SEATTLE CITY COUNCIL

Legislative Summary

CB 118762

Record No.: CB 118762 **Type:** Ordinance (Ord) **Status:** Passed

Version: 1 **Ord. no:** Ord 125121 **In Control:** City Clerk

File Created: 08/01/2016

Final Action: 09/09/2016

Title: AN ORDINANCE relating to transferable development rights (TDR); authorizing The City of Seattle to purchase housing TDR from a lot at 1902 2nd Avenue in Seattle; and authorizing related agreements and acceptance of a deed.

Date

Notes: D2a

Filed with City Clerk:

Mayor's Signature:

Sponsors: Burgess

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Att B – Statutory Warranty Deed

Drafter: kelly.gonzalez@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Mayor	08/09/2016	Mayor's leg transmitted to Council	City Clerk			
	Action Text: The Council Bill (CB) was Mayor's leg transmitted to Council. to the City Clerk						
	Notes:						
1	City Clerk	08/09/2016	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	08/11/2016	sent for review	Affordable Housing, Neighborhoods, and Finance Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Affordable Housing, Neighborhoods, and Finance Committee						
	Notes:						

1	Full Council	08/15/2016	referred	Affordable Housing, Neighborhoods, and Finance Committee		
1	Affordable Housing, Neighborhoods, and Finance Committee	08/17/2016	pass		09/06/2016	Pass

Action Text: The Committee recommends that Full Council pass the Council Bill (CB).

In Favor: 2 Chair Burgess, Vice Chair Herbold

Opposed: 0

Absent(NV): 1 Member Johnson

1	Full Council	09/06/2016	passed		Pass

Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:

Notes:

In Favor: 8 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

1	City Clerk	09/08/2016	submitted for Mayor's signature	Mayor
1	Mayor	09/09/2016	Signed	

Action Text: The Council Bill (CB) was Signed.

Notes:

1	Mayor	09/09/2016	returned	City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk

Notes:

1	City Clerk	09/09/2016	attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE 125121

COUNCIL BILL 118762

AN ORDINANCE relating to transferable development rights (TDR); authorizing The City of Seattle to purchase housing TDR from a lot at 1902 2nd Avenue in Seattle; and authorizing related agreements and acceptance of a deed.

WHEREAS, under the Land Use Code provisions of the Seattle Municipal Code (SMC), certain properties, including those preserved for low-income housing, are eligible to transfer unused development rights; and

WHEREAS, the Department of Construction and Inspections, in consultation with the Office of Housing, has determined that the lot on which the Josephinum is located meets the housing transferable development rights (TDR) site requirements as defined in Chapter 23.84A of the SMC; and

WHEREAS, in a letter dated October 22, 2015, the Department of Planning and Development (as predecessor to the Department of Construction and Inspections) certified 54,820 square feet of housing TDR as eligible for transfer from that lot, according to the provisions of SMC 23.49.014; and

WHEREAS, by Ordinance 114029, as amended, the City established a "TDR Bank" and authorized the Director of the Office of Housing to negotiate the purchase of housing TDR from such properties in order to aid in the preservation of low-income housing; and

WHEREAS, Archdiocesan Housing Authority and Catholic Community Services of Western Washington (collectively, "Seller") are the owners of the Josephinum, a 220-unit residential building that includes 192 rental units affordable to households with incomes

at or below 50 percent of median income, and propose to sell housing TDR to the City according to the SMC's provisions; and

WHEREAS, funds are available in the TDR/Mitigation Subfund and the Office of Housing has existing expenditure authority for the purchase of housing TDR; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Director of the Office of Housing ("OH Director") is authorized, for and on behalf of The City of Seattle, to execute, deliver, perform, administer, and enforce an agreement for the purchase of up to 54,820 square feet of housing transferable development rights (TDR) for a total price not to exceed $1,653,919 based on the terms set forth in Attachment A to this ordinance, with such additional terms and conditions and such modifications, other than increase in price, as the OH Director shall find to be appropriate according to the intent of this ordinance. The housing TDR to be purchased are from the property known as the Josephinum, located at 1902 2nd Avenue in Seattle (the "Property"), legally described as follows:

The Southeasterly 25 feet of Lot 8 and all of Lots 9 and 12 in Block 46 of Addition to the Town of Seattle, as laid out by A.A. Denny (commonly known as A.A. Denny's 6th Addition to the City of Seattle), as per plat recorded in Volume 1 of Plats, page 99, records of King County;

Except the Southwesterly 12 feet thereof condemned in King County Superior Court Cause No. 39151 for 2nd Avenue;

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

Section 2. Purchase of any amount of housing TDR derived from the Property is conditioned upon recordation of a TDR agreement, consistent with Seattle Municipal Code Section 23.49.014, that includes the Seller's commitment to invest the sale proceeds in the rehabilitation of low-income housing as approved by the OH Director and consistent with the provisions of the Seattle Municipal Code.

Section 3. The OH Director is further authorized, for and on behalf of the City, to accept and record a statutory warranty deed, substantially in the form of Attachment B to this ordinance, to the housing TDR to be purchased and to execute, deliver, modify, administer, and enforce such other agreements and documents as may be reasonably necessary to carry out the intent of this ordinance.

