



# SEATTLE CITY COUNCIL

## Legislative Summary

CB 119169

Record No.: CB 119169

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125507

In Control: City Clerk

File Created: 12/01/2017

Final Action: 01/05/2018

**Title:** AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of real property commonly known as 5104 SW Orleans Street; and authorizing acceptance and recording of the deed for open space, park, and recreation purposes.

**Notes:**

	<u>Date</u>
Filed with City Clerk:	1/5/2018
Mayor's Signature:	1/5/2018
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

**Sponsors:** Herbold

**Attachments:** Att A - Agreement for Purchase and Sale of Real Property

**Drafter:** Chip Nevins

**Filing Requirements/Dept Action:**

### History of Legislative File

Legal Notice Published:  Yes  No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	12/08/2017	Mayor's leg transmitted to Council	City Clerk			
	<b>Action Text:</b> The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	<b>Notes:</b>						
1	City Clerk	12/11/2017	sent for review	Council President's Office			
	<b>Action Text:</b> The Council Bill (CB) was sent for review. to the Council President's Office						
	<b>Notes:</b>						
1	Council President's Office	12/11/2017	sent for review	Civil Rights, Utilities, Economic Development, and Arts Committee			
	<b>Action Text:</b> The Council Bill (CB) was sent for review. to the Civil Rights, Utilities, Economic Development, and Arts Committee						

Notes:

- 1 Full Council 12/11/2017 referred Civil Rights, Utilities, Economic Development, and Arts Committee
- 1 Civil Rights, Utilities, Economic Development, and Arts Committee 12/12/2017 pass Pass
- Action Text: The Committee recommends that Full Council pass the Council Bill (CB).
- Notes:
- In Favor: 2 Chair Herbold, Member O'Brien
- Opposed: 0
- 1 Full Council 01/02/2018 passed Pass
- Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:
- Notes:
- In Favor: 9 Councilmember Bagshaw, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant
- Opposed: 0
- 1 City Clerk 01/03/2018 submitted for Mayor's signature Mayor
- 1 Mayor 01/05/2018 Signed
- 1 Mayor 01/05/2018 returned City Clerk
- 1 City Clerk 01/05/2018 attested by City Clerk
- Action Text: The Ordinance (Ord) was attested by City Clerk.
- Notes:
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**CITY OF SEATTLE**

**ORDINANCE** 125507

**COUNCIL BILL** 119169

AN ORDINANCE relating to the Department of Parks and Recreation; authorizing the acquisition of real property commonly known as 5104 SW Orleans Street; and authorizing acceptance and recording of the deed for open space, park, and recreation purposes.

WHEREAS, the City Council passed Ordinance 124468 in 2014, authorizing the interlocal agreement between The City of Seattle (City) and the Seattle Park District, which included the Seattle Park District Financial Plan: 2015-2020; and

WHEREAS, the Seattle Park District Financial Plan: 2015-2020 included the Park Land Acquisition and Leverage Fund, which is to be used to acquire park lands, including acquisition of properties to fill gaps in existing public ownership and preserve continuity within the City's greenspaces; and

WHEREAS, the Department of Parks and Recreation has determined Schmitz Preserve Park provides significant open space benefits including wildlife habitat and recreational opportunities, and the area is, therefore, a priority area for additional acquisitions for parks and open space; and

WHEREAS, the owner of the property at 5104 SW Orleans Street has offered to sell his property to the City while retaining a life estate, which will allow him to live out his life in his house, and this acquisition will fill a gap in Schmitz Preserve Park; and

WHEREAS, funding for the acquisition is available from the Park Land Acquisition and Leverage Fund and has been appropriated by Ordinance 124927; NOW, THEREFORE,

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

2 Section 1. The Superintendent of Parks and Recreation (“Superintendent”), or the  
3 Superintendent’s designee, is authorized, on behalf of The City of Seattle, to acquire the  
4 following described real property, subject to a reservation of life estate measured by the life of  
5 William B. Stotler, situated in the City of Seattle, County of King, State of Washington, and  
6 commonly known as the property at 5104 SW Orleans St (“Property”), together with all rights,  
7 privileges, and other property pertaining thereto, for open space, park, and recreation purposes:

8 *LOTS 14 AND 15, BLOCK 3, SEARING’S PARK ADDITION TO THE CITY OF SEATTLE, ACCORDING*  
9 *TO THE PLAT THEREOF RECORDED IN VOLUME 18 OF PLATS, PAGE 34, IN KING COUNTY,*  
10 *WASHINGTON.*

11  
12 Section 2. The Superintendent, or the Superintendent’s designee, is authorized, on behalf  
13 of The City of Seattle, to execute, deliver, and perform for and on behalf of The City of Seattle a  
14 Purchase and Sale Agreement substantially in the form attached to this ordinance as Attachment  
15 A, pursuant to which the City will pay William B. Stotler a purchase price of \$225,000.


16 Section 3. The Superintendent, or the Superintendent’s designee, is further authorized, on  
17 behalf of The City of Seattle to accept a deed for the Property by attaching to the deed the  
18 Superintendent’s written acceptance thereof, and recording the same.

19 Section 4. The Property shall be accepted for open space, park, and recreation purposes,  
20 and placed under the jurisdiction of the Department of Parks and Recreation.

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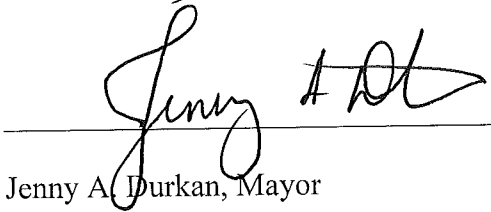
1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 2<sup>nd</sup> day of January, 2018,  
5 and signed by me in open session in authentication of its passage this 2<sup>nd</sup> day of  
6 January, 2018.

