

Ordinance No. 123085

Council Bill No. 116647

AN ORDINANCE related to the Cannon House, authorizing the Director of Housing to purchase from the U.S. Department of Housing and Urban Development for \$5.8 million the first mortgage note on the Cannon House, to assign or release the note for \$5.8 million in a simultaneous transaction with Sea Mar Community Health Center, and to execute agreements and take other actions to facilitate these transactions; declaring an emergency; and ratifying and confirming prior acts, all by a three-fourths vote of the City Council

CF No. _____

Date Introduced:	<u>9-14-09</u>	
Date 1st Referred:	To: (committee)	
<u>9-14-09</u>	<u>Finance and Budget</u>	
Date Re - Referred:	To: (committee)	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>9-21-09</u>	<u>9-8</u>	
Date Presented to Mayor:	Date Approved:	
<u>9-21-09</u>	<u>9-21-09</u>	
Date Returned to City Clerk:	Date Published:	T.O. <input checked="" type="checkbox"/> F.T. <input type="checkbox"/>
<u>9-21-09</u>	<u>4</u>	
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Jean Golden
Councilmember

Committee Action:

Do pass - JG, SC, RM

9-21-09 Passed As Amended 9-8

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

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Indexed

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2 from the U.S. Department of Housing and Urban Development for \$5.8 million the first
3 mortgage note on the Cannon House, to assign or release the note for \$5.8 million in a
4 simultaneous transaction with Sea Mar Community Health Center, and to execute
5 agreements and take other actions to facilitate these transactions; declaring an
6 emergency; and ratifying and confirming prior acts, all by a three-fourths vote of the City
7 Council

8 WHEREAS, Cannon House, which was developed with assistance from The City of Seattle and
9 other public agencies to serve primarily low-income elderly tenants, is currently owned
10 by John C. Cannon Retirement and Assisted Living Residence ("Owner");

11 WHEREAS, the Owner defaulted on a first mortgage note in the amount of approximately \$11.5
12 million ("Note") insured by the U.S. Department of Housing and Urban Development
13 ("HUD"), and HUD has acquired the Note; and

14 WHEREAS, HUD notified the Owner that under federal law, loans in default generally are
15 auctioned publicly; and

16 WHEREAS, if the Note is publicly auctioned, the buyer is likely to foreclose on the property and
17 Seattle risks losing a public resource that has provided affordable assisted living in the
18 community, as well as losing the City's junior deed of trust on the property;

19 WHEREAS, the Owner approached several potential buyers for the property and has negotiated
20 a sale to Sea Mar Community Health Center ("Sea Mar"), a nonprofit corporation that is
21 presently operating the Cannon House under a contract with the owner, and the sale terms
22 will require that the Note be retired at a substantial discount; and

23 WHEREAS, the City of Seattle negotiated with HUD to purchase the note for a reduced sale
24 price of \$5.8 million, with the intent that the amount paid to HUD would come from Sea
25 Mar's new financing for purchase of the Cannon House; and

26 WHEREAS, Sea Mar has secured a financing commitment from Frontier Bank to purchase the
27 property and will continue to operate Cannon House for low- and moderate-income
28 families; and

WHEREAS, Sea Mar, in an effort to respond to community concerns, has agreed to put a
member of the African American community on the Sea Mar board and establish an
African American Advisory Committee; and



1 WHEREAS, HUD has extended an offer to sell the mortgage note for a substantially reduced
2 sale price of \$5.8 million, conditioned on closing of the purchase by late September, and
3 extension of existing covenants to assure the low-income use of a portion of the property;
4 and

5 WHEREAS, concerns about foreclosure have created concerns among current and potential
6 residents and the potential of a stop placement order from the Department of Social and
7 Human Services; and

8 WHEREAS, Sea Mar will assume the loans made to Owner by the City Office of Housing and
9 the related Regulatory Agreement, with modifications; NOW, THEREFORE,

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

11 Section 1. The Director of Housing or her designee (referred to in this ordinance as
12 “Director”) is authorized, for and on behalf of the City of Seattle, to purchase the promissory
13 note now held by the United States Department of Housing and Urban Development (“HUD”),
14 in the original principal amount of approximately \$11,500,000 (the “Note”), secured by a deed of
15 trust on the property known as the John C. Cannon House at 113 23rd Ave. S., Seattle (the
16 “Property”), for a purchase price of \$5.8 million, and to execute, deliver, and perform an
17 agreement with HUD for that purpose. The agreement with HUD shall provide in substance that
18 the obligation of the City to pay for the Note is conditioned upon the immediate availability for
19 that purpose, in escrow, of \$5.8 million from a third party purchaser of the Note or of the
20 Property, or shall provide in substance that if payment for the Note is not made the sole
21 consequences are that the agreement is terminated and HUD may sell the Note to another
22 purchaser.

