved by Buyer, or (b) terminate this Agreement in which case Buyer shall have no further liability hereunder.

3.4. As used in this Agreement, "Permitted Exceptions" means (1) liens for real property taxes for the year of Closing to the extent not due and payable as of the Closing, (2) those matters affecting title to the Property which are created by or with the written consent of Buyer, and (3) such exceptions or other matters reflected on the Title Commitment, any Supplemental Report(s) thereto and/or an ALTA survey which Buyer does not object to or waives pursuant to Section 3.3 above. However, the following shall be removed at Closing and shall in no case be included as Permitted Exceptions: any deeds of trust or other monetary liens shown in the Title Commitment or Supplemental Report(s) thereto (other than real property taxes and assessments not delinquent and liens created by or at the request of Buyer).

#### ARTICLE IV CONDITIONS TO BUYER'S OBLIGATIONS

4.1. Documents and Reports. Within fifteen (15) days after the Agreement Date, Seller shall deliver to Buyer, if not already provided, copies of any leases, occupancy agreements, service agreements, licenses, easements, option agreements or other contracts, pertaining to the Property and/or its use or occupancy, other than those transmitted by Title Company in connection with the Title Commitment. Seller also agrees to provide Buyer with all documents relating to or concerning Property environmental or land use matters in Seller's possession, including but not limited to:

- (a) Environmental analysis, studies or reports, identifying the existence of or potential for soil or groundwater contamination on or adjacent to the Property
- (b) Soils, geologic, and hydrogeologic reports
- (c) Architectural, engineering, land use or environmental information or reports

4.2. City of Seattle Budget Ordinance Approval. Buyer's obligations under this Agreement are expressly conditioned on and subject to approval by the Seattle City Council of the 2023 City of Seattle Budget Ordinance that includes sufficient funds available to be used for purchase of the Property at the Purchase Price. The Seattle City Council may elect to modify the 2023 Proposed Budget prior to final adoption of the 2023 Budget Ordinance scheduled for Monday, November 22, 2022 that may or may not include funding for acquisition of the Property.

4.3 City of Seattle Property Acquisition Ordinance and Mayor's Approval. Buyer's obligations under this Agreement are expressly conditioned on and subject to the Seattle City Council and the Mayor approving an Ordinance authorizing the acquisition of the Property by the City, and that Ordinance being enacted and taking effect. Pending executive approval, City departments intend to transmit legislation to the appropriate City Council committee in early 2023 authorizing the acquisition of the Property, subject to calendar availability to consider the legislation. Following City Council passage, and the Mayor's approval of the Ordinance, a 30-day comment period is required before the Ordinance will become effective.

4.4. Inspection of the Property. Buyer and its employees, representatives, consultants, contractors, subcontractors, and agents shall have the right and permission during the Contingency Period (as defined below) to enter upon the Property or any part thereof at all reasonable times and after reasonable prior notice, and from time to time, for the purpose, at Buyer's own risk, cost and expense, of making all tests and/or studies of the Property that the Buyer may wish to undertake, including, without limitation, surveys, structural studies and review of zoning, fire, safety, environmental, and other compliance matters; provided, however, that Buyer shall defend, indemnify and hold harmless Seller from and against all liability, cost, damage and expense (including, but not limited to, attorneys' fees) in connection with all claims, suits and actions of every name, kind and description made or brought against Seller, its officers, agents or employees by any person or entity as a result of or on account of actual or alleged bodily injury or property damage received or sustained, resulting from or caused by the negligent acts or omissions of Buyer, its officers, agents or employees, in exercising its rights under the right of entry granted herein.

Seller shall permit Buyer and its agents, at Buyer's sole expense, to enter the Property at reasonable times to conduct inspections concerning the Property and improvements, including, without limitation, the structural condition of improvements, Hazardous Substances (including Phase I and Phase II assessments), soils conditions, sensitive areas, and/or other matters affecting the feasibility of the Property for Buyer's intended use. Buyer shall advise Seller of any entry on to the Property in advance. Buyer may take or have taken materials, soil, and water samples from the Property and test and analyze those samples to determine the extent of any presence of Hazardous Substances or other contamination in, on, or under the Property. Such testing and sampling shall be performed in a manner not disruptive to any tenants or to the operation of the Property. Buyer shall indemnify and hold harmless Seller from and against any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall cause any such liens or encumbrances to be promptly released.

