

**CITY OF TACOMA  
DEPARTMENT OF PUBLIC UTILITIES  
WATER DIVISION  
REAL ESTATE PURCHASE and SALE AGREEMENT  
AGREEMENT NO. 3108**

**Reference No.:** P2014-136  
**Seller:** City of Tacoma, Department of Public Utilities, Water  
Division, (d.b.a. Tacoma Water)  
**Buyer:** HERITAGE BANK  
**Abbreviated  
Legal Description:** Portions of Lots 7, 8, and 9, Block 15, Wapato Hills Addition  
**County:** Pierce County  
**Tax Parcel No:** 934000-098-2

This Real Estate Purchase and Sale Agreement, ("Agreement"), entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2016 ("Execution Date") between the CITY OF TACOMA, DEPARTMENT OF PUBLIC UTILITIES, WATER DIVISION (d.b.a. Tacoma Water), a municipal corporation, hereinafter referred to as "Tacoma Water" and HERITAGE BANK, a Washington state banking corporation, hereinafter referred to as "Buyer." Tacoma Water and Buyer may sometimes be referred to collectively herein, as "Parties."

**WHEREAS**, Tacoma Water is the sole owner of the fee title to the real property more particularly described in Section 1 below; and,

**WHEREAS**, Buyer desires to purchase from Tacoma Water and Tacoma Water desires to sell to Buyer the real property subject to the terms and conditions set forth herein; and

**WHEREAS**, the parties hereto mutually desire to enter into this Agreement defining their rights, duties and liabilities relating to said real property.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Tacoma Water and Buyer AGREE AS FOLLOWS:

**1. Purchase.** Tacoma Water agrees to sell and convey to Buyer and Buyer agrees to purchase from Tacoma Water, subject to the terms and conditions set forth in this Agreement, in fee simple, the following real property:

That portion of Lots 7, 8, and 9, Block 15, Wapato Hills Addition, according to Plat recorded in Book 9 of Plats at Page 26, Pierce County, Washington, lying Easterly of the Easterly boundary of Tacoma Mall Boulevard;

Together with that portion of abutting East Approach vacated pursuant to City of Tacoma Ordinance No. 7211:

Situate in the County of Pierce, State of Washington

as depicted in Exhibit A attached hereto and made a part hereof, together with all right, title and interest in and to any rights licenses, privileges, reversions and easements pertinent to the real property, subject to those certain conditions as set forth herein.

This sale includes all right, title and interest of Tacoma Water to the following intangible property now or hereafter existing with respect to the Property including without limitation: all rights-of-way, rights of ingress or egress or other interests in, on, or to, any land, highway, street, road, or avenue, open or proposed, in, on, or across, in front of, abutting or adjoining the Property; all rights to utilities serving the Property;

The real property together with the rights and interests described above are collectively referred to herein as the "Property."

**2. Earnest Money.** As earnest money ("Earnest Money"), Buyer will deposit Twenty Thousand Dollars (**\$20,000.00**) in the form of cash or check to be held by the Closing Agent of Buyer's choice within ten (10) days of both parties signing this Agreement. The Earnest Money shall be applied to the Purchase Price at Closing. The interest on the Earnest Money, if any, shall be credited at Closing to Buyer. If this sale fails to close, whoever is entitled to the Earnest Money is entitled to interest. **IN THE EVENT BUYER FAILS WITHOUT LEGAL EXCUSE TO COMPLETE THE PURCHASE OF THE PROPERTY, THE EARNEST MONEY SHALL BE FORFEITED TO TACOMA WATER AS DESCRIBED IN SECTION 9 BELOW.**

**3. Purchase Price.** The total purchase price for the Property ("Purchase Price") shall be Five Hundred Sixty Thousand Dollars (**\$560,000.00**) which shall be paid to Puget Sound Title Company ("Closing Agent") in the form of a Cashier's Check or electronic funds transfer at Closing as defined in Section 4 below and taking into account the Earnest Money.

