

ORDINANCE No. 119780

COUNCIL BILL No. 112864

AN ORDINANCE accepting the redevelopment proposal of the African-American Community Health Network to purchase and develop Parcel 23-23A in the Yesler-Atlantic Neighborhood Improvement Project (Wash. R-5) area; authorizing the Director of the Office of Housing to execute and deliver contracts and deeds; authorizing the Director of the Office of Housing to administer the "Contract for Sale of Land"; designating the disposition of sales proceeds; and ratifying and confirming prior actions.

COMPTROLLER FILE No. \_\_\_\_\_

Introduced: AUG 23 1998	By: STEINBRUECK
Referred: AUG 23 1998	To: Housing, Human Services and Civil Rights Committee
Referred:	To:
Referred:	To:
Reported: 11-29-99	Second Reading:
Third Reading: 11-29-99	Signed: 11-29-99
Presented to Mayor: 11-29-99	Approved: 12/1/99
Returned to City Clerk: 12/3/99	Published: Lulu 4 pgs.
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

*mc*  
**Law Department**

**The City of Seattle--Legislative**

**REPORT OF COMMITTEE**

*original*  
**Honorable President:**

**Your Committee on \_\_\_\_\_**

to which was referred the within Council Bill No. \_\_\_\_\_  
report that we have considered the same and respectfully recommend:

11-23-99 HHSCR Pass 2-0 RM

11-29-99 Full Council: Passed As

(Excused: Steinbrueck)

\_\_\_\_\_  
**Committee Chair**

mc

Law Department

# The City of Seattle--Legislative Department

## REPORT OF COMMITTEE

Date Reported  
and Adopted

Honorable President:

Your Committee on \_\_\_\_\_

to which was referred the within Council Bill No. \_\_\_\_\_

report that we have considered the same and respectfully recommend that the same:

11-23-99 HHSCR Pass 2-0 RM, PS

11-29-99 Full Council: Passed As Amended 8-0

(Excused: Steinbrueck)

Committee Chair

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ORDINANCE 119780

AN ORDINANCE accepting the redevelopment proposal of the African-American Community Health Network to purchase and develop Parcel 23-23A in the Yesler-Atlantic Neighborhood Improvement Project (Wash. R-5) area; authorizing the Director of the Office of Housing to execute and deliver contracts and deeds; authorizing the Director of the Office of Housing to administer the "Contract for Sale of Land"; designating the disposition of sales proceeds; and ratifying and confirming prior actions.

WHEREAS, the City Council, by Resolution No. 27260 passed the 28th day of May, 1985, recognized the "Yesler-Atlantic Land Disposition Report" as the basic City policy governing the sale and development of City-owned land acquired as part of the Yesler-Atlantic Urban Renewal Project; and

WHEREAS, the City Council, by Resolution No. 28866 passed the 31st day of January, 1994, revised the land disposition procedure and other things contained in the Yesler/Atlantic Land Disposition Report adopted by Resolution 27260; and

WHEREAS, the City Council, by Resolution No. 29852 passed the 2nd day of November, 1998, amended the Yesler-Atlantic Land Disposition Report to reflect changing circumstances and needs as identified through the Neighborhood Planning process; and

WHEREAS, the City issued a Request For Proposals ("RFP") requesting developers to submit proposed development program for the remaining parcel zoned for residential development in the Yesler-Atlantic area; and

WHEREAS, the Office of Housing Director ("Director") selected the proposal from the African-American Community Health Network ("AACHN") as the best proposal for the development of Parcel 23-23A in accordance with the Yesler/Atlantic Land Disposition Report, City Council Resolution 29852 and the RFP; and

WHEREAS, the Director reported that the redevelopment proposal of AACHN is complete and responsive to the RFP, was evaluated and ranked by the Developer Advisory Committee, was consistent with the goals and objectives of the Yesler-Atlantic Neighborhood Improvement Project, and recommended that the same be accepted; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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1 Section 1. The proposal of the African-American Community Health Network, a Washington  
2 nonprofit corporation ("AACHN" or "Redeveloper") to purchase and develop Parcel 23-23A, legally  
3 described as:

4 **ALL OF LOTS 1, 2, 3, 4, AND THE NORTH HALF OF LOT 5, AND ALL OF LOTS 8, 9,**  
5 **10, 11 AND 12, BLOCK 2, JACKSON STREET ADDITION TO THE CITY OF**  
6 **SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2,**  
7 **PAGE 24, IN KING COUNTY, WASHINGTON;**  
8 **AND**  
9 **LOT 4, BLOCK 31, H.L. YESLER'S FIRST ADDITION TO THE CITY OF SEATTLE,**  
10 **ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS,**  
11 **PAGE 215, IN KING COUNTY, WASHINGTON;**  
12 **TOGETHER WITH A PORTION OF VACATED 23<sup>RD</sup> AVE SOUTH, AS VACATED BY**  
13 **CITY OF SEATTLE ORDINANCES NO. 3207 AND NO. 61364, THAT ATTACHED TO**  
14 **SUCH LOT BY OPERATION OF LAW;**  
15 **EXCEPT THAT PORTION CONVEYED UNDER CITY OF SEATTLE ORDINANCE**  
16 **NO. 83108,**

17 in the Yesler-Atlantic Neighborhood Improvement Project (Wash. R-5), is hereby found to be in the  
18 public interest and in furtherance of the purpose of the Urban Renewal Plan for the project, the Urban  
19 Renewal Law (RCW Chapter 35.81), and the Yesler-Atlantic Land Disposition Report; and the proposal  
20 is hereby accepted with conditions as set forth in Exhibit B to this ordinance, subject to execution by the  
21 Redeveloper of a Contract with the City as authorized in this ordinance.

22 Section 2. The Director of the Office of Housing is hereby authorized to execute and deliver, for  
23 and on behalf of The City of Seattle, a Contract for Sale of Land (the "Contract") with the Redeveloper  
24 substantially in the form of Exhibit B hereto, and to execute for delivery upon payment to the City of the  
fixed price of SIXTEEN HUNDRED THIRTEEN THOUSAND FOUR HUNDRED DOLLARS  
(\$6713,400) and satisfaction of the preconditions under Sections 301, 302 and 304 contained in Terms  
and Conditions, Part II of the Contract, a "Special Warranty Deed" to the Redeveloper substantially in  
the form of Exhibit C hereto, all in accordance with the recommendations of the Director contained in  
Exhibit A hereto. The City Council finds that the commitment of the Redeveloper to remediate

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1 after closing of the sale, at the Redeveloper's expense, certain environmental conditions discovered  
2 on the Property subsequent to the submittal of the Redeveloper's proposal, is sufficient  
3 consideration for a reduction of the sale price below the amount stated in that proposal, and that  
4 the reduction of the cash purchase price together with the addition of such obligation of the  
5 Redeveloper to the terms of the Contract of sale, is in the best interests of the City.

6 Section 3. The Director is hereby designated as the authorized representative of the City in  
7 connection with the administration of the Contract and the Director is hereby authorized to approve  
8 construction plans, financing and changes thereto as being in conformity with said Contract, the Urban  
9 Renewal Plan, and the Yesler-Atlantic Land Disposition Report, and to issue appropriate certification  
10 when improvements contemplated in the Contract have been completed. The Director may grant  
11 reasonable extensions of deadlines in the Contract for good cause shown by the Redeveloper, on such  
12 conditions as the Director may deem appropriate, and may consent to modification of specific  
13 parameters and features of the Redeveloper's proposal and plans, which may include an increase in the  
14 number of units to be developed on the above parcel, all consistent with the basic nature of the proposal  
15 and taking into account results of the City design review process.

16 Section 4. Proceeds from the sale of the above referenced parcel, and any earnest money that the  
17 City shall retain in case of default, shall be deposited in the Urban Renewal Close Out Subaccount of the  
18 Housing and Community Development Revenue Sharing fund as provided in Ordinance 106797.

19 Section 5. Any act pursuant to the authority and prior to the effective date of this ordinance is  
20 hereby ratified and confirmed.

21  
22  
23  
24





1 Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its  
2 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after  
3 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

4 Passed by the City Council the 29<sup>th</sup> day of November, 1999, and signed by me in open  
5 session in authentication of its passage this 29<sup>th</sup> day of November, 1999.

6 [Signature]  
7 President of the City Council

8 Approved by me this 1<sup>st</sup> day of December, 1999.

9 [Signature]  
10 Mayor

11 Filed by me this 3<sup>rd</sup> day of December, 1999.

12 (SEAL)

13 [Signature]  
14 City Clerk

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Exhibit A

**MEMORANDUM**

**DATE:** November 18, 1999

**TO:** The Honorable Sue Donaldson, President  
Seattle City Council

**VIA:** Joan Walters, Director, City Budget Office  
**ATTN:** Pascal StGerard, Budget Analyst

**FROM:** Cynthia A. Parker, Office of Housing Director

**SUBJECT:** Authorization to Sell Yesler-Atlantic Parcel 23-23A

The Office of Housing (OH) recommends that the City Council approve legislation accepting the development proposal from the African-American Community Health Network (AACHN) for an assisted-living facility on the above parcel in the Yesler-Atlantic project area. The sale and development of parcel 23-23A will contribute to the revitalization of the Central Area, and will bring \$613,400 sales revenue to the City. The neighborhood affected by the requested legislation is generally located between Yesler Way and South Charles Street on the north and south and between 14th and 24th Avenues South on the east and west. Land and buildings were acquired by the City for the City's Yesler-Atlantic Urban Renewal Project (Wash. R-5). The City assembled 43 acres of property to sell for redevelopment. Parcel 23-23A is the only residential parcel in the project area remaining.

The property is located on the west side of 23<sup>rd</sup> Avenue S between E Yesler Way and S Main Street. The King County Assessor information for the parcel indicates that there are 49,831 square feet available. The parcel does not have frontage on either E. Yesler Way or S. Main Street; however, there is frontage on 23<sup>rd</sup> Avenue S as well as 22<sup>nd</sup> Avenue S. The current zoning designation is Lowrise 4 (L4). The zoning designation was changed from L3 to L4 as a result of a community request through the Neighborhood Planning process.

Process

This property sale was handled according to the goals and process specified in the Yesler-Atlantic Land Disposition Report, as amended and approved by City Council on November 2, 1998. The Request for Proposals were available for distribution as of January 20, 1999 and the offering was advertised in local newspapers. A Pre-Proposal Conference was held on February 24, 1999 to provide information about the offering /RFP and to answer questions. At the request of the Mayor's Office, the original April 23, 1999 deadline for submission of proposals was extended to May 24, 1999 to provide additional time for refining proposals.



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Three proposals were received in response to the RFP:

- Assisted and Retirement Living Facility proposed by the African-American Community Health Network in partnership with Columbia Pacific Management.
- 21-Unit Townhomes proposed by the Central Area Development Association (CADA) and Icon Architecture, LTD.
- African Youth Enterprise Center proposed by Kwame Garrett. This proposal was not responsive to the RFP package and was not included in the ranking.

The Yesler-Atlantic Developer Advisory Committee met on June 1, 1999 to evaluate and rank the proposals received. The Advisory Committee consisted of three community members and three City staff. Proposals from each developer were distributed to each Committee member for review prior to the meeting together with an RFP package and rating sheets. Elements contained in the rating sheets consisted of criteria derived from the Yesler-Atlantic Land Disposition Report, as amended, and the RFP packet.

Based on discussion about the proposal and how it addressed the RFP selection criteria the Advisory Committee recommended that the African-American Community Health Network Assisted Living project be selected to purchase and develop the property. Reasons for the selection include the proposal's responsiveness to the pressures facing a rising elderly population in the Central Area and the need for assisted living housing. There is broad community support and support from various members of the clergy. This project best serves the needs of the Central Area. The Office of Housing concurs with the recommendation of the Advisory Committee. OH has incorporated relevant language in the form of the Contract, as well as other conditions related to financing, State DSHS review and design review.

#### Land Sale Price

The Request for Proposal established a selling price based on appraised value of \$713,400. The African-American Community Health Network offered this purchase price. The price was subsequently reduced to \$613,400 to cover the costs of the removal of an underground storage tank, contaminated soils and other anticipated hazardous materials. The adjustment in price was negotiated based on the results of Phase I and limited Phase II environmental studies.

The attached ordinance will accept the redevelopment proposal; authorize the OH Director (Director) to execute and deliver contracts and deeds; authorize the Director to administer the "Contract for Sale of Land"; designate the disposition of sales proceeds; and ratify and confirm prior actions.

If you would like more information, please call Joanne LaTuchie at 615-0995.

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**CONTRACT FOR SALE OF LAND  
YESLER/ATLANTIC URBAN RENEWAL AREA**

This Agreement is made on or as of the \_\_\_\_ day of \_\_\_\_\_, 1999, by and between The City of Seattle, a municipal corporation of the State of Washington (hereinafter called "City") and the African-American Community Health Network, a Washington nonprofit corporation (hereinafter called "Purchaser"), whose address is 300 19<sup>th</sup> Avenue, Seattle, WA 98122.

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City undertook a program for the clearance and reconstruction or rehabilitation of slum and blighted areas in the City, which program included a project known as the Yesler/Atlantic Neighborhood Improvement Project (hereinafter called "Project") in an area (hereinafter called "Project Area") located in the City; and

WHEREAS, the City adopted an Urban Renewal Plan for the Project, dated June, 1967, approved by the City Council on October 2, 1967, by Ordinance 96123 (which plan, as previously amended and as it may hereafter be amended from time to time pursuant to law, and as so constituted from time to time, is, unless otherwise indicated by the context, hereinafter called "Urban Renewal Plan"); and

WHEREAS, a copy of the original Urban Renewal Plan has been recorded among the land records for the place in which the Project Area is situated, namely, in the office of the Auditor of King County, Washington, on September 22, 1970, Auditor's File No. 6696014 and amendments thereto are on file with the Seattle City Clerk; and

WHEREAS, the land use restrictions in the Urban Renewal Plan were in effect for a period of twenty-five years, and now are no longer in effect;

WHEREAS, by Resolution 27260 dated May 28, 1985 the City Council adopted the Yesler/Atlantic Land Disposition Report, which was amended by Resolution 28866 dated January 31, 1994 and was amended by Resolution 29852 dated November 2, 1998 (as amended, the "Report"), specifying the procedures for disposition of remaining land in the Project Area; and

WHEREAS, pursuant to the Report the City has conducted a competitive process through a Request for Proposals dated January 20, 1999 (the "RFP"); and

WHEREAS, in response to the RFP, Purchaser submitted a proposal dated April 23, 1999 (which is incorporated herein by this reference and hereinafter referred to, with any modifications or additions to such proposal that shall be approved in writing by the City, as the

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"Proposal") to acquire the property described in Section 1 below ("Property") and construct thereon an assisted and retirement living facility; and

WHEREAS, the City has determined that the Proposal is complete and responsive to the RFP; the Proposal has been reviewed and evaluated by the Developer Advisory Committee; and the Mayor has recommended that the same be accepted; and

WHEREAS, in view of certain environmental conditions found on the Property subsequent to the RFP process, the Director of the Office of Housing ("Director") has determined that it is in the City's interest to accept, in lieu of a part of the cash purchase price stated in the Proposal, a commitment by the Purchaser to perform certain abatement activities at Purchaser's cost;

WHEREAS, by Ordinance \_\_\_\_\_, dated \_\_\_\_\_, 1999, the Seattle City Council accepted the Mayor's recommendation that the Proposal to purchase and develop the Property be accepted with certain conditions; authorized the Director to execute, deliver and administer the "Contract for Sale of Land"; and designated the disposition of sales proceeds; and

WHEREAS, the City believes that the redevelopment of the Property pursuant to the Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable federal, state, and local laws and requirements under which the Project has been undertaken;

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

#### PART I

##### Section 1. Agreement to Convey Property

Subject to all of the terms and conditions of this Agreement, the City agrees to convey to Purchaser that certain real property located at 113 23<sup>rd</sup> Avenue South in The City of Seattle, known as Yesler Atlantic Parcel 23-23A and more particularly described as follows:

**ALL OF LOTS 1, 2, 3, 4, THE NORTH HALF OF LOT 5, ALL OF LOTS 8, 9, 10, 11 AND 12, BLOCK 2, JACKSON STREET ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2, PAGE 24, IN KING COUNTY, WASHINGTON;  
AND,  
LOT 4, BLOCK 31, H.L. YESLER'S FIRST ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 215, IN KING COUNTY, WASHINGTON AND THAT PORTION OF VACATED**





**23<sup>RD</sup> AVE SOUTH ADJACENT THERETO THAT ATTACHED TO SUCH LOT BY  
OPERATION OF LAW;**

**EXCEPT THAT PORTION CONVEYED UNDER CITY OF SEATTLE ORDINANCE  
NO. 83108,**

which real property is hereinafter referred to as the "Property." A map showing the general location and boundaries of the Property is included as Attachment A to this Agreement.

**Section 2. Payment of Purchase Price.**

Purchaser agrees to pay to the City the sum of Six Hundred Thirteen Thousand Four Hundred Dollars (\$613,400), payable in cash or cashier's check at the time of closing ("Cash Purchase Price"). Purchaser acknowledges that the cash price has been reduced from the original bid by \$100,000 in consideration of Purchaser's agreement to bear certain hazardous substance and underground tank abatement costs under Section 204 below. The Earnest Money deposit paid by Purchaser may be credited to the Cash Purchase Price at closing in accordance with the conditions described in Section 6 below.

**Section 3. Conveyance**

Upon the payment of the sum provided in Section 2 and all other amounts required to be paid by Purchaser hereunder, and upon the satisfaction of the conditions set forth in Section 5 below, the City shall convey title to the Property by special warranty deed in the form attached hereto as Attachment B (the "Deed"), which is hereby approved as to form by Purchaser.

**Section 4. Condition of Title: Title Insurance**

The City shall provide the Purchaser with an owner's policy of title insurance in standard form, at the City's expense. A preliminary title commitment shall be provided by the City for the Purchaser's inspection within thirty (30) days of execution of this Agreement. Purchaser shall review the preliminary title report, and in the event such examination discloses any liens, encumbrances or defects (collectively "exceptions") not acceptable to Purchaser, other than nondelinquent taxes and assessments and any easements, covenants and restrictions not inconsistent with the use contemplated herein, the Purchaser shall notify the City thereof in writing within forty-five (45) days of execution of the Agreement or fifteen (15) days of receipt of the preliminary title report, whichever is later. If Purchaser does not notify the City of any objections within such period then any objections to exceptions shown on the preliminary title report shall be deemed waived. If Purchaser does give such notice, then the City shall notify Purchaser within thirty (30) days after receipt of Purchaser's notice whether the City intends to remove such exceptions. If the City gives notice that it will attempt to remove such exceptions, then the City shall have a reasonable time thereafter in which to remove the exception(s), but in no event more than one hundred and twenty (120) days from the date of written notification by





the Purchaser. In the event that the City is unable to remove such exceptions or to convey good and marketable title to the Property this Agreement shall be terminated without liability of the City, and the Earnest Money shall be returned to Purchaser, unless Purchaser elects to waive Purchaser's objections to such exceptions. If Purchaser, after receipt of notice from the City that one or more exceptions to title objected to by Purchaser will not be cleared, gives written notice to the City that Purchaser will not accept title subject to such exceptions, then this Agreement shall be terminated, the Earnest Money shall be returned to Purchaser, and neither party shall have any further obligations hereunder. If Purchaser does not give written notice to the City, within fifteen (15) days after notice from the City to Purchaser that the City will not clear title of any exceptions objected to by Purchaser, that Purchaser elects to accept title subject to such exceptions, then this Agreement shall automatically be terminated and within fifteen (15) days thereafter the City shall return the Earnest Money and there shall be no further obligation on either party.

