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CITY OF SEATTLE
ORDINANCE 126172
COUNCIL BILL 119886

AN ORDINANCE relating to the transfer of City property located at 722 18th Avenue, Seattle, Washington; authorizing the conveyance of the property to Byrd Barr Place, a Washington non-profit corporation, consistent with the intent of Resolution 31856 and to provide for the continued delivery of social services; making findings of fact about the consideration for the transfer; authorizing acceptance of a negative easement restricting future development of the property; superseding Resolution 31837 for the purposes of this ordinance; and authorizing the Director of the Department of Finance and Administrative Services or designee to execute and deliver documents necessary to carry out the conveyance of such property on the terms and conditions of this ordinance.

WHEREAS, in 1957, the City authorized a proposal for conversion of former Fire Station 23 to a multipurpose neighborhood facility and an application for federal financial assistance in connection therewith; and

WHEREAS, in 1967, the Central Area Motivation Program (CAMP), which was founded in 1964, began working with the City to turn former Fire Station 23 into a multi-use community facility; and

WHEREAS, in 1967, the City initially leased the former Fire Station 23, located at 722 18th Avenue (Former Fire Station 23), to the Seattle-King County Economic Opportunity Board, Inc. for use as a multi-purpose neighborhood facility by its delegate agency, the Central Area Citizens' Committee, Inc. (CACC), a Washington non-profit corporation, d/b/a Central Area Motivation Program (CAMP); and

WHEREAS, in 1976, the City designated Former Fire Station 23 as a historic landmark; and

WHEREAS, in 1988, the City entered into a long-term, mutual and offsetting benefit lease with CACC, pursuant to which CACC paid de minimis cash rent in exchange for its promise

1 to use Former Fire Station 23 for the delivery of social services, and which then
2 converted to a month to month lease in 1992; and

3 WHEREAS, in 2012, CACC changed its name to Centerstone, a non-profit corporation, and then
4 in 2018, changed its name again to Byrd Barr Place (BBP), a non-profit corporation; and

5 WHEREAS, as a month-to-month tenant, BBP uses and occupies Former Fire Station 23 in
6 exchange for mutual and offsetting benefits in the form of social services to residents of
7 the Central Area, including a food bank, energy assistance, housing assistance, and
8 financial counseling; and

9 WHEREAS, Byrd Barr Place has been awarded a grant from the State of Washington that would
10 provide for over one million dollars in capital improvements to the property, conditioned
11 upon a long-term lease or ownership; and

12 WHEREAS, in Resolution 31856, City Council stated its intention to collaborate with the
13 Executive with the goal of transferring certain properties to non-profit organizations,
14 including BBP, in exchange for commitments to provide services to the community; and

15 WHEREAS, pursuant to the 2019 *Memorandum of Agreement Implementing Criteria for*
16 *Initiating Transfer of Mutually Offsetting Facilities to Tenants*, by and amongst six City
17 of Seattle departments and offices (the Department of Finance and Administrative
18 Services, the Office of Planning and Community Development, the Department of
19 Neighborhoods, the Office of Economic Development, the Office of Housing, and the
20 Human Services Department), an interdepartmental team within The City of Seattle has
21 determined that the proposed new property owner, BBP – in all material respects – meets
22 the transfer criteria established by the City for transferring property to tenants who have
23 been operating properties under mutually and offsetting benefit lease agreements; and

1 WHEREAS, FAS and BBP have entered into an agreement regarding the consideration, terms
2 and conditions for the City’s conveyance of Former Fire Station 23 to BBP, subject to the
3 City Council’s authorization; NOW, THEREFORE,

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

5 Section 1. As used in this ordinance, “Former Fire Station 23” means the real property
6 and all easements, privileges, and appurtenant improvements on a site of approximately 15,360
7 square feet located at 722 18th Avenue and legally described as follows:

8 LOTS FOUR (4) AND FIVE (5) IN BLOCK TWENTY-EIGHT (28),
9 SUPPLEMENTARY PLAT OF EDES & KNIGHT'S ADDITION TO THE CITY
10 OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN
11 VOLUME 2 OF PLATS AT PAGE 194, RECORDS OF KING COUNTY,
12 WASHINGTON,

13
14 SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

15
16 Section 2. The Director of the Department of Finance and Administrative Services (the
17 “Director”) or the Director’s designee is authorized to convey Former Fire Station 23 to Byrd
18 Barr Place, a Washington non-profit corporation, for consideration and on the terms and
19 conditions described under the Agreement for the Transfer of Real Property by and between The
20 City of Seattle and Byrd Barr Place (the “BBP Transfer Agreement”), included as Attachment 1
21 to this ordinance. The Director is authorized to convey title by deed substantially in the form of
22 the Quitclaim Deed Conveying Determinable Estate with Covenants that is Exhibit B to the BBP
23 Transfer Agreement (the “Deed”).

24 Section 3. The Director of the Department of Finance and Administrative Services is
25 authorized to accept, for and on behalf of the City, a negative easement in the form of Exhibit A
26 to the BBP Transfer Agreement (the “Negative Easement”) preserving the development value of
27 Former Fire Station 23 for social services facilities, affordable housing or both.

1 Section 4. The City Council finds that (i) the environmental and use covenants in the
2 Deed, (ii) the Negative Easement, and (iii) the reversion of the property to the City if it is not
3 used for the purposes required in the Deed, together form sufficient consideration for the transfer
4 of the property to BBP.

5 Section 5. The City Council finds that the property interests in Former Fire Station 23
6 that are authorized to be conveyed to BBP on the terms of this ordinance are consistent with
7 municipal purposes and therefore the surplus property procedures of Resolution 31837 are
8 superseded for the purposes of this ordinance.

9 Section 6. The Director or the Director’s designee is authorized to negotiate, execute,
10 deliver, and record, for and on behalf of the City, any and all documents and agreements
11 necessary or advisable to carry out the conveyance of the Former Fire Station 23 consistent with
12 the terms and conditions of the BBP Transfer Agreement.

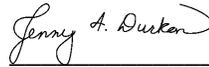
1 Section 7. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 21st day of September, 2020,
5 and signed by me in open session in authentication of its passage this 21st day of
6 September, 2020.



7 _____
8 President _____ of the City Council

9 Approved by me this 25th day of September, 2020.



10 _____
11 Jenny A. Durkan, Mayor

12 Filed by me this 25th day of September, 2020.



13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)
16
17
18

19 Attachments:

- 20 Attachment 1 – BBP Transfer Agreement
- 21 Exhibit A – Form of Negative Easement
- 22 Exhibit B – Form of Deed

AGREEMENT FOR THE TRANSFER OF REAL PROPERTY (the “Agreement”)

EFFECTIVE DATE: _____, 2020
(see Section 14(b) for provisions governing the Effective Date).

PARTIES

- THE CITY OF SEATTLE, a Washington municipal corporation (the “Seller”) acting by and through its Department of Finance and Administrative Services; and
- BYRD BARR PLACE, a Washington nonprofit corporation (the “Purchaser”).

RECITALS

- A. Seller owns that certain real property having a street address of 722 18th Avenue, Seattle, WA 98122, and legally described as follows:

LOTS FOUR (4) AND FIVE (5) IN BLOCK TWENTY-EIGHT (28),
SUPPLEMENTARY PLAT OF EDES & KNIGHT'S ADDITION TO THE CITY
OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN
VOLUME 2 OF PLATS AT PAGE 194, RECORDS OF KING COUNTY,
WASHINGTON,

Situate in the City of Seattle, County of King, State of Washington,

which real property, including easements, privileges, and improvements appurtenant to the land, is referred to in this Agreement as the “Real Property.”