**4. Closing.** The closing will occur not later than thirty (30) days following the conditions of Section 6 "Conditions to Closing" being met, and under no circumstances later than February 28, 2017 (the "Closing Date"). If Closing does not occur on or before the Closing Date, or any later date mutually agreed to in writing by Buyer and Tacoma Water, in addition to any remedies that may be available to either party as set forth in Section 9 below, Closing Agent will immediately forward the Earnest Money to the party entitled to receive it as provided in this Agreement, and all documents shall be returned to the party that deposited them. "Closing," for the purpose of this Agreement, is defined as the date that all documents are executed, the Title Company has irrevocably committed to issue the Title Policy (including all endorsements required by the Buyer), the sale proceeds are available for disbursement to Tacoma Water, and legal title passes to the Buyer.

**5. Title to Property**

5.1. Conveyance. At Closing, Tacoma Water shall convey to Buyer fee simple title to the Property by a duly executed and acknowledged Bargain and Sale Deed ("Deed").

5.2. Condition of Title. Tacoma Water hereby agrees from and after the date

hereof, until the Closing or the termination of this Agreement, that it (a) will take no action that will adversely affect title to the Property; (b) will not lease, rent, mortgage, encumber, or permit the encumbrance of all or any portion of the Property without Buyer's prior written consent; and (c) will not enter into written or oral contracts or agreements with respect to the operation of the Property, which cannot be cancelled by Buyer on not more than 30 days' notice without premium or penalty.

5.3. Title Policy. At Closing, at Tacoma Water's expense, as a condition at Closing the Title Company shall issue to Buyer a standard owner's policy of insurance insuring Buyer's title to the Property ("Title Policy").

**6. Conditions to Closing.** The Parties acknowledge and agree that this Agreement is conditioned upon the following additional reviews, terms, and conditions all of which are to be satisfied prior to Closing:

6.1. Tacoma Water Contingency: Tacoma Public Utility Board and Tacoma City Council Approval. This Agreement, and the transaction contemplated hereby, must be duly approved by the Tacoma Public Utility Board and the Tacoma City Council. If Tacoma Water does not give Buyer written notice that this condition is satisfied within sixty (60) days of the Execution Date (the date such approval notice is provided to Buyer shall be deemed the "Council Approval Notice Date") this Agreement will terminate, the Earnest Money will be returned to Buyer, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided for in this Agreement.

6.2. Buyer Contingencies: Buyer's obligations to close are contingent upon the following:

6.2.1 Feasibility Study.

(a) Buyer acknowledges that, prior to Closing and at its sole cost and expense, Buyer shall have ninety (90) days from the Council Approval Notice Date to inspect the Property and conduct any feasibility studies it deems necessary ("Feasibility Period"). Tacoma Water will assist as needed with any submittals necessary to complete this work. Tacoma Water herein grants Buyer, its employees, agents, representatives, and surveyors a right of entry to conduct survey work. Any ground disturbing activities must receive prior written approval from and be coordinated with from Tacoma Water (such approval shall not be unreasonably denied). Additionally, Tacoma Water shall make available for inspection by Buyer and its agents within fourteen (14) days after Execution Date all documents in Tacoma Water's possession or control or otherwise available to the Tacoma Water relating to the ownership, operation, renovation or development of the Property.

(b) Unless Buyer provides Tacoma Water with a written notice prior to 5:00 p.m. Seattle local time on the last day of the Feasibility Period that the Buyer has determined, in Buyer's sole and absolute discretion, that the Property is suitable for Buyer's intended use or that Buyer waives this

condition (an "Approval Notice"), then this Agreement shall terminate and the Earnest Money shall be returned to Buyer.

6.2.2. Title Review.

(a) At the expense of Tacoma Water, Buyer shall obtain a commitment for title insurance ("Title Commitment") from Puget Sound Title Company ("Title Company") setting forth the status of title to the Property and all exceptions which would appear in an owner's policy of title insurance. Buyer shall, on or before 5:00 p.m. (Pacific Time) on the last day of the Feasibility Period, deliver to Tacoma Water, in writing, any objections to matters shown in the Title Commitment; provided that the following shall not be deemed to be a permitted exception and shall be deemed objected to without the need for any written notice from Buyer: all monetary encumbrances, including any mortgage or deed of trust liens, or statutory lien for real property taxes. If Buyer timely objects to any item set forth in the Title Commitment ("Title Objection Notice"), then Tacoma Water shall have the right, but not the obligation (except as provided in this Section 6.2.2(b) of this Agreement), to attempt to cure or cause to be cured before Closing such disapproved item. Tacoma Water shall have until 5:00 p.m. (Pacific Time) on the date no later than five (5) days after receipt of Title Objection Notice to agree in writing to cure before Closing such disapproved item. If Tacoma Water elects not to cure, or fails to timely respond to Buyer's objections, Tacoma Water shall be deemed to have elected not to cure, in which event Buyer shall, either (i) terminate this Agreement, whereupon the Earnest Money shall be returned to Buyer, or (ii) waive by delivering to Tacoma Water a written waiver of its objection to the disapproved items, which shall then become permitted exceptions. Buyer's failure to timely deliver to Tacoma Water and Title Company a written notice of termination or waiver of its objection to the disapproved items shall be deemed to constitute Buyer's termination of this Agreement. Buyer shall have ten (10) days after receipt of any updates to Title Commitment to object to any new matters disclosed therein which were not disclosed in the original Title Commitment, and the procedure for objecting to such matters shall be as set forth in this Section 6.2.2.