Section 5. Conditions Precedent

The following shall be conditions precedent to the City's obligation to convey the Property:

- (a) Schematic plans shall have been reviewed and approved by the Director, as provided in Section 301 of Part II of this Agreement; construction plans and specifications for the Purchaser's improvements to be developed on the Property ("Improvements"), consistent with such schematic plans, shall have been reviewed and approved by the Director, as provided in Section 302 of Part II of this Agreement; and a Master Use Permit and all other permits necessary to commence construction of the Improvements shall have been issued or shall have received final approval for issuance.
- (b) Purchaser shall provide evidence satisfactory to the City that Purchaser has the necessary financing available for project development as provided in Section 304.
- (c) Purchaser shall have deposited with Pacific Northwest Title Insurance Company (the "Escrow Agent") for delivery to the City the sum of money required to pay the Cash Purchase Price stated under Section 2 of this Agreement and all other amounts payable by Purchaser hereunder, in cash or cashier's check.
- (d) Purchaser shall have submitted an application for City Office of Housing ("OH") funding in the Fall 1999 competitive process and shall meet all requirements of the Notice of Funding Availability ("NOFA") to be eligible for selection in such process.
- (e) Not later than February 15, 2001, Purchaser shall secure financing commitments, acceptable to OH, for all funding that will be necessary to complete the Improvements, according to a budget and cost estimates acceptable to OH.





(f) Not later than July 1, 2000, Purchaser shall have entered into an agreement with a company having substantial experience in providing and managing assisted living facilities, under which such company shall participate in the management of the assisted living to be developed on the Property for a period of at least three years of stable operation, defined as having a debt service coverage ratio of 1.2 or greater.

(g) Purchaser shall have voluntarily participated in the DCLU design review process and shall not have requested departures from development standards except as may have been approved by the Director.

(h) Purchaser shall otherwise be in compliance with all of the terms hereof.

Section 6. Earnest Money

Purchaser shall deposit with the City as earnest money a total of ten percent (10%) of the Cash Purchase Price ("Earnest Money"), including \$35,670 deposited on the proposal submission date and \$25,670 deposited immediately upon execution of this Agreement. Earnest Money shall be held in the City Finance Department's Clearing Account until such time as the Purchaser becomes entitled to return of such Earnest Money under the terms hereof, or until the City becomes entitled to retain such Earnest Money under the provisions of this agreement. Earnest Money may be credited to the Cash Purchase Price at closing. Purchaser shall not be entitled to interest on the Earnest Money.

Section 7. Closing

A. Closing shall take place on such date as the Purchaser shall specify by notice to the City at least ten (10) days in advance of the closing date, which notice may be given at any time within thirty (30) days after all conditions herein, other than deposit of funds and instructions in escrow, have been satisfied; but, in any event, closing shall occur no later than April 30, 2001. "Closing" shall mean the execution, delivery and recording (as appropriate) of all documents and payment of all funds into escrow as provided herein.

B. At Closing, the Escrow Agent shall be instructed to record the Deed and to instruct in turn the King County Office of Records and Elections (County Recorder) to mail the original of the Deed following recording, to the Purchaser as grantee. The escrow fee charged in connection with this closing shall be paid one-half each by the Purchaser and the City. Any taxes, assessments or public charges payable with respect to the Property during the City's ownership thereof shall be prorated as of Closing. Purchaser shall pay the cost of recording the Deed and any documents required by Purchaser's financing. Purchaser shall also pay to the City at time of Closing a cash security deposit of ten percent (10%) of the Cash Purchase Price ("Security Deposit") as security for completion of the Improvements on the Property as approved by the City and for completion of abatement activity as described in Section 204 below. The Security





Deposit shall be released upon receipt by Purchaser of a Certificate of Completion from the City if the Purchaser shall have documented its compliance with Section 204 to the reasonable satisfaction of the City. If so elected by Purchaser, the Earnest Money may be converted into the Security Deposit in lieu of crediting it against the Cash Purchase Price. This Security Deposit shall be held in the City Department of Finance Clearing Account until such time as the Purchaser becomes entitled to return of such deposit under the terms hereof, or until the City becomes entitled to retain such deposit under the provisions of this agreement. At the Purchaser's option a performance bond in an amount of 10% of the Cash Purchase Price, in form satisfactory to the City, conditioned to be paid to the City in full if a Certificate of Completion for all of the Improvements is not issued prior to the deadline for completion of the Improvements hereunder or if the Purchaser fails to comply with its obligations under Section 204, may be submitted in lieu of the Security Deposit at the time the Deed is recorded. Purchaser shall not be entitled to interest on the Security Deposit. Each party shall sign and deliver such escrow instructions and other documents as are reasonably necessary to effect Closing as contemplated herein.

C. If the sale fails to close due to fault of one of the parties, as described in Sections 702 and 703 of Part II of this Agreement, then such party shall be solely responsible for all escrow and title insurance cancellation charges. If the sale fails to close by the date set forth in subsection A. above for reasons other than those set forth in Sections 702 or 703, then the Earnest Money shall be returned to Purchaser less one half of any escrow or title insurance cancellation charges and the City shall pay such charges one-half from the Earnest Money and one-half from the City's own funds; provided that if the sale does not close due to the City's failure to clear defects in title objected to by Purchaser as permitted by Section 4 hereof, the City shall return the full Earnest Money and pay all cancellation charges from its own funds.

Section 8. Zoning Change. Purchaser may apply for a change in the zoning of the Property in order to permit the community wellness center to be constructed on the Property to serve persons not resident at the Property. The City is not providing any assurance that any zoning change will be approved, and Purchaser's obligations are not conditioned in any way on the approval of any zoning change or any other land use or regulatory decision by the City.

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## PART II

### Subpart A: DEVELOPMENT OF PROPERTY

#### Section 101. Improvements.

Purchaser shall develop the Property substantially as shown in the Development Plan attached as Attachment C to this Agreement, which is incorporated herein by this reference, and in accordance with the Construction Plans to be approved by the Director pursuant to Section 302 below, which upon such approval shall supersede any inconsistent provisions of the Development Plan. The improvements to be constructed on the Property as described in the Development Plan, which shall be more specifically described in the plans to be submitted by Purchaser and approved by the Director hereunder, and with any modifications clearly shown in the Construction Plans approved by the Director, are referred to as the "Improvements".

#### Section 102. Compliance with Proposal.

Purchaser shall develop the Property in full compliance with the terms, conditions, and commitments contained in Purchaser's Proposal, except as otherwise expressly provided herein or in the Attachments to this Agreement.

### Subpart B: ACCEPTANCE, CONDITION AND POSSESSION OF PROPERTY

#### Section 201. Acceptance AS IS; Disclaimer of warranties and release.

Purchaser has inspected the Property and has had the opportunity to obtain inspections and reports of professionals, and Purchaser agrees to accept the Property **AS IS, WITH ALL DEFECTS**, and **ASSUMES THE RISK** of any defects in the condition of the Property and of all the matters set forth in this Section. City makes **NO WARRANTIES OR REPRESENTATIONS OF ANY KIND** except as may be set forth specifically in this Agreement. Purchaser agrees that any express or implied representations or warranties made by or on behalf of the City prior to this Agreement are hereby revoked and canceled and shall have no force or effect. Purchaser further agrees that no representations or warranties are implied by any provision of this Agreement or any other words or conduct in connection with this transaction.

Without limiting the generality of the foregoing paragraph, Purchaser agrees that, except as may be specifically set forth in this Agreement, neither City nor any person for whom City may have any responsibility makes any representation, warranty or promise of any kind with regard to any of the following: (1) the physical condition of the property (land, buildings, fixtures, or infrastructure), whether or not readily determined by inspection; (2) the presence or absence of any underground tanks or any hazardous or defective substances or conditions on or





about the property, or on adjacent properties; (3) the history of the property or activities that may have occurred or been conducted thereon or thereunder; (4) soils conditions or drainage; (5) square footage of land or buildings; (6) encroachments; or (7) location or condition of utility lines.

Except as otherwise expressly provided herein, Purchaser hereby irrevocably releases and waives any and all claims that Purchaser has or may have against City with respect to the condition of the Property or the presence of any Hazardous Substances thereon or thereunder, or arising pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or the Washington State Model Toxics Control Act, as amended. For purposes of this Agreement, "Hazardous Substances" means any chemical, substance or material classified or designated as hazardous, toxic or radioactive, or other similar term, under any federal, state or local statute, regulation, or ordinance pertaining to environmental protection, waste disposal, toxic or hazardous materials, contamination or cleanup, including, without limitation, polychlorinated biphenyls, asbestos, lead, petroleum and hydrocarbon products. With respect to any contamination by Hazardous Substances on or under the Property that Purchaser shows by clear, cogent and convincing evidence were present at the time of Closing (other than as a result of actions by Purchaser or its contractors or agents in the course of preclosing activities), the waiver and release in this paragraph shall not apply to the extent that the following items, in the aggregate, together with all direct, out-of-pocket costs expended by Purchaser on abatement of underground storage tanks and contaminated soils under Section 204 below, exceed \$100,000:

- (a) costs that Purchaser shall be required to incur to remediate such contamination under any order of a governmental agency or court; or
- (b) any liability of Purchaser to any third party, under a final judgment of a court, for all or a portion of the costs of remediation of such contamination incurred by such third party;

provided in each case that as a condition to such exception from this waiver and release, Purchaser shall give written notice to the City, within twenty (20) days after Purchaser receives or has notice thereof, of any notices, complaints, proceedings, claims, and orders that may result in any costs or liability as described in clauses (a) or (b) above, and shall cooperate fully in any efforts that the City may elect to make, at the City's expense, to investigate and/or remediate such contamination.

Purchaser and City by their initials below acknowledge that this Section has been specifically bargained for and that City would not be willing to sell the property on the terms and conditions set forth in the rest of this Agreement without Purchaser's agreement to this Section.

Purchaser: \_\_\_\_\_ City: \_\_\_\_\_





Section 202. Changes in Condition

If Purchaser becomes aware of any change in the physical condition of the Property after the date hereof that would materially impair the development thereof as contemplated hereunder, or would substantially increase the cost of such development, Purchaser shall notify the City of such change. If any such change is caused by the acts of Purchaser or its agents, employees or contractors the Purchaser shall restore the Property to its prior condition unless the City shall have otherwise agreed in writing. If Purchaser is not responsible under the preceding sentence then (1) if the City gives notice to Purchaser within ten (10) days after receiving notice of such change in condition that the City elects to remedy such changed condition, then this Agreement shall remain in effect and the City shall remedy such changed condition prior to closing, and (2) if the City does not give notice of such election, then Purchaser shall have the option, by notice to the City no later than twenty (20) days after giving notice to the City of such changed condition, to cancel this Agreement and receive a full refund of all Earnest Money, in which case neither party shall have any further obligation or liability to the other hereunder except for the express indemnities herein, which survive termination of this Agreement. Any notice from Purchaser to City hereunder that Purchaser is prepared to close the purchase shall constitute Purchaser's representation that it has reinspected the Property and agrees to accept it in its condition on the date of such notice, whether or not such condition has changed from the date hereof.

Section 203. Possession

Purchaser shall be entitled to exclusive possession of the Property (subject to the rights of the City contained herein) upon recording of the Deed.

Section 204. UST and Soil Abatement by Purchaser in Consideration of Reduction in Purchase Price

The parties acknowledge that the Phase I ESA and Phase II ESA referred to in Section 305 disclosed the presence of at least one abandoned underground storage tank and areas of soil contamination with hydrocarbons above cleanup thresholds, as well as the potential for additional abandoned underground storage tanks and contamination related to residences formerly on the Property. In light of these findings and the fact that the City as property owner may have an obligation to abate the underground tank(s) and related contamination, the parties have agreed to a price reduced from Purchaser's original bid by \$100,000. In consideration for the City's agreement to sell at such reduced price, Purchaser agrees that if the sale of the Property to Purchaser hereunder shall be consummated, then Purchaser shall contract with a qualified contractor or contractors and cause such contractor(s) to remove and dispose of the identified tank and any other tanks and related piping that may be detected in the course of Purchaser's development, and to remove and dispose of all soils and other materials in the areas where contamination has been identified in the Phase I ESA or Phase II ESA and in the areas of any present or former tank(s) identified in the Phase I ESA or Phase II ESA or in the course of





Purchaser's development, to the extent that such soils and other materials have levels of Hazardous Substances above any cleanup levels promulgated by the Washington Department of Ecology or any other agency with jurisdiction. Such removal and disposal shall be completed, all in compliance with applicable laws, no later than April 30, 2002. Purchaser or its contractor(s) shall obtain all permits required by law or City ordinances or codes for the removal and disposal of tanks, soils and other materials, and shall comply with all requirements for inspections of such removal and disposal. Purchaser shall promptly deliver to the City copies of all reports and information relating to such tanks, contamination, removal, disposal and testing. All of the actions described in this Section shall be at Purchaser's sole expense. Purchaser shall indemnify and hold harmless the City and its officials, employees and agents from and against any claim, demand, liability, loss or damage resulting from Purchaser's or its contractor's failure to carry out the provisions of this Section.

If Purchaser shall not fully comply with the terms of this Section, then the City shall have the right, but not the obligation, to cause such further abatement activity as the City shall deem necessary, and Purchaser agrees to reimburse the City on demand for all costs thereof. The City may, but shall not be required to, apply the Security Deposit to such costs, or draw on any bond provided in lieu of the Security Deposit for payment of such costs, in each case without waiving its right to recover any deficiency from Purchaser.

#### Subpart C: PLANS, APPROVALS, FINANCING AND CONSTRUCTION

##### Section 301. Design and Schematic Plans

Prior to conveyance of the Property, the Purchaser shall submit to City schematic designs and plans (herein "Schematic Plans") in sufficient detail with respect to development of the Property to clearly describe the site plan, architectural character, circulation, landscaping features and relationship to the surrounding environment of the Improvements.

The Schematic Plans shall be in conformity with the Proposal, with Section 101 above, and with all applicable state and local laws and regulations, and shall be consistent with the design guidelines contained in the RFP. The Schematic Plans shall be submitted within thirty (30) days of execution of this Agreement. If Schematic Plans conforming to this Agreement are not submitted within such period, then after notice as set forth in Section 703 below the City shall have the right, by notice to Purchaser, to terminate this Agreement in which case the Earnest Money shall be retained by the City as liquidated damages, as the City's sole and exclusive remedy.

The Schematic Plans shall be subject to review and approval by the Director as to conformity with this Agreement. The Director shall complete the Schematic Plans review within fifteen (15) working days of receipt of the Schematic Plans. If within such period, the City gives notice to Purchaser of changes reasonably required by the City, the Purchaser shall submit revised Schematic Plans reflecting such changes within thirty (30) days after receipt of such

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notice. If the City does not give notice of any required changes within such period, and if the transmittal of such plans contained conspicuous notice on the first page thereof of the time limit for review hereunder, then the plans shall be deemed approved for purposes hereof unless they are manifestly inconsistent in material respects with the Proposal, Attachment C, or the Design Guidelines in the RFP.

With the written consent of the Director or her designee, the Purchaser may elect to proceed directly to prepare and submit Construction Plans in lieu of Schematic Plans, provided that the Construction Plans shall contain all information required for Schematic Plans and shall be subject to review and revision as provided in this Section, which requirements and reviews shall be in addition to those provided in Section 302. As a condition of the Director's consent, Purchaser may be required to consent to a period for review of plans and notification of required changes longer than otherwise provided herein.

Section 302. Construction Plans and Specifications

Purchaser shall prepare plans and specifications with respect to the construction of Improvements ("Construction Plans") in conformity with the previously approved Schematic Plans, this Agreement and all applicable state and local laws and regulations. The Construction Plans shall be in sufficient completeness and detail not only to satisfy requirements pertinent to application for a building permit but also to demonstrate to the Director that the improvements and their construction will be in accordance with the previously approved Schematic Plans. Purchaser shall submit the Construction Plans, together with construction or progress schedule, to the Director, prior to the submission of the Construction Plans to the Department of Design, Construction and Land Use ("DCLU").

Purchaser shall submit Construction Plans to the Director within six (6) months of the City's approval of Schematic Plans, and in any event within nine (9) months of execution of this Agreement. If Construction Plans conforming to this Agreement are not submitted within such period, the City shall have the right, after notice as set forth in Section 703 below, to terminate this Agreement by notice to Purchaser, in which case the Earnest Money shall be retained by the City as liquidated damages, as the City's sole and exclusive remedy. If the City does not give notice of any required changes in Construction Plans within ten (10) working days of receipt thereof, and if the transmittal of such plans contained conspicuous notice on the first page thereof of the time limit for review hereunder, then the plans shall be deemed approved for purposes hereof unless they are manifestly inconsistent in material respects with the Schematic Plans. Final approval of the Construction Plans will be subject to acceptance by DCLU as evidenced by the issuance of the necessary permits for development and construction of the Improvements. As a condition precedent to the City's obligations hereunder, a Master Use Permit and all other permits required to commence construction of the Improvements must be obtained within eighteen (18) months after execution of this Agreement.

Section 303. Changes in Construction Plans or Schematic Plans





If Purchaser desires to make any material changes in the size, character, design, or exterior surface of structures or in the site plan, exterior elevation or materials as set forth in the Construction Plans and Schematic Plans or either of them after approval by the City, the Purchaser shall submit the proposed change to the Director for approval. If the Director finds that the Construction Plans and/or Schematic Plans as modified by the proposed change conform to the requirements of this Agreement, the Director shall approve the proposed change evidencing such approval by endorsement of the same on the revised plan sheets and by notifying the Purchaser and the DCLU Director in writing of the approval. Such changes in the Construction Plans and Schematic Plans or either of them shall in any event be approved or rejected in whole or in part, by written notice from the City to the Purchaser within ten (10) working days of submittal by the Purchaser.

Section 304. Evidence for Financing

The Purchaser shall, as a condition to City's obligations hereunder, provide the City, no later than February 15, 2001, evidence that firm financing commitments have been secured satisfactory to the Director and sufficient to complete the Improvements. If Purchaser fails to meet the deadline in the foregoing sentence, then the City may, on thirty (30) days prior written notice to Purchaser, terminate this Agreement, in which case the Earnest Money shall be returned to Purchaser and neither party shall have any liability hereunder except for any liability under indemnity or hold harmless provisions, which survive this Agreement. If the City does not give notice to Purchaser within fifteen (15) days after receipt of a copy of the financing commitment(s) that any terms thereof are not acceptable to City, then City shall be deemed to have approved the terms thereof except to the extent that any such terms are contrary to the provisions hereof.

Section 305. Environmental Review

Purchaser has provided to the City a copy of a report of Zipper, Zeman Associates, Inc. dated September 14, 1999 prepared for Purchaser, at Purchaser's expense. In addition, the City commissioned a limited Phase II Environmental Site Assessment ("Phase II ESA") at the City's expense and delivered a copy to the Purchaser. Each party acknowledges that the Phase I ESA and limited Phase II ESA identified certain Hazardous Substances on the Property and at least one underground storage tank. Neither party warrants to the other the completeness or accuracy of either ESA.

Section 306. Time for Construction

Purchaser agrees that it shall commence the Improvements within ninety (90) days after Closing and diligently proceed to complete construction of the Improvements. Completion of construction shall be no later than twenty-four months after Closing. The work shall at all times be subject to inspection by the City.





Section 307. Report on Progress

Subsequent to the conveyance of the Property to the Purchaser and until construction of the Improvements is complete, the Purchaser shall, within ten (10) days of any request by the City, forward to the Director a report in writing as to the actual construction progress.

Section 308. Purpose of Review of Plans and Inspection of Work

Review of plans and specifications and inspection of construction improvements, provided for in this contract, is for the sole purpose of evaluating compliance with the terms of this Agreement. Such inspection shall not be construed as a representation or warranty to Purchaser or any third party that the plans and specifications are adequate for any purpose, that there has been or will be compliance on the part of any contractor or subcontractor with the plans and specifications, that construction has been or will be free from faulty material or workmanship, or as to any other matter. Purchaser shall cause this Section 308 to be included in any contract for work into which Purchaser shall enter under this Agreement.

Section 309. Certificate of Completion of Improvements

A Certificate of Completion may be obtained only for the entire Property. Promptly after completion of the Improvements on the Property in accordance with the provisions of this Agreement and the approved Construction Plans, as confirmed by an inspection by the City, the City shall furnish the Purchaser with a Certificate of Completion ("Certificate" herein) substantially in the form attached hereto as Attachment D. A Certificate shall be issued when the Purchaser has completed the Improvements pursuant to the Construction Plans and has cured any deficiencies noted by the City in its inspections. Delivery of a Certificate and recording thereof by the Purchaser shall be conclusive evidence of satisfaction of obligations of the Purchaser to construct the Improvements and of the termination of the condition subsequent in the deed. Upon delivery of a Certificate, unless the City has already exercised its right to retain the Security Deposit for a breach or default on the part of Purchaser, the Security Deposit shall be returned to Purchaser.