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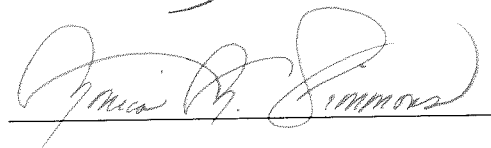
8 President \_\_\_\_\_ of the City Council

9 Approved by me this 5<sup>th</sup> day of January, 2018.

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\_\_\_\_\_

11 Jenny A. Durkan, Mayor

12 Filed by me this 5<sup>th</sup> day of January, 2018.

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14 Monica Martinez Simmons, City Clerk

15 (Seal)

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21 Attachment:  
22 Attachment A – Agreement for Purchase and Sale of Real Property

## AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY (hereinafter referred to as the "Agreement") is entered into by and between THE CITY OF SEATTLE, a Washington municipal corporation (hereinafter referred to as the "Buyer"), and WILLIAM B. STOTLER, AS HIS SOLE AND SEPARATE ESTATE (hereinafter individually and collectively referred to as "Seller"), as of the date this Agreement has been executed by both Buyer and Seller ("Effective Date"). "Parties" to this Agreement shall mean both the Buyer and Seller.

Intending to be legally bound, for good and valuable consideration, including the mutual covenants and promises of the parties, the adequacy and receipt of which is hereby acknowledged, the parties agree as follows:

1. Property. The "Property" subject to this Agreement consists of all of the following, subject to a reservation of life estate measured by the life of William B. Stotler and that his interests and his heirs shall terminate upon death:

(a) That certain tract and parcel of real property with a street address 5104 SW Orleans St, Seattle, WA 98116, and more particularly and legally described in Exhibit A attached together with all buildings, structures and other permanent improvements, if any, thereon (the "Real Property").

(b) All rights, privileges, covenants and easements appurtenant to the Real Property, including without limitation all minerals, oil, gas and other hydrocarbon rights on or associated with the land, all development rights, air rights, and any and all appurtenances used in connection with the beneficial use and enjoyment of the Real Property (collectively, the "Appurtenances").

(c) All of the property referred to in this Agreement as the "Property" or "Real Property."

2. Purchase. Seller shall sell and convey the Property to Buyer, and Buyer shall purchase the Property from Seller, on the terms, covenants and conditions set forth in this Agreement.

3. Purchase Price.

3.1. Amount. The purchase price ("Purchase Price") for the Property is Two Hundred Twenty-Five Thousand and no/100 Dollars (\$225,000.00).

3.2. Deposit and Escrow Account.

3.2.1 Within ten (10) days of Buyer's receipt of this Agreement signed by Seller, Buyer will open an escrow account with First American Title Insurance Company 800 Bellevue Way NE #300, Bellevue, WA 98004 (referred to hereafter as "Escrow Holder" or "Title Company") and shall deliver

to Escrow Holder a deposit of Five Thousand and NO/100 Dollars (\$5,000.00) (the "Deposit") together with a copy of the fully executed Agreement between the Parties. Escrow Holder shall place the Deposit in an interest-bearing account for the benefit of the Buyer. Escrow Holder shall apply or disburse the Deposit as provided in this Agreement. At Closing, Escrow Holder shall inform the Buyer and Seller of the current Deposit together with interest, if any, to be applied towards the Purchase Price, provided, however, that Escrow Holder shall retain control over the escrow account until such time as all Personal Property of the Seller has been removed from the Property at Seller's expense.

3.2.2 In the event that Seller fails to remove Seller's personal property from the Property within forty-five (45) days after the termination of the life estate, Buyer, in its sole discretion, may elect to remove or destroy and dispose of all Seller's personal property. Buyer shall be reimbursed for the actual expenses for the costs of removal, or \$5,000.00 for the costs of destruction and disposal, from the escrow account. After Buyer's election and reimbursement of the costs for removal or destruction and disposal, Escrow Holder shall deliver any remaining proceeds in the escrow account to Seller's estate.

3.3 Payment. Buyer shall pay Seller the difference between the Purchase Price and the Deposit amount at Closing. All references to dollars shall mean those amounts in United States currency.

#### 4. Title.

4.1. Condition of Title. Seller shall convey to Buyer a good and sufficient statutory warranty deed, conveying marketable title, subject only to the Permitted Exceptions (defined in Subsection 4.3 below). Consistent with the Condition of Title in this section, Seller agrees that Title insurance to the Property shall be issued as a standard owner's policy of title insurance, unless at the option of the Buyer, the Buyer requests insurable Title by an ALTA extended coverage owner's policy, in the amount of the Purchase Price. Seller shall satisfy all requirements of First American Title Company, Inc., 818 Stewart Street; Suite 800, Seattle, Washington, 98101 (referred to hereafter as "Title Company") needed to make title marketable in connection with issuance of the title policy (the "Title Policy") in accordance with the Commitment (defined in Subsection 4.2 below), and in accordance with all other terms of this Agreement.

4.2. Title Insurance Commitment. Buyer has obtained a title insurance commitment issued by Title Company, No. 4209-2344070 Second Report, dated January 9, 2017 ("Commitment"). Updates to the Commitment shall commit Title Company to insure title in Buyer in the amount of the Purchase Price subject only to preprinted general exceptions contained in the Commitment and Permitted Exceptions (defined Subsection 4.3 below) and shall commit the Title Company to issue such policy endorsements as required by Buyer, and, at the election of Buyer, shall commit Title Company to issuance of a 2006 ALTA Owner's Extended Coverage Policy of title insurance. If required by the Title Company to issue an extended coverage owner's ALTA title insurance policy, Buyer shall obtain a survey and title updates for an extended policy at its own expense.