(b) Notwithstanding anything herein to the contrary, Tacoma Water shall be obligated to remove or discharge the following: (i) any monetary encumbrance; (ii) any other title matter which is added as an exception to the Title Commitment after the initial Title Commitment that is intentionally or voluntarily placed on the Property by Tacoma Water unless approved in writing by Buyer.

(c) It shall be a condition of Buyer's obligations to close under this Agreement that, at Closing, Buyer's title to the Property shall be insured by a standard policy of title insurance issued by the Title Company in an amount equal to the Purchase Price, subject only to the permitted exceptions. Buyer may elect to receive an extended owner's title insurance, with such endorsements as Buyer requires, provided, however, that Tacoma Water shall only be responsible for the premium for the standard insurance portion of such policy and Buyer shall be responsible for all

costs, including any additional survey work needed, for extended coverage that exceeds the cost of the standard policy and for any endorsements requested by Buyer.

6.2.3 Closing Documents/Conditions/Etc. Tacoma Water shall deliver to Buyer on the Closing Date all documents and instruments required by the terms of the Agreement which are to be delivered by Tacoma Water on or before the Closing Date, including, without limitation, the Bargain and Sale Deed. Tacoma Water shall have timely performed all obligations required by the Agreement to be performed by Tacoma Water. All representations and warranties of Tacoma Water set forth in the Agreement shall be true and accurate as of the time made and as of the Closing Date.

6.2.4 Signage. Buyer has determined that satisfactory signage is available from the Property (as determined by Buyer in its sole discretion), including signage with visibility from Interstate 5. Up to the Closing Date, Tacoma Water shall reasonably cooperate with Buyer in obtaining submittals for any variances or other approvals of the City of Tacoma or other governmental entities in obtaining such satisfactory signage, but shall not be required to incur any out-of-pocket expenses or liability in doing so.

In the event that any one or more of the preconditions to Closing set forth above or otherwise in the Agreement are not timely satisfied, Buyer may, in addition to any remedies available to Buyer hereunder or at law or in equity, terminate the Agreement and receive the Earnest Money back from Tacoma Water; provided, that the parties agree that Buyer may waive one or all of these conditions and proceed to Closing.

**7. Condition of the Property.** Tacoma Water agrees that it shall not sell, convey, assign, transfer or encumber any or all of the said Property during the term of this Agreement up to and including the Closing Date, nor construct capital improvements to the Property, nor waste, sell or otherwise transfer any timber or minerals thereon prior to Closing. Tacoma Water assumes all risks for damage to or destruction of the Property.

**8. Possession.** Tacoma Water shall deliver exclusive possession and control of the Property to Buyer on the Closing Date. Tacoma Water shall remove any and all personal property or debris from the Property on or before the Closing Date, unless specifically authorized otherwise in writing by Buyer or placed on the Property by Buyer.

**9. Default; Remedies; Specific Performance**

**a. Buyer's default.** In the event Buyer fails, without legal excuse, to complete the purchase of the Property, then Tacoma Water may terminate this Agreement and keep the earnest money as liquidated damages as the sole and exclusive remedy available to Tacoma Water for such failure

**b. Tacoma Water's default.** In the event Tacoma Water fails, without legal excuse, to complete the sale of the Property, then Buyer may, at its option, (a) bring suit against Tacoma Water for Buyer's actual damages, (b) bring suit to specifically enforce this Agreement and recover any incidental damages, or (c) pursue any other rights or remedies available at law or equity.