If the Director shall refuse or fail to provide a Certificate in accordance with the provisions of this Section 309, the Director shall, within seven (7) days after written request by the Purchaser made prior to the last date for completion of the Improvements hereunder, provide the Purchaser with a written statement indicating in adequate detail in what respects the Purchaser has failed to complete the Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the Director, for the Purchaser to take or to cause to be taken to obtain such Certificate. When such acts or measures have been completed and the City has reinspected the Property to confirm such completion the Certificate shall be issued.





Section 310. Entry: Sign

From the date of execution of this Agreement by both parties through Closing or the date of termination of this Agreement, as the case may be, Purchaser and Purchaser's agents shall have the ongoing right, upon no less than twenty-four hours advance notice to the Director, to enter on the Property for the purpose of inspections, to conduct studies, clear underbrush and for all other purposes that Purchaser deems reasonably necessary for the planning or design of the Improvements, and to commission Purchaser's own environmental investigation of the Property, and Purchaser's own engineering and other studies, all at Purchaser's sole risk and expense. No excavations or other activities that require a permit under applicable City Codes or regulations shall be conducted unless Purchaser obtains such a permit at its sole expense and complies with all conditions thereof. Purchaser agrees that the City and its officers, employees and agents shall not be liable to Purchaser for any injury to persons or property on or about the Property in connection with activities pursuant to this subsection, whether or not due to any condition of the Property or due to any negligence of the City or its officers, employees or agents. Unless otherwise expressly authorized by the Director, Purchaser shall promptly restore the Property to the condition it was in prior to any activities undertaken pursuant to this subsection. Purchaser shall defend, indemnify and hold harmless the City from any liability, loss, or damage (including costs and attorneys fees) resulting from the acts or omissions of Purchaser or its contractors or agents in connection with any such inspection, investigation, studies or related activities on or about the Property. Any contract entered into by Purchaser for any consultants' services shall expressly provide that the City shall have no obligation thereunder and that the charges for such services shall not be a lien on the Property unless and until Purchaser shall have completed the purchase thereof from the City. If Purchaser does commission any such investigations or studies then Purchaser shall provide copies of any reports generated thereby to the City.

Purchaser shall have the right to install a sign on the Property, at its own risk and expense to give public notice of its permit application as required by City ordinance. Purchaser shall install and maintain such sign in conformity with all applicable City ordinances and rules and shall remove it promptly upon the request of the City if this Agreement shall be terminated.

Subpart D: SPECIAL CONDITIONS

Section 401. Local Business Enterprise Participation

A. Purchaser shall comply with the Purchaser's commitment ("LBE Commitment") as stated in the Sworn Statement for Commitment to Local Business Enterprise Participation (Attached hereto as Attachment E), which is hereby incorporated by reference, for all construction of the Improvements. Failure to comply with the LBE Commitment shall be a material breach of this Agreement.

B. In connection with the construction of the Improvements, Purchaser shall:





(1) Fulfill the LBE Commitments;

(2) Report in writing to the City on a monthly basis during construction as to the total dollar amount of construction contracts signed for the Improvements, and the total amount signed with Local Business Enterprises ("LBEs") as defined in the RFP;

(3) Maintain records reasonably necessary for monitoring compliance with the LBE Commitment, including original contracts and payment records, and permit inspection of such records by the City for up to one year after completion of the Improvements.

C. The parties agree that Purchaser's LBE Commitment is a significant inducement to the City to sign this Agreement and that the City would be seriously damaged by a failure to meet this commitment, in view of the strong public interest in promoting business opportunities in economically depressed areas of the City, but that the amount of damage will be difficult to measure in dollar terms. The parties therefore agree that if Purchaser fails to meet its LBE Commitment, Purchaser shall pay to the City on demand, as liquidated damages and not as a penalty, the dollar amount by which Purchaser's LBE Commitment exceeded the actual amount of work on the Improvements awarded to LBEs.

The parties agree that such amount will be a reasonable approximation of the damage to the City from failure to satisfy the LBE Commitment. The City may, but shall not be required to, apply the Security Deposit to payment of such liquidated damages. If liquidated damages are paid under this Section, Purchaser shall have no other liability for failure to meet the commitment for which liquidated damages are paid, provided that Purchaser may be subject to non-monetary administrative sanctions relating to further contracting opportunities with the City. If Purchaser fails to pay liquidated damages within 30 days after a demand by the City, Purchaser shall be subject to all remedies for breach hereunder, including without limitation those referred to in Section 704.

#### Subpart E: PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

##### Section 501. Intent of Purchaser.

Purchaser represents and agrees that the purchase of the Property is for the purpose of immediate development of the Improvements and not for speculation in land holding.

##### Section 502. Prohibition Against Transfer of Property and Assignment of Agreement.

Purchaser represents and agrees that:

A. Purchaser has not made or created or suffered to be made or created any assignment, conveyance, mortgage, lease, trust, power or transfer, of any sort, of this agreement





or any interest herein, or any interest in or relating to the Property, or entered into any agreement or contract to do any of the foregoing and (except as authorized by Sections 601-605 herein) Purchaser shall not do any of the foregoing prior to issuance of a Certificate of Completion of the Improvements without the prior written approval of the City, which may be withheld in the City's sole discretion.

B. In order to request City approval for any transaction of the type referenced in Subsection A above, Purchaser shall submit to the City all documents relating to the proposed transactions and such information concerning the proposed transferee as the City shall request. If the City approves the transaction, as a condition of such approval, the transferee shall assume all obligations of Purchaser hereunder and shall agree to comply with such other conditions the City may find desirable in order to achieve and safeguard the purposes of this Agreement. This Subsection B shall not apply to mortgages or deeds of trust as authorized in Section 601 below.

C. In the absence of specific written agreement by the City to the contrary, no transfer or approval thereof by the City shall be deemed to relieve Purchaser, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

#### Subpart F: MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

##### Section 601. Limitation Upon Encumbrance of Property

Prior to the issuance of a Certificate of Completion for the Improvements, the Purchaser shall not engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property without the express written consent of the City, except for financing documents substantially as contemplated in a financing commitment approved or deemed approved by the City hereunder, for acquisition of the Property and construction of the Improvements. The Purchaser shall notify the City in advance of any financing secured by mortgage or other similar lien instrument, that Purchaser proposes to enter into with respect to the Property, or any part thereof, and in any event Purchaser shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Property or any parcel thereof, whether by voluntary act of the Purchaser or otherwise.

##### Section 602. Mortgagee Not Obligated to Construct

Notwithstanding any of the provisions of this Agreement, the holder of any mortgage authorized by this Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof) shall in no case be obligated by the provisions of this Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenant or any other provision in the

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Deed be construed to so obligate such holder: Provided, That nothing in this Section or any other Section or provision of this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements described in the Development Plan.

Section 603. Copy of Notice of Default to Mortgagee

Whenever the City shall deliver any notice or demand to the Purchaser with respect to any breach or default by the Purchaser in its obligations or covenants under the Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement which holder has been identified to the City in writing by Purchaser, at the last address of such holder shown in the records of the City.

Section 604. Mortgagee's Option To Cure Defaults

After any breach or default referred to in Section 603 hereof, each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default and to add the reasonable cost thereof to the mortgage debt and the lien of its mortgage: Provided, That if the breach or default is with respect to construction of the Improvements, nothing contained in the Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of improvements on the Property (beyond the extent necessary to conserve or protect Improvements or construction already made) except for completion of the Improvements substantially as provided pursuant to this Agreement. In the case of any breach or default occurring after Purchaser shall have acquired the Property and shall have granted a mortgage or deed of trust in favor of an institutional lender, then such lender shall have an additional 30 days to cure such breach or default after the expiration of any cure period allowed to Purchaser, and if the breach or default cannot reasonably be cured within such 30-day period then the additional period of cure allowed to the lender shall be extended for such time as is reasonably required to cure such breach or default, provided that the lender shall give notice of its intent to cure and commence cure within such 30-day period and continue diligently to pursue such cure.

Section 605. Mortgage and Holder

For the purposes of the Agreement the term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan. The term "holder" in reference to a mortgage shall include any insurer or guarantor (other than a partner, shareholder or principal of Purchaser) of any obligation or condition secured by such mortgage or deed of trust.

Subpart G: DEFAULT AND REMEDIES





Section 701. In General

Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, or any successor to a party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, shall complete such cure within sixty (60) days after receipt of such notice or such shorter period as may be provided herein. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within the time permitted hereunder, the aggrieved party may pursue any remedies available at law or in equity, subject to the specific limitations herein.

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Section 702. Termination By Fault of City Prior to Conveyance of Property

In the event that any of the following occurs prior to conveyance of the Property:

A. The City fails to tender conveyance of the Property in the manner required herein after satisfaction of the conditions provided in this Agreement and notice to close from Purchaser as specified herein, and any such failure shall not be cured within sixty (60) days after notice from the Purchaser; or

B. The City fails or refuses to approve Purchaser's Schematic Plans or Construction Plans pursuant to the terms of this contract without a statement of reasons for such refusal; or

C. The City otherwise fails or refuses, after thirty (30) days' notice and opportunity to cure, to carry out the terms and conditions of this Agreement prior to Closing;

then at the option of Purchaser this Agreement shall be terminated by written notice thereof to the City, Purchaser shall receive a full refund of the Earnest Money and Purchaser shall have the right, at its option, to obtain specific performance or to proceed against the City for actual damages limited to an additional amount equal to the Earnest Money.

Section 703. Termination by Fault of Purchaser Prior to Conveyance of Property

In the event that prior to the conveyance of the Property to Purchaser:

A. Purchaser (or any successor in interest) assigns or attempts to assign this Agreement or any rights therein or in the Property without the express consent of the City; or

B. Purchaser does not submit Schematic Plans, or does not submit Construction Plans, as required by this Agreement, or does not obtain a Master Use permit and all other permits required to commence construction of the Improvements, in each case in the manner and by the dates respectively provided in this Agreement, and such failure shall not be cured within fifteen (15) days after the date of written demand by the City; or

C. Purchaser, without legal excuse, gives notice that it will be unable or unwilling to close the Purchase as provided herein; or

D. Purchaser, without legal excuse, does not tender the full consideration for and take title to the Property, and perform all other obligations of Purchaser at Closing upon tender of conveyance by the City pursuant to this Agreement; or

E. Purchaser, without legal excuse, fails to give written notice of intent to close pursuant to Section 7.A of Part I hereof at least ten (10) days in advance of the last date for closing





specified in such Section, notwithstanding the satisfaction of all conditions to Purchaser's obligation to close except those to be satisfied at Closing; or

F. Purchaser, without legal excuse, otherwise fails to comply with the terms of this Agreement prior to Closing;

then at the option of the City this Agreement and any rights of Purchaser in this Agreement or arising therefrom with respect to the City or the Property shall be terminated, in which event the Earnest Money shall be retained by the City as liquidated damages, as the sole and exclusive remedy available to the City, and neither Purchaser nor the City shall have any further rights against or liability to the other under this Agreement (except pursuant to indemnity provisions, which survive termination of this Agreement).

Section 704. Reversion of Title to City Upon Failure to Complete Improvements or Certain Other Events Subsequent to Conveyance to Purchaser; Retention of Security Deposit

A. The City is selling the Property for the purpose of the prompt construction of the Improvements and in reliance on the covenants of Purchaser that such Improvements will be constructed. Therefore, as set forth in the Deed, the conveyance of the Property to Purchaser shall be subject to a condition subsequent to the effect that in the event of failure to complete the Improvements in a timely manner for reasons other than the City's default in performance of its obligation under this Agreement, or upon the occurrence of other events described therein prior to completion of the Improvements, and after failure on the part of Purchaser to cure or remedy such failure or other event within the period (if any) and in the manner stated in the Deed except to the extent cure is not possible solely because of the City's default in performance of its obligation under this Agreement, the City at its option may declare a termination of all the rights and interests in and to the Property conveyed by the Deed to Purchaser, and that such title and interests to and in the Property shall vest in the City, upon which all rights of Purchaser (and all persons claiming through Purchaser) in and to the Property and possession thereof shall cease;

Provided, that such condition subsequent and any reverting of title as a result thereof in the City (1) shall always be subordinate to and limited by, and shall not defeat, render invalid, or limit in any way, (i) the lien of any mortgage authorized by the City pursuant to this Agreement, and (ii) any rights or interests provided in this Agreement for the protection of the holders of such mortgages; and (2) shall not apply to the Property once the Improvements to be constructed have been completed in accordance with this Agreement and a Certificate has been issued for the Property as provided in Section 309 hereof.

B. If the City exercises its right to revest title to the City pursuant to this section, the City shall return to Purchaser, without interest, all funds paid by Purchaser to the City for the Property, after deducting (1) any amounts used to pay off liens incurred or permitted by Purchaser; (2) the City's expenses related to this transaction; and (3) any amount by which the

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appraised value of the Property at the time of reversion to the City is exceeded by the price paid by Purchaser.

C. In addition to, and not in the alternative to, the City's power of termination as provided for above, the City shall have the right, at any time when the City would have the right to declare a termination of Purchaser's interest under the terms of the Deed, by notice to Purchaser and Escrow Agent, to elect to retain the Security Deposit or obtain payment on any bond provided in lieu thereof, in either case without any deduction, offset or recoupment whatsoever, as liquidated damages in the event of default, violation or failure of the Purchaser as specified in this section. If the City makes such election to retain the Security Deposit or realize on the bond, then Purchaser shall have an additional thirty (30) days beyond the time specified in the Deed to remedy the failure or event giving rise to the City's right to terminate Purchaser's interest, prior to exercise of the City's power of termination. In addition, if the Purchaser shall not comply fully with its obligations under Section 204 of this Agreement within the time period stated herein, then the City may, at its option, elect to retain the Security Deposit or obtain payment on any bond provided in lieu thereof, without waiving any other rights or remedies for such noncompliance by Purchaser.

Section 705. Other Rights and Remedies: No Waiver of Delay

Either party shall have the right to institute such actions or proceedings as it may deem desirable for effectuating its remedies. Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of any rights or remedies or to deprive it of or limit such rights or remedies in any way; nor shall any waiver in fact made with respect to any specific default be considered or treated as a waiver of the rights or remedies of either party with respect to any other defaults or with respect to the particular default except to the extent specifically waived in writing.

Subpart H: MISCELLANEOUS PROVISIONS

Section 801. City's Representations

The Director has not received notification of any kind from any agency (including without limitation any other City Department or agency) to the effect that the Property is or may be targeted for a federal or state Superfund cleanup or may be contaminated with any Hazardous Substances, except as stated in the Phase I ESA and Phase II ESA; and (ii) the Director has no actual knowledge of a release or threatened release of any Hazardous Substances on the Property except as stated in the Phase I ESA and Phase II ESA. The City makes no other representation or warranty as to condition of the Property, express or implied. City represents and warrants that the Agreement is the valid, binding obligation of City enforceable in accordance with its terms.

Section 802. Purchaser's Representations





Purchaser represents and warrants that Purchaser is a duly organized and validly existing nonprofit corporation and has full power and authority to enter into and perform this Agreement and the transactions contemplated hereby, and that the execution and delivery of this Agreement by the undersigned individuals has been duly authorized by all necessary corporate or other action. Purchaser represents and warrants that it is purchasing the Property in good faith for its own account and not on behalf of any other party. Purchaser reconfirms as of the date hereof any and all representations and warranties contained in the Proposal, except as expressly modified hereby. Purchaser represents and warrants that this Agreement is the valid, binding obligation of Purchaser, enforceable in accordance with its terms.

Section 803. Notices.

A notice or communication under this Agreement by either party to the other shall be effective on the earlier of the date actually received by hand delivery or by mail as evidenced by a signed receipt for certified mail, or three days after deposited in the United States mail, postage prepaid, and

- A. In the case of a notice or communication to Purchaser, if the same is addressed to Purchaser at the address stated on the first page of this Agreement with a copy to Constance L. Proctor, Alston, Courtnage, Proctor & Bassetti LLP, 1000 Second Avenue, Suite 3900, Seattle, WA 98104; or
- B. In the case of a notice or communication to the City, if addressed as follows:

Joanne LaTuchie, Office of Housing  
The City of Seattle  
Eighth Floor, Alaska Building  
618 Second Avenue  
Seattle, WA 98104

or is addressed in such other way in respect to either party as that party may, from time to time, designate in writing delivered as provided in this Section. Any notice required or permitted by any applicable law also shall be effective if given in the manner specifically required or permitted by such law.

Section 804. Agreement Survives Conveyance; Survival of Indemnities

It is the intent of the parties hereto that none of the provisions of this Agreement shall be merged by reason of any deed transferring any interest in any property; and any such deeds shall not be deemed to in any way affect or impair any of the provisions, conditions, covenants, or terms of this Agreement, except as otherwise provided in this Agreement. All provisions herein providing that the Purchaser shall indemnify or hold harmless the City shall survive any deed and any termination of this Agreement and shall remain in full force and effect.





Section 805. Titles of Subparts and Sections

Any titles of the several Subparts and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 806. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

Section 807. City Approval and Consent

The Mayor and the Director are the sole persons authorized to act for and on behalf of the City in connection with this Agreement except where another is required by law or by this Agreement.

Section 808. Entire Agreement

This Agreement and the Attachments hereto and documents incorporated by reference herein constitute the entire agreement of the parties with respect to the subject matter hereof and supersede any and all prior agreements or understandings. In case of any conflict between the terms hereof or in the Attachments hereto and the terms of the Proposal, the terms of the Proposal shall be considered amended or superseded to the extent of such conflict.

Section 809. Attorney's Fees

In the event of any litigation, including without limitation bankruptcy, appellate, or arbitration proceedings, between the parties arising out of or in connection with this Agreement, the substantially non-prevailing party shall pay all reasonable costs including but not limited to reasonable attorneys' fees of the substantially prevailing party, including the reasonable value of services of the City's staff attorneys.

Section 810. Cooperation

The parties agree to use their best efforts diligently and promptly to take all actions necessary and appropriate in order to satisfy the conditions set forth in this Agreement and to execute and deliver all other documents reasonably necessary to carry out their respective obligations hereunder, including without limitation reasonable instructions to Escrow Agent.

Section 811. Time

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Time is the essence of all provisions of this Agreement.

Section 812. Partial Invalidity

Any provision of this Agreement which shall prove to be invalid, void or unenforceable shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

Section 813. Governing Law

This Agreement shall be governed by the laws of the State of Washington.

Section 814. Heirs and Successors

This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, subject to the limitations on transfer stated herein.

Section 815. No Third Party Beneficiaries

The provisions hereof are for the sole benefit of the parties hereto and, subject to restrictions on transfers by Purchaser stated herein, their respective successors and assigns (including mortgagees to the extent provided herein). No other parties shall have any rights or remedies hereunder.

Section 816. Amendments

Amendments to this Agreement may be made only after written approval by the City and by Purchaser. Amendments which are not fairly within the scope of the Ordinance referred to in the Recitals to this Agreement shall not be effective unless authorized by ordinance.

Section 817. Condemnation

In the event any portion of the Property shall be taken, damaged or condemned for public or quasi-public use, except as stated in the following sentence, all compensation awarded upon such condemnation, damaging or taking up to the amount of the unpaid Cash Purchase Price shall be retained by the City and applied to the Cash Purchase Price, and any balance shall inure to Purchaser and the City shall have no claim thereto. In the event of taking, damage or condemnation by a public or quasi-public body of a portion of the Property making it infeasible for Purchaser to complete the development of the Improvements, Purchaser or City shall have the right to terminate this Agreement by written notice to the other within ten (10) days after the effective date of such taking, damage or condemnation, and if Closing has not yet occurred the

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proceeds up to the amount of the Cash Purchase Price shall be paid to the City and any balance paid to Purchaser, and the Earnest Money shall be refunded.

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Section 818. Singular and Plural: Joint and Several

In this Agreement the use of the singular shall include the plural, and pronouns of any gender or none shall include the masculine, feminine, and neutral, as the context may require. If more than one person is signing this Agreement as Purchaser, the obligations of each shall be joint and several and the City shall be entitled to rely conclusively upon the authority of either or any of them to bind all with respect to any matters related to this Agreement.

EXECUTED as of the day and year first above written.