Section 4. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 6th day of September, 2016, and signed by me in open session in authentication of its passage this 6th day of september, 2016.

Bruce A. Harrell

President _____ of the City Council

Approved by me this 9th day of September, 2016.

Edward B. Murray, Mayor

Filed by me this 9th day of September, 2016.

Monica Martinez Simmons, City Clerk

(Seal)

Attachments:
Attachment A: Term Sheet
Attachment B: Statutory Warranty Deed

TERM SHEET

SALE OF TDR BY ARCHDIOCESAN HOUSING AUTHORITY and CATHOLIC COMMUNITY SERVICES OF WESTERN WASHINGTON (collectively and hereafter "Seller")
TO THE CITY OF SEATTLE (hereafter "Buyer")

This term sheet describes the basic terms of the proposed purchase and sale of Transferable Development Rights ("TDR") between Buyer and Seller. Any binding commitment by the Buyer to buy TDR will be made only after City Council approval by ordinance and upon signing of a definitive purchase and sale agreement (the "Agreement"). The Agreement is intended to include the following terms:

1. **Housing TDR Site**. Seller is the owner of the Josephinum, a 14 story residential building located at 1902 2nd Avenue, just north of Seattle's downtown shopping core, and the lot on which Josephinum is located ("Housing TDR Site").

2. **TDR Agreement**. Seller will enter into a TDR Agreement with The City of Seattle, consistent with SMC 23.49.014.D, in addition to the Agreement referenced above.

3. **TDR Available**. Seller represents that the Seattle Department of Construction and Inspections (SDCI) has calculated 54,820 square feet of housing TDR available on the Housing TDR Site in accordance with SMC 23.49.014.

4. **Purchase and Sale of TDR.** Seller shall sell and Buyer shall buy up to 54,820 square feet of housing TDR available from the Housing TDR Site.

5. **Seller Warranties.** Seller will represent and warrant to Buyer that, as of the date of execution of the Agreement and as of the closing of the sale:

   Seller is the owner of the Housing TDR Site subject to no liens or encumbrances except as set forth on the policy of title insurance issued to Buyer in connection with Buyer's 2014 loan to Seller secured by the Housing TDR Site.

   The sale of the housing TDR has been duly authorized by all necessary corporate actions of Seller.

6. **Purchase Price.** Buyer agrees to pay a purchase price of $30.17 per square foot for housing TDR available from the Housing TDR Site.

7. **Transfer of Title/Closing.**

7.1 The closing date shall be the date that title is transferred from Seller to Buyer (the "Closing Date"). There shall be a single Closing Date. If so required by Buyer, the sale

shall be closed by a licensed escrow agent. Buyer shall specify at least ten (10) days prior to the Closing Date the amount of housing TDR to be purchased and the desired Closing Date. Seller shall demonstrate to the satisfaction of Buyer that it has satisfied all conditions to transfer of housing TDR, and the amount of TDR available for transfer, not later than _____, 2016.

7.2 Buyer shall pay all cash at closing in the amount of the purchase price applicable to the transaction.

7.3 On the Closing Date, Seller shall execute and cause to be recorded, and instruct the County recording officer to deliver to Buyer, a statutory warranty deed for the housing TDR.

7.4 Costs of recording shall be paid from proceeds of the TDR sale.

8. <u>Title and Title Insurance.</u>

8.1 Seller shall demonstrate to the satisfaction of the Buyer that the TDR sold are not subject to any liens, encumbrances, options or rights of first refusal, or defects in title, but Seller shall not be required to provide or pay for title insurance.

8.2 Buyer may obtain title insurance or title reports at Buyer's own expense. Buyer shall provide a copy of any title report of commitment to Seller, promptly upon receipt. Buyer understands that title insurance for housing TDR may not be available or may contain non-standard exceptions and exclusions.

9. <u>Use of TDR Proceeds.</u>

9.1 Seller shall use the proceeds of the sale of housing TDR from the Housing TDR Site for rehabilitation of low-income housing at the Josephinum or other low-income housing properties subject to a scope of work approved by the City of Seattle Office of Housing and appended to the TDR Agreement.

After recording, return to:

Dan Foley
City of Seattle, Office of Housing
PO Box 94725
Seattle, WA 98124-4725

STATUTORY WARRANTY DEED—DEVELOPMENT RIGHTS

Reference numbers of related documents: Not applicable.