4.5. Approval of the Property. Buyer's obligations at Closing shall be subject to and contingent upon Buyer's approval, in its sole and absolute discretion, of all aspects of the Property, including, without limitation, the physical condition of the Property, and all of the information delivered by Seller pursuant to this Article IV or otherwise obtained by Buyer regarding the Property. Such contingency shall be satisfied or waived on or before the expiration of the Contingency Period.

4.6. Contingency Period Defined. As used in this Agreement, the term "Contingency Period" means the period commencing on the Agreement Date and ending at 5:00 p.m. on the day



that is forty-five (45) days after the Agreement Date. The Contingency Period may be extended by mutual agreement of the parties in writing should additional time be needed by Buyer to conduct inspections or assessments of the Property pursuant to Section 4.4.

4.7. Buyer's Right to Terminate. If Buyer's conditions, set forth in this Article IV, are not satisfied in Buyer's sole and absolute discretion, Buyer shall have the right to terminate this Agreement as follows: 1) under Sections 4.4, 4.5 and 4.6 by sending written notice to Seller on or before expiration of the Contingency Period; or 2) under Sections 4.2 or 4.3 by sending written notice to Seller on or before the Closing Date. If Buyer gives a termination notice to Seller as provided under this Section 4.7, this Agreement shall terminate and neither Party shall have any further liability to the other under this Agreement. If Buyer does not give a termination notice to Seller as provided for in this Section 4.7, Buyer shall be deemed to have satisfied or otherwise waived the condition set forth in this Article IV.

## ARTICLE V REPRESENTATIONS AND WARRANTIES OF THE PARTIES AND CONDITION OF PROPERTY

5.1. Warranties, Representations and Covenants of Seller. As of the date hereof and as of the Closing Date, Seller represents and warrants as follows:

5.1.1. Seller is an agency of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington, has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations under this Agreement and the transactions contemplated hereby.

5.1.2. There is no pending, or to Seller's knowledge, threatened claim, lawsuit, litigation, arbitration, investigation or other proceeding pertaining to the Property or any part thereof. There is no pending or, to the best of Seller's knowledge, threatened condemnation or similar proceeding pertaining to the Property or any part thereof.

5.1.3. No governmental entity with jurisdiction or other person or entity has asserted, or to Seller's knowledge, has threatened to assert that the Property or any part thereof is in violation of any applicable legal requirement. Seller has consents necessary to own and operate the Property for its current use.

5.1.4. Except for the Permitted Exceptions, there are no contracts, agreements or other arrangements under which Seller is obligated to sell, exchange, transfer, lease, rent or allow the use of the Property or any part thereof now or in the future, or under which any person or entity has the right to possess or occupy the Property or any part thereof now or in the future.

5.1.5. Seller warrants and represents that there are no existing leases, tenancies, options, purchase rights, or rights of persons in possession of the Property.

5.1.6. From and after the Agreement Date unless this Agreement is terminated in accordance with its terms, Seller shall not without the prior written consent of Buyer: (a) grant, create, amend or enter into any easement, right-of-way, encumbrance, restriction, covenant, lease,

license, permit, option to purchase or other right or transaction which would affect the Property in any way prior to or after Closing; or (b) sell, dispose of or encumber any portion of the Property.

5.1.7. Seller shall continue to maintain the Property in its current condition, normal wear and tear excepted, and in compliance with all applicable laws and to pay all costs of the Property between the Agreement Date and Closing.

5.2. Representations, Warranties and Covenants of Buyer. As of the date hereof and, as of the Closing Date, Buyer represents and warrants as follows:

5.2.1. Buyer is a Washington Municipal Corporation, duly organized, validly existing and in good standing under the laws of the State of Washington, has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations under this Agreement and the transactions contemplated hereby.

## ARTICLE VI HAZARDOUS SUBSTANCES

6.1. Definitions. The term “Hazardous Substances” means any substance, waste or material (including without limitation petroleum products, asbestos or asbestos-containing material, and polychlorinated biphenyls) regulated, defined or designated as dangerous, hazardous toxic or radioactive, by any federal, state or local law, statute, ordinance rule or regulation relating to the protection of human health or the environment now or hereafter in effect (collectively “Environmental Laws”).

6.2. Environmental Documents. Seller represents and warrants that it has delivered (or in accordance with Section 4.1 will deliver) to Buyer all documents, if any, within its possession or control pertaining to environmental conditions of the Property.