AFRICAN-AMERICAN COMMUNITY HEALTH NETWORK

By: \_\_\_\_\_  
Vivian Caver, Board Co-Chair

By: \_\_\_\_\_  
Adlai Pappy, MD, Board Co-Chair

THE CITY OF SEATTLE

By: \_\_\_\_\_  
Cynthia A. Parker, Director  
Office of Housing

ATTACHMENTS:

- A. Map Showing Location of Property
- B. Form of Special Warranty Deed
- C. Development Plan
- D. Form of Certificate of Completion
- E. Sworn Statement for Local Business Enterprise Participation

Authorized by Ordinance No. \_\_\_\_\_

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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_, 199\_\_\_, personally appeared before me Cynthia A. Parker, to me known to be Director of the Office of Housing of the municipal corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath stated that she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said municipal corporation.

WITNESS my hand and official seal the date and year first above written.

\_\_\_\_\_  
Print name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_, 199\_\_\_, personally appeared before me Vivian Caver and Adlai Pappy, MD. to me known to be the Co-Chairs of African-American Community Health Network, the nonprofit corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said party, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
Print name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_



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## Yesler-Atlantic



c:\kennedy.apr. yesler-atlantic





ATTACHMENT B

After recording return to:

African-American Community Health Network

300 19<sup>th</sup> Avenue

Seattle, WA 98122

**SPECIAL WARRANTY DEED WITH CONDITION SUBSEQUENT**

Reference numbers of related documents:

Grantor: The City of Seattle

Grantee: African-American Community Health Network

Legal Description:

1. Abbreviated Form: L 1, 2, 3, 4, N1/2 L5, All L 8, 9, 10, 11 & 12, B 2, Jackson St. Add and L 4, B 31, H.L. Yesler's First Add
2. Additional legal description is on page 1 of document.

Assessor's Property Tax Parcel Account Number(s): 364610-0065, -0066, -0070, -0080, -0100, -0105, -0110, -0111, -0115 and 982670-1645.

The Grantor, THE CITY OF SEATTLE, for and in consideration of ten dollars (\$10.00) and other valuable consideration in hand paid, and the covenants of Grantee contained in that certain Contract for Sale of Land between Grantor and Grantee dated as of \_\_\_\_\_ ("Contract"), conveys, bargains and sells to the African-American Community Health Network, a Washington nonprofit corporation, ("Grantee"), subject to the condition subsequent stated below, the following described real estate, situate in the County of King, State of Washington:

**ALL OF LOTS 1, 2, 3, 4, AND THE NORTH HALF OF LOT 5, AND ALL OF LOTS 8, 9, 10, 11 AND 12, BLOCK 2, JACKSON STREET ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2, PAGE 24, IN KING COUNTY, WASHINGTON;  
AND  
LOT 4, BLOCK 31, H.L. YESLER'S FIRST ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 215, IN KING COUNTY, WASHINGTON;  
TOGETHER WITH A PORTION OF VACATED 23<sup>RD</sup> AVE SOUTH, AS VACATED BY CITY OF SEATTLE ORDINANCES NO. 3207 AND NO. 61364, THAT ATTACHED TO SUCH LOT BY OPERATION OF LAW;**



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ATTACHMENT B  
**EXCEPT THAT PORTION CONVEYED UNDER CITY OF SEATTLE  
ORDINANCE NO. 83108,**

which real property is hereinafter referred to collectively as "the Property."

The Grantor covenants that it will forever warrant and defend title to the above-described real property against all persons lawfully claiming or to claim by, through or under Grantor. Grantee's title shall not be subject to the restrictions imposed under the Urban Renewal Plan adopted by Grantor and recorded September 22, 1970 under King County Auditor's file no. 6696014, or any amendments thereto. Grantor hereby expressly limits the covenants and warranties of this deed to those herein expressed, and does hereby exclude all covenants and warranties arising or to arise by statutory or other implication.

**Condition Subsequent.** This deed and all rights of Grantee hereunder are subject to a condition subsequent upon the occurrence of which Grantor or its governmental successors or assigns shall have the absolute right, subject only to the express limitations set forth herein, to terminate, by notice to Grantee or by reentering and taking possession of the Property (or one or more Parcels thereof, if the legal description designates separate Parcels or if the Contract provides for the division of the Property into Parcels), the estate conveyed under this deed and all rights of all persons claiming by or through Grantee, whereupon fee simple title to the Property (or to one or more Parcels thereof, if the condition subsequent shall have terminated as to the other Parcel or Parcels) shall revert entirely in Grantor or its governmental successors or assigns. The condition subsequent shall have occurred if any of the following shall occur prior to the time that Grantee shall have completed construction of the Improvements to the Property (to consist of a ninety-six (96) unit assisted and retirement living facility) in accordance with certain Construction Plans submitted by Grantee as required pursuant to the Contract and shall have obtained from Grantor a Certificate of Completion with respect thereto:

- (a) Grantee or its successor in interest shall default on, fail to perform or violate Grantee's obligations with respect to the construction of the Improvements pursuant to the Contract (including without limitation obligations with respect to the nature of the Improvements and the dates for the beginning and the completion thereof), or shall abandon or substantially suspend construction work, and any such default, failure to perform, violation, abandonment or suspension shall not be cured, ended or remedied to the reasonable satisfaction of Grantor within thirty (30) days after Grantor's written demand to do so; or
- (b) Grantee or its successor in interest shall, without the express written consent of Grantor, transfer any interest in the Property or cause or permit there to be placed on the Property any encumbrance or lien not authorized by the Contract, unless such encumbrance or lien is paid, removed or discharged or provision is made satisfactory to the Grantor for such payment, removal or discharge, within thirty (30) days after written demand from Grantor to do so; provided that in the case of a mechanic's or materialmen's lien or notice thereof Grantee shall have the right to prevent the occurrence of a condition subsequent pursuant to this subsection (b) by bonding or depositing security under conditions reasonably adequate



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ATTACHMENT B

to protect Grantor from such liens in the event title should revert in Grantor under the terms hereof.

Notwithstanding the foregoing, the condition subsequent and any reversioning of title as a result thereof in the Grantor (1) shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way (a) the lien of any mortgage or deed of trust permitted by the Contract, and (b) any rights or interest provided in the Contract for the protection of the holders of such mortgages or deeds of trust; and (2) shall not apply to the Property once a Certificate of Completion has been issued as provided below.

**Certificate of Completion.** Upon the recording of a Certificate of Completion duly signed by an authorized representative of the Grantor, stating that the Improvements to the Property have been completed in accordance with the Contract, the condition subsequent in this deed shall be of no further force or effect with respect to the Property.

**Miscellaneous.** Capitalized terms not defined herein shall have the meanings set forth in the Contract. Time is of the essence of all of the provisions hereof.

THE CITY OF SEATTLE

By: \_\_\_\_\_  
Signature

Cynthia A. Parker, Office of Housing Director  
Print Name and Title

By authority of Ordinance No. \_\_\_\_\_

REVIEWED AS TO FORM BY GRANTEE:

African-American Community Health Network

By: \_\_\_\_\_  
Signature

Vivian Caver, Co-Chair  
Print Name and Title

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ATTACHMENT B

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Cynthia A. Parker is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Office of Housing Director of THE CITY OF SEATTLE, a Washington municipal corporation, to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

(seal or stamp)

h:\yesler\p23-23A\deed

rev. 23-Aug-99

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**ATTACHMENT C  
DEVELOPMENT PLAN  
YESLER ATLANTIC PARCEL 23-23A**

**John C. Cannon Assisted and Retirement Living Facility  
23rd Avenue and East Yesler Way**

**PROJECT DESCRIPTION:**

The John C. Cannon project is a new construction project, which will be located on the City-owned Yesler-Atlantic Parcel 23-23A. The project will contain 96 studio units providing assisted living for the elderly. The ground floor will contain a "wellness center" to serve the residents of the housing units and, if any necessary rezone is obtained, to serve the greater community.

Based on preliminary plans, and subject to the City permitting and design review processes:

The facility will consist of 57,000 square feet modulated to appear like two buildings divided with an open breezeway separating the spaces at grade with a glass and metal clad enclosed hallway at the second and third levels. The facility will have 3 and 4 stories with 1 story below grade at 23 Avenue S. The main façade will be oriented to 23 Avenue S and will present a multi-family residence appearance with minimal vehicular access, primarily limited to resident pick-up and drop-off. Parking will be underground, accessed on 22<sup>nd</sup> Avenue S. A limited number of surface parking stalls will be provided on 23<sup>rd</sup> Avenue S. A courtyard will open to 22<sup>nd</sup> Avenue S. and landscaping and street trees are included in the development.

The Purchaser, the nonprofit African-American Community Health Network, will own the facility and contract its management to Emeritus Assisted Living, which operates 138 properties in 28 states.

The Cannon project is proposed to be financed by the State Housing Assistance Program; a private lender; cash from Columbia Pacific Management Corporation, a corporation related to Emeritus Assisted Living; and City housing funds. No City funds have yet been approved, and the Purchaser's obligations under the Contract for Sale are not conditioned upon availability of such funds.

**SERVICES PROVIDED:**

Basic services provided to residents will include 3 nutritious meals per day, snacks, security, weekly housekeeping, bed and bath linen changes, scheduled transportation, and social and recreational activities. Individualized higher levels of care will be offered in packages ranging from medication management and assistance with special diets, to 24-hour hands-on assistance with personal care needs.

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Recorded at the request of,  
and after recording return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

### CERTIFICATE OF COMPLETION

Reference numbers of related documents: \_\_\_\_\_

Grantor:  
**THE CITY OF SEATTLE**

Grantee:  
\_\_\_\_\_

**Legal Description:**

1. **Abbreviated Form:** L 1, 2, 3, 4, N1/2 L5, All L 8, 9, 10, 11 & 12, B 2, Jackson St. Add and L 4, B 31, H.L. Yesler's First Add
2. **Additional legal description is on Exhibit A to document.**

**Assessor's Property Tax Parcel Account Number(s):** 364610-0065, -0066, -0070, -0080, -0100, -0105, -0110, -0111, -0115 and 982670-1645

**KNOW ALL PERSONS BY THESE PRESENTS:**

African-American Community Health Network, a Washington nonprofit corporation ("Purchaser") entered into a Contract for Sale of Land dated \_\_\_\_\_, 1999 ("Contract") with The City of Seattle, a Washington municipal corporation ("City"), for the purchase of real property legally described on Exhibit A attached hereto ("Property"). Pursuant to such Contract the City conveyed the Property to Purchaser by deed recorded under King County Recording No. \_\_\_\_\_ ("Deed"). The Contract contained requirements for completion of certain Improvements and the Contract and Deed provided for a condition subsequent by which title could revert to the City in the event of failure to complete such Improvements.

The Director of the Office of Housing of the City hereby certifies that the Improvements have been completed in accordance with the Contract. This Certificate is conclusive evidence of the satisfaction of the obligations of Purchaser to construct the Improvements and of the termination of all conditions subsequent contained in the Contract and Deed.

This Certificate is issued solely for purposes of the Contract and Deed, and shall not be construed as any warranty or representation as to the quality of the Improvements or their compliance with applicable codes or regulations.

Dated this \_\_\_\_ day of \_\_\_\_\_, 199\_.

THE CITY OF SEATTLE

By \_\_\_\_\_,  
\_\_\_\_\_, Director  
Office of Housing



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Authorized by Ordinance No. \_\_\_\_\_

STATE OF WASHINGTON                    )  
  ) ss  
COUNTY OF KING                    )

On this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the Director of the Office of Housing of The City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute the said instrument.

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

Print Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

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## ATTACHMENT E

A.4

### COMMITMENT TO LOCAL BUSINESS ENTERPRISE PARTICIPATION

The undersigned states on behalf of the Proposer as follows:

**A. Participation Officer**

The name of the person who has been charged with the responsibility for securing compliance with and reporting progress on local business participation is named as Proposer's representative herein. Such person shall be the project Participation Officer and shall be someone within the company who has the authority to effect compliance and act on behalf of the company.

**B. Commitment to Local Business Enterprise (LBE) Participation**

1. The Proposer commits 20% of the construction costs of the following project to local businesses and/or contractors. Proposer understands that this commitment will become a material term of Proposer's contract with the City of Seattle and that failure to meet such commitment shall be a material breach of contract.

113 - 23<sup>rd</sup> Avenue South  
(Project Address)

23/23A  
(Parcel I.D. Number)

2. The Proposer estimates the total construction costs to \$5,526,585.

**C. Documentation**

1. Proposer will keep a written record of the time and place of notice(s) regarding local business participation opportunities, person(s) notified, and the specific subject to the notice(s).
2. Proposer will submit, on a monthly basis to the City of Seattle, evidence demonstrating the level of local business participation with respect to total construction costs.
3. All records of local business participation will be kept for at least one year after a certificate of occupancy is issued by the Department of Construction and Land Use (DCLU).

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## ATTACHMENT E

A.4 (cont.)

### D. Cooperation with The City of Seattle

Proposer shall comply with the Local Business Enterprise Participation as set forth in this Statement and with the LBE outreach plan submitted by the Proposer.

African-American Community Health Network  
Business Name

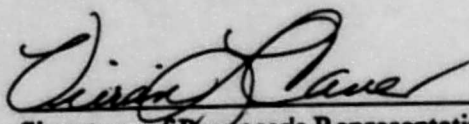
(206) 860-9883  
Business Phone Number

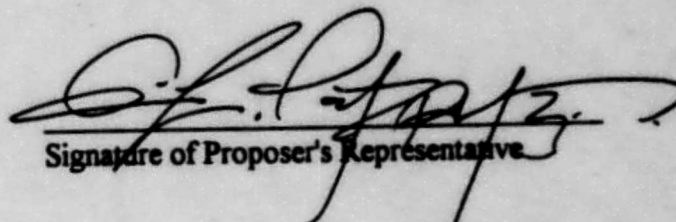
300 - 19<sup>th</sup> Avenue  
Business Street Address

Seattle, WA 98122  
City State Zip Code

Vivian L. Caver  
Co-Chair, Board of Directors  
Name and Title of Proposer's Representative

Adlai L. Pappy, MD  
Co-Chair, Board of Directors  
Name and Title of Proposer's Representative

  
Signature of Proposer's Representative

  
Signature of Proposer's Representative

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EXHIBIT C

After recording return to:

African-American Community Health Network

300 19<sup>th</sup> Avenue

Seattle, WA 98122

**SPECIAL WARRANTY DEED WITH CONDITION SUBSEQUENT**

**Reference numbers of related documents:**

**Grantor:** The City of Seattle

**Grantee:** African-American Community Health Network

**Legal Description:**

1. Abbreviated Form: L 1, 2, 3, 4, N1/2 L5, All L 8, 9, 10, 11 & 12, B 2, Jackson St. Add and L 4, B 31, H.L. Yesler's First Add
2. Additional legal description is on page 1 of document.

**Assessor's Property Tax Parcel Account Number(s):** 364610-0065, -0066, -0070, -0080, -0100, -0105, -0110, -0111, -0115 and 982670-1645.

The Grantor, THE CITY OF SEATTLE, for and in consideration of ten dollars (\$10.00) and other valuable consideration in hand paid, and the covenants of Grantee contained in that certain Contract for Sale of Land between Grantor and Grantee dated as of \_\_\_\_\_ ("Contract"), conveys, bargains and sells to the African-American Community Health Network, a Washington nonprofit corporation, ("Grantee"), subject to the condition subsequent stated below, the following described real estate, situate in the County of King, State of Washington:

**ALL OF LOTS 1, 2, 3, 4, AND THE NORTH HALF OF LOT 5, AND ALL OF LOTS 8, 9, 10, 11 AND 12, BLOCK 2, JACKSON STREET ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2, PAGE 24, IN KING COUNTY, WASHINGTON;  
AND  
LOT 4, BLOCK 31, H.L. YESLER'S FIRST ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 215, IN KING COUNTY, WASHINGTON;  
TOGETHER WITH A PORTION OF VACATED 23<sup>RD</sup> AVE SOUTH, AS VACATED BY CITY OF SEATTLE ORDINANCES NO. 3207 AND NO. 61364, THAT ATTACHED TO SUCH LOT BY OPERATION OF LAW;**



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EXHIBIT C  
EXCEPT THAT PORTION CONVEYED UNDER CITY OF SEATTLE  
ORDINANCE NO. 83108,

which real property is hereinafter referred to collectively as "the Property."

The Grantor covenants that it will forever warrant and defend title to the above-described real property against all persons lawfully claiming or to claim by, through or under Grantor. Grantee's title shall not be subject to the restrictions imposed under the Urban Renewal Plan adopted by Grantor and recorded September 22, 1970 under King County Auditor's file no. 6696014, or any amendments thereto. Grantor hereby expressly limits the covenants and warranties of this deed to those herein expressed, and does hereby exclude all covenants and warranties arising or to arise by statutory or other implication.

**Condition Subsequent.** This deed and all rights of Grantee hereunder are subject to a condition subsequent upon the occurrence of which Grantor or its governmental successors or assigns shall have the absolute right, subject only to the express limitations set forth herein, to terminate, by notice to Grantee or by reentering and taking possession of the Property (or one or more Parcels thereof, if the legal description designates separate Parcels or if the Contract provides for the division of the Property into Parcels), the estate conveyed under this deed and all rights of all persons claiming by or through Grantee, whereupon fee simple title to the Property (or to one or more Parcels thereof, if the condition subsequent shall have terminated as to the other Parcel or Parcels) shall revert entirely in Grantor or its governmental successors or assigns. The condition subsequent shall have occurred if any of the following shall occur prior to the time that Grantee shall have completed construction of the Improvements to the Property (to consist of a ninety-six (96) unit assisted and retirement living facility) in accordance with certain Construction Plans submitted by Grantee as required pursuant to the Contract and shall have obtained from Grantor a Certificate of Completion with respect thereto:

- (a) Grantee or its successor in interest shall default on, fail to perform or violate Grantee's obligations with respect to the construction of the Improvements pursuant to the Contract (including without limitation obligations with respect to the nature of the Improvements and the dates for the beginning and the completion thereof), or shall abandon or substantially suspend construction work, and any such default, failure to perform, violation, abandonment or suspension shall not be cured, ended or remedied to the reasonable satisfaction of Grantor within thirty (30) days after Grantor's written demand to do so; or
- (b) Grantee or its successor in interest shall, without the express written consent of Grantor, transfer any interest in the Property or cause or permit there to be placed on the Property any encumbrance or lien not authorized by the Contract, unless such encumbrance or lien is paid, removed or discharged or provision is made satisfactory to the Grantor for such payment, removal or discharge, within thirty (30) days after written demand from Grantor to do so; provided that in the case of a mechanic's or materialmen's lien or notice thereof Grantee shall have the right to prevent the occurrence of a condition subsequent pursuant to this subsection (b) by bonding or depositing security under conditions reasonably adequate



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EXHIBIT C

to protect Grantor from such liens in the event title should revert in Grantor under the terms hereof.

Notwithstanding the foregoing, the condition subsequent and any reversioning of title as a result thereof in the Grantor (1) shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way (a) the lien of any mortgage or deed of trust permitted by the Contract, and (b) any rights or interest provided in the Contract for the protection of the holders of such mortgages or deeds of trust; and (2) shall not apply to the Property once a Certificate of Completion has been issued as provided below.

**Certificate of Completion.** Upon the recording of a Certificate of Completion duly signed by an authorized representative of the Grantor, stating that the Improvements to the Property have been completed in accordance with the Contract, the condition subsequent in this deed shall be of no further force or effect with respect to the Property.

**Miscellaneous.** Capitalized terms not defined herein shall have the meanings set forth in the Contract. Time is of the essence of all of the provisions hereof.

THE CITY OF SEATTLE

By: \_\_\_\_\_  
Signature

Cynthia A. Parker, Office of Housing Director  
Print Name and Title

By authority of Ordinance No. \_\_\_\_\_

REVIEWED AS TO FORM BY GRANTEE:

African-American Community Health Network

By: \_\_\_\_\_  
Signature

Vivian Caver, Co-Chair  
Print Name and Title

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EXHIBIT C

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Cynthia A. Parker is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Office of Housing Director of THE CITY OF SEATTLE, a Washington municipal corporation, to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

(seal or stamp)

h:\yesler\p23-23A\deed.

rev. 20-Aug-99



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**ORDINANCE** \_\_\_\_\_

AN ORDINANCE accepting the redevelopment proposal of the African-American Community Health Network to purchase and develop Parcel 23-23A in the Yesler-Atlantic Neighborhood Improvement Project (Wash. R-5) area; authorizing the Director of the Office of Housing to execute and deliver contracts and deeds; authorizing the Director of the Office of Housing to administer the "Contract for Sale of Land"; designating the disposition of sales proceeds; and ratifying and confirming prior actions.