- B. Since the late 1960s, the Purchaser – then known as the Central Area Motivation Project - has used the Real Property to furnish community services.
- C. In 1988, Seller and Purchaser - then known as Central Area Citizens’ Committee - entered into that certain *Mutual and Offsetting Benefit Lease Agreement* (hereinafter, the “Lease”) whereby Seller leased the Real Property to the Purchaser. The lease expired in 1991, since which time Purchaser’s tenancy has been a month-to-month tenancy at Seller’s consent.
- D. The Seller has determined that the Real Property is excess to its needs.
- E. Pursuant to that certain 2019 *Memorandum of Agreement Implementing Criteria for Initiating Transfer of Mutually Offsetting Facilities to Tenants*, by and amongst various City of Seattle departments and offices, an interdepartmental team within the City of Seattle has determined that the Purchaser – in all material respects – meets the transfer criteria established by the City for transferring property to tenants who have been operating properties under mutually and offsetting benefit lease agreements.

- F. The Seller and Purchaser mutually desire to enter into a binding agreement for the Seller's transfer and conveyance of the Real Property to Purchaser. NOW THEREFORE,

AGREEMENT

1. The **RECITALS** are made a part of this Agreement.
2. **TRANSFER OF THE PROPERTY.** Subject to the terms and conditions of this Agreement, the Seller shall transfer and convey to the Purchaser, and the Purchaser agrees to accept from the Seller, the Real Property together with any and all personal property owned by the Seller and located within or used in connection with the Real Property, including any and all furniture, furnishings, fixtures, appliances, heating, air conditioning and cooling units or systems, sign and boilers. Such personal property, together with the Real Property, is collectively referred to in this Agreement as the "**Property**".
3. **CONSIDERATION.** In consideration for the Seller's transfer and conveyance of the Property to the Purchaser, the Purchaser shall provide the Seller with the following:
 - a. At Closing, Purchaser shall grant Seller a *Negative Easement for Preservation of Development Rights* (the "**Negative Easement**") providing that development of the Property shall be restricted to social services facilities, affordable housing, or both, in the form attached as **Exhibit A**. The Negative Easement shall be recorded following recording of the Deed (defined in Section 8) at Closing, with no intervening liens between the Deed and the Negative Easement.
 - b. As provided in the Deed, Purchaser shall assume all environmental risk associated with the property and shall indemnify the City from all environmental liabilities arising from the Property. In the event ownership of the Property is re-conveyed to the City, Purchaser's obligation shall not apply to the extent any environmental liability results from any release, contamination or occurrence that occurs after the date of re-conveyance through no fault or action of Purchaser.
 - c. As provided in the Deed, title shall revert to the City if the Property is no longer used to provide social services or a combination of social services and affordable housing.
4. **"AS-IS"; SELLER DISCLOSURE STATEMENT; PURCHASER ACKNOWLEDGEMENT OF CERTAIN CONDITIONS; SELLER WORK PRIOR TO CLOSING.**
 - a. Purchaser is in possession of the Property, is familiar with the Property and understands its limitations and defects. Therefore, except as expressly set forth in Section 4.d of this Agreement:

- i. Purchaser acknowledges that Seller is transferring and conveying the Property “**AS-IS**” on the date of Closing with all faults, and that Seller makes no representations or warranties regarding the Property or its suitability for Purchaser’s intended use, and that Seller will convey the Property and Purchaser will accept the Property subject to any defects, including but not limited to easements, encroachments or claims for adverse possession, whether known or unknown, matters of public record, and off-record liens.
 - ii. Neither Seller nor any agent, employee, officer, director, attorney, broker, contractor, representative or property manager of Seller has made, and Seller specifically disclaims, any warranties, representations or guaranties of any kind or character, express or implied, statutory, oral or written, past, present or future, with respect to the Property.
 - iii. Purchaser acknowledges that it has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of Seller (except those provided for in this Agreement) or any of its respective agents, employees, officers, directors, attorneys, brokers, contractors, representatives or property managers and acknowledges that no such representations have been made.
- b. Seller to furnish a seller disclosure statement, as required pursuant to RCW CH. 64.06 as soon as reasonably possible, but no later than the time required by statute.
- c. Purchaser acknowledges the following with respect to the Property:
- i. **THE PROPERTY IS CURRENTLY USED AS A MULTI-PURPOSE COMMUNITY CENTER. SUCH USE IS NOT PERMITTED UNDER THE PROPERTY’S LR-1(M) ZONING DESIGNATION AND IS THUS CONSIDERED A NON-CONFORMING USE.**
 - ii. **PURSUANT TO THAT CERTAIN** Seattle Department of Constructions and Inspections’ April 2019 *List of URM*s, **THE BUILDING ON THE PROPERTY IS IDENTIFIED AS AN UNREINFORCED MASONRY STRUCTURE WITH NO VISIBLE RETROFITS.**
 - iii. Receipt, on or about November 8, 2019, of a copy of **SoundEarth Strategies, Inc., Phase I Environmental Site Assessment, dated May 30, 2019**, which documents SoundEarth Strategies, Inc.’s investigation of the Property.
 - iv. The Property’s current use as a social services community institution is recognized as a legal, permitted non-conforming use.

- v. The Property has been designated as a landmark under Seattle City Council Ordinance 102229 and is subject to certain controls under Ordinance 106050).

5. REPRESENTATIONS AND WARRANTIES

- a. **Seller's Representations and Warranties.** For purposes of the representations and warranties in subsections 5.a.ii-iii, "Seller's Representative" is Karen Gruen. Seller represents and warrants to Purchaser as of the Effective Date, as follows:

- i. Seller is a municipal corporation duly organized and validly existing under the laws of the state of Washington.
- ii. To the best of Seller's Representative's knowledge, there are no actions, suits or other legal proceedings pending or threatened against Seller with respect to the Property.
- iii. Seller's Representative has not received written notice that Seller is in default under any covenants, easements, deeds, regulations, laws, rules, ordinances, order, or restrictions affecting or encumbering the Property.
- iv. Seller has obtained all necessary approvals to enter into this Agreement, and, as of Closing, to complete the transaction contemplated by this Agreement, including the Seattle City Council's passage of an ordinance which authorizes the transfer and conveyance of the Property to the Purchaser.
- v. Entering into the Agreement does not conflict with any other contract or legal obligation of Seller.

- b. **Purchaser's Representations and Warranties.** Purchaser hereby represents and warrants to Seller that as of the Effective Date:

- i. Purchaser is a duly organized and validly existing entity under the laws of the state of Washington.
- ii. Purchaser has obtained all necessary approvals to enter into this Agreement, and, as of Closing, to complete the transaction contemplated by this Agreement.
- iii. Entering into the Agreement does not conflict with any other contract or legal obligation of Purchaser.
- iv. Purchaser is in possession of the Property and Purchaser has not granted any other party, affiliate, subtenant, or licensee a right to use

and possession of the Property in a manner that conflicts with the use under the Deed or the Negative Easement.

- v. Purchaser (a) has not filed a petition in bankruptcy, (b) is not the subject of a petition in bankruptcy, (c) does not have a trustee or receiver appointed with respect to Purchaser's assets, (d) has not assigned assets for the benefit of creditors, (e) has not received notice of default, trustee's sale, foreclosure or forfeiture.

6. **ACCESS AND DUE DILIGENCE.** As of the Effective Date, the Purchaser is in possession of the Property pursuant to the Lease and has had sufficient access to the Property and information regarding the Property to enable Purchaser to complete due diligence prior to entering into this Agreement without need of an additional due diligence period.

7. **FORM OF DEED.** At Closing, Seller shall convey the Property to Purchaser by quitclaim deed in the form attached as **Exhibit B** (the "**Deed**").