23 Section 2. The Director is further authorized, for and on behalf of the City, to cause the
24 transfer of the Note to Sea Mar Community Health Center (“Sea Mar”) or its designee for \$5.8
25



1 million, or to cause the satisfaction of the Note and release of the security for the Note for
2 payment of \$5.8 million, in either case through an escrow closing approximately simultaneous
3 with the purchase of the Note by the City, and to direct the transfer of the funds paid by Sea Mar
4 or its designee to HUD or as directed by HUD.

5 Section 3. The Director is authorized to execute, deliver, modify and perform such other
6 agreements and instructions, and to take such other actions, as the Director finds reasonably
7 necessary to facilitate the transactions authorized in this ordinance, including, without limitation,
8 modifications to existing City loans secured by the Property and to the related Regulatory
9 Agreement, and a priority agreement satisfactory to Sea Mar's first mortgage lender.
10

11 Section 4. The City Council finds:

12 Sea Mar has obtained a bank financing commitment to purchase the Property, which
13 expires on September 25, 2009. HUD requires that the Note purchase be completed in
14 September. The Cannon House is occupied by very low-income, elderly persons in need of
15 licensed assisted living care. If the transaction is not implemented by the end of September, the
16 consequence of not purchasing the HUD loan is likely to include public auction of the mortgage
17 Note, foreclosure and subsequent termination of existing affordability restrictions. Uncertainty
18 about ownership and financial viability of the building during a foreclosure period is likely to
19 result in a decline in occupancy levels that would make it financially infeasible to operate the
20 facility. The occupancy level in the building has declined to 75%, and further decline will
21 jeopardize the ability of the project to support adequate staff to meet licensing requirements and
22 to meet the health and safety needs of residents. Therefore, an emergency exists in which it is
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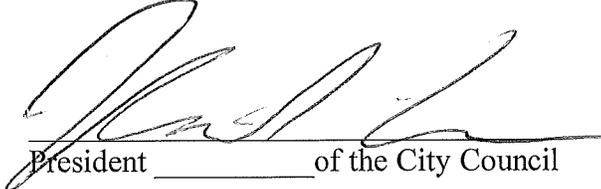


1 necessary for the immediate preservation of the public peace, health or safety that this ordinance
2 become effective without delay.

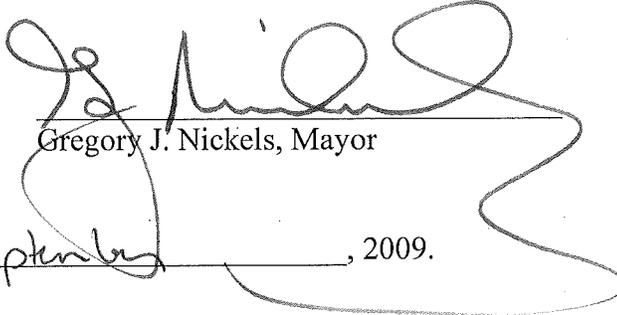
3 Section 5. Any actions pursuant to the authority in this ordinance and taken after the date
4 of passage are hereby ratified and confirmed.

5 Section 6. This ordinance shall take effect and be in force immediately upon its approval
6 by the Mayor, but in any event not later than the date determined under SMC Section 1.04.020.

7 Passed by a three-fourths vote of all the members of the City Council the 21st day of
8 September, 2009, and signed by me in open session in authentication of its
9 passage this 2nd day of September, 2009.

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14 President _____ of the City Council

15 Approved by me this 21st day of September, 2009.

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18 Gregory J. Nickels, Mayor

19 Filed by me this 21st day of September, 2009.

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22 
23 City Clerk

24 (Seal)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Office of Housing	Rick Hooper/4-0338	Amanda Allen/4-8894

Legislation Title: AN ORDINANCE related to the Cannon House, authorizing the Director of Housing to purchase from the U.S. Department of Housing and Urban Development for \$5.8 million the first mortgage note on the Cannon House, to assign or release the note for \$5.8 million in a simultaneous transaction with Sea Mar Community Health Center, and to execute agreements and take other actions to facilitate these transactions; declaring an emergency; and ratifying and confirming prior acts, all by a three-fourths vote of the City Council