WHEREAS, the City Council, by Resolution No. 27260 passed the 28th day of May, 1985, recognized the "Yesler-Atlantic Land Disposition Report" as the basic City policy governing the sale and development of City-owned land acquired as part of the Yesler-Atlantic Urban Renewal Project; and

WHEREAS, the City Council, by Resolution No. 28866 passed the 31st day of January, 1994, revised the land disposition procedure and other things contained in the Yesler/Atlantic Land Disposition Report adopted by Resolution 27260; and

WHEREAS, the City Council, by Resolution No. 29852 passed the 2nd day of November, 1998, amended the Yesler-Atlantic Land Disposition Report to reflect changing circumstances and needs as identified through the Neighborhood Planning process; and

WHEREAS, the City issued a Request For Proposals ("RFP") requesting developers to submit proposed development program for the remaining parcel zoned for residential development in the Yesler-Atlantic area; and

WHEREAS, the Office of Housing Director ("Director") selected the proposal from the African-American Community Health Network ("AACHN") as the best proposal for the development Parcel 23-23A in accordance with the Yesler/Atlantic Land Disposition Report, City Council Resolution 29852 and the RFP; and

WHEREAS, the Director reported that the redevelopment proposal of AACHN is complete and responsive to the RFP, was evaluated and ranked by the Developer Advisory Committee, was consistent with the goals and objectives of the Yesler-Atlantic Neighborhood Improvement Project, and recommended that the same be accepted; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The proposal of the African-American Community Health Network, a Washington nonprofit corporation ("AACHN" or "Redeveloper") to purchase and develop Parcel 23-23A, legally described as:





1 **ALL OF LOTS 1, 2, 3, 4, AND THE NORTH HALF OF LOT 5, AND ALL OF LOTS 8, 9,**  
2 **10, 11 AND 12, BLOCK 2, JACKSON STREET ADDITION TO THE CITY OF**  
3 **SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2,**  
4 **PAGE 24, IN KING COUNTY, WASHINGTON;**  
5 **AND**  
6 **LOT 4, BLOCK 31, H.L. YESLER'S FIRST ADDITION TO THE CITY OF SEATTLE,**  
7 **ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS,**  
8 **PAGE 215, IN KING COUNTY, WASHINGTON;**  
9 **TOGETHER WITH A PORTION OF VACATED 23<sup>RD</sup> AVE SOUTH, AS VACATED BY**  
10 **CITY OF SEATTLE ORDINANCES NO. 3207 AND NO. 61364, THAT ATTACHED TO**  
11 **SUCH LOT BY OPERATION OF LAW;**  
12 **EXCEPT THAT PORTION CONVEYED UNDER CITY OF SEATTLE ORDINANCE**  
13 **NO. 83108,**

14 in the Yesler-Atlantic Neighborhood Improvement Project (Wash. R-5), is hereby found to be in the  
15 public interest and in furtherance of the purpose of the Urban Renewal Plan for the project, the Urban  
16 Renewal Law (RCW Chapter 35.81), and the Yesler-Atlantic Land Disposition Report; and the proposal  
17 is hereby accepted with conditions as set forth in Exhibit B to this ordinance, subject to execution by the  
18 Redeveloper of a Contract with the City as authorized in this ordinance.

19 Section 2. The Director of the Office of Housing is hereby authorized to execute and deliver, for  
20 and on behalf of The City of Seattle, a Contract for Sale of Land (the "Contract") with the Redeveloper  
21 substantially in the form of Exhibit B hereto, and to execute for delivery upon payment to the City of the  
22 fixed price of SEVEN HUNDRED THIRTEEN THOUSAND FOUR HUNDRED DOLLARS  
23 (\$713,400) and satisfaction of the preconditions under Sections 301, 302 and 304 contained in Terms  
24 and Conditions, Part II of the Contract, a "Special Warranty Deed" to the Redeveloper substantially in  
the form of Exhibit C hereto, all in accordance with the recommendations of the Director contained in  
Exhibit A hereto.

Section 3. The Director is hereby designated as the authorized representative of the City in  
connection with the administration of the Contract and the Director is hereby authorized to approve  
construction plans, financing and changes thereto as being in conformity with said Contract, the Urban  
Renewal Plan, and the Yesler-Atlantic Land Disposition Report, and to issue appropriate certification

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1 when improvements contemplated in the Contract have been completed. The Director may grant  
2 reasonable extensions of deadlines in the Contract for good cause shown by the Redeveloper, on such  
3 conditions as the Director may deem appropriate, and may consent to modification of specific  
4 parameters and features of the Redeveloper's proposal and plans, consistent with the basic nature of the  
5 proposal and taking into account results of the City design review process.

6 Section 4. Proceeds from the sale of the above referenced parcel, and any earnest money that the  
7 City shall retain in case of default, shall be deposited in the Urban Renewal Close Out Subaccount of the  
8 Housing and Community Development Revenue Sharing fund as provided in Ordinance 106797.

9 Section 5. Any act pursuant to the authority and prior to the effective date of this ordinance is  
10 hereby ratified and confirmed.

11 Section 6. This ordinance shall take effect and be in force thirty (30) days from and after its  
12 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after  
13 presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

14 Passed by the City Council the \_\_\_\_ day of \_\_\_\_\_, 1999, and signed by me in open  
15 session in authentication of its passage this \_\_\_\_ day of \_\_\_\_\_, 1999.

16  
17 \_\_\_\_\_  
President \_\_\_\_\_ of the City Council

18 Approved by me this \_\_\_\_ day of \_\_\_\_\_, 1999.

19  
20 \_\_\_\_\_  
Mayor

21 Filed by me this \_\_\_\_ day of \_\_\_\_\_, 1999.

22 (SEAL)

23 \_\_\_\_\_  
City Clerk

24

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JL/HRT  
YA PARCEL 23-23A  
8/18/99 -v.5

- 1
- 2 Exhibit A: Memorandum
- 3 Exhibit B: Contract for Sale of Land
- 4 Attachment A: Map Showing Location of Property
- 5 Attachment B: Form of Special Warranty Deed – See Exhibit C
- 6 Attachment C: Development Plan
- 7 Attachment D: Form of Certificate of Completion
- 8 Attachment E: Sworn Statement for Local Business Enterprise Participation
- 9 Exhibit C: Special Warranty Deed
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EXHIBIT A

MEMORANDUM

**DATE:** August 16, 1999

**TO:** The Honorable Sue Donaldson, President  
Seattle City Council

**VIA:** Joan Walters, Director, City Budget Office  
**ATTN:** Pascal StGerard, Budget Analyst

**FROM:** Cynthia A. Parker, Office of Housing Director

**SUBJECT:** Authorization to Sell Yesler-Atlantic Parcel 23-23A

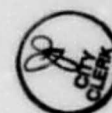
The Office of Housing (OH) recommends that the City Council approve legislation accepting the development proposal from the African-American Community Health Network (AACHN) for an assisted-living facility on the above parcel in the Yesler-Atlantic project area. The sale and development of parcel 23-23A will contribute to the revitalization of the Central Area, and will bring \$713,400 sales revenue to the City. The neighborhood affected by the requested legislation is generally located between Yesler Way and South Charles Street on the north and south and between 14th and 24th Avenues South on the east and west. Land and buildings were acquired by the City for the City's Yesler-Atlantic Urban Renewal Project (Wash. R-5). The City assembled 43 acres of property to sell for redevelopment. Parcel 23-23A is the only residential parcel in the project area remaining.

The property is located on the west side of 23<sup>rd</sup> Avenue S between E Yesler Way and S Main Street. The King County Assessor information for the parcel indicates that there are 49,831 square feet available. The parcel does not have frontage on either E. Yesler Way or S. Main Street; however, there is frontage on 23<sup>rd</sup> Avenue S as well as 22<sup>nd</sup> Avenue S. The current zoning designation is Lowrise 4 (L4). The zoning designation was changed from L3 to L4 as a result of a community request through the Neighborhood Planning process.

Process

This property sale was handled according to the goals and process specified in the Yesler-Atlantic Land Disposition Report, as amended and approved by City Council on November 2, 1998. The Request for Proposals were available for distribution as of January 20, 1999 and the offering was advertised in local newspapers. A Pre-Proposal Conference was held on February 24, 1999 to provide information about the offering /RFP and to answer questions. At the request

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## EXHIBIT A

of the Mayor's Office, the original April 23, 1999 deadline for submission of proposals was extended to May 24, 1999 to provide additional time for refining proposals.

Three proposals were received in response to the RFP:

- Assisted and Retirement Living Facility proposed by the African-American Community Health Network in partnership with Columbia Pacific Management.
- 21-Unit Townhomes proposed by the Central Area Development Association (CADA) and Icon Architecture, LTD.
- African Youth Enterprise Center proposed by Kwame Garrett. This proposal was not responsive to the RFP package and was not included in the ranking.

The Yesler-Atlantic Developer Advisory Committee met on June 1, 1999 to evaluate and rank the proposals received. The Advisory Committee consisted of three community members and three City staff. Proposals from each developer were distributed to each Committee member for review prior to the meeting together with an RFP package and rating sheets. Elements contained in the rating sheets consisted of criteria derived from the Yesler-Atlantic Land Disposition Report, as amended, and the RFP packet.

Based on discussion about the proposal and how it addressed the RFP selection criteria the Advisory Committee recommended that the African-American Community Health Network Assisted Living project be selected to purchase and develop the property. Reasons for the selection include the proposal's responsiveness to the pressures facing a rising elderly population in the Central Area and the need for assisted living housing. There is broad community support and support from various members of the clergy. This project best serves the needs of the Central Area. The Office of Housing concurs with the recommendation of the Advisory Committee. OH has incorporated relevant language in the form of the Contract, as well as other conditions related to financing, State DSHS review and design review.

### Land Sale Price

The Request for Proposal established a selling price based on appraised value of \$713,400. The African-American Community Health Network offered this purchase price.

The attached ordinance will accept the redevelopment proposal; authorize the OH Director (Director) to execute and deliver contracts and deeds; authorize the Director to administer the "Contract for Sale of Land"; designate the disposition of sales proceeds; and ratify and confirm prior actions.

If you would like more information, please call Joanne LaTuchie at 615-0995.

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EXHIBIT B

**CONTRACT FOR SALE OF LAND  
YESLER/ATLANTIC URBAN RENEWAL AREA**

This Agreement is made on or as of the \_\_\_\_ day of \_\_\_\_\_, 1999, by and between The City of Seattle, a municipal corporation of the State of Washington (hereinafter called "City") and the African-American Community Health Network, a Washington nonprofit corporation (hereinafter called "Purchaser"), whose address is 300 19<sup>th</sup> Avenue, Seattle, WA 98122,

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City undertook a program for the clearance and reconstruction or rehabilitation of slum and blighted areas in the City, which program included a project known as the Yesler/Atlantic Neighborhood Improvement Project (hereinafter called "Project") in an area (hereinafter called "Project Area") located in the City; and

WHEREAS, the City adopted an Urban Renewal Plan for the Project, dated June, 1967, approved by the City Council on October 2, 1967, by Ordinance 96123 (which plan, as previously amended and as it may hereafter be amended from time to time pursuant to law, and as so constituted from time to time, is, unless otherwise indicated by the context, hereinafter called "Urban Renewal Plan"); and

WHEREAS, a copy of the original Urban Renewal Plan has been recorded among the land records for the place in which the Project Area is situated, namely, in the office of the Auditor of King County, Washington, on September 22, 1970, Auditor's File No. 6696014 and amendments thereto are on file with the Seattle City Clerk; and

WHEREAS, the land use restrictions in the Urban Renewal Plan were in effect for a period of twenty-five years, and now are no longer in effect;

WHEREAS, by Resolution 27260 dated May 28, 1985 the City Council adopted the Yesler/Atlantic Land Disposition Report, which was amended by Resolution 28866 dated January 31, 1994 and was amended by Resolution 29852 dated November 2, 1998 (as amended, the "Report"), specifying the procedures for disposition of remaining land in the Project Area; and

WHEREAS, pursuant to the Report the City has conducted a competitive process through a Request for Proposals dated January 20, 1999 (the "RFP"); and

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## EXHIBIT B

WHEREAS, in response to the RFP, Purchaser submitted a proposal dated April 23, 1999 (which is incorporated herein by this reference and hereinafter referred to, with any modifications or additions to such proposal that shall be approved in writing by the City, as the "Proposal") to acquire the property described in Section 1 below ("Property") and construct thereon an assisted and retirement living facility; and

WHEREAS, the City has determined that the Proposal is complete and responsive to the RFP; the Proposal has been reviewed and evaluated by the Developer Advisory Committee; and the Mayor has recommended that the same be accepted; and

WHEREAS, by Ordinance \_\_\_\_, dated \_\_\_\_, 1999, the Seattle City Council accepted the Mayor's recommendation that the Proposal to purchase and develop the Property be accepted with certain conditions; authorized the Director of the Office of Housing ("Director") to execute, deliver and administer the "Contract for Sale of Land"; and designated the disposition of sales proceeds;

WHEREAS, the City believes that the redevelopment of the Property pursuant to the Agreement, and the fulfillment generally of the Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable federal, state, and local laws and requirements under which the Project has been undertaken;

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

### PART I

#### Section 1. Agreement to Convey Property

Subject to all of the terms and conditions of this Agreement, the City agrees to convey to Purchaser that certain real property located at 113 23<sup>rd</sup> Avenue South in The City of Seattle, known as Yesler Atlantic Parcel 23-23A and more particularly described as follows:

**ALL OF LOTS 1, 2, 3, 4, AND THE NORTH HALF OF LOT 5, AND ALL OF LOTS 8, 9, 10, 11 AND 12, BLOCK 2, JACKSON STREET ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2, PAGE 24, IN KING COUNTY, WASHINGTON;  
AND  
LOT 4, BLOCK 31, H.L. YESLER'S FIRST ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 215, IN KING COUNTY, WASHINGTON;**





EXHIBIT B  
**TOGETHER WITH A PORTION OF VACATED 23<sup>RD</sup> AVE SOUTH, AS  
VACATED BY CITY OF SEATTLE ORDINANCES NO. 3207 AND NO. 61364,  
THAT ATTACHED TO SUCH LOT BY OPERATION OF LAW;  
EXCEPT THAT PORTION CONVEYED UNDER CITY OF SEATTLE  
ORDINANCE NO. 83108,**

which real property is hereinafter referred to as "the Property." A map showing the general location and boundaries of the Property is included as Attachment A to this Agreement.

**Section 2.     Payment of Purchase Price.**

Purchaser agrees to pay to the City the sum of Seven Hundred Thirteen Thousand Four Hundred Dollars (\$713,400), payable in cash or cashier's check at the time of closing. The Earnest Money deposit paid by Purchaser may be credited to the purchase price at closing in accordance with the conditions described in Section 6 below.

**Section 3.     Conveyance**

Upon the payment of the sum provided in Section 2 and all other amounts required to be paid by Purchaser hereunder, and upon the satisfaction of the conditions set forth in Section 5 below, the City shall convey title to the Property by special warranty deed in the form attached hereto as Attachment B (the "Deed"), which is hereby approved as to form by Purchaser.

**Section 4.     Condition of Title; Title Insurance**

The City shall provide the Purchaser with an owner's policy of title insurance in standard form, at the City's expense. A preliminary title commitment shall be provided by the City for the Purchaser's inspection within thirty (30) days of execution of this Agreement. Purchaser shall review the preliminary title report, and in the event such examination discloses any liens, encumbrances or defects (collectively "exceptions") not acceptable to Purchaser, other than nondelinquent taxes and assessments and any easements, covenants and restrictions not inconsistent with the use contemplated herein, the Purchaser shall notify the City thereof in writing on or before fifteen (15) days after receipt of the preliminary title report. If Purchaser does not notify the City of any objections within such period then any objections to exceptions shown on the preliminary title report shall be deemed waived. If Purchaser does give such notice, then the City shall notify Purchaser within thirty (30) days after receipt of Purchaser's notice whether the City intends to remove such exceptions. If the City gives notice that it will attempt to remove such exceptions, then the City shall have a reasonable time thereafter in which to remove the exception(s), but in no event more than one hundred and twenty (120) days from the date of written notification by the Purchaser. In the event that the City is unable to remove such exceptions or to convey good and marketable title to the Property this Agreement shall be terminated without liability of the City, and the Earnest Money shall be returned to Purchaser, unless Purchaser elects to waive Purchaser's objections to such exceptions. If Purchaser, after





#### EXHIBIT B

receipt of notice from the City that one or more exceptions to title objected to by Purchaser will not be cleared, gives written notice to the City that Purchaser will not accept title subject to such exceptions, then this Agreement shall be terminated, the Earnest Money shall be returned to Purchaser, and neither party shall have any further obligations hereunder. If Purchaser does not give written notice to the City, within fifteen (15) days after notice from the City to Purchaser that the City will not clear title of any exceptions objected to by Purchaser, that Purchaser elects to accept title subject to such exceptions, then at any time thereafter the City may return the Earnest Money and terminate this Agreement without any further obligation on either party.

#### Section 5. Conditions Precedent

The following shall be conditions precedent to the City's obligation to convey the Property:

(a) Plans and specifications of the Purchaser's improvements to be developed on the Property ("Improvements") shall have been reviewed and approved by the Director, as provided in Sections 301 and 302 of Part II of this Agreement and the building permit shall have been issued for the Improvements.

(b) Purchaser shall provide evidence satisfactory to the City that Purchaser has the necessary financing for project development as provided in Section 304.

(c) Purchaser shall have deposited with Pacific Northwest Title Insurance Company (the "Escrow Agent") for delivery to the City the sum of money required to pay the purchase price stated under Section 2 of this Agreement and all other amounts payable by Purchaser hereunder, in cash or cashier's check.

(d) Purchaser shall have submitted an application for City Office of Housing ("OH") funding in the Fall 1999 competitive process and shall meet all requirements of the Notice of Funding Availability ("NOFA") to be eligible for selection in such process.

(e) Not later than December 31, 1999, Purchaser shall secure financing commitment, acceptable to OH, of not less than \$5,900,000 from a private lender.

(f) Not later than December 31, 1999, Purchaser shall secure a financing commitment, acceptable to OH, of not less than \$500,000 from Columbia Pacific Management Corporation and shall demonstrate that the terms and conditions shall not negatively impact the long-term operations of the Property.

(g) Not later than December 31, 1999, Purchaser shall secure a financing commitment, acceptable to OH, of not less than \$750,000 from the State of Washington.

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#### EXHIBIT B

(h) Not later than August 31, 1999, Purchaser shall clarify for OH staff the zoning requirements for community access to the wellness clinic and an acceptable time-frame for seeking any zoning changes.

(i) Not later than August 31, 1999, Purchaser shall provide evidence that the State of Washington DSHS is comfortable with the design and scale as proposed and will approve license and Medicaid payment.

(j) Purchaser shall have voluntarily participated in the DCLU design review process and shall not have requested departures from development standards except as may have been approved by the Director.

(k) Purchaser shall otherwise be in compliance with all of the terms hereof.

The Director of Housing may, in her discretion, waive requirements as to specific amounts or sources of financing commitments if the Purchaser provides evidence that the overall financing for the development is sufficient.

#### Section 6. Earnest Money

Purchaser shall deposit with the City as earnest money a total of ten percent (10%) of the purchase price ("Earnest Money"), including \$35,670 deposited on the proposal submission date and \$35,670 deposited immediately upon execution of this Agreement. Earnest Money shall be held in the City Finance Department's Clearing Account until such time as the Purchaser becomes entitled to return of such Earnest Money under the terms hereof, or until the City becomes entitled to retain such Earnest Money under the provisions of this agreement. Earnest Money may be credited to the purchase price at closing. Purchaser shall not be entitled to interest on the Earnest Money.

#### Section 7. Closing

A. Closing shall take place on such date as the Purchaser shall specify by notice to the City at least ten (10) days in advance of the closing date, which notice may be given at any time within thirty (30) days after all conditions herein, other than deposit of funds and instructions in escrow, have been satisfied; but, in any event, closing shall occur no later than February 29, 2000. "Closing" shall mean the execution, delivery and recording (as appropriate) of all documents and payment of all funds into escrow as provided herein.