8. **CONDITIONS TO SELLER'S AND PURCHASER'S PERFORMANCE**

a. **Seller's Closing Conditions.** The obligation of the Seller to close the transaction contemplated by this Agreement is subject to the following closing conditions, any of which Seller may waive, in whole or in part:

- i. Purchaser shall have delivered to Seller all funds, documents and instruments required to be delivered by Purchaser hereunder.
- ii. Purchaser shall have performed in all material respects all covenants and obligations required by this Agreement to be performed by Purchaser on or prior to Closing.
- iii. The representations and warranties made by Purchaser in this Agreement (as set forth above in the subsection above with the caption Purchaser's Representations and Warranties) are true and correct as of the Closing date.

b. **Purchaser's Closing Conditions.** Purchaser's obligation to close the transaction contemplated by this Agreement is subject to the following closing conditions, any of which Purchaser may waive in whole or in part:

- i. Ratification of this Agreement by the Purchaser's board of directors.
- ii. Seller shall have delivered to Purchaser all documents and instruments required to be delivered by Seller hereunder.

- iii. Seller shall have performed in all material respects all covenants and obligations required to be performed by Seller on or prior to Closing.
- iv. Seller's representations and warranties (as set forth above in the section with the caption "Seller's Representations and Warranties") are true and correct as of the Closing date.

9. CLOSING; CLOSING DELIVERABLES; CLOSING COSTS/PRORATIONS; OBLIGATION FOR LEASEHOLD EXCISE TAX

a. Closing.

- i. The anticipated Closing Date is 30 days following authorization by Seattle City Council; **provided that**, Seller may extend the Closing Date for a reasonable period of time.
- ii. The parties agree not to use escrow for Closing and agree to cooperate to take steps necessary to complete Closing. Seller shall hold Purchaser's Closing deliverables in trust until Purchaser notifies Seller that Purchaser's Closing conditions are satisfied. Seller shall notify Purchaser when Purchaser's Closing conditions are satisfied ("Purchaser's Notice"). Promptly following Purchaser's Notice, the Seller shall first record the Deed and then immediately record the Negative Easement with no intervening liens or recorded interests. Seller shall provide Purchaser with copies of the recorded Deed and Negative Easement. Seller shall invoice Purchaser for fifty (50%) of the recording costs and Purchaser shall pay within thirty (30) days.
- iii. "**Closing**" will be deemed to have been completed when the Deed is recorded by the King County Recorder's Office.

b. Seller's Closing Deliverables. On or before the Closing Date, Seller shall deliver to the Purchaser the following:

- i. Executed Real Estate Excise Tax Affidavit in form required by law;
- ii. Seller's certification of Non-Foreign Status under Foreign Investment in Real Property Tax Act (26 U.S.C. 1445); and
- iii. Certification that Seller's representations and warranties are true and correct.

- c. **Purchaser's Closing Deliverables.** On or before the Closing Date, Purchaser shall deliver to the Seller the following:
- i. Certification that Purchaser's representations and warranties are true and correct as of Closing.
 - ii. The following documents as executed by the Purchaser:
 - a. Negative Easement;
 - b. Counter-signed Real Estate Excise Tax Affidavit in form required by law; and
 - c. Deed acceptance.
- d. **Closing Costs/Prorations.**
- i. Purchaser and Seller shall equally share the closing costs, recording fees, real estate excise tax (if any), and other costs associated with the transfer and conveyance of the Property, excluding the cost of a purchaser's policy of title insurance (whether it provides standard coverage or extended coverage) and any endorsements thereto. Purchaser shall be responsible for the cost of title insurance.
 - ii. Real and personal property taxes, assessments, and charges payable in the year of Closing will be pro-rated as of Closing Date. Purchaser acknowledges that pursuant to RCW 84.36.010 the Real Property is not currently subject to property tax because Seller is a public entity, and that the Real Property will become subject to taxation when Purchaser acquires it. Seller calls Purchaser's attention to the fact that the Real Property is subject to miscellaneous charges (e.g., a charge for surface water), despite the fact that Property is exempt from taxation pursuant to RCW 84.36.010(1). Such miscellaneous charges will be pro-rated at Closing.
- e. **Leasehold Excise Tax.** In the event the State of Washington makes any demand upon the Seller for payment of leasehold excise taxes resulting from the Purchaser's occupation of the Property (or possession of the Property by the Purchaser's predecessors-in-interest under the Lease) or withholds funds due to the Seller to enforce collection of leasehold excise taxes, the Purchaser shall, at its sole expense, defend and indemnify the Seller from all such demands, and if necessary repay Seller for all sums expended by the Seller, or withheld by the State from the Seller, in connection with such taxation; provided that this shall not prevent Purchaser from contesting such action, at Purchaser's sole cost. The obligations of this Section shall survive Closing.

10. **RELEASE.** Seller's willingness to enter into this Agreement is conditioned, in part, on Purchaser's agreement to take the Property AS-IS and Purchaser's covenant to release and indemnify Seller from environmental liabilities arising from the Property as provided under the terms and conditions of the environmental covenant in the Deed.

11. **LEASE TERMINATION.** Seller and Purchaser agree that Purchaser's month-to-month tenancy will be deemed terminated as of the Closing Date, and Seller hereby forever releases, disclaims and discharges any and all claims, actions, suits, remedies, obligations or liabilities that Purchaser may have or claim against Seller under the Lease or any subsequent month to month or other tenancies or agreements regarding the Property, to be effective as of the Closing Date. This release shall not apply to any third party claims made against the City that arise from Purchaser's use and occupancy of the Property and Purchaser shall defend and indemnify the City from any third-party claims and liabilities arising from Purchaser's use and occupancy of the Property, including any use and occupancy by Purchaser's employees, subtenants, assignees, contractors, licensees and invitees.

12. **BROKERS**

The Seller represents and warrants that, in the context of the transaction contemplated by this Agreement, it is not represented by a real estate broker. Similarly, Purchaser represents and warrants that in the context of the transaction contemplated by this Agreement, it is not represented by a real estate broker. If any person or entity makes a claim for a brokerage commission or finder's fee of any kind, then the party through whom or on whose behalf such services are claimed shall defend and indemnify the other party from any claims, costs or fees for unpaid broker's fees or commissions.

13. **MISCELLANEOUS**

- a. **Notices.** Any notice required or permitted to be delivered under this Agreement must be in writing and will be deemed given on the earlier of actual receipt or (i) when delivered, if delivered by hand during regular business hours, (ii) three (3) days after being sent by United States Postal Service, registered or certified mail, postage prepaid, return receipt requested and first class mail, postage prepaid, or (iii) the next business day if sent by a reputable national overnight express mail service that provides tracing and proof of receipt or refusal of items mailed. Notices to Seller and/or Purchaser shall be delivered as follows:

If to Seller: THE CITY OF SEATTLE
Department of Finance and Administrative Services
Attn: Karen Gruen, Director Real Estate Services
700 Fifth Avenue, Suite 5200
P.O. Box 94689
Seattle, WA 98124-4689
Telephone: 206-733-9238

Note: If delivering notice by hand pursuant to subsection (i) above, notice must be delivered to the City's street address; if sending notice by U.S. Mail pursuant to subsection (ii) above, notice must be sent to the City's P.O. Box; and if sending notice by overnight express mail service pursuant to subsection (iii) above, notice must be delivered to the City's street address.

If to Purchaser: BYRD BARR PLACE
Attention: Andrea Caupain Sanderson, Chief
Executive Officer
722 18th Avenue
Seattle, WA 98122
Telephone: 206-812-4940

- b. **Effective Date.** The "**Effective Date**" of this Agreement is the date the last party to execute this Agreement executes it, as represented by the date appearing below each party's signature. Each party authorizes the endorsement of such date for administrative reference in the space provided in the Agreement's heading.
- c. **Entire Agreement.** This Agreement, including exhibits, constitutes the entire agreement of the Seller and Purchaser with respect to the Property and supersedes all written or oral agreements or undertakings. This Agreement may be modified only pursuant to a writing signed by both parties.
- d. **Negotiated Agreement.** This Agreement has been negotiated by the parties and each party has had the opportunity to review it with legal counsel and to participate in the drafting. It shall be construed according to the fair intent of the language as a whole, and not for or against either party as the drafting party.
- e. **No Assignment.** Purchaser may not assign its interest in this Agreement to any other party, without the Seller's prior written consent, which the Seller may withhold in its sole and absolute discretion.
- f. **No Third-Party Beneficiaries.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies on any person other than the parties to this Agreement, nor is anything in this Agreement intended to relieve or

discharge the obligation or liability of any third-party, nor shall any provision give any third-party any right of subrogation or action against any party to this Agreement.