Grantors: Archdiocesan Housing Authority, a Washington non-profit corporation
Catholic Community Services of Western Washington, a Washington non-profit corporation

Grantee: The City of Seattle, a Washington municipal corporation

Legal Descriptions:

1. Abbreviated form

   TDR Sending Lot: Ptn. Lot 8 and all of lots 9 & 12, Blk. 46, A.A. Denny's 6th Add., Vol 1 of plats, pg 99, King County

2. Additional legal description is on page 2 below.

Assessor's Property Tax Parcel Account Number(s):

TDR Sending Lot: 1977201060-08 & 1977201060-99

The Grantors, Archdiocesan Housing Authority, a Washington non-profit corporation, and Catholic Community Services of Western Washington, a Washington non-profit corporation, for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, convey and warrant to Grantee, THE CITY OF SEATTLE, a Washington municipal corporation, the following amount of housing Transferable Development Rights ("TDR"), pursuant to Section 23.49.014 of the Seattle Municipal Code: Fifty-Four Thousand Eight-Hundred Twenty (54,820) square feet of housing TDR from the real property on which there is located a housing structure known as the "Josephinum", legally described as follows:

The Southeasterly 25 feet of Lot 8 and all of Lots 9 and 12 in Block 46 of Addition to the Town of Seattle, as laid out by A.A. Denny (commonly known as A.A. Denny's 6th Addition to the City of Seattle), as per plat recorded in Volume 1 of Plats, page 99, records of King County;

Except the Southwesterly 12 feet thereof condemned in King County Superior Court Cause No. 39151 for 2nd Avenue;

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

This conveyance is made in accordance with the terms of that certain Purchase and Sale Agreement between Grantors and Grantee, dated _____, 2016, the terms of which are not merged into this Deed and survive the delivery of this Deed to Grantee to the extent provided in such Agreement.

Dated this _____ day of_____, 2016.

GRANTOR: Archdiocesan Housing Authority, a Washington nonprofit corporation

By _____

Print Name _____

Title_____

GRANTOR: Catholic Community Services of Western Washington, a Washington nonprofit corporation

By _____

Print Name _____

Title_____

ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.

COUNTY OF KING)

On this _____ day of_____, 2016 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me personally known (or proven on the basis of satisfactory evidence) to be the _____ of Archdiocesan Housing Authority, the Washington non-profit corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and 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 _____
(seal or stamp) My commission expires _____

ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this _____ day of_____, 2016 before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me personally known (or proven on the basis of satisfactory evidence) to be the _____ of Catholic Community Services of Western Washington, the Washington non-profit corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and 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 _____
(seal or stamp) My commission expires _____

STATE OF WASHINGTON -- KING COUNTY

--ss.

341838 No.

CITY OF SEATTLE,CLERKS OFFICE

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

CT:125118-125 TITLE ONLY

was published on

09/23/16

The amount of the fee charged for the foregoing publication is the sum of $151.53 which amount has been paid in full.

Subscribed and sworn to before me on

09/23/2016

Notary public for the State of Washington,
residing in Seattle

JENNIFER A BARNES
COMMISSION EXPIRES
NOTARY
PUBLIC
10-24-19
STATE OF WASHINGTON

State of Washington, King County

City of Seattle

The full text of the following legislation, passed by the City Council on September 6, 2016, and published below by title only, will be mailed upon request, or can be accessed at http://seattle.legistar.com. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar.

Ordinance 125118

Council Bill 118751

AN ORDINANCE authorizing, in 2016, acceptance of funding from non-City sources; authorizing the heads of the Executive Department, Department of Parks and Recreation, Human Services Department, Seattle Fire Department, Seattle Police Department, Legislative Department, and Seattle Public Utilities to accept specified grants and private funding and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

Ordinance 125119

Council Bill 118752

AN ORDINANCE amending Ordinance 124927, which adopted the 2016 Budget, including the 2016-2021 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; creating both exempt and nonexempt positions; modifying positions; adding new projects; making cash transfers between various City funds; revising project allocations for certain projects in the 2016-2021 CIP; revising project descriptions; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 125120

Council Bill 118759

AN ORDINANCE relating to the Department of Neighborhoods; authorizing implementation of certain Neighborhood Matching Fund projects in 2016, and specifying that 2016 appropriations for the Neighborhood Matching Subfund shall carry forward automatically to future budget years.

Ordinance 125121

Council Bill 118762

AN ORDINANCE relating to transferable development rights (TDR); authorizing The City of Seattle to purchase housing TDR from a lot at 1902 2nd Avenue in Seattle; and authorizing related agreements and acceptance of a deed.

Ordinance 125122

Council Bill 118764

AN ORDINANCE relating to the Technology Matching Fund Program; making allocations and authorizing implementation of certain Technology Matching Fund projects in 2016; providing that 2016 appropriations for the Technology Matching Fund from the Cable Television Franchise Subfund and from the Information Technology Fund shall automatically carry forward into the 2017 fiscal year; allowing that any unspent funds from an individual project may be applied to another project that meets the goals of the Digital Equity Initiative; and ratifying and confirming certain prior acts.

Ordinance 125123

Council Bill 118766

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 125124

Council Bill 118767

AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.

Ordinance 125125

Council Bill 118693

AN ORDINANCE relating to land use and zoning; amending Sections 23.47A.005 and 23.47A.009 of the Seattle Municipal Code to adopt development standards for certain properties in the Ballard Hub Urban Village; and amending the Official Land Use Map at pages 53, 54, and 55 to rezone land in the Ballard Hub Urban Village.

Date of publication in the Seattle Daily Journal of Commerce, September 23, 2016.

9/23(341838)