B. At Closing, the Escrow Agent shall be instructed to record the Deed and to instruct in turn the King County Office of Records and Elections (County Recorder) to mail the original of the Deed following recording, to the Purchaser as grantee. The escrow fee charged in connection with this closing shall be paid one-half each by the Purchaser and the City. Any taxes, assessments or public charges that are payable with respect to the Property during the City's

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#### EXHIBIT B

ownership thereof shall be prorated as of Closing. Purchaser shall pay the cost of recording the Deed and any documents required by Purchaser's financing. Purchaser shall also pay to the City at time of Closing a cash security deposit of ten percent (10%) of the purchase price ("Security Deposit") as security for completion of the Improvements on the Property as approved by the City, to be released upon receipt by Purchaser of a Certificate of Completion from the City. If so elected by Purchaser, the Earnest Money may be converted into the Security Deposit in lieu of crediting it against the Purchase Price. This Security Deposit shall be held in the City Department of Finance Clearing Account until such time as the Purchaser becomes entitled to return of such deposit under the terms hereof, or until the City becomes entitled to retain such deposit under the provisions of this agreement. At the Purchaser's option a performance bond in an amount of 10% of the purchase price, in form satisfactory to the City, conditioned to be paid to the City in full if a Certificate of Completion for all of the Improvements is not issued prior to the deadline for completion of the Improvements hereunder, may be submitted in lieu of the Security Deposit at the time the Deed is recorded. Purchaser shall not be entitled to interest on the Security Deposit. Each party shall sign and deliver such escrow instructions and other documents as are reasonably necessary to effect Closing as contemplated herein.

C. If the sale fails to close due to fault of one of the parties, as described in Sections 702 and 703 of Part II of this agreement, then such party shall be solely responsible for all escrow and title insurance cancellation charges. If the sale fails to close by the date set forth in subsection A. above for reasons other than those set forth in Sections 702 or 703, then the Earnest Money shall be returned to Purchaser less one half of any escrow or title insurance cancellation charges and the City shall pay such charges one-half from the Earnest Money and one-half from the City's own funds; provided that if the sale does not close due to the City's failure to clear defects in title objected to by Purchaser as permitted by Section 4 hereof, the City shall return the full Earnest Money and pay all cancellation charges from its own funds.

Section 8. Zoning Change: Compliance with Development Standards. Purchaser may apply for a change in the zoning of the Property in order to permit the community wellness center to be constructed on the Property to serve persons not resident at the Property. The City is not providing any assurance that any zoning change will be approved, and Purchaser's obligations are not conditioned in any way on the approval of any zoning change or any other land use or regulatory decision by the City. Notwithstanding any change in zoning, Purchaser covenants and agrees that: (a) all structures on the Property shall conform to the physical limitations and development standards applicable in the Lowrise 4 zone under City ordinances in effect as of the date of this Contract; and (b) other than a community wellness clinic, there shall be no commercial uses on the Property except as may be approved in writing by the Director, in her discretion.

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EXHIBIT B

PART II

Subpart A: DEVELOPMENT OF PROPERTY

Section 101. Improvements.

Purchaser shall develop the Property substantially as shown in the Development Plan attached as Attachment C to this Agreement, which is incorporated herein by this reference. The improvements to be constructed on the Property as described in the Development Plan, which shall be more specifically described in the plans to be submitted by Purchaser hereunder, are referred to as the "Improvements".

Section 102. Compliance with Proposal.

Purchaser shall develop the Property in full compliance with the terms, conditions, and commitments contained in Purchaser's Proposal, except as otherwise expressly provided herein or in the Attachments to this Agreement.

Subpart B: ACCEPTANCE, CONDITION AND POSSESSION OF PROPERTY

Section 201. Acceptance AS IS; Disclaimer of warranties and release.

Purchaser has inspected the Property and has had the opportunity to obtain inspections and reports of professionals, and Purchaser agrees to accept the Property **AS IS, WITH ALL DEFECTS, and ASSUMES THE RISK** of any defects in the condition of the Property and of all the matters set forth in this Section. City makes **NO WARRANTIES OR REPRESENTATIONS OF ANY KIND** except as may be set forth specifically in this Agreement. Purchaser agrees that any express or implied representations or warranties made by or on behalf of the City prior to this Agreement are hereby revoked and canceled and shall have no force or effect. Purchaser further agrees that no representations or warranties are implied by any provision of this Agreement or any other words or conduct in connection with this transaction.

Without limiting the generality of the foregoing paragraph, Purchaser agrees that, except as may be specifically set forth in this Agreement, neither City nor any person for whom City may have any responsibility makes any representation, warranty or promise of any kind with regard to any of the following: (1) the physical condition of the property (land, buildings, fixtures, or infrastructure), whether or not readily determined by inspection; (2) the presence or absence of any underground tanks or any hazardous or defective substances or conditions on or about the property, or on adjacent properties; (3) the history of the property or activities that may have occurred or been conducted thereon or thereunder; (4) soils conditions or drainage; (5)

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EXHIBIT B

square footage of land or buildings; (6) encroachments; or (7) location or condition of utility lines.

Except as otherwise expressly provided herein, Purchaser hereby irrevocably releases and waives any and all claims that Purchaser has or may have against City with respect to the condition of the Property or arising pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or the Washington State Model Toxics Control Act, as amended.

Purchaser and City by their initials below acknowledge that this Section has been specifically bargained for and that City would not be willing to sell the property on the terms and conditions set forth in the rest of this Agreement without Purchaser's agreement to this Section.

Purchaser: \_\_\_\_\_ City: \_\_\_\_\_

Section 202. Changes in Condition

If Purchaser becomes aware of any change in the physical condition of the Property after the date hereof that would materially impair the development thereof as contemplated hereunder, or would substantially increase the cost of such development, Purchaser shall notify the City of such change. If any such change is caused by the acts of Purchaser or its agents, employees or contractors the Purchaser shall restore the Property to its prior condition. If Purchaser is not responsible under the preceding sentence then (1) if the City gives notice to Purchaser within ten (10) days after receiving notice of such change in condition that the City elects to remedy such changed condition, then this Agreement shall remain in effect and the City shall remedy such changed condition prior to closing, and (2) if the City does not give notice of such election, then Purchaser shall have the option, by notice to the City no later than twenty (20) days after giving notice to the City of such changed condition, to cancel this Agreement and receive a full refund of all Earnest Money, in which case neither party shall have any further obligation or liability to the other hereunder except for the express indemnities herein, which survive termination of this Agreement. Any notice from Purchaser to City hereunder that Purchaser is prepared to close the purchase shall constitute Purchaser's representation that it has reinspected the Property and agrees to accept it in its condition on the date of such notice, whether or not such condition has changed from the date hereof.

Section 203. Possession

Purchaser shall be entitled to exclusive possession of the Property (subject to the rights of the City contained herein) upon recording of the Deed.





**EXHIBIT B**  
**Subpart C: PLANS, APPROVALS, FINANCING AND CONSTRUCTION**

**Section 301. Design and Schematic Plans**

Prior to conveyance of the Property, the Purchaser shall submit to City schematic designs and plans (herein "Schematic Plans") in sufficient detail with respect to development of the Property to clearly describe the site plan, architectural character, circulation, landscaping features and relationship to the surrounding environment of the Improvements.

The Schematic Plans shall be in conformity with the Proposal, with Section 101 above, and with all applicable state and local laws and regulations, and shall be consistent with the design guidelines contained in the RFP. The Schematic Plans shall be submitted within thirty (30) days of execution of this Agreement. If Schematic Plans conforming to this Agreement are not submitted within such period, then after notice as set forth in Section 703 below the City shall have the right, by notice to Purchaser, to terminate this Agreement in which case the Earnest Money shall be retained by the City as liquidated damages, as the City's sole and exclusive remedy.

The Schematic Plans shall be subject to review and approval by the Director as to conformity with this Agreement. The Director shall complete the Schematic Plans review within fifteen (15) working days of receipt of the Schematic Plans. If within such period, the City gives notice to Purchaser of changes reasonably required by the City, the Purchaser shall submit revised Schematic Plans reflecting such changes within fifteen (15) days after receipt of such notice. If the City does not give notice of any required changes within such period, and if the transmittal of such plans contained conspicuous notice on the first page thereof of the time limit for review hereunder, then the plans shall be deemed approved for purposes hereof unless they are manifestly inconsistent in material respects with the Proposal, Attachment C, or the Design Guidelines in the RFP.

With the written consent of the Director or her designee, the Purchaser may elect to proceed directly to prepare and submit Construction Plans in lieu of Schematic Plans, provided that the Construction Plans shall contain all information required for Schematic Plans and shall be subject to review and revision as provided in this Section, which requirements and reviews shall be in addition to those provided in Section 302. As a condition of the Director's consent, Purchaser may be required to consent to a period for review of plans and notification of required changes longer than otherwise provided herein.

**Section 302. Construction Plans and Specifications**

Purchaser shall prepare plans and specifications with respect to the construction of Improvements ("Construction Plans") in conformity with the previously approved Schematic Plans, this Agreement and all applicable state and local laws and regulations. The Construction Plans shall be in sufficient completeness and detail not only to satisfy requirements pertinent to

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#### EXHIBIT B

application for a building permit but also to demonstrate to the Director that the improvements and their construction will be in accordance with the previously approved Schematic Plans. Purchaser shall submit the Construction Plans, together with construction or progress schedule, to the Director, prior to the submission of the Construction Plans to the Department of Construction and Land Use ("DCLU").

Purchaser shall submit Construction Plans to the Director within thirty (30) days of the City's approval of Schematic Plans and in any event within four (4) months of execution of this Agreement. If Construction Plans conforming to this Agreement are not submitted within such period, the City shall have the right, after notice as set forth in Section 703 below, to terminate this Agreement by notice to Purchaser, in which case the Earnest Money shall be retained by the City as liquidated damages, as the City's sole and exclusive remedy. If the City does not give notice of any required changes in Construction Plans within ten (10) working days of receipt thereof, and if the transmittal of such plans contained conspicuous notice on the first page thereof of the time limit for review hereunder, then the plans shall be deemed approved for purposes hereof unless they are manifestly inconsistent in material respects with the Schematic Plans. Final approval of the Construction Plans will be subject to acceptance by DCLU as evidenced by the issuance of the necessary permits for development and construction of the Improvements. As a condition precedent to the City's obligations hereunder, a building permit for construction must be obtained within four (4) months of execution of this Agreement.

#### Section 303. Changes in Construction Plans or Schematic Plans

If Purchaser desires to make any material changes in the size, character, design, or exterior surface of structures or in the site plan, exterior elevation or materials as set forth in the Construction Plans and Schematic Plans or either of them after approval by the City, the Purchaser shall submit the proposed change to the Director for approval. If the Director finds that the Construction Plans and/or Schematic Plans as modified by the proposed change conform to the requirements of this Agreement, the Director shall approve the proposed change evidencing such approval by endorsement of the same on the revised plan sheets and by notifying the Purchaser and the DCLU Director in writing of the approval. Such changes in the Construction Plans and Schematic Plans or either of them shall in any event be approved or rejected in whole or in part, by written notice from the City to the Purchaser within ten (10) working days of submittal by the Purchaser.

#### Section 304. Evidence for Financing

Unless the Director shall have approved alternative financing arrangement proposed by the Purchaser, the Purchaser shall, as a condition to City's obligations hereunder, provide the City, no later than December 31, 1999, evidence that firm financing commitments have been secured satisfactory to the Director and consistent with Section 5 of Part 1. If Purchaser fails to meet the deadline in the foregoing sentence, then the City may, by notice to Purchaser, terminate this Agreement, in which case the Earnest Money shall be returned to Purchaser and neither party

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#### EXHIBIT B

shall have any liability hereunder except for any liability under indemnity or hold harmless provisions, which survive this Agreement. If the City does not give notice to Purchaser within fifteen (15) days after receipt of a copy of the financing commitment(s) that any terms thereof are not acceptable to City, then City shall be deemed to have approved the terms thereof except to the extent that any such terms are contrary to the provisions hereof.

#### Section 305. Environmental Review

Purchaser shall have the right, within three (3) months of the execution of this Agreement, to commission its own environmental investigation of the Property, at Purchaser's sole risk and expense. Purchaser shall defend, indemnify and hold harmless the City from any liability, loss, or damage resulting from the acts or omissions of Purchaser or its contractors or agents in connection with any such review. If Purchaser does commission such an investigation then Purchaser shall provide a copy of any reports generated thereby to the City.

#### Section 306. Time for Construction

Purchaser agrees that it shall commence the Improvements within ninety (90) days after Closing and diligently proceed to complete construction of the Improvements. Completion of construction shall be no later than thirteen (13) months after Closing. The work shall at all times be subject to inspection by the City.

#### Section 307. Report on Progress

Subsequent to the conveyance of the Property to the Purchaser and until construction of the Improvements is complete, the Purchaser shall, within ten (10) days of any request by the City, forward to the Director a report in writing as to the actual construction progress.

#### Section 308. Purpose of Review of Plans and Inspection of Work

Review of plans and specifications and inspection of construction improvements, provided for in this contract, is for the sole purpose of evaluating compliance with the terms of this Agreement. Such inspection shall not be construed as a representation or warranty to Purchaser or any third party that the plans and specifications are adequate for any purpose, that there has been or will be compliance on the part of any contractor or subcontractor with the plans and specifications, that construction has been or will be free from faulty material or workmanship, or as to any other matter. Purchaser shall cause this Section 308 to be included in any contract for work into which Purchaser shall enter under this Agreement.

#### Section 309. Certificate of Completion of Improvements

A Certificate of Completion may be obtained only for the entire Property. Promptly after completion of the Improvements on the Property in accordance with the provisions of this

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#### EXHIBIT B

Agreement and the approved Construction Plans, as confirmed by an inspection by the City, the City shall furnish the Purchaser with a Certificate of Completion ("Certificate" herein) substantially in the form attached hereto as Attachment D. A Certificate shall be issued when the Purchaser has completed the Improvements pursuant to the Construction Plans and has cured any deficiencies noted by the City in its inspections. Delivery of a Certificate and recording thereof by the Purchaser shall be conclusive evidence of satisfaction of obligations of the Purchaser to construct the Improvements and of the termination of the condition subsequent in the deed. Upon delivery of a Certificate, unless the City has already exercised its right to retain the Security Deposit for a breach or default on the part of Purchaser, the Security Deposit shall be returned to Purchaser.

If the Director shall refuse or fail to provide a Certificate in accordance with the provisions of this Section 309, the Director shall, within seven (7) days after written request by the Purchaser made prior to the last date for completion of the Improvements hereunder, provide the Purchaser with a written statement indicating in adequate detail in what respects the Purchaser has failed to complete the Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts will be necessary, in the opinion of the Director, for the Purchaser to take or to cause to be taken to obtain such Certificate. When such acts or measures have been completed and the City has reinspected the Property to confirm such completion the Certificate shall be issued.

#### Section 310. Entry; Sign

From the date of execution of this Agreement by both parties through Closing or the date of termination of this Agreement, as the case may be, Purchaser and Purchaser's agents shall have the ongoing right, upon no less than twenty-four hours advance notice to the Director, to enter on the Property for the purpose of inspections, to conduct studies, clear underbrush and for all other purposes that Purchaser deems reasonably necessary for the planning or design of the Improvements, and to commission Purchaser's own environmental investigation of the Property, and Purchaser's own engineering and other studies, all at Purchaser's sole risk and expense. No excavations or other activities that require a permit under applicable City Codes or regulations shall be conducted unless Purchaser obtains such a permit at its sole expense and complies with all conditions thereof. Purchaser agrees that the City and its officers, employees and agents shall not be liable to Purchaser for any injury to persons or property on or about the Property in connection with activities pursuant to this subsection, whether or not due to any condition of the Property or due to any negligence of the City or its officers, employees or agents. Unless otherwise expressly authorized by the Director, Purchaser shall promptly restore the Property to the condition it was in prior to any activities undertaken pursuant to this subsection. Purchaser shall defend, indemnify and hold harmless the City from any liability, loss, or damage (including costs and attorneys fees) resulting from the acts or omissions of Purchaser or its contractors or agents in connection with any such inspection, investigation, studies or related activities on or about the Property. Any contract entered into by Purchaser for any consultants' services shall expressly provide that the City shall have no obligation thereunder and that the charges for such

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#### EXHIBIT B

services shall not be a lien on the Property unless and until Purchaser shall have completed the purchase thereof from the City. If Purchaser does commission any such investigations or studies then Purchaser shall provide copies of any reports generated thereby to the City.

Purchaser shall have the right to install a sign on the Property, at its own risk and expense to give public notice of its permit application as required by City ordinance. Purchaser shall install and maintain such sign in conformity with all applicable City ordinances and rules and shall remove it promptly upon the request of the City if this Agreement shall be terminated.

#### Subpart D: SPECIAL CONDITIONS

##### Section 401. Local Business Enterprise Participation

A. Purchaser shall comply with the Purchaser's commitment ("LBE Commitment") as stated in the Sworn Statement for Commitment to Local Business Enterprise Participation (Attached hereto as Attachment E), which is hereby incorporated by reference, for all construction of the Improvements. Failure to comply with the LBE Commitment shall be a material breach of this Agreement.

B. In connection with the construction of the Improvements, Purchaser shall:

- (1) Fulfill the LBE Commitment;
- (2) Report in writing to the City on a monthly basis during construction as to the total dollar amount of construction contracts signed for the Improvements, and the total amount signed with Local Business Enterprises ("LBEs") as defined in the RFP;
- (3) Maintain records reasonably necessary for monitoring compliance with the LBE Commitment, including original contracts and payment records, and permit inspection of such records by the City for up to one year after completion of the Improvements.

C. The parties agree that Purchaser's LBE Commitment is a significant inducement to the City to sign this Agreement and that the City would be seriously damaged by a failure to meet this commitment, in view of the strong public interest in promoting business opportunities in economically depressed areas of the City, but that the amount of damage will be difficult to measure in dollar terms. The parties therefore agree that if Purchaser fails to meet its LBE Commitment, Purchaser shall pay to the City on demand, as liquidated damages and not as a penalty, the dollar amount by which Purchaser's LBE Commitment exceeded the actual amount of work on the Improvements awarded to LBEs.

The parties agree that such amount will be a reasonable approximation of the damage to the City from failure to satisfy the LBE Commitment. The City may, but shall not be required to, apply





#### EXHIBIT B

the Security Deposit to payment of such liquidated damages. If liquidated damages are paid under this Section, Purchaser shall have no other liability for failure to meet the commitment for which liquidated damages are paid, provided that Purchaser may be subject to non-monetary administrative sanctions relating to further contracting opportunities with the City. If Purchaser fails to pay liquidated damages within 30 days after a demand by the City, Purchaser shall be subject to all remedies for breach hereunder, including without limitation those referred to in Section 7.1.

#### Subpart E: PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

##### Section 501. Intent of Purchaser.

Purchaser represents and agrees that the purchase of the Property is for the purpose of immediate development of the Improvements and not for speculation in land holding.

##### Section 502. Prohibition Against Transfer of Property and Assignment of Agreement.

Purchaser represents and agrees that:

A. Purchaser has not made or created or suffered to be made or created any assignment, conveyance, mortgage, lease, trust, power or transfer, of any sort, of this agreement or any interest herein, or any interest in or relating to the Property, or entered into any agreement or contract to do any of the foregoing and (except as authorized by Sections 601-605 herein) Purchaser shall not do any of the foregoing prior to issuance of a Certificate of Completion of the Improvements without the prior written approval of the City, which may be withheld in the City's sole discretion.

B. In order to request City approval for any transaction of the type referenced in Subsection A above, Purchaser shall submit to the City all documents relating to the proposed transactions and such information concerning the proposed transferee as the City shall request. If the City approves the transaction, as a condition of such approval, the transferee shall assume all obligations of Purchaser hereunder and shall agree to comply with such other conditions the City may find desirable in order to achieve and safeguard the purposes of this Agreement. This Subsection B shall not apply to mortgages or deeds of trust as authorized in Section 601 below.

C. In the absence of specific written agreement by the City to the contrary, no transfer or approval thereof by the City shall be deemed to relieve Purchaser, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Improvements, from any of its obligations with respect thereto.