- g. **Attorney Fees.** In the case of any legal action or dispute arising under this Agreement, each party will bear its own attorney fees and costs.
- h. **Further Acts.** Seller and Purchaser will each execute and deliver such additional documents and instruments and take such further actions as may be reasonably necessary to carry out the Agreement's terms and conditions.
- i. **Time** is of the essence.
- j. **Subject to the Approval of the Seattle City Council.** Final decisions regarding the disposal of the City's real property require authorization by the Seattle City Council.
- k. **Governing Law; Jurisdiction and Venue.** This Agreement shall be governed by the laws of the State of Washington. Jurisdiction and venue shall be in the Superior Court for the State of Washington – King County.

l. **Exhibits**

Exhibit A Negative Easement

Exhibit B Form of Deed

SELLER:

THE CITY OF SEATTLE
Department of Finance and Administrative
Services

By: _____

Printed Name:

Title: _____

Date: _____

PURCHASER:

BYRD BARR PLACE, a Washington
nonprofit corporation

By: _____

Printed Name: Andrea Caupain Sanderson

Title: Chief Executive Officer

Date: _____

Exhibit A
Form of Negative Easement

AFTER RECORDING RETURN TO:

City of Seattle
Department of Finance and Administrative Services
Seattle Municipal Tower
700 Fifth Avenue, Suite 5200
P.O. Box 94689
Seattle, WA 98124-4689

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): Negative Easement for Preservation of Development Rights
Reference Number(s) of Documents assigned or released: None Additional reference numbers on page(s) _____ of document.
Grantor(s) (Last name, first name, initials) BYRD BARR PLACE, a Washington non-profit corporation <input type="checkbox"/> Additional names are on page(s) _____ of document.
Grantee(s) (Last name first, then first name and initials) THE CITY OF SEATTLE, a Washington municipal corporation <input type="checkbox"/> Additional names are on page(s) _____ of document.
Legal description (abbreviated: i.e. lot, block, plat or section, township, range) Lots 4-5, Block 28, EDES & KNIGHTS ADD SUPPL Plat, SW-33-25-4 <input checked="" type="checkbox"/> Additional legal description is on Exhibit A of this document.
Assessor's Property Tax Parcel/Account Number <input type="checkbox"/> Assessor Tax # not yet assigned 22545-02235
The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

NEGATIVE EASEMENT FOR PRESERVATION OF DEVELOPMENT RIGHTS

This NEGATIVE EASEMENT FOR PRESERVATION OF DEVELOPMENT RIGHTS (“**Easement**”) is granted by BYRD BARR PLACE, a Washington non-profit corporation (the “**Grantor**”) in favor of THE CITY OF SEATTLE, a Washington municipal corporation (“**Grantee**”).

1. RECITALS

- 1.1. Grantor is the sole owner in fee simple determinable of that certain real property (hereinafter, “**Property**”) located in King County, Washington, more particularly described in “**Exhibit A**” (Legal Description of Property Subject to Easement) and shown on “**Exhibit B**” (Site Map), both of which are attached and incorporated herein. The Property consists of 15,360 square feet and is improved with a 17,210-square foot building constructed in or about 1908 (the “**Existing Building**”).
- 1.2. The City of Seattle is facing an acute shortage of affordable housing. The scarcity of suitable land is an important factor in this shortage.
- 1.3. The Property is zoned LR-1(M), a zoning designation under which multi-story residential buildings are permitted. The Property’s current use as a social services community institution is recognized as a legal, permitted non-conforming use.
- 1.4. Additionally, the Property’s suitability for development of housing is further enhanced by the Property’s proximity to transportation networks, services, employment centers, as well as its access to utilities necessary for its redevelopment.
- 1.5. Therefore, in light of the shortage of affordable housing and the suitability of the Property for housing, the development potential of the Property is of great importance to Grantor, Grantee and the citizens of the City of Seattle.
- 1.6. Grantor acquired title to the Property from Grantee, and Grantee’s willingness to convey the Property to Grantor was conditioned, in part, on Grantor’s execution and recording of this Easement immediately after conveyance of title, to be effective on the date of recording of this Easement in the public records of King County (the “**Effective Date**”).
- 1.7. The parties intend that the additional development potential of the Property be preserved and utilized in perpetuity for the purpose of affordable housing.

2. CONVEYANCE AND CONSIDERATION

- 2.1. NOW THEREFORE, in consideration of the foregoing recitals which are made a part of this Easement, and for other valuable consideration, the receipt of which is hereby acknowledged, Grantor grants and conveys to Grantee a negative easement as further described in Section 3 in perpetuity in, on, over and across the Property, subject to all of the terms in this Easement.

- 2.2. Grantor expressly intends that this Easement conveys certain rights and a non-possessory interest in the Property to the Grantee.
- 2.3. Grantor expressly intends that this Easement run with the land and that this Easement shall be binding upon Grantor’s personal representatives, heirs, successors, assigns, agents, employees, tenants, and occupants of the Property.

3. PURPOSE AND GRANT OF EASEMENT

- 3.1 **Purpose and Definition of Development Value and Affordable Housing.** The purpose of this Easement is to forever preserve Development Value of the Property for the purposes of social services facilities, or Affordable Housing, or both. As used in this Easement, “**Development Value**” means any expansion of the Existing Building above or below grade, or any construction of a new facility, building, structure or other fixture or appurtenance upon the Property. “**Affordable Housing**” means a housing development that creates and maintains housing units on the Property with a mix of unit sizes which are affordable to and serve households with income levels up to 80% of area median income (“**AMI**”), and with a majority of units serving households with incomes up to 60% of AMI.
- 3.2. **Grant of Easement.** Grantor hereby covenants for the benefit of Grantee to preserve and use the Development Value of the Property for the purposes of social services facilities, for Affordable Housing, or both. Grantor hereby grants to Grantee a negative easement in perpetuity providing Grantee the right to take any actions permitted by law or equity to ensure that the Development Value of the Property is used by Grantor solely for the creation and maintenance of social services facilities, for the creation and maintenance of Affordable Housing, or both (the “**Easement**”). The parties further agree that the rights in the Development Value may not be used or transferred from the Property, as it now or hereafter may be bounded or described, to any other property without the prior written approval of the Grantee. Any purported transfer of the Development Value without Grantee’s prior written approval shall be deemed null and void.
- 3.3. **Interpretation of the Easement; Grantee’s Rights.** The parties intend that this Easement be interpreted (a) in a manner consistent with its stated purpose, and (b) so as to confine the Grantor’s use of the Property to such activities that are consistent with the purpose and terms of this Easement. At the same time, the parties intend, and this Easement is structured, to give Grantor discretion to undertake activities that are consistent with the Easement’s purpose and terms. Accordingly, Grantor shall provide Grantee at least sixty (60) days’ notice and obtain Grantee’s written approval before Grantor submits an application to any regulatory body for any permit that utilizes the Development Value. In such circumstance, at the option of Grantee, Grantor shall enter into a regulatory agreement with Grantee, on a form to be provided by Grantee, to ensure that housing units constructed on the Property serve and are affordable to households with income levels up to 80% of AMI and a majority up to 60% of AMI.

- 3.4. **No Public Rights Conveyed Through Easement.** The parties acknowledge that, except as specifically provided herein, Grantor does not grant, expand or extend any rights to the general public through this Easement, including without limitation, any rights of public access to, on or across, or public use of, the Property.