Neither Buyer nor Tacoma Water may recover consequential damages such as lost profits.

**10. Litigation / Attorney Fees.** In the event Tacoma Water or the Buyer are involved in litigation arising from any failure to perform any of its obligations under this Agreement or a dispute relating to the meaning or interpretation of any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs related to the dispute. The venue of any suit shall be the county in which the Property is located, and this Agreement shall be governed by the laws of the state where the Property is located.

**11. Professional Advice.** Tacoma Water and the Buyer hereby acknowledge that it may be advisable for either or both Parties to obtain independent legal, tax or other professional advice in connection with this transaction, as the terms and conditions of this Agreement affect the Parties' rights and obligations. The Parties agree that they have satisfied themselves that they understand the terms and conditions of this sale and have accepted full responsibility to seek such professional advice as they deem necessary.

**12. Tacoma Water's Representations.** Except as disclosed to or known by Buyer prior to the satisfaction or waiver of the feasibility contingency of Section 6 above, including in the books, records and documents made available to Buyer, or in the title report or any supplemental report or documents referenced therein, Tacoma Water represents to Buyer that, to the best of Tacoma Water's actual knowledge, each of the following is true as of the date hereof: (a) Tacoma Water is authorized to enter into the Agreement subject to ratification by the Tacoma Public Utility Board and Tacoma City Council, to sell the Property subject to approval by the Tacoma City Council, and to perform its obligations under the Agreement; (b) The books, records, leases, agreements and other items delivered to Buyer pursuant to this Agreement comprise all material documents in Tacoma Water's possession or control regarding the operation and condition of the Property and are accurate and complete; (c) Tacoma Water has not received any written notices that the Property violates any applicable laws, regulations, codes and ordinances; (d) Tacoma Water has all permits, and other governmental consents necessary to own and operate the Property for its current use; (e) There is no pending or threatened litigation which would adversely affect the Property or Buyer's ownership thereof after Closing; (f) There is no pending or threatened condemnation or similar proceedings affecting the Property, and the Property is not within the boundaries of any planned or authorized local improvement district; (g) There are no covenants, conditions, restrictions, or contractual obligations of Tacoma Water which will adversely affect Buyer's ownership of the Property after Closing or prevent Tacoma Water from performing its obligations under the Agreement except as disclosed in the preliminary commitment for title insurance or as otherwise disclosed to Buyer in writing prior to the end of the inspecting contingency stated in Section 6.2.1 above; (h) Tacoma Water has paid or will pay at Closing (except to the extent prorated at Closing) all local, state and federal taxes, if any, attributable to the period prior to Closing which, if not paid, could constitute a lien on Property (including any personal property), or for which Buyer may be held liable after Closing; (i) There are no pending or threatened notices of violation of building, zoning, or land use codes applicable to the Property, (j) Tacoma Water is not aware of any concealed material defects in the Property; (k) Tacoma Water has not received notice of any special assessment proceedings affecting the Property, including no notices concerning any improvement assessments for sidewalks; (l) Tacoma Water

has received no notice of any default or breach by Tacoma Water under any covenants, conditions, restrictions, rights of way or easements that may affect Tacoma Water in respect to the Property or may affect the Property or any portion thereof and no such default or breach now exists; (m) There are no options or rights of first refusal to purchase the Property or any portion thereof; (n) Tacoma Water has not entered into any other agreements or made any arrangements with any adjacent property owner or neighbor which would adversely affect the use or development of the Property; (o) The Property has not been taxed under a deferred classification prior to Closing, however Tacoma Water is exempt from paying Washington State Property Tax; (p) Except for a small amount of visible asphalt material, There are no Hazardous Substances (as defined below) currently located in, on, or under the Property in a manner or quantity that presently violates any Environmental Law (as defined below); there are no underground storage tanks located on the Property; and there is no pending or threatened investigation or remedial action by any governmental agency regarding the release of Hazardous Substances or the violation of Environmental Law at the Property. As used herein, the term "Hazardous Substances" shall mean any substance or material now or hereafter defined or regulated as a hazardous substance, hazardous waste, toxic substance, pollutant, or contaminant under any federal, state, or local law, regulation, or ordinance governing any substance that could cause actual or suspected harm to human health or the environment ("Environmental Law"). The term "Hazardous Substances" specifically includes, but is not limited to, petroleum, petroleum by-products, and asbestos.