4.3. Permitted Exceptions. Those exceptions to title listed on Exhibit B attached hereto, if any, together with any additional exceptions to title approved in writing by Buyer constitute permitted exceptions ("Permitted Exceptions"). Seller, at his sole cost and expense, shall remove all exceptions other than Permitted Exceptions.

5. Conditions Precedent.

5.1. Conditions Precedent to Buyer's Obligation to Purchase. Buyer's obligations with respect to purchase of the Property and the Closing are subject to fulfillment, or waiver thereof by Buyer in writing, of all conditions contained within this Agreement ("Buyer's Conditions Precedent"), including the following, not later than the Closing Date (unless an earlier date is specified:

(a) Title Policy. The Title Company shall be prepared to issue the Title Policy as described in Section 4.

(b) Moratorium. No reassessment, reclassification, rezoning or other change in judicial or administrative decision or proceedings (including amendments and modifications of any of the foregoing) pending or proposed to be imposed by any governmental or quasi-governmental authority or any public or private utility having jurisdiction over the Property shall have occurred.

(c) Zoning; Survey. There are no existing violations of zoning ordinances or other laws, ordinances or restrictions applicable to the Property; there are no encroachments upon the Property; and there are no other matters disclosed by survey that are unacceptable to Buyer, in Buyer's sole discretion.

(d) Noncompliance - Violation. Existing uses of the Property are in full compliance with all applicable zoning laws (and applicable variances) and any other local, municipal, regional, state or federal requirements and the improvements on the Property comply with all applicable building, safety, health, zoning, environmental, subdivision and other laws, ordinances and regulations.

(e) No Actions or Proceedings. There is no action, proceeding or investigation, pending or threatened, with respect to the title, ownership, maintenance, use or operation of the Property.

(f) No Environmental Violations. The Property is not in violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under, above or about the Property, including but not limited to soil and groundwater conditions.



(g) Representations, Warranties and Covenants of Seller. Seller shall have performed each agreement to be performed by Seller under this Agreement, and Seller's representations and warranties in this Agreement shall be true and correct as of Closing.

(h) No Adverse Changes. As of Closing, there shall have been no adverse change in the physical condition of the Property from the date of this Agreement.

(i) Seller's Deliveries. Seller shall have delivered each of the items described (and no later than the delivery time specified) in Subsection 6.1 to Buyer and in Subsection 8.1 to Escrow Holder.

(j) Investigation. Buyer shall have notified Seller that the condition stated in Subsection 6.3 has been satisfied or waived within the time period required therein.

(l) No Seller Bankruptcy. If at any time prior to Closing, (i) there shall be filed against or by Seller a petition in bankruptcy or insolvency or a petition seeking to effect any plan or other arrangement with creditors or seeking the appointment of a receiver and the same is not discharged or dismissed before Closing; (ii) a receiver or liquidator is appointed for all or substantially all of Seller's property; (iii) or Seller make an assignment for the benefit of creditors or takes any other similar action for the benefit or protection of creditors, then Buyer shall have the right in its sole and absolute discretion and in addition to all other remedies available to Buyer pursuant to this Agreement or at law or in equity to cancel and terminate this Agreement after which the Deposit shall be returned to Buyer and neither party shall have any further rights or obligations under this Agreement.

(m) Deed of Full Reconveyance. Prior to the date of closing, the Seller shall execute a Request for Full Reconveyance to, and meet all necessary financial covenants to cause, the current Trustee, Chicago Title Insurance Company, to formally and completely reconvey by Deed of Full Reconveyance all right, title and interest acquired by Mortgage Electronic Registration Systems, Inc., to Seller, which was acquired under the Deed of Trust, Recording Number 20030131001337, and to cause the same to be properly recorded with the King County Recorder's Office. Seller shall further delivery a copy of such recording and related documents to the Escrow Holder in a manner satisfactory to the Title Company to issue Title Insurance as set forth in this Agreement, and in a manner that is satisfactory to Buyer and complies with all terms and conditions of this Agreement.

5.2. Benefit of Buyer. The Buyer's Conditions Precedent is solely for the benefit of Buyer and may be waived only in writing by Buyer. Buyer shall have the right to waive any condition. The waiver by Buyer of any condition in any specific circumstances shall not be a waiver of such condition with respect to any other circumstances or a waiver of any other condition and shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant or agreement of Seller, unless the waiver expressly so provides.

5.3. Termination. If any Buyer's Condition Precedent is not satisfied or waived prior to Closing (or such earlier date as provided elsewhere in this Agreement), then Buyer, in Buyer's sole discretion, shall have the right to terminate this Agreement by written notice to Seller and Escrow Holder, and the parties shall have no further obligations under this Agreement, except that Buyer shall be entitled to return of the Deposit together with interest, if any, and Seller and Buyer shall be entitled to return of any documents deposited with Escrow Holder.

6. Investigation of the Property.

6.1. Seller's Initial Deliveries. Within seven (7) days after the Effective Date, Seller shall, at their sole expense, deliver to Buyer (a) a completed disclosure statement for improved residential real property in the form required by Section 64.06.020 of the Revised Code of Washington ("Disclosure Statement"); and (b) signed complete copies of all leases affecting the Property, if any, including, without limitation, all subleases, assignments, and rental or occupancy agreements; all contracts and accounting records affecting the Property; and (c) signed complete copies of all Deeds of Trust, promissory notes, or other financial agreements or documents or conveyance instruments affecting the Property; and (d) other documents, records and materials concerning the operation or physical condition of the Property, including, without limitation, all surveys, maps, plans, soils reports and environmental site assessments

6.2. Entry. Without limiting any other rights of Buyer under this Agreement, as of the Effective Date, Buyer and Buyer's agents and employees shall have the right to enter the Property to conduct soils, engineering, environmental and other tests, inspections, surveys and investigations at the Property ("Investigations") at Buyer's sole expense. Seller agree to cooperate and to cause all tenants, if applicable, to cooperate with any Investigations made by or at Buyer's direction. The exercise by Buyer of any of the preceding rights or any other act of Buyer shall not negate any representation, warranty or covenant of Seller, or modify any of Buyer's rights or Seller's obligations in the event of any breach by Seller of any of its representations, warranties or covenants under this Agreement. To the extent permitted by applicable law, Buyer shall indemnify and hold Seller harmless from any and all damages, expense, liens or claims (including attorneys' fees) arising from Buyer's negligence in exercise of its rights under this Subsection 6.2 or failure to pay third parties, and the provisions of this indemnity shall survive termination of this Agreement.