4. ADDITIONAL RIGHTS CONVEYED TO GRANTEE

- 4.1 The following additional rights are conveyed to Grantee by this Easement:

4.1.1 Access by Grantee. As provided for and limited herein, Grantor hereby grants to Grantee reasonable and non-exclusive access once per year (to be coordinated with Grantor in advance) across the Property solely for the purposes of monitoring and enforcing Grantee's rights under this Easement. Specifically, Grantee shall have the right:

- (a) To enter upon, inspect, observe and study the Property, with such persons as Grantee may require, once per year at mutually agreeable dates and times and upon reasonable prior notice to the Grantor, for the purpose of monitoring the uses and activities on the Property to determine whether they are consistent with this Easement; and
- (b) To enter upon the Property with no less than five days' written notice and during business hours if Grantee has a good faith basis for believing that a violation of this Easement is occurring.

4.1.2 Grantee shall exercise its access rights in compliance with applicable law and the terms of this Section 4.1 in a manner that will not materially disturb or interfere with Grantor's reserved rights, any other person's lawful use of the Property, or Grantor's ongoing operations or quiet enjoyment of the Property.

4.1.3 Grantor shall not unreasonably withhold or delay its consent to dates and times of access proposed by Grantee under Subsection 4.1.1.

- 4.2 **Enforcement.** Grantee shall have the right to enforce the terms of this Easement, in accordance with Sections 6 and 7.

5. PERMITTED USE

The Existing Building shall be maintained in good and sound repair. Grantor will not commit or permit waste (i.e., abuse, unreasonable use, and/or deterioration other than normal wear and tear) of the Existing Building. Accordingly, Grantor may undertake any activities on the Property which are reasonable and necessary to maintain the Existing Building so long as the activities do not frustrate the purpose of preserving the Development Value for social services facilities and Affordable Housing.

6. NOTICE AND CONSENT

- 6.1. **Addresses for Notices.** Any notice, demand, request, consent, concurrence, approval, or communication that any party desires or is required to give to the other under this Easement shall be given in writing and to the party's address below or such other address as any party shall designate in writing from time to time. Notice shall be served personally, or sent by first class registered or certified mail, postage pre-paid, or overnight courier with proof of delivery and shall be deemed given on the earlier of (a) acknowledgement of actual receipt, or (b) the date of delivery affidavit or three business days after deposit in U.S. Mail.

To Grantor: Byrd Barr Place
Attention: Executive Director
722 18th Avenue
Seattle, WA 98122
Telephone: 206-812-4940

To Grantee: City of Seattle
Department of Finance and Administrative Services
Attention: Real Estate Services Director
700 Fifth Avenue
Suite 5200
P.O. Box 94689
Seattle, WA 98124-4689

- 6.2. Where notice from Grantee to Grantor of entry upon the Property is required under this Easement, Grantee may notify any appropriate agent of Grantor by telephone, mail, or in person prior to such entry.

7. REMEDIES

- 7.1. **Notice of Non-Compliance.** If Grantee reasonably determines that the Grantor is in violation of the terms of this Easement or that a violation is likely to occur, Grantee shall give written notice to Grantor specifying the violation and the corrective action sufficient to cure the violation. Where the violation involves injury or damage to the Property resulting from any use or activity inconsistent with the Easement's purpose or terms, Grantor shall restore the portion of the Property so injured to its prior or potential condition in accordance with a plan to which Grantee has consented.
- 7.2. **Grantor's Failure to Respond.** Grantee may bring an action as provided in Section 7.3 if Grantor:
- 7.2.1. Fails to cure a violation of this Easement within thirty (30) days after receipt of written notice thereof from Grantee; or

- 7.2.2. Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to diligently pursue the cure to completion.
- 7.3. **Grantee's Action.** Grantee may bring an action at law or in equity, or both, to enforce the terms of this Easement, to enjoin the violation, ex parte as necessary and as allowed under the applicable civil rules, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement, or injury to any of the Development Values, including damages for the loss of the Development Values; and to require the restoration of the Property to the condition that existed prior to any such injury. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property. All such actions for injunctive relief may be taken without Grantee being required to post bond or provide other security.
- 7.4. **Immediate Action Required.** Despite any other provision of this Easement to the contrary, if Grantee, in its reasonable discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Development Values, Grantee may pursue its remedies under this Section 7 with prior notice to Grantor but without waiting for the period provided for cure to expire.
- 7.5. **Nature of Remedy.** Grantee's rights under this Section 7 apply equally in the event of either actual or threatened violations of the terms of this Easement and Covenant. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement may be inadequate, and that Grantee shall be entitled to the injunctive relief described in this Section 7 both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this Section 7 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including Grantee's rights under the deed conveying title to Grantor.
- 7.6. **Costs of Enforcement.** If Grantor or Grantee finds it necessary to bring an action at law or other proceeding against the other party to enforce or interpret any of the terms, covenants, or conditions of this Easement, each party shall bear its own attorneys' and consultants' fees.
- 7.7. **Grantee's Discretion.** Enforcement of the terms of this Easement shall be at the discretion of the Grantee in accordance with the terms of this Easement. Any forbearance by Grantee to exercise its rights under this Easement if Grantor breaches any of the Easement's terms shall not be deemed or construed to be a waiver by Grantee of such term or of any of Grantee's rights under this Easement. Grantee's delay or omission in the exercise of any right or remedy upon any breach by Grantor shall not impair such right or remedy or be construed as a waiver.

- 7.8. **Waiver of Certain Defenses.** Grantor acknowledges that it has carefully reviewed this Easement and has consulted with and been advised by legal counsel of its terms and requirements. In full knowledge of the provisions of this Easement and in view of the fact that Grantee will not be continually present on the Property, that Grantee has limited resources to monitor compliance with the Easement, and that activities inconsistent with the purpose and terms of this Easement could occur without Grantee's immediate knowledge, Grantor hereby waives any claim or defense it may have against Grantee or its successors in interest under or pertaining to this Easement based upon abandonment, adverse possession, prescription, laches, estoppel or changed circumstances relating to the Property or this Easement.
- 7.9. **Acts Beyond Grantor's Control.** Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from actions by a trespasser upon the Property or causes beyond Grantor's control, including, without limitation, civil unrest, epidemic, natural disaster, fire, flood, storm, pest infestation, earth movement, and climate change, and from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. If the Easement terms are violated by acts of trespassers, and Grantor has not undertaken suit itself, Grantor agrees, at Grantee's option, to assign its right of action to Grantee or to appoint Grantee its attorney-in-fact, for purposes of pursuing enforcement action against the responsible parties. It shall be Grantor's burden to demonstrate that a violation was caused by a trespasser and that Grantor could not have anticipated or prevented such violation.

8. LIABILITIES, TAXES, AND ENVIRONMENTAL COMPLIANCE

- 8.1. **Liabilities and Insurance.** Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including the maintenance of liability insurance coverage with a liability limit of not less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate. Such insurance shall include Grantee's interest, name Grantee as an additional insured, and (if available) provide for at least thirty (30) days' notice to Grantee before cancellation and that the act or omission of one insured will not invalidate the policy as to the other insured party. The parties release and relieve the other and waive their entire right to recovery for loss or damage to the extent that the loss or damage is covered by the injured party's insurance. This waiver applies whether the loss is due to the negligent acts or omissions of Grantor or Grantee. Grantor remains solely responsible for obtaining any applicable governmental permits and approval for any construction or other activity or use permitted by this Easement. Grantor shall keep the Property free of any liens arising out of any work performed for, material furnished to, or obligations incurred by Grantor; **provided** that the Property shall be deemed to be free of such liens if I) Grantor or Grantee, as the case may be, is diligently challenging the application of such liens to the

Property; or ii) such liens are subordinated to this Easement and do not require any action or inaction inconsistent with the purpose and terms of this Easement.