6.3. Environmental Indemnification. Seller agrees to indemnify, defend, and hold harmless Buyer, its Commissioners, officers, employees and agents (the “Buyer Indemnified Parties”) from and against any and all present or future claims or demands and any and all damages, losses, injuries, liabilities, causes of action, costs and expenses (including without limitation fines, penalties, judgments and attorneys’ fees) of any and every kind or character, known or unknown (collectively “Losses”) that any Buyer or any other Buyer Indemnified Party sustains as a result of claims by third Parties, including but not limited to federal, state and local regulatory agencies, for damages or remediation costs related to or arising out of the presence of Hazardous Substances in, at, on, under or originating from the Property that was caused during the Seller’s ownership. Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response or action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) Losses for injury or death of any person; and (c) Losses arising under any Environmental Law enacted after transfer.

6.4. Survival. Notwithstanding any provision of this Agreement to the contrary, the provisions of this Article VII shall survive the Closing of the transaction contemplated herein.

## ARTICLE VII CLOSING

### 7.1. Closing.

7.1.1. Time of Closing. The Closing shall be on or before, but no later than June 30, 2023 (“Closing”). All documents shall be deemed delivered on the Closing Date.

7.1.2. Place of Closing. The Closing shall take place informally either at the offices of the Buyer or the Seller, at a date which Buyer and Seller mutually agree to in writing, unless another method of execution and delivery is specified by Seller to Buyer by written notice (as defined below) prior to the Closing Date.

7.2. Other Instruments. Seller and Buyer shall each deliver to the other such other instruments as are reasonably required to consummate the purchase of the Property in accordance with the terms hereof.

7.3. Closing Costs. As both Seller and Buyer are governmental entities, the sale and purchase of the Property is exempt from the real estate excise tax (“REET”). Buyer shall pay the premium and all associated charges for the standard owner’s coverage title insurance, and the fees and charges (including recording fees) in connection with the recording of the Deed.

## ARTICLE VIII POSSESSION

8.1. Possession of the Property shall be delivered to Buyer on the Closing Date.

## ARTICLE IX COVENANTS OF SELLER PENDING CLOSING

9.1. Conduct, Notice of Change. Seller covenants that between the Agreement Date and the Closing Seller shall take all such actions as may be necessary to assure that the representations and warranties set forth in Section 5.1 hereof will be true and complete as of the Closing (except such representations, warranties and matters which relate solely to an earlier date), and all covenants of Seller set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. Seller shall give Buyer prompt written notice of any material change in any of the information contained in the representations and warranties made in Section 5.1 or elsewhere in this Agreement which occurs prior to the Closing.

9.2. Exclusivity. Between the Agreement Date and Closing or earlier termination of this Agreement, Seller shall not market the Property, make or accept any offers to sell, exchange, lease or otherwise transfer or in any way encumber, or otherwise solicit any offers to purchase, or

enter into any agreement for the sale, exchange, lease or other transfer or encumbrance of the Property.

#### ARTICLE X DEFAULT, REMEDIES

10.1. Specific Performance. In the event of a material breach or default in or of this Agreement or any of the representations, warranties, terms, covenants, conditions, or provisions hereof by Seller, Buyer shall have, in addition to a claim for damages for such breach or default, and in addition to and without prejudice to any other right or remedy available under this Agreement or at law or equity, the right to (a) demand and have specific performance of this Agreement; or (b) terminate this Agreement upon written notice without liability to Seller.

10.2. Attorneys' Fees. In the event either Party hereto finds it necessary to bring an action against the other Party to enforce any of the terms, covenants or conditions hereof or any instrument executed pursuant to this Agreement, or by reason of any breach or default hereunder or thereunder, the Party prevailing in any such action or proceeding shall be paid all costs and reasonable attorneys' fees by the other Party and in the event any judgment is secured by such prevailing Party all such costs and attorneys' fees shall be included in any such judgment. The reasonableness of such costs and attorneys' fees shall be determined by the court and not a jury.