6.3. Period for Investigations. Closing of this transaction is conditioned on Buyer's satisfaction with the Property, the suitability of the Property for Buyer's intended uses and the feasibility of this transaction in Buyer's sole and absolute discretion. Buyer shall have thirty (30) days after the Effective Date of this Agreement to conduct its Investigations, and to review the items delivered by Seller pursuant to Subsection 6.1 above (the "Contingency Period"). If Buyer fails to notify Seller and the Escrow Holder in writing that this condition is satisfied or waived prior to 5:00 p.m. Pacific Time on the final day of the Contingency Period, then this Agreement shall be deemed terminated, and both Seller and Buyer shall be released and discharged from all further obligations under this Agreement. The Deposit, plus interest, shall be returned to Buyer and, except as provided in Subsection 6.2, neither party shall be subject to a claim by the other for damages of any kind with respect to this Agreement or Buyer's attempt to purchase the Property.

The Contingency Period shall be extended as necessary for Seller's Work (described in Subsection 6.4 below) and as necessary for completion of a Level 2 environmental site assessment if Buyer determines that results or recommendations of a Level 1 environmental assessment warrant soil testing.

6.4 Seller's Work. All of the following constitutes Seller's Work: In the event that the Investigations disclose the presence of one or more underground storage tanks, not in use, on the Property, Seller shall, at Seller's sole cost and expense, cause the underground storage tank(s) to be removed and properly disposed of by a date mutually acceptable to the parties prior to Closing ("Extended Contingency Period"). Included within the removal work scope shall be a requirement that the contractor determine whether there is evidence that the underground storage tank(s) are leaking or have leaked product into surrounding soil or groundwater. A contractor licensed to conduct underground storage tank decommissioning and removal shall complete the removal and disposal in compliance with applicable law and regulation. If there is evidence that the underground storage tank(s) are leaking or have leaked product into surrounding soil or groundwater, or if there is other evidence of soil or groundwater contamination, then Buyer and Seller shall further extend the Extended Contingency Period if necessary and prior to the expiration of such Extended Contingency Period, Seller shall cause its licensed contractor (a) to remove and dispose of all contaminated soil, (b) to undertake all necessary environmental remediation of soil and groundwater in compliance with applicable law and regulation, (c) to provide to Buyer copies of its license and qualifications, permit for tank removal, its certification of tank removal, if applicable, and its certification of soil and groundwater remediation, if applicable, all in compliance with applicable law and regulation, and (d) to restore the Property to its original condition with appropriate fill type, compaction, grading, and ground cover or paving, as applicable.

7. Seller's Obligations.

7.1 Before Closing Seller shall, at their sole expense:

7.1.1. Promptly notify Buyer upon learning of any fact or event that would make any of the representations or warranties of Seller contained in this Agreement or any Buyer's Conditions Precedent untrue or misleading in any material respect or that would cause Seller to be in violation of any of its covenants or other obligations hereunder.

7.1.2. Notify Buyer promptly upon receiving notice of a claim or pending litigation affecting the Property, or notice of any event, transaction, or occurrence before Closing that would materially adversely affect the Property or any part thereof.

7.1.3. Not convey, mortgage, grant a deed of trust, or contract to do the foregoing or otherwise allow or consent to convey, abandon, relinquish, cloud or encumber title to the Property or any interest therein or part thereof without Buyer's consent.

7.1.4. Maintain the Property in good order, condition and repair, and otherwise operate the Property and maintain its business records in the same manner as before the making of this Agreement, the same as though Seller were retaining the Property.

7.1.5. Maintain all casualty, liability and hazard insurance currently in force with respect to the Property through Closing without diminution in coverage.

7.1.6. Remedy any violations of law or municipal ordinances or regulations of any federal, state, local or other governmental departments.

7.1.7. Take no action that will adversely affect title to the Property nor take action that impairs the issuance of the Title Policy as described in Section 4 of this Agreement.

7.1.8. Not renew, extend, amend, or modify any Existing Lease, nor enter into any new lease affecting the Property without Buyer's prior written consent.

7.1.9 Either (a) appoint an executor of Seller's estate, or designate an administrator for Seller's estate and require such person to remove all personal property from the Property within forty-five (45) days after the termination of the Seller's life estate; or (b) provide Buyer with a conveyance document that conveys all of Seller's personal property remaining on the Property to Buyer upon the termination of Seller's life estate, together with reasonable expenses to Buyer for the removal of the same.

7.2 After Closing Seller shall, at their sole expense:

7.2.1. Promptly notify Buyer upon learning of any fact or event that would make any of the representations or warranties of Seller contained in this Agreement or any Buyer's Conditions Precedent untrue or misleading in any material respect or that would cause Seller to be in violation of any of its covenants or other obligations hereunder.

7.2.2. Notify Buyer promptly upon receiving notice of a claim or pending litigation affecting the Property, or notice of any event, transaction, or occurrence before Closing that would materially adversely affect the Property or any part thereof.

7.2.3. Not convey, mortgage, grant a deed of trust, or contract to do the foregoing or otherwise allow or consent to convey, abandon, relinquish, cloud or encumber title to the Property or any interest therein or part thereof without Buyer's consent.