- 8.2. **Compliance with Applicable Laws.** Grantor shall comply with all statutes, laws, ordinances, rules, regulations, codes, orders, guidelines, or other restrictions, or requirements applicable to the Property that have been enacted or otherwise promulgated by any federal, state, county, municipal, or other governmental or quasi-governmental agency, board, bureau, commission, court, department, panel, or other official body (whether legislative, administrative, or judicial), or by any competent official of any of the foregoing, including, but not limited to, those relating to pollution or the protection of human health or the environment.
- 8.3. **Taxes.** Grantor shall pay before delinquency all taxes, assessments, fees, charges of whatever description levied on or assessed against the Property by competent authority after the Effective Date, including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.
- 8.4. **Liability.** Grantor shall defend, indemnify and hold harmless the Grantee, its employees, agents, and assigns for any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, and costs of actions, sanctions asserted by or on behalf of any person or governmental authority, and other liabilities (whether legal or equitable in nature and including, without limitation, court costs, and reasonable attorneys' fees and attorneys' fees on appeal) to which Grantee may be subject or incur relating to the Property, which may arise from, but are not limited to, Grantor's negligent acts or omissions or Grantor's breach of any covenant or agreements contained in this Easement, or violations of any Federal, State, or local laws, except to the extent arising from Grantee's negligent acts or omissions or Grantee's breach of this Easement, or violations of any Federal, State, or local laws.

9. CONDEMNATION and SUBSEQUENT TRANSFERS

- 9.1. **Condemnation.** If the Easement is taken, in whole or in part, by the exercise of the power of eminent domain by government or quasi-government agencies other than Grantee, Grantee shall be entitled to compensation in accordance with applicable law. If all or part of the Property is taken by the exercise of the power of eminent domain by public, corporate, or other authority (other than Grantee) so as to abrogate the restrictions imposed by this Easement, Grantor and Grantee shall cooperate in appropriate action(s) at the time of such taking to recover the full value of the taking and all incidental or direct damages resulting from the taking, it being expressly agreed that the Easement constitutes a compensable property right. The reasonable expenses of each party incurred in connection with such action(s) shall first be deducted from the total proceeds, and the remaining proceeds shall be divided consistent with the provisions of this Easement, based on the respective values of the interests of Grantor and Grantee, giving full credit to Grantor for any improvements to the Property made by Grantor.

- 9.2. **Subsequent Transfers by Grantor.** Grantor shall: (1) incorporate by express reference the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in the Property, including without limitation any leasehold interest; and (2) describe this Easement in and append it to, any executory contract for the transfer of any interest in the Property. Grantor shall give written notice to the Grantee of the transfer of any interest at least thirty (30) days prior to the date of such transfer. Such notice to Grantee shall include the name, address, and telephone number of the prospective transferee or such transferee's representative. The failure of the Grantor to perform any act required by this Section shall not impair the validity of this Easement or limit Grantor's right to enforce it in any way.
- 9.3. **Subsequent Transfers by Grantee.** This Easement is intended to bind any and all Grantor's heirs, successors and assigns to Grantee's rights in the Property, and is intended to be freely transferable by Grantee. Grantee shall notify Grantor in writing, at Grantor's last known address, in advance of any transfer or assignment. However, the failure of Grantee to give such notice shall not affect the validity of this Easement or limit Grantee's heirs, successors and assigns to enforce Grantee's rights against Grantor and its subsequent purchasers, heirs, or successors.

10. AMENDMENT

Grantor and Grantee recognize that circumstances could arise which justify amendment of certain of the terms, covenants or restrictions contained in this Easement and Covenant. Amendments will become effective when executed by an authorized representative of each party and recorded with the King County Recorder.

11. RECORDATION

Grantee shall record this instrument in a timely fashion in the official records of King County, Washington, and in any other appropriate jurisdictions, and may re-record it at any time as may be required to preserve its rights in this Easement.

12. GENERAL PROVISIONS

- 12.1. **Governing Law and Venue.** The laws of the State of Washington and applicable federal law shall govern the interpretation and performance of this Easement. By executing this Easement, Grantor submits to the jurisdiction of the courts of the State of Washington in this matter. In the event of a lawsuit involving this Easement, venue shall be proper in King County, Washington.
- 12.2. **Liberal Construction.** Despite any general rule of construction to the contrary, this Easement shall be liberally construed in favor of the grant to further the Purpose of this Easement. If any provision in this instrument is found to be ambiguous, an interpretation

consistent with the purpose that would render the provision valid shall be favored over any interpretation that would render it invalid.

12.3. **Severability.**

12.3.1. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid or unenforceable by any court of competent jurisdiction or is superseded by state or federal legislation, rules, regulations or decision, the remainder of the provisions of this Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid or unenforceable, as the case may be, shall not be affected thereby.

12.3.2. If any material provision of this Easement or the application thereof to any person or circumstance, is found to be invalid or unenforceable by any court of competent jurisdiction or is superseded by state or federal legislation, rules, regulations or decision, so that the intent of this Easement is frustrated, the parties agree to immediately negotiate a replacement provision to fulfill the intent of the superseded provisions consistent with applicable law.

12.4. **Entire Agreement.** This instrument and the deed whereby Grantee originally conveyed title to the Property to Grantor sets forth the entire agreement of the parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the subject matter herein, all of which are merged herein. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment that complies with Section 10.

12.5. **Successors.** The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties and their respective successors and assigns, and to any party taking ownership of the Property, or any portion thereof, subsequent to the foreclosure of any mortgage or deed of trust, and shall continue as a servitude running with the Property in perpetuity.

12.6. **No Joint Venture.** Grantor and Grantee expressly disclaim the existence of any fiduciary relationship, partnership, joint venture or agency relationship between or amongst them with respect to matters arising out of or related to this Easement and Covenant.

12.7. **Authority.** The individuals signing below, if signing on behalf of any entity, represent and warrant that they have the requisite authority to bind the entity on whose behalf they are signing.

13. SCHEDULE OF EXHIBITS

13.1. Exhibit A. Legal Description of Property Subject to Easement and Covenant

13.2. Exhibit B. Site Map

REMAINDER OF PAGE IS INTENTIONALLY BLANK; SIGNATURE PAGES FOLLOW



EXHIBIT A

Legal Description of Property Subject to Easement and Covenant

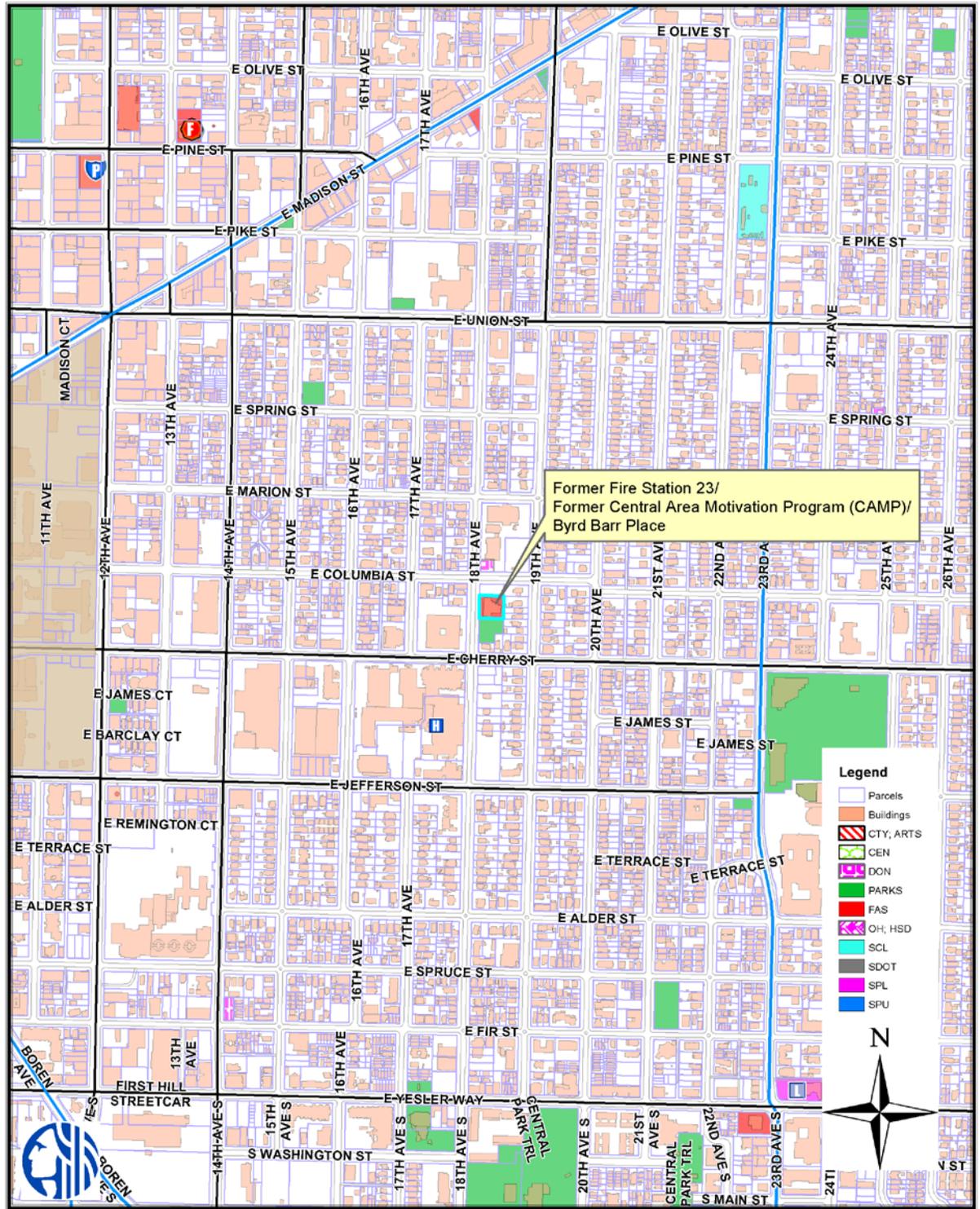
LOTS 4 AND 5 IN BLOCK 28 OF SUPPLEMENTAL PLAT OF EDES AND KNIGHT'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS AT PAGE 194, RECORDS OF KING COUNTY, WASHINGTON.