#### ARTICLE XI MISCELLANEOUS

11.1. Risk of Loss; Condemnation. Seller assumes all risk and liability until Closing for damage or injury occurring to the Property by fire, storm, accident or any other casualty or cause, and for condemnation or a similar taking by any governmental agency of all or any portion of the Property; after Closing Buyer bears and assumes all such risks and liability. If, prior to Closing, (a) the Property, or any portion thereof, suffers any damage from fire or other casualty, or (b) an action is initiated or threatened to take the Property or any portion thereof, by eminent domain or condemnation proceedings or by deed in lieu thereof, then Seller shall promptly give written notice to Buyer of such event and Buyer may elect to either: (1) terminate this Agreement, or (2) consummate this Agreement, in which event Seller shall deliver to Buyer, on the Closing Date, any proceeds actually received by Seller in connection with such casualty or condemnation, or assign to Buyer, on the Closing, all of Seller's right, title and interest in any claim to proceeds of any insurance covering such damage, if any, or in the award of the condemning authority (provided that in no event shall Buyer be entitled to receive payment or assignment of such proceeds in an amount greater than the Purchase Price). Buyer shall make such election by sending written notice to Seller within twenty (20) days after Seller provides written notice to Buyer of the casualty or condemnation, as applicable; provided that, if Buyer fails to timely deliver written notice to Seller within said 20 days, Buyer shall be deemed to have elected to terminate this Agreement.

11.2. General Indemnity. Seller shall indemnify, defend, protect and hold the Buyer Indemnified Parties harmless from and against any and all liabilities, obligations, damages, penalties, fees, commissions, costs, expenses and other charges, including without limitation reasonable attorneys' fees, which any Buyer Indemnified Party may suffer or incur in connection with (i) its ownership of the Property resulting from any action or inaction of Seller, its agents or employees occurring before the Closing; (ii) the falsity or breach of any representation or warranty

set forth in Article VI hereof; (iii) any misrepresentation in or omission of any material documents, items or information to be submitted by Seller to Buyer relating to the Property or its operations; or (iv) any failure of Seller to perform any of its obligations hereunder. The foregoing indemnity shall survive the Closing and shall be in addition to, and not in derogation of any other rights Buyer may enjoy under this Agreement or under law for breach of any representation or warranty set forth in this Agreement. Promptly after the receipt by Buyer of notice of any claim or the commencement of any action or proceeding for which Seller has agreed to indemnify the Buyer Indemnified Parties, Buyer shall give Seller written notice of such claim or the commencement of such action or proceeding and Seller shall thereafter vigorously defend on behalf of Buyer, but at Seller's sole cost and expense, any such action or proceeding for which indemnification is sought utilizing counsel satisfactory to buyer. No settlement of any such action or proceeding shall be made without Buyer's prior written approval (unless buyer has previously been discharged from all liability in connection with such action or proceeding); provided that this provision is subject to the limitations of RCW 4.24.115 to the extent applicable.

11.3. Brokers and Finders. Each Party represents to the other that no broker or finder has been involved in this transaction. In the event of a claim for broker's fee, finder's fee, commission or other similar compensation in connection herewith, Buyer, if such claim is based upon any agreement alleged to have been made by Buyer, hereby agrees to indemnify and hold Seller harmless from any and all damages, liabilities, costs, expenses and losses (including, without limitation, reasonable attorneys' fees and costs) which Seller may sustain or incur by reason of such claim, and Seller, if such claim is based upon any agreement alleged to have been made by Seller, hereby agrees to indemnify and hold the Buyer Indemnified Parties harmless from any and all damages, liabilities, costs, expenses and losses (including, without limitation, reasonable attorneys' fees and costs) which any Buyer Indemnified Party may sustain or incur by reason of such claim. The provisions of this Section 12.3 shall survive the termination of this Agreement or the Closing.

11.4. Notices. All notices, demands, requests, consents and approvals which may, or are required to be given by any Party to any other Party hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, sent by fax, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by registered or certified mail return receipt requested, postage prepaid to:

Seller at                      Department of Transportation  
   Attn: Headquarters Real Estate Services  
   Property Management Program Manager  
   P.O. Box 47338  
   Olympia, WA 98504-7338

Buyer at:                      City of Seattle  
   Department of Finance and Administrative Services  
   Attn: Real Estate Services Division  
   PO Box 94689  
   Seattle, WA 98124-4689

or to such other address as either Party hereto may from time to time designate in writing and deliver in a like manner. All notices shall be deemed complete upon actual receipt or refusal to accept delivery. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission shall be the same as delivery of an original document. At the request of either Party or the Escrow Holder, the Parties will confirm facsimile transmitted signatures by signing an original document.