• **Summary of the Legislation:**

The ordinance allows the Director of Housing to purchase the mortgage note for Cannon House from the U.S. Department of Housing and Urban Development (HUD) for \$5.8 million and simultaneously transfer the note to Sea Mar for \$5.8 million. Sea Mar and John C. Cannon Retirement and Assisted Living Residence have executed a Purchase and Sale Agreement dated August 17, 2009. Sea Mar has received a firm financial commitment from Frontier Bank to purchase the property, in an amount exceeding \$5.8 million. Both the Sea Mar and the John C. Cannon Retirement and Assisted Living Residence Board of Directors have approved the sale to Sea Mar. Federal law authorizes HUD to enter into a negotiated sale with a government entity, and the negotiated price has been approved by HUD, subject to approval by the federal Office of Management and Budget. The City will not have to pay out any money to purchase the HUD mortgage note. Only when the title company sees the \$5.8 million in the escrow account from Sea Mar would the closing with HUD occur. The ordinance declares an emergency and becomes effective upon passage with the affirmative votes of at least seven Councilmembers and approval by the Mayor.

• **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Cannon House is currently owned by John C. Cannon Retirement and Assisted Living Residence. Part of the financing for Cannon House included an \$11.5 million loan with HUD. Also included in the financing package is a \$2 million loan from the City of Seattle and \$1 million from the Washington State Department of Trade and Economic Development (now called Washington State Department of Commerce). Cannon House defaulted on the \$11.5 million loan with HUD.

Under federal law, HUD loans are auctioned usually to private investors who foreclose on the property and wipe out all debt subordinate to the HUD loan. If this happened, the City and State loans could be wiped out and the low-income housing restrictions could go away. The Cannon House Board of Directors began negotiations with Sea Mar (the current operator



of Cannon House) to purchase the project, but the bank appraisal did not support the purchase price and the sale did not go through. Meanwhile, the City of Seattle Office of Housing negotiated with HUD to purchase the loan for \$5.8 million, but this can only happen if the City is the purchaser. Sea Mar will purchase the loan for \$5.8 million, or will pay that amount to satisfy the loan. The City will not have to put any money to purchase the note, but will act only as the pass through. Sea Mar will assume the current OH promissory note and regulatory agreement, with modifications.

This process allows there to be a local buyer (Sea Mar) for the project as well as ensuring the City and State loans stay recorded against the property, allowing many of the Cannon House units to remain affordable to low-or moderate-income people.

The City has received a letter from HUD offering to sell the note for a price of \$5.8 million, subject to OMB approval and certain conditions. HUD has stated that the transaction must be completed in September. The City has received copies of the financing commitment from Frontier Bank, the John C. Cannon Retirement and Assisted Living Residence Board Resolution agreeing to sell the property to Sea Mar; minutes from the Sea Mar board meeting indicating the vote to approve the purchase of Cannon House by Sea Mar, and the executed Purchase and Sale Agreement between John C. Cannon Retirement and Assisted Living Residence and Sea Mar.

- *Please check one of the following:*

X **This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*



ORDINANCE _____

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19 community, as well as losing the City's junior deed of trust on the property;

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member of the African American community on the Sea Mar board and establish an
African American Advisory Committee; and



1 WHEREAS, HUD has extended an offer to sell the mortgage note for a substantially reduced
2 sale price of \$5.8 million, conditioned on receipt of a written commitment from the City
3 by early September and closing of the purchase by late September, and extension of
4 existing covenants to assure the low-income use of a portion of the property; and

5 WHEREAS, concerns about foreclosure have created concerns among current and potential
6 residents and the potential of a stop placement order from the Department of Social and
7 Human Services; and

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7 Agreement, and a priority agreement satisfactory to Sea Mar's first mortgage lender.
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9 Section 4. The City Council finds:

10 Sea Mar's agreement to purchase the Property, dated August 17, 2009, provides for
11 closing no later than September 15, 2009. The bank financing commitment expires on
12 September 25, 2009. HUD requires that the Note purchase be completed in September. The
13 Cannon House is occupied by very low-income, elderly persons in need of licensed assisted
14 living care. If the transaction is not implemented by the end of September, the consequence of
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6 September, 2009, and signed by me in open session in authentication of its
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11 _____
12 President _____ of the City Council

13 Approved by me this _____ day of _____, 2009.

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15 _____
16 Gregory J. Nickels, Mayor

17 Filed by me this _____ day of _____, 2009.

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19 _____
20 City Clerk

21 (Seal)