Situate in the County of King, State of Washington.



EXHIBIT B

Site Map



Former Fire Station 23 - CAMP - Byrd Barr Place

Produced by the City of Seattle Dept of Finance and Administrative Services, Real Estate Services Division, A. Bond. All Rights Reserved.
No guarantee of any part implied, including accuracy, completeness or fitness of use.

Exhibit B
Form of Deed

Return Address:

Byrd Barr Place
722 18th Avenue
Seattle, WA 98122

Please print or type information WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

<p>Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)</p> <p style="text-align: center;">1. QUIT CLAIM DEED CONVEYING DETERMINABLE ESTATE WITH COVENANTS</p>
<p>Reference Number(s) of Documents assigned or released:</p> <p style="text-align: center;">NONE</p>
<p>Grantor(s) (Last name, first name, initials)</p> <p style="text-align: center;">1. CITY OF SEATTLE, a Washington municipal corporation</p>
<p>Grantee(s) (Last name first, then first name and initials)</p> <p style="text-align: center;">1. BYRD BARR PLACE, a Washington non-profit corporation</p>
<p>Legal description (abbreviated: i.e. lot, block, plat or section, township, range)</p> <p style="text-align: center;">Lots 4-5, Block 28, EDES & KNIGHTS ADD SUPPL Plat, SW-33-25-4</p>
<p>Assessor's Property Tax Parcel/Account Number <input type="checkbox"/> Assessor Tax # not yet assigned</p> <p style="text-align: center;">22545-02235</p>
<p>The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.</p>

QUIT CLAIM DEED CONVEYING DETERMINABLE ESTATE WITH COVENANTS
(the “**Deed**”)

This Deed conveys real property located in King County, Washington legally described as follows:

LOTS FOUR (4) AND FIVE (5) IN BLOCK TWENTY-EIGHT (28),
SUPPLEMENTARY PLAT OF EDES & KNIGHT'S ADDITION TO THE CITY
OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN
VOLUME 2 OF PLATS AT PAGE 194, RECORDS OF KING COUNTY,
WASHINGTON.

Situate in the City of Seattle, County of King, State of Washington (the
“Property”).

For good and valuable consideration, the receipt of which is hereby acknowledged, THE CITY OF SEATTLE (“Grantor”), a Washington municipal corporation, hereby conveys and quitclaims to the BYRD BARR PLACE (“Grantee”), a Washington non-profit corporation, all Grantor’s right, title and interest in the Property, other than the rights expressly reserved in this Deed, for: (i) so long as the Property is used to provide social services in compliance with the Covenant for Use of the Property in Section B.3 below; and (ii) so long as any additional development or expansion of improvements on the Property is limited to improvements dedicated to social services facilities, or affordable housing, or both.

At such time when the Property is no longer used as provided in the prior paragraph , the Property shall revert to Grantor and its heirs and successors, and by its acceptance of this Deed the Grantee hereby binds itself and its heirs, successors and assigns, grantees and lessees forever to use the Property as provided in this Deed, and further covenants as follows:

A. Environmental Covenant

1. The Property is conveyed AS-IS, WHERE-IS, WITH-ALL-FAULTS, AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, AS TO ITS CONDITION, ENVIRONMENTAL OR OTHERWISE, OR ITS SUITABILITY OR SUFFICIENCY FOR THE GRANTEE'S INTENDED USES AND PURPOSES. Grantee acknowledges that adverse physical, economic or other conditions (including without limitation, adverse environmental soils and ground-water conditions), either latent or patent, may exist on the Property. Grantee assumes Grantor's responsibility for all environmental conditions of the Property, known or unknown, including but not limited to responsibility, if any, for investigation, removal or remediation actions relating to the presence, release or threatened release of any Hazardous Substance (defined below) or other environmental contamination relating to the Property. Grantee also releases and shall

indemnify, defend, and hold Grantor and its past, present and future officials, employees, and agents, harmless from and against any and all claims, demands, penalties and costs assessed by any regulatory agency, fees, damages, losses, expenses (including but not limited to attorneys' fees, contractors' and consultants' fees and costs), and liabilities arising out of, or in any way connected with, the condition of the Property, including but not limited to any alleged or actual past, present or future presence, release or threatened release of any Hazardous Substance in, on, under or emanating from the Property, or any portion thereof or improvement thereon, from any cause whatsoever; it being intended that Grantee shall so indemnify Grantor and such personnel without regard to any fault or responsibility of Grantor or Grantee. The obligation to complete all environmental investigation, removal or remediation of the Property and the acknowledgement, release and indemnification touch and concern the Property, restrict the use of the Property, constitute an assessment against the Property and are intended to run with the land and bind Grantee and Grantee's heirs, successors and assigns, and inure to the benefit of Grantor and its successors and assigns.

2. For purposes of this Environmental Covenant, the term "Hazardous Substance" shall mean petroleum products and compounds containing them; flammable materials; radioactive materials; polychlorinated biphenyls ("PCBs") and compounds containing them; asbestos or asbestos-containing materials in any friable form; underground or above-ground storage tanks; or any substance or material that is now or hereafter becomes regulated under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to environmental protection, contamination or cleanup.
3. Grantee's release shall include both claims by Grantee against Grantor and cross-claims against Grantor by Grantee based upon claims made against Grantee by any and all third parties. The obligation to indemnify and defend shall include, but not be limited to, any environmental or similar liability of Grantor to any and all federal, state or local regulatory agencies or other persons or entities for remedial action costs and natural resources damages claims. The obligation to complete all environmental investigation, removal or remediation of the Property and the acknowledgement, release and indemnification touch and concern the Property, restrict the use of the Property, constitute an assessment against the Property and are intended to run with the land and bind Grantee and Grantee's heirs, successors and assigns, and inure to the benefit of Grantor and its successors and assigns. This release means that Grantee accepts the Property "as-is, where-is and with-all-faults," and that Grantee assumes all responsibility of Grantor to investigate, remove and remediate any environmental conditions on the Property and has no recourse against Grantor or any of its officers, employees or agents for any claim or liability with respect to the Property.
4. Grantor shall have the right to defend itself and seek from Grantee recovery of any damages, liabilities, settlement awards and defense costs and expenses incurred by Grantor if Grantee does not accept unconditionally Grantor's tender to Grantee of the duty to investigate, remove and/or remediate environmental conditions on the Property and/or defend and indemnify Grantor against any such claim, suit, demand, penalty, fee, damages, losses, cost or expense arising therefrom. This Covenant shall apply regardless of whether or not Grantee is culpable, negligent or in violation of any law, ordinance, rule or regulation. This Covenant is not intended, nor shall it, release, discharge or affect any rights or causes of

action that Grantor or Grantee may have against any other person or entity, except as otherwise expressly stated herein, and each of the parties reserves all such rights including, but not limited to, claims for contribution or cost recovery relating to any Hazardous Substance in, on, under or emanating from the Property.