7.2.4. Maintain the Property in good order, condition and repair, and otherwise operate the Property and maintain its business records in the same manner as before the making of this Agreement, the same as though Seller were retaining the Property.

7.2.5. Maintain all casualty, liability and hazard insurance currently in force with respect to the Property without diminution in coverage.

7.2.6. Remedy any violations of law or municipal ordinances or regulations of any federal, state, local or other governmental departments.

7.2.7. Take no action that will adversely affect title to the Property nor take action that impairs the issuance of the Title Policy as described in Section 4 of this Agreement.

7.2.8. Not renew, extend, amend, or modify any Existing Lease, nor enter into any new lease affecting the Property without Buyer's prior written consent.

7.2.9 Continue to occupy the Property as Seller's primary residence, and in the event that the Seller no longer uses the Property as his primary residence, (i) provide notice to the Buyer of the same, and (ii) remove all Seller's personal property from the Property within forty-five (45) days of Seller's ceasing to use the Property as his primary residence.

7.2.10 Provide the Buyer with reasonable notice of any marriage by the Seller occurring after the execution of this Agreement by Buyer, either through ceremony or operation of law, and shall cooperate in good faith with the Buyer to cause any spouse to timely convey to Seller all of spouse's rights, title and interests in the Property to Buyer prior to the termination of Seller's life estate for no additional consideration.

8. Deliveries to Escrow Holder.

8.1. By Seller. Seller shall deliver or cause to be delivered to Escrow Holder on or prior to the Closing Date the following items, the delivery of each of which shall be a condition to the performance by Buyer of its obligations under this Agreement:

(a) Deed. A statutory warranty deed and reservation of life estate, in form and substance satisfactory to Buyer and its legal counsel, duly executed and acknowledged by Seller (the "Deed"), conveying to Buyer indefeasible good and marketable fee simple title to the Property subject to a reserved Life Estate, free and clear of all liens, violations, encumbrances, restrictions and easements, except only the Permitted Exceptions.

(b) FIRPTA Affidavit. A certificate in form and substance acceptable to Buyer and its counsel, duly executed by Seller, evidencing that Seller are exempt from the withholding requirements of Section 1445 of the Internal Revenue Code.

(c) ALTA Affidavits. Any affidavits, certifications or instruments, including any lien affidavits or mechanic's lien indemnifications, duly executed and acknowledged by Seller, as reasonably may be required by the Title Company in order to issue the Title Policy.

(d) Title Insurance Policy. The Title Insurance Policy in conformance with Section 4.

(e) Closing Certificates. A certificate of Seller dated as of the Closing Date certifying that all of Seller's representations and warranties remain true as of the Closing Date, or if not, specifying the respect in which any representation or warranty is no longer true.

(f) Certificates of Authority. Such certificates as are necessary or required by Buyer or the Title Company to evidence the authority of Seller and its signatories to execute the instruments to be executed by Seller in connection with this transaction, and evidence that the execution of such instruments is the official act and deed of Seller.

(g) Excise Tax Affidavit. A real estate excise tax affidavit signed by Seller.

(h) Termination of Existing Liens and/or Deeds of Trust. Evidence, satisfactory to Buyer and the Title Company, of termination of Liens and Deeds of Trust, which shall include all obligations set forth in Section 5.1(o) regarding a Deed of Full Reconveyance.

8.2. Buyer. Buyer shall deliver or cause to be delivered to Escrow Holder on or before the Closing Date cash by federal funds, wire transfer or cashier's check in the amount necessary to pay the balance of the Purchase Price and Buyer's share of closing costs and prorations.

9. Close of Escrow.

9.1. Time. Closing shall occur in the office of Escrow Holder on a date mutually agreeable to Buyer and Seller after Buyer's Conditions Precedent have been satisfied or waived, but in any event no later than sixty (60) days after the Effective Date of this Agreement unless extended by mutual written agreement. As used in this Agreement, "Closing," "Closing Date" or "Date of Closing" means the date on which all appropriate documents are recorded and proceeds of sale are available for disbursement to Seller in accordance with this Agreement. Funds held in reserve accounts pursuant to escrow instructions shall be deemed, for purposes of the definition of "Closing," "Closing Date" and "Date of Closing," as available for disbursement to Seller.

9.2. Closing Costs and Prorations.

(a) Closing Costs. Buyer and Seller shall each pay their own attorneys' fees. Buyer shall pay the cost of recording the Deed, escrow fees, the title insurance premium charged by the Title Company for Buyer's Title Policy and the endorsements required by Buyer, and the cost of any survey required by the Title Company (if any). Seller's monetary liens on the Property, if not previously discharged, shall be discharged in full out of the Purchase Price at Closing. Seller shall pay real estate excise tax, if any is due.

9.3. Procedure. Escrow Holder shall close escrow as follows:

(a) Obtain the release of the Property from any liens described in the Commitment, and delivery of all documents by Seller, and in this Agreement except the Permitted Exceptions;

(b) Confirm with Buyer delivery of all documents by Seller;

- (d) Pay applicable real estate transfer excise taxes and record the Deed;
- (e) Complete the prorations and credits;
- (d) Issue and deliver the Title Policy to Buyer;
- (e) Deliver any other documents deposited by Seller with Escrow Holder to Buyer;
- (f) Deliver the Purchase Price less Seller's closing costs and prorations and Buyer credits, if any, to Seller; and
- (g) Forward to Buyer and Seller, in duplicate, a separate accounting of all funds received and disbursed for each party and copies of all executed and recorded or filed documents deposited with Escrow Holder, with such recording and filing date endorsed thereon.

9.4. Incorporation of Escrow Instructions. This Agreement shall serve as escrow instructions, and an executed copy of this Agreement shall be deposited by Buyer with Escrow Holder following its execution. The parties may execute additional escrow instructions provided that such additional escrow instructions shall not change the terms of this Agreement.