**13. As-is.** Except for those representations and warranties specifically included in this Agreement: (i) Tacoma Water makes no representations or warranties regarding the Property; (ii) Tacoma Water hereby disclaims, and Buyer hereby waives, any and all representations or warranties of any kind, express or implied, concerning the Property or any portion thereof, as to its condition, value, compliance with laws, status of permits or approvals, existence or absence of hazardous material on site, occupancy rate or any other matter of similar or dissimilar nature relating in any way to the Property, including the warranties of fitness for a particular purpose, tenantability, habitability and use; (iii) Buyer otherwise takes the Property "AS IS," and (iv) Buyer represents and warrants to Tacoma Water that Buyer has sufficient experience and expertise such that it is reasonable for Buyer to rely on its own pre-closing inspections and investigations.

#### **14. General Provisions.**

14.1. Notices. Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service, or given by mail. The notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Tacoma Water: Tacoma Water  
Attn: Gloria Fletcher  
Real Property Services  
3628 South 35<sup>th</sup> Street  
Tacoma, WA 98409  
gfletcher@cityoftacoma.org

Buyer: Lori Fobes, Vice President, Facilities  
5448 S. Tacoma Way  
Tacoma, WA 98409  
Lori.fobes@heritagebanknw.com

and to: Rachel Corp and Bill Frame  
Kidder Mathews  
1201 Pacific Avenue, Suite 1400  
Tacoma, WA 98402  
[rcorp@kiddermathews.com](mailto:rcorp@kiddermathews.com)

and to: Carl Peterson  
Eisenhower Carlson PLLC  
1200 Wells Fargo Plaza  
Tacoma, WA 98402  
cpeterson@Eisenhowerlaw.com

- 14.2. Integration. Except as expressly stated otherwise herein, this Agreement constitutes the full understanding between the Tacoma Water and Buyer regarding the sale of the Property and there are no promises, agreements, conditions, understandings, warranties or representations, oral or written, expressed or implied, other than as expressly set forth in this Agreement. The covenants and agreements of this Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.
- 14.3. Amendments. This Agreement shall not be modified in any manner except in written instrument mutually executed by Tacoma Water and the Buyer.
- 14.4. Counterparts. This Agreement may be signed in counterparts and assembled to form a complete Agreement.
- 14.5. Time is of the Essence. Time is of the essence as to all terms and conditions of this Agreement.
- 14.6. Survival: All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the time of closing, will be deemed to be material and will survive the execution and delivery of this Agreement and the delivery of the Deed and transfer of title for a period of 6 (six) months whereupon they shall terminate. Such representation and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.



- 14.7. Waiver. Neither Tacoma Water's nor Buyer's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.
- 14.8. Assignment. Buyer shall not assign this Agreement without Tacoma Water's prior written consent, which consent may not be unreasonably withheld or delayed.
- 14.9. Negotiation and Construction. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.
- 14.10. Additional Acts. The parties agree to perform, execute and/or deliver, or cause to be performed, executed and/or delivered, any and all such further acts, deeds and assurances, which may reasonably be required to effect the Agreement contemplated herein.
- 14.11. Governing Law: This Agreement will be governed and construed in accordance with the laws of the State of Washington without recourse to any principles of Conflicts of Laws.
- 14.12. Construction: This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases be construed according to its fair meaning and not strictly for or against either party.
- 14.13. Nonmerger. The terms and provisions of this Agreement, including without limitation, all indemnification obligations, will not merge in, but will survive the Closing of the transaction contemplated under the Agreement.
- 14.14. Closing Costs and Prorations. Tacoma Water shall deliver to Closing Agent not later than two (2) days before the scheduled Closing Date any information reasonably requested by Closing Agent to allow Closing Agent to prepare a settlement statement for Closing. Tacoma Water shall pay the premium for the owner's standard coverage title policy. Tacoma Water and Buyer shall each pay one-half of those brokerage fees owing to Kidder Mathews and D. William Frame, III. Buyer shall pay the excess premium attributable to any extended coverage or endorsements requested by Buyer, and the cost of any survey required in connection with the same. Tacoma Water shall pay the escrow fees. Real estate excise taxes, if any, shall be paid by Tacoma Water. Real and personal property taxes and assessments payable in the year of Closing, if any, and utilities shall be pro-rated as of Closing and delinquent taxes shall be paid out of Tacoma Water's proceeds. Buyer and Tacoma Water do not waive the right to have the Closing Agent disburse Closing funds necessary to satisfy unpaid utility charges affecting the Property pursuant to RCW 60.80.