B. Covenants Regarding Use and Condition of the Property:

1. Improvements to the Property shall be maintained in good and sound state of repair, subject to reasonable wear and tear. Grantee will not commit or permit waste (i.e., abuse, unreasonable or improper use, and/or deterioration other than normal wear and tear) of the building or site improvements.
2. With the prior written consent of Grantee (which shall not be unreasonably withheld), Grantor shall have the right to enter the property during weekday business hours for the purpose of making inspections of the property to determine if there is compliance by Grantee with the terms of this Deed. Grantee shall not request inspection more than annually unless Grantee has reasonable cause to believe there is a violation of one or more covenant in this Deed.
3. Grantee shall use the Property for social services provided to the public. For purposes of this Deed, 'social services' means services offered to support the wellbeing and safety of the public, which may include:
 - a. Operation of a food bank;
 - b. Offering of energy assistance programs;
 - c. Offering of short-term financial assistance for housing expenses;
 - d. Offering instruction in personal finance;
 - e. Affordable housing; and
 - f. Any combination of a - e.
4. The Grantee shall pay real estate taxes and assessments on the property hereby conveyed, or any part thereof, when due and shall place thereon no mortgage, lien or other encumbrance without the prior written consent of the City's Director of Finance and Administrative Services, or the head of any successor agency, which shall not be unreasonably withheld, conditioned, or delayed.
5. The Grantee shall annually, no later than March 31, submit to the Director of Finance and Administrative Services, or the head of any successor agency, certification that it has used the Property consistent with the covenants and limitations of this Deed.
6. If the Property reverts to Grantor, then upon written request from Grantee, Grantor will execute in favor of Grantee a recordable document relating to such reversion or reconveyance that will include environmental covenants and indemnity release provisions which will be effective on a prospective basis after the date of such reversion or reconveyance to release Grantee from any subsequent environmental liabilities, excluding

any environmental conditions that may have been created or caused by Grantee while it owned the Property.

7. Grantee shall use the Property in compliance with all municipal, county, state and federal laws, ordinances and regulation and shall comply with all applicable equal employment opportunity and nondiscrimination laws of the United States, the State of Washington, and The City of Seattle, including but not limited to Chapters 14.04, 14.10 and 20.42 of the Seattle Municipal Code, as they may be amended from time to time, and rules, regulations, orders and directives of the associated administrative agencies and their officers
8. Americans with Disabilities Act. Grantee shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its ongoing obligations under this Agreement.
9. Grantee shall not deny an otherwise qualified individual any services anticipated by or required under this Agreement on the grounds of race, color, sex, religion, national origin, creed, marital status, age, sexual orientation, political ideology, ancestry, or the presence of any sensory, mental or physical handicap. BBP shall not discriminate on any of the foregoing grounds in the awarding of any contract, in the provision of services, or in other activities made possible by this Agreement.

C. Notice and Remedies

The provisions in this Section C shall not in any way amend, limit, or otherwise require the Grantor to take any action with respect to the automatic reversion of the Property to Grantor and Grantor's heirs and assigns at such time as the Property is no longer used as provided in the granting clause above. This section applies to any breach of one of more of the Covenants in Section A and B, excluding only B.3 (the "Deed Covenant(s)").

1. **Notice of Non-Compliance.** If Grantor reasonably determines that the Grantee is in violation of any Deed Covenant or that a violation is likely to occur, Grantor shall give written notice to Grantee of such violation and demand specific corrective action in writing sufficient to cure the violation.
2. **Grantee's Failure to Respond.** Grantor may bring an action as provided in Section C.3 below if Grantee:
 - a. Fails to cure a violation of any Deed Covenant within thirty (30) days after receipt of written notice thereof from Grantor; or
 - b. Under circumstances where the violation cannot reasonably be cured within the thirty (30) day period, fails to begin curing such violation within the thirty (30) day period, or fails to diligently pursue the cure to completion.
3. **Grantor's Action.** Grantor may bring an action at law or in equity, or both, to enforce the terms of the Deed Covenants, to enjoin the violation, ex parte as necessary and as allowed

under the applicable civil rules, by temporary or permanent injunction, and to recover any damages to which it may be entitled for violation of the terms of the Deed Covenants. All such actions for injunctive relief may be taken without Grantor being required to post bond or provide other security.

4. **Nature of Remedy.** Grantor's remedies described in this Section C shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.
5. **Grantor's Discretion.** Enforcement of the Deed Covenants shall be at the discretion of the Grantor in accordance with the terms of this Section C. Any forbearance by Grantor to exercise its rights under this Deed if Grantee breaches any of the Deed Covenants shall not be deemed or construed to be a waiver by Grantor of such term or of any of Grantor's rights under this Deed, including the reversion of the Property. Grantor's delay or omission in the exercise of any right or remedy upon any breach by Grantee shall not impair such right or remedy or be construed as a waiver.
6. **Waiver of Certain Defenses.** Grantee acknowledges that it has carefully reviewed this Deed and has consulted with and been advised by legal counsel of its terms and requirements. In full knowledge of the provisions of this Deed and in view of the fact that Grantor will not be continually present on the Property, that Grantor has limited resources to monitor compliance with the Deed, and that activities inconsistent with the purpose and terms of this Deed could occur without Grantor's immediate knowledge, Grantee hereby waives any claim or defense it may have against Grantor or its successors in interest under or pertaining to this Deed based upon abandonment, adverse possession, prescription, laches, estoppel or changed circumstances relating to the Property or this Deed.
7. **Acts Beyond Grantee's Control.** Nothing contained in this Section C shall be construed to entitle Grantor to bring any action against Grantee to abate, correct, or restore any condition on the Property or to recover damages for any injury to or change in the Property resulting from actions by a trespasser upon the Property or causes beyond Grantee's control, including, without limitation, civil unrest, epidemic, natural disaster, fire, flood, storm, pest infestation, earth movement, and climate change, and from any prudent action taken by Grantee under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. If the Deed Covenants are violated by acts of trespassers, and Grantee has not undertaken suit itself, Grantee agrees, at Grantor's option, to assign its right of action to Grantor or to appoint Grantor its attorney-in-fact, for purposes of pursuing enforcement action against the responsible parties. It shall be Grantee's burden to demonstrate that a violation was caused by a trespasser and that Grantee could not have anticipated or prevented such violation.

The Property is conveyed subject to all existing easements, covenants, restrictions, conditions, reservations, exceptions and agreements, recorded and unrecorded, and the Grantor makes no warranties of any kind as to the title of the Property.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed.

<p>GRANTOR: THE CITY OF SEATTLE, a Washington municipal corporation</p> <p>By: _____ Calvin W. Goings</p> <p>Title: Director, Finance and Administrative Services</p> <p>Date: _____</p>	<p>ACCEPTED BY (GRANTEE): BYRD BARR PLACE, a Washington non-profit corporation</p> <p>By: _____</p> <p>Printed Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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This Quit Claim Deed is executed and delivered pursuant to City of Seattle Ordinance

_____.