9.5 Possession. Possession of the Property shall be delivered to Buyer within forty-five (45) days after the termination of the Seller's life estate.

10. Brokerage Commission. Seller warrant to Buyer and Buyer warrants to Seller that each party's sole contact with the other and with the Property regarding this transaction has been directly with the other party and has not involved any broker or finder. Seller and Buyer further warrant to each other that no broker or finder can properly claim a right to a commission or finder's fee based upon contacts between the claimant and that party with respect to the other party or the Property. To the extent permitted by applicable law, each party shall indemnify, defend and hold the other party harmless from and against any loss, cost or expense, including, but not limited to, attorneys' fees and court costs, resulting from any claim for a fee or commission by any broker or finder in connection with the Property and this Agreement resulting from the indemnifying party's actions.

11. Casualty or Condemnation.

11.1. If there is a condemnation (by an entity other than Buyer) of all or part of the Property initiated before Closing, Seller shall promptly notify Buyer and Buyer shall have the option for ten (10) days following the date the notice is received (a) to proceed with the Closing, in which event all condemnation proceeds already received by Seller by the Closing shall be paid to Buyer and the right to receive such proceeds not yet received by Seller shall be assigned to Buyer at the Closing, or (b) to terminate this Agreement. Unless this Agreement is terminated, Seller shall take no action with respect to any condemnation proceeding without the prior written consent of Buyer.

11.2. Before Closing, the entire risk of loss or damage by casualty to the Property however caused shall be borne and assumed by Seller. If any casualty costing Ten Thousand Dollars (\$10,000) or more to repair has occurred to the Property before Closing, Buyer at its election may terminate this Agreement or proceed to close. If there is a casualty to the Property costing less than Ten Thousand Dollars (\$10,000) to repair, there will be no termination of this Agreement, such damage shall be repaired by the Seller, and if not so repaired before Closing, then the remaining cost of repair shall be withheld from the Purchase Price and paid over to Seller upon Seller' completion of the repairs to Buyer's reasonable satisfaction.

12. Representations, Warranties and Covenants.

12.1. Seller' Representations, Warranties and Covenants. In addition to the representations, warranties and covenants contained elsewhere in this Agreement, Seller as of the date of this Agreement and as of the Closing Date makes the following representations, warranties and covenants:

(a) Title. Seller is the sole owner of the Property. Seller will sign declarations, conveyance instruments, and other closing documents and certificates as may be reasonably required by the Title Company to verify Seller's status as a marital community or domestic partners, to convey properly Title as a marital community, and to ensure compliance with RCW 6.13.060 if applicable. At Closing, Buyer will acquire a remainder interest in and to the Property, free and clear of all recorded or unrecorded liens, encumbrances, covenants, restrictions, reservations, easements, options, tenancies, leases, encroachments, claims or other matters affecting title or possession of the Property, subject only to the Permitted Exceptions.

(b) Agreements to Transfer or Encumber. Seller has not committed nor obligated itself in any manner whatsoever to sell or encumber the Property or any interest therein to any party other than Buyer, nor committed or obligated to lease all or any portion of the Property.

(c) Compliance with Law. To the best of Seller's knowledge, the Property complies in all material respects (both as to condition and use) with all applicable statutes, ordinances, codes, rules and regulations of any governmental authority having jurisdiction over the Property (including those related to zoning, building, subdivision, and engineering), including all conditions contained in any certificate of occupancy covering any of the Real Property. Seller have obtained all required permits or authorizations for such occupancy. Seller have no knowledge of any facts that might give rise to any violation of the foregoing matters.

(d) Bankruptcy, Etc. No bankruptcy, insolvency, rearrangement or similar action involving Seller or the Property, whether voluntary or involuntary, is pending, threatened, by a third party, or contemplated by Seller.

(e) Litigation. There is no pending or to Seller's best knowledge threatened judicial, non-judicial foreclosure, or municipal or administrative proceedings with respect to Seller, this transaction or in any manner affecting the Property or any portion thereof or



in which Seller, individual or collectively, are or will be a party by reason of Seller' ownership of the Property or any portion thereof.

(f) Notices. Seller have not received any notices from any insurance companies, governmental agencies or from any other parties with respect to any violations or other matters concerning the Property.

(g) Taxes and Assessments. Other than amounts disclosed by the Commitment, to the best of Seller' knowledge, no other property taxes have been or will be assessed against the Property for the current tax year, and there are no general or special assessments or charges that have been levied, assessed or imposed on or against the Property.

(h) Tax Returns. Seller have filed all local, state and federal tax forms that are required to be filed by Seller, have paid all taxes due and payable by Seller to date and will pay all such taxes that become due and payable by Seller prior to the Closing.

(i) Underground Storage Tanks. To the best of Seller' knowledge, there are no unused cisterns, wells, subterranean storage or underground storage tanks on the Property that have not been removed from the Property.

(j) Violation of Property Restrictions. To the best of Seller' knowledge, the Property and the current use, occupation and condition thereof do not violate any applicable deed restrictions or other covenants, restrictions or agreements (including, without limitation, any of the Permitted Exceptions), site plan approvals, zoning or urban redevelopment plans applicable to the Property.

(k) Subdivision. The conveyance of the Property will not constitute a violation of any subdivision ordinance.

(l) Tax Valuation/Assessment. Seller have no knowledge and have not received any notice of: (a) proceedings pending for the correction of the assessed valuation of Real Property, or (b) any other pending or threatened special assessments affecting the Real Property.