**15. Information Transfer.** In the event this Agreement is terminated, Buyer agrees to deliver to Tacoma Water within ten (10) days of Tacoma Water's written request copies of all materials received from Tacoma Water and any non-privileged plans, studies, reports, inspections, appraisals, surveys, drawings, permits, applications or other development work product relating to the Property in Buyer's possession or control as of the date this Agreement is terminated.

**16. FIRPTA - Tax Withholding At Closing.** Closing Agent is instructed to prepare a certification (CBA or NWMLS Form 22E, or equivalent) that Tacoma Water is not a "foreign person" within the meaning of the Foreign Investment in Real Property Tax Act. Tacoma Water agrees to sign this certification. If Tacoma Water is a foreign person, and this transaction is not otherwise exempt from FIRPTA, Closing Agent is instructed to withhold and pay the required amount to the Internal Revenue Service.

**17. Waiver of RCW 64.06 Disclosure.** Buyer and Tacoma Water acknowledge that the Property constitutes "Commercial Real Estate" as defined in RCW 64.06.005. Buyer waives receipt of the seller disclosure statement required under RCW 64.06 for transactions involving the sale of commercial real estate, except for the section entitled "Environmental." The Environmental section of the seller disclosure statement is attached to this Agreement as Exhibit B (the "**Disclosure Statement**")

Sale authorized by City Council Resolution No. \_\_\_\_\_ adopted \_\_\_\_\_ at the request of Public Utility Board Resolution No. U- \_\_\_\_\_ adopted \_\_\_\_\_.

[SIGNATURE PAGES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties have signed and sealed this Agreement the day and year first above written.

Accepted,

**BUYER:**  
HERITAGE BANK

\_\_\_\_\_  
Lisa Banner  
Executive Vice President – Shared Services

Dated: \_\_\_\_\_

**SELLER:**  
CITY OF TACOMA, DEPARTMENT  
OF PUBLIC UTILITIES, WATER  
DIVISION (d.b.a. Tacoma Water), a  
municipal corporation,

\_\_\_\_\_  
William A. Gaines,  
Utilities Director/CEO

Dated: \_\_\_\_\_

\_\_\_\_\_  
Linda A. McCrea  
Water Superintendent

Dated: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael W. Smith  
Deputy City Attorney

Dated: \_\_\_\_\_

15955-30/CRP/722012.2

City of Tacoma Review

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

TACOMA WATER REVIEWED:

\_\_\_\_\_  
Greg Volkhardt  
Environmental Services Manager

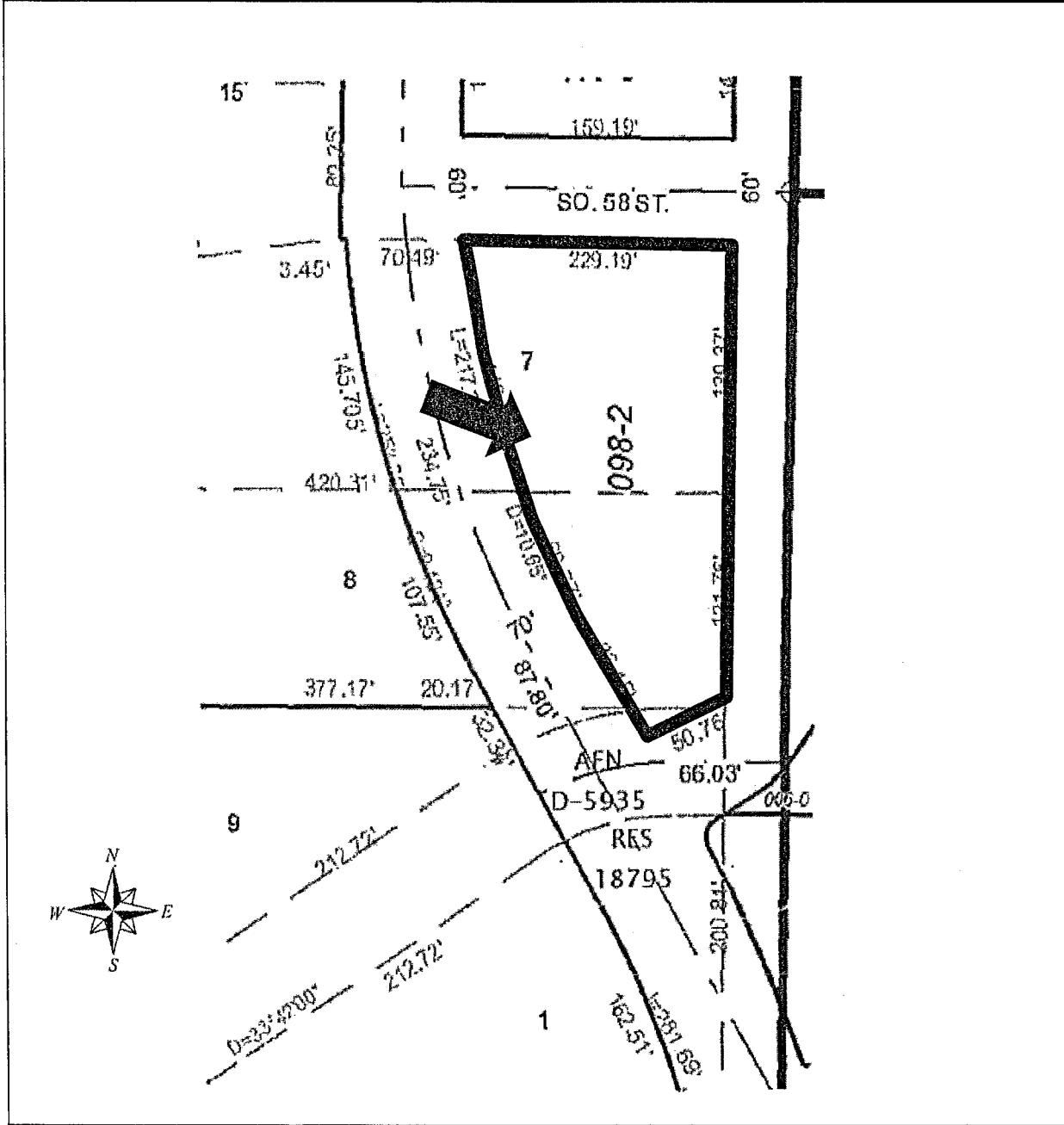
\_\_\_\_\_  
Jodi Collins  
Financial Manager

\_\_\_\_\_  
John Haase  
Surveyor

FINANCE REVIEWED:

\_\_\_\_\_  
Andrew Cherullo  
Director of Finance

City of Tacoma – Tacoma Water – Real Property Services		
Date April 11, 2016 Gloria Fletcher Sr. Real Estate Officer	Tacoma Water - Real Estate Purchase & Sale Agreement No. 3108 Tacoma, WA	Project No. P2014-137



TACOMA WATER REAL PROPERTY SERVICES ILLUSTRATION	
This illustration is not to scale. It is provided as a customer convenience to assist in identifying significant characteristics of the installation. No liability is assumed by reason of reliance hereon.	<b>Exhibit A</b>

**Exhibit B**  
**COMMERCIAL REAL PROPERTY DISCLOSURE STATEMENT**  
**(ENVIRONMENTAL ONLY)**

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any \* items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT \_\_\_\_\_ ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS, OR WARRANTIES.

Seller  is/  is not occupying the property.

**I. SELLER'S DISCLOSURES:**

\*If you answer "Yes" to a question with an asterisk (\*), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

<b>ENVIRONMENTAL</b>	<b>YES</b>	<b>NO</b>	<b>DON'T KNOW</b>
*A. Has there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*B. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*C. Are there any shorelines, wetlands, floodplains, or critical areas on the property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*D. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*E. Is there any soil or groundwater contamination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*F. Has the property been used as a legal or illegal dumping site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
*G. Has the property been used as an illegal drug manufacturing site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE: \_\_\_\_\_ SELLER \_\_\_\_\_

DATE: \_\_\_\_\_ SELLER \_\_\_\_\_

NOTICE TO BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

**BUYER'S ACKNOWLEDGMENT**

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

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

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