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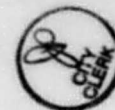




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Subpart F: MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

Section 601. Limitation Upon Encumbrance of Property

Prior to the issuance of a Certificate of Completion for the Improvements, the Purchaser shall not engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon the Property without the express written consent of the City, except for financing documents substantially as contemplated in a financing commitment approved or deemed approved by the City hereunder, for acquisition of the Property and construction of the Improvements. The Purchaser shall notify the City in advance of any financing secured by mortgage or other similar lien instrument, that Purchaser proposes to enter into with respect to the Property, or any part thereof, and in any event Purchaser shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Property or any parcel thereof, whether by voluntary act of the Purchaser or otherwise.

Section 602. Mortgagee Not Obligated to Construct

Notwithstanding any of the provisions of this Agreement, the holder of any mortgage authorized by this Agreement (including any such holder who obtains title to the Property or any part thereof as a result of foreclosure proceedings, or action in lieu thereof) shall in no case be obligated by the provisions of this Agreement to construct or complete the Improvements or to guarantee such construction or completion; nor shall any covenant or any other provision in the Deed be construed to so obligate such holder: Provided, That nothing in this Section or any other Section or provision of this Agreement shall be deemed or construed to permit or authorize any such holder to devote the Property or any part thereof to any uses, or to construct any improvements thereon, other than those uses or improvements described in the Development Plan.

Section 603. Copy of Notice of Default to Mortgagee

Whenever the City shall deliver any notice or demand to the Purchaser with respect to any breach or default by the Purchaser in its obligations or covenants under the Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by the Agreement which holder has been identified to the City in writing by Purchaser, at the last address of such holder shown in the records of the City.

Section 604. Mortgagee's Option To Cure Defaults

After any breach or default referred to in Section 603 hereof, each such holder shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default and to add the reasonable cost thereof to the mortgage debt and the lien of its mortgage: Provided, That if the breach or default is with respect to construction of the

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Improvements, nothing contained in the Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of improvements on the Property (beyond the extent necessary to conserve or protect Improvements or construction already made) except for completion of the Improvements substantially as provided pursuant to this Agreement. In the case of any breach or default occurring after Purchaser shall have acquired the Property and shall have granted a mortgage or deed of trust in favor of an institutional lender, then such lender shall have an additional 30 days to cure such breach or default after the expiration of any cure period allowed to Purchaser, and if the breach or default cannot reasonably be cured within such 30-day period then the additional period of cure allowed to the lender shall be extended for such time as is reasonably required to cure such breach or default, provided that the lender shall give notice of its intent to cure and commence cure within such 30-day period and continue diligently to pursue such cure.

#### Section 605. Mortgage and Holder

For the purposes of the Agreement the term "mortgage" shall include a deed of trust or other instrument creating an encumbrance or lien upon the Property, or any part thereof, as security for a loan. The term "holder" in reference to a mortgage shall include any insurer or guarantor (other than a partner, shareholder or principal of Purchaser) of any obligation or condition secured by such mortgage or deed of trust.

#### Subpart G: DEFAULT AND REMEDIES

#### Section 701. In General

Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions, by any party hereto, or any successor to a party, such party (or successor) shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, shall complete such cure within sixty (60) days after receipt of such notice or such shorter period as may be provided herein. In case such action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within the time permitted hereunder, the aggrieved party may pursue any remedies available at law or in equity, subject to the specific limitations herein.

#### Section 702. Termination By Fault of City Prior to Conveyance of Property

In the event that any of the following occurs prior to conveyance of the Property:

A. The City fails to tender conveyance of the Property in the manner required herein after satisfaction of the conditions provided in this Agreement and notice to close from Purchaser as specified herein, and any such failure shall not be cured within sixty (60) days after notice from the Purchaser; or





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B. The City fails or refuses to approve Purchaser's Schematic Plans or Construction Plans pursuant to the terms of this contract without a statement of reasons for such refusal; or

C. The City otherwise fails or refuses, after thirty (30) days' notice and opportunity to cure, to carry out the terms and conditions of this Agreement prior to Closing;

then at the option of Purchaser this Agreement shall be terminated by written notice thereof to the City, Purchaser shall receive a full refund of the Earnest Money and Purchaser shall have the right, as its sole remedy, to proceed against the City for actual damages limited to an additional amount equal to the Earnest Money.

### Section 703. Termination by Fault of Purchaser Prior to Conveyance of Property

In the event that prior to the conveyance of the Property to Purchaser:

A. Purchaser (or any successor in interest) assigns or attempts to assign this Agreement or any rights therein or in the Property without the express consent of the City; or

B. Purchaser does not submit Schematic Plans, or does not submit Construction Plans, as required by this Agreement, or does not obtain a building permit for construction of the Improvements, in each case in the manner and by the dates respectively provided in this Agreement, and such failure shall not be cured within fifteen (15) days after the date of written demand by the City; or

C. Purchaser, without legal excuse, gives notice that it will be unable or unwilling to close the Purchase as provided herein; or

D. Purchaser, without legal excuse, does not tender the full consideration for and take title to the Property, and perform all other obligations of Purchaser at Closing upon tender of conveyance by the City pursuant to this Agreement; or

E. Purchaser, without legal excuse, fails to give written notice of intent to close pursuant to Section 7.A of Part I hereof at least ten (10) days in advance of the last date for closing specified in such Section, notwithstanding the satisfaction of all conditions to Purchaser's obligation to close except those to be satisfied at Closing; or

F. Purchaser, without legal excuse, otherwise fails to comply with the terms of this Agreement prior to Closing;

then at the option of the City this Agreement and any rights of Purchaser in this Agreement or arising therefrom with respect to the City or the Property shall be terminated, in which event the Earnest Money shall be retained by the City as liquidated damages, as the sole and exclusive

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remedy available to the City, and neither Purchaser nor the City shall have any further rights against or liability to the other under this Agreement (except pursuant to indemnity provisions, which survive termination of this Agreement).

Section 704. Reversion of Title to City Upon Failure to Complete Improvements or Certain Other Events Subsequent to Conveyance to Purchaser

A. The City is selling the Property for the purpose of the prompt construction of the Improvements and in reliance on the covenants of Purchaser that such Improvements will be constructed. Therefore, as set forth in the Deed, the conveyance of the Property to Purchaser shall be subject to a condition subsequent to the effect that in the event of failure to complete the Improvements in a timely manner or upon the occurrence of other events described therein prior to completion of the Improvements, and after failure on the part of Purchaser to cure or remedy such failure or other event within the period (if any) and in the manner stated in the Deed, the City at its option may declare a termination of all the rights and interests in and to the Property conveyed by the Deed to Purchaser, and that such title and interests to and in the Property shall vest in the City, upon which all rights of Purchaser (and all persons claiming through Purchaser) in and to the Property and possession thereof shall cease;

Provided, that such condition subsequent and any reverting of title as a result thereof in the City (1) shall always be subordinate to and limited by, and shall not defeat, render invalid, or limit in any way, (i) the lien of any mortgage authorized by the City pursuant to this Agreement, and (ii) any rights or interests provided in this Agreement for the protection of the holders of such mortgages; and (2) shall not apply to the Property once the Improvements to be constructed have been completed in accordance with this Agreement and a Certificate has been issued for the Property as provided in Section 309 hereof.

B. If the City exercises its right to revest title to the City pursuant to this section, the City shall return to Purchaser, without interest, all funds paid by Purchaser to the City for the Property, after deducting (1) any amounts used to pay off liens incurred or permitted by Purchaser; (2) the City's expenses related to this transaction; and (3) any amount by which the appraised value of the Property at the time of reversion to the City is exceeded by the price paid by Purchaser.

C. In addition to, and not in the alternative to, the City's power of termination as provided for above, the City shall have the right, at any time when the City would have the right to declare a termination of Purchaser's interest under the terms of the Deed, by notice to Purchaser and Escrow Agent, to elect to retain the Security Deposit or obtain payment on any bond provided in lieu thereof, in either case without any deduction, offset or recoupment whatsoever, as liquidated damages in the event of default, violation or failure of the Purchaser as specified in this section. If the City makes such election to retain the Security Deposit or realize on the bond, then Purchaser shall have an additional (thirty (30)) days beyond the time specified in the Deed to

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remedy the failure or event giving rise to the City's right to terminate Purchaser's interest, prior to exercise of the City's power of termination.

#### Section 705. Other Rights and Remedies: No Waiver of Delay

Either party shall have the right to institute such actions or proceedings as it may deem desirable for effectuating its remedies. Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Agreement shall not operate as a waiver of any rights or remedies or to deprive it of or limit such rights or remedies in any way; nor shall any waiver in fact made with respect to any specific default be considered or treated as a waiver of the rights or remedies of either party with respect to any other defaults or with respect to the particular default except to the extent specifically waived in writing.

#### Subpart H: MISCELLANEOUS PROVISIONS

#### Section 801. City's Representations

The Director has not received notification of any kind from any agency (including without limitation any other City Department or agency) to the effect that the Property is or may be targeted for a federal or state Superfund cleanup or may be contaminated with any hazardous waste or materials, except as previously disclosed to Purchaser in writing; and (ii) the Director has no actual knowledge of a release or threatened release of any hazardous waste or materials on the Property except as previously disclosed to Purchaser in writing. The City makes no other representation or warranty as to condition of the Property, express or implied.

#### Section 802. Purchaser's Representations

Unless Purchaser is an individual, Purchaser represents and warrants that Purchaser is a duly organized and validly existing nonprofit corporation and has full power and authority to enter into and perform this Agreement and the transactions contemplated hereby, and that the execution and delivery of this Agreement by the undersigned individuals has been duly authorized by all necessary corporate or other action. Purchaser represents and warrants that it is purchasing the Property in good faith for its own account and not on behalf of any other party. Purchaser reconfirms as of the date hereof any and all representations and warranties contained in the Proposal, except as expressly modified hereby. Purchaser represents and warrants that this Agreement is the valid, binding obligation of Purchaser, enforceable in accordance with its terms.

#### Section 803. Notices.

A notice or communication under this Agreement by either party to the other shall be effective on the earlier of the date actually received by hand delivery or by mail as evidenced by

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a signed receipt for certified mail, or three days after deposited in the United States mail, postage prepaid, and

- A. In the case of a notice or communication to Purchaser, if the same is addressed to Purchaser at the address stated on the first page of this Agreement; or
- B. In the case of a notice or communication to the City, if addressed as follows:

Joanne LaTuchie, Office of Housing  
The City of Seattle  
Eighth Floor, Alaska Building  
618 Second Avenue  
Seattle, WA 98104

or is addressed in such other way in respect to either party as that party may, from time to time, designate in writing delivered as provided in this Section. Any notice required or permitted by any applicable law also shall be effective if given in the manner specifically required or permitted by such law.

Section 804. Agreement Survives Conveyance: Survival of Indemnities

It is the intent of the parties hereto that none of the provisions of this Agreement shall be merged by reason of any deed transferring any interest in any property; and any such deeds shall not be deemed to in any way affect or impair any of the provisions, conditions, covenants, or terms of this Agreement, except as otherwise provided in this Agreement. All provisions herein providing that the Purchaser shall indemnify or hold harmless the City shall survive any deed and any termination of this Agreement and shall remain in full force and effect.

Section 805. Titles of Subparts and Sections

Any titles of the several Subparts and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 806. Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

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#### EXHIBIT B

##### Section 807. City Approval and Consent

The Mayor and the Director are the sole persons authorized to act for and on behalf of the City in connection with this Agreement except where another is required by law or by this Agreement.

##### Section 808. Entire Agreement

This Agreement and the Attachments hereto and documents incorporated by reference herein constitute the entire agreement of the parties with respect to the subject matter hereof and supersede any and all prior agreements or understandings. In case of any conflict between the terms hereof or in the Attachments hereto and the terms of the Proposal, the terms of the Proposal shall be considered amended or superseded to the extent of such conflict.

##### Section 809. Attorney's Fees

In the event of any litigation, including without limitation bankruptcy, appellate, or arbitration proceedings, between the parties arising out of or in connection with this Agreement, the substantially non-prevailing party shall pay all reasonable costs including but not limited to reasonable attorneys' fees of the substantially prevailing party, including the reasonable value of services of the City's staff attorneys.

##### Section 810. Cooperation

The parties agree to use their best efforts diligently and promptly to take all actions necessary and appropriate in order to satisfy the conditions set forth in this Agreement and to execute and deliver all other documents reasonably necessary to carry out their respective obligations hereunder, including without limitation reasonable instructions to Escrow Agent.

##### Section 811. Time

Time is the essence of all provisions of this Agreement.

##### Section 812. Partial Invalidity

Any provision of this Agreement which shall prove to be invalid, void or unenforceable shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

##### Section 813. Governing Law

This Agreement shall be governed by the laws of the State of Washington.

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#### EXHIBIT B

##### Section 814. Heirs and Successors

This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, subject to the limitations on transfer stated herein.

##### Section 815. No Third Party Beneficiaries

The provisions hereof are for the sole benefit of the parties hereto and, subject to restrictions on transfers by Purchaser stated herein, their respective successors and assigns (including mortgagees to the extent provided herein). No other parties shall have any rights or remedies hereunder.

##### Section 816. Amendments

Amendments to this Agreement may be made only after written approval by the City and by Purchaser. Amendments which are not fairly within the scope of the Ordinance referred to in the Recitals to this Agreement shall not be effective unless authorized by ordinance.

##### Section 817. Condemnation

In the event any portion of the Property shall be taken, damaged or condemned for public or quasi-public use, except as stated in the following sentence, all compensation awarded upon such condemnation, damaging or taking up to the amount of the unpaid purchase price shall be retained by the City and applied to the purchase price, and any balance shall inure to Purchaser and the City shall have no claim thereto. In the event of taking, damage or condemnation by a public or quasi-public body of a portion of the Property making it infeasible for Purchaser to complete the development of the Improvements, Purchaser shall have the right to terminate this Agreement by written notice to the City within ten (10) days after the effective date of such taking, damage or condemnation, and if closing has not yet occurred then all compensation shall be retained by the City and the Earnest Money shall be refunded.

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EXHIBIT B

Section 818. Singular and Plural; Joint and Several

In this Agreement the use of the singular shall include the plural, and pronouns of any gender or none shall include the masculine, feminine, and neutral, as the context may require. If more than one person is signing this Agreement as Purchaser, the obligations of each shall be joint and several and the City shall be entitled to rely conclusively upon the authority of either or any of them to bind all with respect to any matters related to this Agreement.

EXECUTED as of the day and year first above written.

AFRICAN-AMERICAN COMMUNITY HEALTH NETWORK

By: \_\_\_\_\_  
Vivian Caver, Board Co-Chair

By: \_\_\_\_\_  
Adlai Pappy, MD, Board Co-Chair

THE CITY OF SEATTLE

By: \_\_\_\_\_  
Cynthia A. Parker, Director  
Office of Housing

ATTACHMENTS:

- A. Map Showing Location of Property
- B. Form of Special Warranty Deed
- C. Development Plan
- D. Form of Certificate of Completion
- E. Sworn Statement for Local Business Enterprise Participation

Authorized by Ordinance No. \_\_\_\_\_

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EXHIBIT B

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_, 199\_\_\_, personally appeared before me Cynthia A. Parker, to me known to be Director of the Office of Housing of The City of Seattle, the municipal corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said municipal corporation for the uses and purposes therein mentioned and on oath stated that she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said municipal corporation.

WITNESS my hand and official seal the date and year first above written.

Print name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

On this \_\_\_ day of \_\_\_, 199\_\_\_, personally appeared before me Vivian Caver and Adlai Pappy, MD, to me known to be the Co-Chairs of African-American Community Health Network, the nonprofit corporation that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said party, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

Print name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

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The City  
of Seattle

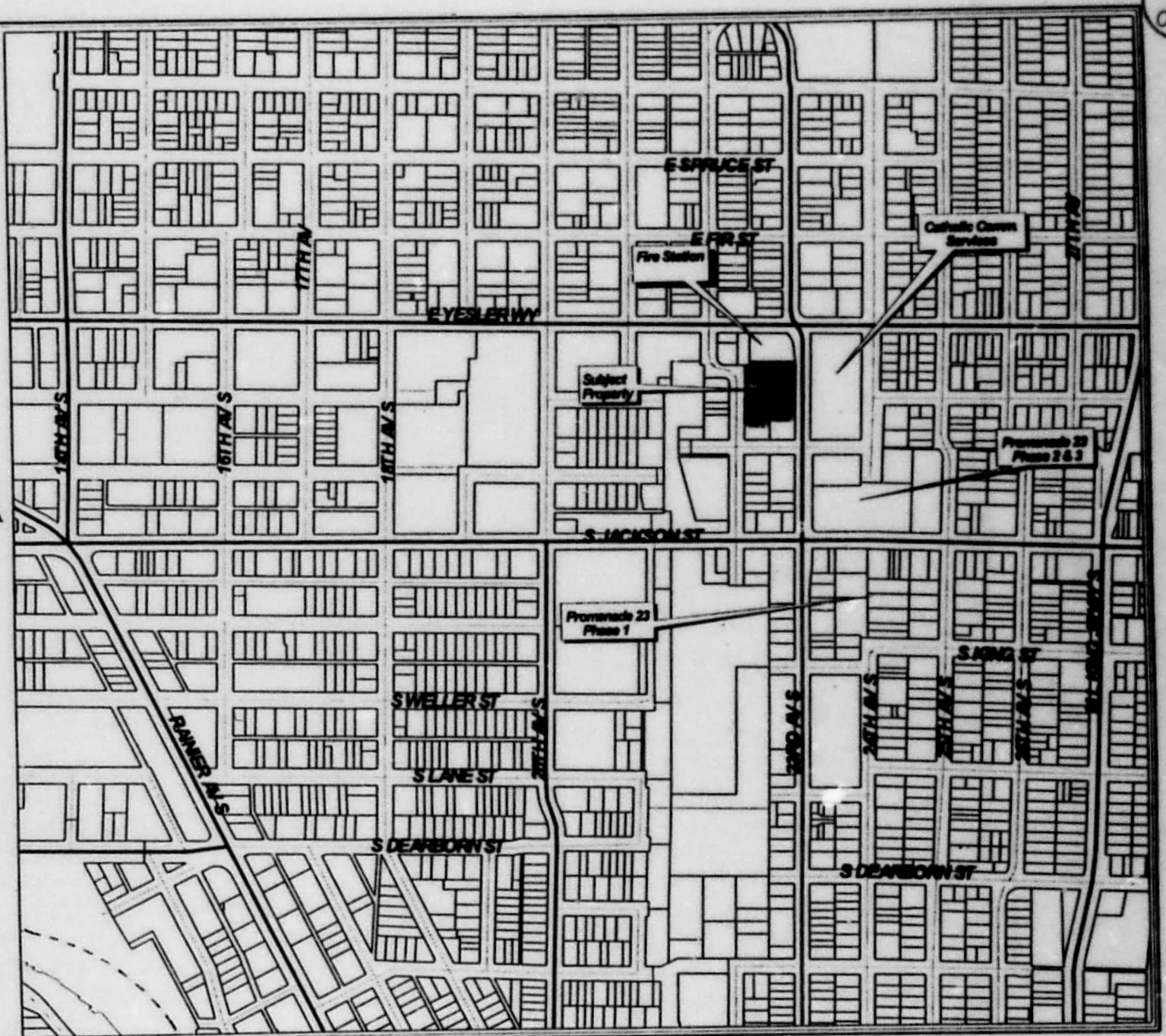


ATTACHMENT A

Yesler-Atlantic



c:\kennedy.apr. yesler-atlantic





ATTACHMENT B

See Exhibit C to Ordinance

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**ATTACHMENT C  
DEVELOPMENT PLAN  
YESLER ATLANTIC PARCEL 23-23A**

**John C. Cannon Assisted and Retirement Living Facility  
23rd Avenue and East Yesler Way**

**PROJECT DESCRIPTION:**

The John C. Cannon project is a new construction project, which will be located on the City-owned Yesler-Atlantic Parcel 23-23A. The project will contain 96 studio units providing assisted living for the elderly. The ground floor will contain a "wellness center" to serve the residents of the housing units and, if any necessary rezone is obtained, to serve the greater community.