(m) Authority. Seller has all requisite power and authority to execute and deliver this Agreement and to carry out its obligations hereunder and the transactions contemplated hereby. This Agreement has been, and the documents contemplated hereby will be, duly executed and delivered by Seller and constitute the Seller' legal, valid and binding obligation enforceable against Seller in accordance with its terms. The consummation by Seller of the sale of the Property is not in violation of or in conflict with nor does it constitute a default under any of the terms of any agreement or instrument to which Seller is or may be bound, or of any provision of any applicable law, ordinance, rule or regulation of any governmental authority or of any provision of any applicable order, judgment or decree of any court, arbitrator or governmental authority.

(n) No Omissions. All representations and warranties made by Seller in this Agreement, and all information contained in any certificate furnished by Seller to Buyer in

connection with this transaction, are free from any untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained herein or therein not misleading. The copies of any documents furnished to Buyer in connection with this transaction are true and complete copies of the documents they purport to be and to the best of Seller's knowledge contain no untrue statement of material fact and do not omit to state any material facts necessary to make the statements contained therein not misleading.

(o) Leases, Service Contracts or Other Contracts. As of the Date of Closing, no leases, service contracts, or other contracts are in place regarding or related to the Property.

(p) Mechanic's Liens. No labor, material or services have been furnished in, on or about the Property or any part thereof as a result of which any mechanics', laborer's or materialmen's liens or claims might arise.

(q) Assumption of Liabilities. Buyer, by virtue of the purchase of the Property, will not be required to satisfy any obligation of Seller arising prior to the Closing Date. Other than such obligations so expressly assumed by Buyer or any liens or other obligations with respect to the Property that result from any action or activities by or on behalf of Buyer after the Closing Date, Seller, after the Date of Closing, will pay and discharge any and all liabilities of each and every kind arising out of or by virtue of the possession, ownership or use of the Property prior to the Closing Date, and shall indemnify, defend and hold Buyer harmless therefrom.

(r) Provide Further Information. From the date of this Agreement to the Closing Date, Seller will notify Buyer of each event of which Seller becomes aware affecting the Property or any part thereof immediately upon learning of the occurrence of such event.

12.2. Effect of Buyer's Inspections. The effect of the representations and warranties made by Seller in this Agreement shall not be diminished or deemed to be waived by any inspections, tests or investigations made by Buyer or its agents.

13. Seller's Obligations, after Closing. Seller shall, at their sole expense:

13.1. Property Taxes. The Seller shall continue to pay all real estate taxes, including general and specific assessments, on the property.

13.2. Homeowner's Insurance. The Seller shall maintain all casualty, liability and hazard insurance currently in force with respect to the Property without diminution in coverage. In the event of a casualty to the Property, such damage shall be repaired by the Seller using insurance proceeds received.

13.3 Repairs and Maintenance. The Seller is responsible for repairs (both major and minor), upkeep and maintenance of the property.

13.3 Mortgages: Seller will not take out a mortgage on the property without the written permission of the Buyer.

13.4 Inspection. The Buyer shall have the right to enter the property once a year to check on the upkeep of the property. The Buyer shall endeavor to give the Seller a minimum of two weeks' notice prior to the visit.

13.6 Condemnation. If there is a condemnation (by an entity other than Buyer) of all or part of the Property, all condemnation proceeds shall go to the Buyer.

14. Environmental Compliance. In addition to and without limiting any other representations, warranties, covenants and agreements in this Agreement, Seller represents, warrants, covenants and agrees:

14.1. Hazardous Substances. Except for petroleum products in connection with motor vehicles, lawn mowers, and underground storage tank for heating oil, Seller have not used or stored on, under or about the Property or transported to or from the Property any Hazardous Substance or allowed any other person or entity to do so. Seller has not, generated, manufactured, produced, stored, released, discharged or disposed of on, under, above or about the Property (or off-site of the Property that might affect the Property) or transported to or from the Property, any Hazardous Substance or allowed any other person or entity to do so. Seller has no knowledge nor has Seller observed any questionable practice or conduct indicating that any Hazardous Substance has been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under or above Property (or off-site of the Property that might affect the Property) or transported to or from the Property by any entity, firm or person, or from any source whatsoever.

14.2. Pre-closing Covenant. Seller will not use, generate, manufacture, produce, store, release, discharge or dispose of on, under, above or about the Property (or off-site of the Property that might affect the Property), or transport to or from the Property, any Hazardous Substance or authorize any other person or entity to do so, prior to the Closing.

14.3. Environmental Indemnity. Seller shall protect, indemnify, hold harmless and defend Buyer and its directors, officers, contractors, employees, agents, parents, subsidiaries, successors and assigns from and against any and all loss, damage, cost, expense or liability (including attorneys' fees and costs) directly or indirectly arising out of or attributable to a breach of any representation, warranty, covenant or agreement contained in this Section 13 including, without limitation, (a) all consequential damages, and (b) the costs of any required or necessary repairs, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans. This indemnity does not apply to actions of Buyer, its agents or independent contractors.

14.4. Definitions. For the purpose of this Section 13, the following terms shall be defined as provided below unless the context clearly requires a different meaning:

- (a) "Environmental or Safety Law" means the Federal Water Pollution Control Act, the Clean Air Act, the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation

and Liability Act ("CERCLA"), the Superfund Amendment and Reauthorization Act, the Toxic Substances Control Act ("TSCA"), the Occupational Safety and Health Act, the Hazardous Materials Transportation Act, the Hazardous Materials Transportation Uniform Safety Act, the Oil Pollution Act of 1990, the Washington Water Pollution Control Act, the Clean Air Washington Act, the Washington Hazardous Waste Management Act ("HWMA"), the Washington Model Toxics Control Act ("MTCA"), the Washington Industrial Safety and Health Act, the Washington Worker and Community Right to Know Act, and the Washington Oil and Hazardous Substance Spill Prevention and Response Act, together with all regulations promulgated under any such authority, and any and all other federal, state, regional, local or international statutes, regulations, rules, ordinances, orders, court or regulatory agency directives, permits, licenses, governmental authorizations and common law causes of action that apply to (1) any hazardous substance or material regulated or restricted under CERCLA, RCRA, TSCA, MTCA, or the HWMA; (2) any other pollutant, contaminant, or waste; (3) the health or safety of persons; or (4) the protection of the environment or land use. "Environmental or Safety Law" includes past and future amendments and supplements.