11.5. Calculation of Time Periods. Unless otherwise specified, in computing any period of time described in this Agreement, “days” means calendar days, and the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday, in which case the specified period of time shall expire on the next day that is not a Saturday, Sunday or legal holiday. Any specified period of five (5) days or less shall not include Saturdays, Sundays or holidays. The final day of any such period shall be deemed to end at 5 p.m., Pacific Standard or Daylight time, as applicable.

11.6. Amendment, Waiver. No modification, termination or amendment of this Agreement may be made except by written agreement signed by all Parties. No failure by Seller or Buyer to insist upon the strict performance of any covenant, duty agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. Any Party hereto, by notice and only by notice as provided in Section 12.4 hereof, may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other Party hereto. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof. All the terms, provisions, and conditions of this Agreement shall inure to the benefit of and be enforceable by Seller’s or Buyer’s respective successors and assigns. Buyer reserves the right to assign its rights under this Agreement.

11.7. No Merger; Survival. The terms of this Agreement shall not merge with any conveyance instrument transferring the Property to Buyer at Closing. All provisions of this Agreement which involve obligations, duties or rights which have not been determined or ascertained as of the Closing Date and all representations, warranties and indemnifications made in or to be made pursuant to this Agreement shall survive the Closing.

11.8. Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

11.9. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

11.10. Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

11.11. Additional Acts. Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by Seller or Buyer, Seller and Buyer hereby agree to perform, execute and/or deliver, or cause to be performed, executed and/or delivered, at the Closing any and all such further acts, deeds and assurances as Buyer or Seller, as the case may be, may reasonably require to consummate the transactions contemplated hereunder.

11.12. No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall, create any partnership, joint venture or other arrangement between Buyer and Seller. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a Party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

11.13. Neutral Authorship. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of both Parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the Party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

11.14. Governing Law, Time. This Agreement and the right of the Parties hereto shall be governed by and construed in accordance with the laws of the State of Washington and the Parties agree that in any such action venue shall lie exclusively in Thurston County, Washington. Time is of the essence of this Agreement.

11.15. Costs and Expenses. Each Party hereto will bear its own costs and expenses in connection with the negotiation, preparation, and execution of this Agreement and other documentation related hereto and in the performance of its duties hereunder.

11.16. Entire Agreement. This Agreement and the exhibits hereto constitute the entire agreement between the Parties with respect to the purchase and sale of the Property and supersedes all prior and contemporaneous agreements and understandings between the Parties hereto relating to the subject matter hereof.

**[Signature Page Follows]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Seller:

State of Washington, Department of Transportation

By: Robin Curl

Date: 11/8/2022

Its: Property Management Program Manager

Buyer:

City of Seattle, a Municipal Corporation

By: Andrew Lu

Date: 11-9-2022

Its: Chief Operating Officer  
Department of Finance and Administrative Services



## Exhibit A

### Legal Description

That property acquired by Warranty Deed, recorded June 15, 2007, under recording number 20070615000367, records of King County, Washington, described as follows:

That portion of Lots 1 and 2, Block 175, Seattle Tide Lands, according to the official maps thereof on file in the office of the commissioner of Public Lands in Olympia, Washington, lying southwesterly of a line parallel with and distant 142 feet southwesterly, measured at right angles from the westerly line of Western Avenue in the City of Seattle, described as follows:

Beginning at the most northerly corner of Block "I", of addition to the Town of Seattle, as laid out by A.A. Denny (commonly known as A.A. Denny's 4th Addition to the City of Seattle), according to the plat thereof recorded in Volume 1 of Plats, page 69, in King County, Washington, (at the southwesterly corner of Western Avenue and Pike Street); Thence southwesterly along the southerly line of Pike Street 142 feet to the TRUE POINT OF BEGINNING;

Thence at right angles southeasterly parallel to the westerly line of Western Avenue 120 feet, more or less, to the southerly line of Lot 2, Block 175, Seattle Tide Lands;

Thence southwesterly along said southerly line 24 feet, more or less, to the westerly boundary line of Block 175, Seattle Tide lands;

Thence northwesterly along the westerly boundary line of said Block 175, a distance of 126 feet, more or less, to the southerly line of Pike Street;

Thence northeasterly along the southerly line of Pike Street a distance of 62 feet, more or less, to the point of beginning;

EXCEPT portion thereof condemned in King County Superior Court Cause No. 397727 as provided by Ordinance No. 77088 and as amended by Ordinance No. 77749 of the City of Seattle.

### Exhibit A-1