Based on preliminary plans, and subject to the City permitting and design review processes:

The facility will consist of 57,000 square feet modulated to appear like two buildings divided with an open breezeway separating the spaces at grade with a glass and metal clad enclosed hallway at the second and third levels. The facility will have 3 and 4 stories with 1 story below grade at 23 Avenue S. The main façade will be oriented to 23 Avenue S and will present a multi-family residence appearance with minimal vehicular access, primarily limited to resident pick-up and drop-off. Parking will be underground, accessed on 22<sup>nd</sup> Avenue S. A limited number of surface parking stalls will be provided on 23<sup>rd</sup> Avenue S. A courtyard will open to 22<sup>nd</sup> Avenue S. and landscaping and street trees are included in the development.

The Purchaser, the nonprofit African-American Community Health Network, will own the facility and contract its management to Emeritus Assisted Living, which operates 138 properties in 28 states.

The Cannon project is proposed to be financed by the State Housing Assistance Program; a private lender; cash from Columbia Pacific Management Corporation, a corporation related to Emeritus Assisted Living; and City housing funds. No City funds have yet been approved, and the Purchaser's obligations under the Contract for Sale are not conditioned upon availability of such funds.

**SERVICES PROVIDED:**

Basic services provided to residents will include 3 nutritious meals per day, snacks, security, weekly housekeeping, bed and bath linen changes, scheduled transportation, and social and recreational activities. Individualized higher levels of care will be offered in packages ranging from medication management and assistance with special diets, to 24-hour hands-on assistance with personal care needs.

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ATTACHMENT D

Recorded at the request of,  
and after recording return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attn: \_\_\_\_\_

**CERTIFICATE OF COMPLETION**

Reference numbers of related documents: \_\_\_\_\_

Grantor:  
**THE CITY OF SEATTLE**

Grantee:  
\_\_\_\_\_

**Legal Description:**

1. **Abbreviated Form:** L 1, 2, 3, 4, N1/2 L5, All L 8, 9, 10, 11 & 12, B 2, Jackson St. Add and L 4, B 31, H.L. Yesler's First Add
2. **Additional legal description is on Exhibit A to document.**

**Assessor's Property Tax Parcel Account Number(s):** 364610-0065, -0066, -0070, -0080, -0100, -0105, -0110, -0111, -0115 and 982670-1645

**KNOW ALL PERSONS BY THESE PRESENTS:**

African-American Community Health Network, a Washington nonprofit corporation ("Purchaser") entered into a Contract for Sale of Land dated \_\_\_\_\_, 1999 ("Contract") with The City of Seattle, a Washington municipal corporation ("City"), for the purchase of real property legally described on Exhibit A attached hereto ("Property"). Pursuant to such Contract the City conveyed the Property to Purchaser by deed recorded under King County Recording No. \_\_\_\_\_ ("Deed"). The Contract contained requirements for completion of certain Improvements and the Contract and Deed provided for a condition subsequent by which title could revert to the City in the event of failure to complete such Improvements.

The Director of the Office of Housing of the City hereby certifies that the Improvements have been completed in accordance with the Contract. This Certificate is conclusive evidence of the satisfaction of the obligations of Purchaser to construct the Improvements and of the termination of all conditions subsequent contained in the Contract and Deed.

This Certificate is issued solely for purposes of the Contract and Deed, and shall not be construed as any warranty or representation as to the quality of the Improvements or their compliance with applicable codes or regulations.

Dated this \_\_\_\_ day of \_\_\_\_\_, 199\_.

THE CITY OF SEATTLE

By \_\_\_\_\_,  
\_\_\_\_\_, Director  
Office of Housing

Authorized by Ordinance No. \_\_\_\_\_

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STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared \_\_\_\_\_, to me known to be the Director of the Office of Housing of The City of Seattle, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute the said instrument.

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

Print Name: \_\_\_\_\_  
NOTARY PUBLIC in and for the State  
of Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_



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## ATTACHMENT E

A.4

### COMMITMENT TO LOCAL BUSINESS ENTERPRISE PARTICIPATION

The undersigned states on behalf of the Proposer as follows:

**A. Participation Officer**

The name of the person who has been charged with the responsibility for securing compliance with and reporting progress on local business participation is named as Proposer's representative herein. Such person shall be the project Participation Officer and shall be someone within the company who has the authority to effect compliance and act on behalf of the company.

**B. Commitment to Local Business Enterprise (LBE) Participation**

1. The Proposer commits 20% of the construction costs of the following project to local businesses and/or contractors. Proposer understands that this commitment will become a material term of Proposer's contract with the City of Seattle and that failure to meet such commitment shall be a material breach of contract.

113 - 23<sup>rd</sup> Avenue South  
(Project Address)

23/23A  
(Parcel I.D. Number)

2. The Proposer estimates the total construction costs to \$5,526,585.

**C. Documentation**

1. Proposer will keep a written record of the time and place of notice(s) regarding local business participation opportunities, person(s) notified, and the specific subject to the notice(s).
2. Proposer will submit, on a monthly basis to the City of Seattle, evidence demonstrating the level of local business participation with respect to total construction costs.
3. All records of local business participation will be kept for at least one year after a certificate of occupancy is issued by the Department of Construction and Land Use (DCLU).

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## ATTACHMENT E

A.4 (cont.)

### D. Cooperation with The City of Seattle

Proposer shall comply with the Local Business Enterprise Participation as set forth in this Statement and with the LBE outreach plan submitted by the Proposer.

African-American Community Health Network  
Business Name

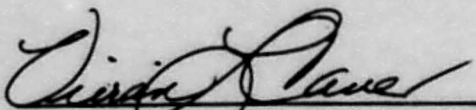
(206) 860-9883  
Business Phone Number

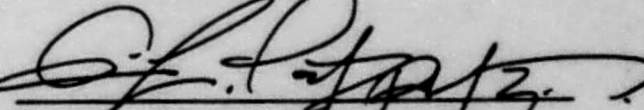
300 - 19<sup>th</sup> Avenue  
Business Street Address

Seattle, WA 98122  
City State Zip Code

Vivian L. Caver  
Co-Chair, Board of Directors  
Name and Title of Proposer's Representative

Adlai L. Pappy, MD  
Co-Chair, Board of Directors  
Name and Title of Proposer's Representative

  
Signature of Proposer's Representative

  
Signature of Proposer's Representative

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EXHIBIT C

After recording return to:

African-American Community Health Network  
300 19<sup>th</sup> Avenue  
Seattle, WA 98122

**SPECIAL WARRANTY DEED WITH CONDITION SUBSEQUENT**

**Reference numbers of related documents:**

**Grantor:** The City of Seattle

**Grantee:** African-American Community Health Network

**Legal Description:**

1. **Abbreviated Form:** L 1, 2, 3, 4, N1/2 L5, All L 8, 9, 10, 11 & 12, B 2, Jackson St. Add and L 4, B 31, H.L. Yesler's First Add
2. **Additional legal description is on page 1 of document.**

**Assessor's Property Tax Parcel Account Number(s):** 364610-0065, -0066, -0070, -0080, -0100, -0105, -0110, -0111, -0115 and 982670-1645.

The Grantor, THE CITY OF SEATTLE, for and in consideration of ten dollars (\$10.00) and other valuable consideration in hand paid, and the covenants of Grantee contained in that certain Contract for Sale of Land between Grantor and Grantee dated as of \_\_\_\_\_ ("Contract"), conveys, bargains and sells to the African-American Community Health Network, a Washington nonprofit corporation, ("Grantee"), subject to the condition subsequent stated below, the following described real estate, situate in the County of King, State of Washington:

**ALL OF LOTS 1, 2, 3, 4, AND THE NORTH HALF OF LOT 5, AND ALL OF LOTS 8, 9, 10, 11 AND 12, BLOCK 2, JACKSON STREET ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2, PAGE 24, IN KING COUNTY, WASHINGTON;  
AND  
LOT 4, BLOCK 31, H.L. YESLER'S FIRST ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 215, IN KING COUNTY, WASHINGTON;  
TOGETHER WITH A PORTION OF VACATED 23<sup>RD</sup> AVE SOUTH, AS VACATED BY CITY OF SEATTLE ORDINANCES NO. 3207 AND NO. 61364, THAT ATTACHED TO SUCH LOT BY OPERATION OF LAW;  
EXCEPT THAT PORTION CONVEYED UNDER CITY OF SEATTLE ORDINANCE NO. 83108,**



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#### EXHIBIT C

which real property is hereinafter referred to collectively as "the Property."

The Grantor covenants that it will forever warrant and defend title to the above-described real property against all persons lawfully claiming or to claim by, through or under Grantor. Grantee's title shall not be subject to the restrictions imposed under the Urban Renewal Plan adopted by Grantor and recorded September 22, 1970 under King County Auditor's file no. 6696014, or any amendments thereto. Grantor hereby expressly limits the covenants and warranties of this deed to those herein expressed, and does hereby exclude all covenants and warranties arising or to arise by statutory or other implication.

**Condition Subsequent.** This deed and all rights of Grantee hereunder are subject to a condition subsequent upon the occurrence of which Grantor or its governmental successors or assigns shall have the absolute right, subject only to the express limitations set forth herein, to terminate, by notice to Grantee or by reentering and taking possession of the Property (or one or more Parcels thereof, if the legal description designates separate Parcels or if the Contract provides for the division of the Property into Parcels), the estate conveyed under this deed and all rights of all persons claiming by or through Grantee, whereupon fee simple title to the Property (or to one or more Parcels thereof, if the condition subsequent shall have terminated as to the other Parcel or Parcels) shall revert entirely in Grantor or its governmental successors or assigns. The condition subsequent shall have occurred if any of the following shall occur prior to the time that Grantee shall have completed construction of the Improvements to the Property (to consist of a ninety-six (96) unit assisted and retirement living facility) in accordance with certain Construction Plans submitted by Grantee as required pursuant to the Contract and shall have obtained from Grantor a Certificate of Completion with respect thereto:

(a) Grantee or its successor in interest shall default on, fail to perform or violate Grantee's obligations with respect to the construction of the Improvements pursuant to the Contract (including without limitation obligations with respect to the nature of the Improvements and the dates for the beginning and the completion thereof), or shall abandon or substantially suspend construction work, and any such default, failure to perform, violation, abandonment or suspension shall not be cured, ended or remedied to the reasonable satisfaction of Grantor within thirty (30) days after Grantor's written demand to do so; or

(b) Grantee or its successor in interest shall, without the express written consent of Grantor, transfer any interest in the Property or cause or permit there to be placed on the Property any encumbrance or lien not authorized by the Contract, unless such encumbrance or lien is paid, removed or discharged or provision is made satisfactory to the Grantor for such payment, removal or discharge, within thirty (30) days after written demand from Grantor to do so; provided that in the case of a mechanic's or materialmen's lien or notice thereof Grantee shall have the right to prevent the occurrence of a condition subsequent pursuant to this subsection (b) by bonding or depositing security under conditions reasonably adequate to protect Grantor from such liens in the event title should revert in Grantor under the terms hereof.





EXHIBIT C

Notwithstanding the foregoing, the condition subsequent and any reversioning of title as a result thereof in the Grantor (1) shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way (a) the lien of any mortgage or deed of trust permitted by the Contract, and (b) any rights or interest provided in the Contract for the protection of the holders of such mortgages or deeds of trust; and (2) shall not apply to the Property once a Certificate of Completion has been issued as provided below.

**Certificate of Completion.** Upon the recording of a Certificate of Completion duly signed by an authorized representative of the Grantor, stating that the Improvements to the Property have been completed in accordance with the Contract, the condition subsequent in this deed shall be of no further force or effect with respect to the Property.

**Miscellaneous.** Capitalized terms not defined herein shall have the meanings set forth in the Contract. Time is of the essence of all of the provisions hereof.

THE CITY OF SEATTLE

By: \_\_\_\_\_  
Signature

Cynthia A. Parker, Office of Housing Director  
Print Name and Title

By authority of Ordinance No. \_\_\_\_\_

REVIEWED AS TO FORM BY GRANTEE:

African-American Community Health Network

By: \_\_\_\_\_  
Signature

Vivian Caver, Co-Chair  
Print Name and Title

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EXHIBIT C

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

I certify that I know or have satisfactory evidence that Cynthia A. Parker is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and acknowledged it as the Office of Housing Director of THE CITY OF SEATTLE, a Washington municipal corporation, to be the free and voluntary act and deed of such party for the uses and purposes mentioned in the instrument.

Date: \_\_\_\_\_

Print name: \_\_\_\_\_

NOTARY PUBLIC in and for the State of  
Washington, residing at \_\_\_\_\_  
My commission expires \_\_\_\_\_

(seal or stamp)

h:/yesler/p23-23A/deed

rev. 18-Aug-99

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# MEMORANDUM

**DATE:** August 16, 1999

**TO:** The Honorable Sue Donaldson, President  
Seattle City Council

**VIA:** Joan Walters, Director, City Budget Office  
**ATTN:** Pascal StGerard, Budget Analyst

**FROM:** Cynthia A. Parker, Office of Housing Director

**SUBJECT:** Authorization to Sell Yesler-Atlantic Parcel 23-23A

The Office of Housing (OH) recommends that the City Council approve legislation accepting the development proposal from the African-American Community Health Network (AACHN) for an assisted-living facility on the above parcel in the Yesler-Atlantic project area. The sale and development of parcel 23-23A will contribute to the revitalization of the Central Area, and will bring \$713,400 sales revenue to the City. The neighborhood affected by the requested legislation is generally located between Yesler Way and South Charles Street on the north and south and between 14th and 24th Avenues South on the east and west. Land and buildings were acquired by the City for the City's Yesler-Atlantic Urban Renewal Project (Wash. R-5). The City assembled 43 acres of property to sell for redevelopment. Parcel 23-23A is the only residential parcel in the project area remaining.

The property is located on the west side of 23<sup>rd</sup> Avenue S between E Yesler Way and S Main Street. The King County Assessor information for the parcel indicates that there are 49,831 square feet available. The parcel does not have frontage on either E. Yesler Way or S. Main Street; however, there is frontage on 23<sup>rd</sup> Avenue S as well as 22<sup>nd</sup> Avenue S. The current zoning designation is Lowrise 4 (L4). The zoning designation was changed from L3 to L4 as a result of a community request through the Neighborhood Planning process.

## Process

This property sale was handled according to the goals and process specified in the Yesler-Atlantic Land Disposition Report, as amended and approved by City Council on November 2, 1998. The Request for Proposals were available for distribution as of January 20, 1999 and the offering was advertised in local newspapers. A Pre-Proposal Conference was held on February 24, 1999 to provide information about the offering /RFP and to answer questions. At the request

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of the Mayor's Office, the original April 23, 1999 deadline for submission of proposals was extended to May 24, 1999 to provide additional time for refining proposals.

Three proposals were received in response to the RFP:

- Assisted and Retirement Living Facility proposed by the African-American Community Health Network in partnership with Columbia Pacific Management.
- 21-Unit Townhomes proposed by the Central Area Development Association (CADA) and Icon Architecture, LTD.
- African Youth Enterprise Center proposed by Kwame Garrett. This proposal was not responsive to the RFP package and was not included in the ranking.

The Yesler-Atlantic Developer Advisory Committee met on June 1, 1999 to evaluate and rank the proposals received. The Advisory Committee consisted of three community members and three City staff. Proposals from each developer were distributed to each Committee member for review prior to the meeting together with an RFP package and rating sheets. Elements contained in the rating sheets consisted of criteria derived from the Yesler-Atlantic Land Disposition Report, as amended, and the RFP packet.

Based on discussion about the proposal and how it addressed the RFP selection criteria the Advisory Committee recommended that the African-American Community Health Network Assisted Living project be selected to purchase and develop the property. Reasons for the selection include the proposal's responsiveness to the pressures facing a rising elderly population in the Central Area and the need for assisted living housing. There is broad community support and support from various members of the clergy. This project best serves the needs of the Central Area. The Office of Housing concurs with the recommendation of the Advisory Committee. OH has incorporated relevant language in the form of the Contract, as well as other conditions related to financing, State DSHS review and design review.

#### Land Sale Price

The Request for Proposal established a selling price based on appraised value of \$713,400. The African-American Community Health Network offered this purchase price.

The attached ordinance will accept the redevelopment proposal; authorize the OH Director (Director) to execute and deliver contracts and deeds; authorize the Director to administer the "Contract for Sale of Land"; designate the disposition of sales proceeds; and ratify and confirm prior actions.

If you would like more information, please call Joanne LaTuchie at 615-0995.

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Fiscal Note

<b>Department:</b> Office of Housing	<b>Contact Person/Phone:</b> Joanne LaTuchie 615-0995	<b>CBO Analyst/Phone:</b> Pascal St. Gerard, 684-8085
---	---	---

**Legislation Title:**

AN ORDINANCE accepting the redevelopment proposal of the African-American Community Health Network to purchase and develop Parcel 23-23A in the Yesler-Atlantic Neighborhood Improvement Project (Wash. R-5) area; authorizing the Director of the Office of Housing to execute and deliver contracts and deeds; authorizing the Director of the Office of Housing to Administer the "Contract for Sale of Land"; designating the disposition of sales proceeds; and ratifying and confirming prior actions.

**Summary of the Legislation:**

This ordinance provides authority to sell the Yesler-Atlantic 23-23A property to the African-American Community Health Network, and to accept their proposal to develop the site into a 96-unit assisted living housing facility that will provide several levels of personal care services to elderly residents and a wellness clinic. The sale and development of Parcel 23-23A (located on the west side of 23<sup>rd</sup> Avenue S between E Yesler Way and S Main Street) will contribute to the revitalization of the Central Area, providing assisted living opportunities to very low, low and moderate income households, and will bring approximately \$713,400 in sales revenue to the City, to be deposited into the Urban Renewal Close Out Subaccount of the Housing and Community Development Revenue Sharing Fund established by Ordinance 106797. The development budget is estimated to total approximately \$8.4 million.

A market appraisal of the Yesler-Atlantic parcel 23-23A determined a value of \$713,400.

**Background (Include justification for the legislation and funding history, if applicable):**

This property sale has been handled according to the goals and process outlined in the Yesler-Atlantic Development Prospectus Request for Developer Proposals, consistent with the Yesler-Atlantic Land Disposition Report amended by City Council Resolution 28866, on January 31, 1994 and Resolution 29852 adopted on November 2, 1998 and the Central Area Action Plan. Executive Services Department issued a prospectus for the property in January 1999. A six member Selection Advisory Committee met June 1, 1999, to review the qualifications and submissions. The Committee recommended that AAHCN be selected to purchase and develop Parcel 23-23A.

**Sustainability Issues (related to grant awards):**

NA

**Estimated Expenditure Impacts:**

FUND	1998	1999	2000
<b>TOTAL</b>			

One-time \$ \_\_\_\_\_

On-going \$ \_\_\_\_\_



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**Estimated Revenue Impacts:**

FUND	1998	1999	2000
Program Income Revenue Account in Fund 17810			\$713,400
<b>TOTAL</b>			<b>\$713,400*</b>

One-time \$713,400\*

On-going \$ \_\_\_\_\_

**Estimated FTE Impacts:**

FUND	1998	1999	2000
NA			

\* Costs include FTE plus related staff costs, plus administrative overhead.

# Full Time \_\_\_ # Part Time \_\_\_\_\_ # TES \_\_\_\_\_

Do positions sunset in the future? If so, when?

N/A

**Other Issues (including long-term implications of the legislation):**

N/A

**Other issues (including long-term implications of the legislation):**

\*Net proceeds will be less than the \$713,400 because of payments made from escrow at closing (maximum estimated at \$4,000 for title insurance, escrow fees, pro-rations such as Surface Water Management fees, and final property clean up) payable by the City pursuant to the terms of the Contract, which shall be credited toward payment of the purchase price of the Property.

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TIME AND DATE STAMP

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AUG 18 1999

PETER STEINBRUECK  
COUNCIL MEMBER

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*Peter Steinbrueck*

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**STATE OF WASHINGTON - KING COUNTY**

113023

City of Seattle, City Clerk

—ss.

No. ORDINANCE TI

**Affidavit of Publication**

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CTOT: 119780, 83, 85, 86

was published on

12/20/99

The amount of the fee charged for the foregoing publication is the sum of \$ \_\_\_\_\_, which amount has been paid in full.

Subscribed and sworn to before me on

12/20/99

Notary Public for the State of Washington,  
residing in Seattle

Affidavit of Publication

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