(b) "Hazardous Substances" means any hazardous, toxic, or dangerous substance, waste, or material that is regulated under any Environmental or Safety Law.

15. Survival. The covenants, agreements, representations and warranties made in this Agreement shall survive the Closing unimpaired and shall not merge into the Deed and the recordation thereof.

16. Entire Agreement. This Agreement contains the entire integrated agreement of the parties, including all of the covenants and conditions between the parties with respect to the subject matter of this Agreement, and supersedes all prior correspondence, agreements and understandings, both verbal and written. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by Seller and Buyer. The parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the parties.

17. Default; Remedies, Specific Performance. This Agreement pertains to the conveyance of real property, the unique nature of which is hereby acknowledged by the parties. Consequently, if Seller breaches or defaults under this Agreement or any of the representations, warranties, terms, covenants, conditions or provisions hereof, Buyer shall have, in addition to a claim for damages for such breach or default, and in addition and without prejudice to any other right or remedy available under this Agreement or at law or in equity, the right (a) to specific performance of this Agreement; or (b) to terminate this Agreement upon written notice without liability to Seller.

18. Notices. All written notices required to be given pursuant to the terms hereof shall be either delivered personally; deposited in the United States mail, certified mail, return receipt requested, postage prepaid and addressed to the addresses listed below with copies to the parties listed after such address (if any) sent by facsimile transmission to the numbers below or sent by electronic transmission to the email address below, with receipt acknowledged:

SELLER:

William B. Stotler  
5104 SW Orleans St  
Seattle, WA 98116  
Facsimile: N/A Telephone: (206) 937-4783  
Email: [bruce@wa-democrats.org](mailto:bruce@wa-democrats.org)

BUYER:

The City of Seattle, through its  
Seattle Department of Parks and Recreation  
800 Maynard Avenue South, 3<sup>rd</sup> Flr.  
Seattle, WA 98134  
Attn: Chip Nevins  
Facsimile: (206) 233-7038 Telephone: (206) 233-3879  
Email: [chip.nevins@seattle.gov](mailto:chip.nevins@seattle.gov)

The foregoing addresses may be changed by written notice to the other party as provided herein. Mailed notice properly given shall be deemed received two (2) days after deposit in the mail. Facsimile transmission, with receipt confirmed by the recipient by telephone, or email transmission with receipt confirmed by email, of any signed original document or notice, and retransmission of any signed facsimile or email transmission, shall be the same as personal delivery of an original. At the request of either party, or the Escrow Holder, the parties will confirm facsimile or email transmitted signatures by signing an original document.

19. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby; and each such term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

20. Waivers. No waiver of any breach of any covenant or provision in this Agreement shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision in this Agreement. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

21. Construction. Captions are solely for the convenience of the parties and are not a part of this Agreement. This Agreement shall not be construed as if one of the parties had prepared

it, but rather as if both parties had prepared it. If the date on which Buyer or Seller are required to take any action under the terms of this Agreement is not a business day, the action shall be taken on the next succeeding business day.

22. Time. Time is of the essence of every provision of this Agreement.

23. Force Majeure. Performance by Seller or Buyer of their obligations under this Agreement shall be extended by the period of delay caused by force majeure. Force majeure is war, natural catastrophe, strikes, walkouts or other labor industrial disturbance, order of any government, court or regulatory body having jurisdiction, shortages, blockade, embargo, riot, civil disorder, or any similar cause beyond the reasonable control of the party who is obligated to render performance (but excluding financial inability to perform, however caused).

24. Successors. The terms, conditions and covenants contained in this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

25. Applicable Law. This Agreement shall be interpreted and governed by the laws of the State of Washington. The venue of any legal action or claim related to this Agreement shall be in the Superior Court for King County.

26. Expiration Date. This offer shall terminate if not accepted by Seller by 5:00 p.m. on \_\_\_\_\_.

27. No Third Party Beneficiary. The parties do not intend to confer any benefit under this Agreement to any person, firm or corporation other than the parties, and therefore, nothing in this Agreement express or implied shall confer upon any person any right or interest whatsoever, other than directly to the parties and their heirs, executors, personal representatives, successors and assigns.

28. Incorporation of Exhibits. All exhibits hereto and all other documents and instruments referred to herein or in any exhibit or attachments hereto are incorporated by reference as a part of this Agreement. The Exhibit List to this Agreement shall be as follows:

29. Reservation of Rights and Responsibilities. Except as set forth in this Agreement, Buyer and Seller retain all rights, privileges, obligations and remedies as set forth under applicable federal, state or local laws.

- Exhibit A      Legal Description of Property
- Exhibit B      Permitted Exceptions

Signatures of the Parties to this Agreement are on the following page.







**Exhibit A**

LEGAL DESCRIPTION

Real property in the County of King, State of Washington, described as follows:

LOTS 14 AND 15, BLOCK 3, SEARING'S PARK ADDITION TO THE CITY OF SEATTLE,  
ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 18 OF PLATS, PAGE  
34, IN KING COUNTY, WASHINGTON.

Tax Parcel Number: 764690025508

**Exhibit B**

PERMITTED EXCEPTIONS

3. Any and all offers of dedication, conditions, restrictions, easements, boundary discrepancies or encroachments, notes and/or provisions shown or disclosed by Short Plat or Plat of Searing's Park Addition to the City of Seattle recorded in Volume 18 of Plats, Page(s) 34.