

# CLARK COUNTY STAFF REPORT

**DEPARTMENT:** Public Works/Clark County Parks

**DATE:** July 19, 2016

**REQUESTED ACTION:** Approve and authorize the County Manager to accept a Statutory Warranty Deed from Arline and Frank Faruolo Revocable Living Trust for the purchase of a 4.87-acre parcel for a park in Parks District 8 for \$858,000. An additional amount of up to \$50,000 of Park Impact Fee (PIF) Acquisition Funds is also requested for level 1 cleanup for public use and safety. Total Amount requested is \$908,000. Tax parcel number 099290-000.

BOCC       COUNTY MANAGER       HEARING

## **PUBLIC WORKS GOALS:**

- Provide safe and efficient transportation systems in Clark County
- Create and maintain a vibrant system of parks, trails and green spaces
- Continue responsible stewardship of public funds
- Promote family-wage job creation and economic development to support a thriving community
- Maintain a healthy, desirable quality of life
- Increase partnerships and foster an engaged, informed community
- Cultivate a nimble, responsive work force
- Make Public Works a great place to work

## **BACKGROUND**

The 4.87 acre property located at approximately NE 17<sup>th</sup> Ave & NE 63<sup>rd</sup> Street has been deemed by staff to be a highly suitable location for a future Neighborhood Park within the West Minnehaha area of Clark County. The property is currently surrounded by homes with multiple neighborhood access points and road frontage along NE 17<sup>th</sup> Ave. Purchase of park property in this area has been identified as a priority for 2016 in the Parks, Recreation and Open Space Plan. This purchase will also eliminate looming concurrency concerns in the PIF 8 acquisition fund that will take effect in January 2017.

Staff's initial purchase offer was at the appraisal price of \$780,000. The seller provided a counter offer of \$858,000 which represents a 10% increase. The 10% falls within reasonable price range, so staff accepted the counter offer. Until future funding is secured for park development, this property will be cleaned up, fenced and signed for public use as a neighborhood green space.

## **COUNCIL POLICY IMPLICATIONS**

None. Parks District 8 has sufficient acquisition funds for the \$858,000.00 purchase price and the related acquisition costs.

## **ADMINISTRATIVE POLICY IMPLICATIONS**

None.

## **COMMUNITY OUTREACH**

The Clark County Parks, Recreation and Open Space (PROS) plan broadly identifies acquisition opportunities in this area of the county. An extensive public outreach effort was conducted as a part of developing the PROS plan. The Parks Advisory Board voted to support the purchase of the property to preserve it for park use.

**BUDGET IMPLICATIONS**

YES	NO	
X		Action falls within existing budget capacity.
	X	Action falls within existing budget capacity but requires a change of purpose within existing appropriation
	X	Additional budget capacity is necessary and will be requested at the next supplemental. If YES, please complete the budget impact statement. If YES, this action will be referred to the county council with a recommendation from the county manager.

**BUDGET DETAILS**

Local Fund Dollar Amount	\$908,000
Grant Fund Dollar Amount	\$0
Account	PIF District 8 Account
Company Name	Clark County Public Works –Parks Division

**DISTRIBUTION:**

Board staff will post all staff reports to The Grid. <http://www.clark.wa.gov/thegrid/>

Attachments:

- Deed, Fiscal Impact, Resolution, and Map

**PUBLIC WORKS APPROVALS:**

Bill Bjerke  
Clark County Parks Manager

  
Heath H. Henderson, P.E.  
Public Works Director/County Engineer

APPROVED:   
CLARK COUNTY, WASHINGTON  
BOARD OF COUNTY COUNCILORS

DATE: July 19, 2016

SR# SR 155-16



Recording requested by:  
Clark County Parks  
4700 NE 78th Street  
Vancouver, WA 98666

Document Title: Statutory Warranty Deed  
Grantor: Arline and Frank Faruolo Revocable Living Trust  
Grantee: Clark County, Washington  
Legal Description: Lot 19 Arcadia Acres  
Additional Legal Description is attached as Exhibit "A"  
Serial #: 099290-000  
Project: Parks District 8 Acquisition  
WO #: 20919

### **STATUTORY WARRANTY DEED**

THE GRANTORS, **FRANK E. FARUOLO**, Trustee of the **Arline and Frank Faruolo Revocable Living Trust** dated **July 5, 2005** for and in consideration of valuable consideration as set out in part below, conveys and warrants to **CLARK COUNTY, a political subdivision of the State of Washington**, the following described real estate situated in the County of Clark, State of Washington.

**SEE LEGAL DESCRIPTION ATTACHED HERETO, WHICH,  
BY THIS REFERENCE, IS INCORPORATED HEREIN**

The Grantor represents and warrants that they are not aware of any hazardous or toxic waste, substance or material on or under the subject property.

**NOTE:** It is understood and agreed that the delivery of this deed is hereby tendered and the terms and obligations hereof shall not become binding upon Clark County, Washington, until this document is accepted and approved by the Clark County Board of County Councilors.

**CONSIDERATIONS: Eight Hundred Fifty-eight Thousand and No/100 Dollars (\$858,000.00).**

Statutory Warranty Deed  
Serial #: 099290-000  
Project: Parks District 8 Acquisition  
WO #: 20919

Dated this 12 day of July, 2016.

Arline and Frank Faruolo Revocable  
Living Trust

Accepted on behalf of Clark County  
Clark County, Washington

By: Frank E. Faruolo, Trustee  
Frank E. Faruolo, Trustee

Mark McCauley  
Mark McCauley  
County Manager

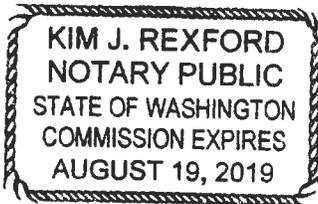
STATE OF WASHINGTON

COUNTY OF CLARK

I certify that I know or have satisfactory evidence that Frank E. Faruolo is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Trustee of the Arline and Frank Faruolo Revocable Living Trust, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument, and further states that as of the date herein said trust has not been revoked.

Dated: 7-12-16

[Signature]



Notary Public in and for the state of WA  
Residing at Kelso  
My commission expires: 8-19-19

**EXHIBIT "A"**

**BEGINNING AT A POINT THAT IS SOUTH 0°14' WEST 1018.82 FEET OF A POINT THAT IS 1306 FEET WEST OF THE CENTER OF SECTION 11, TOWNSHIP 2 NORTH, RANGE 1 EAST AND RUNNING THENCE EAST PARALLEL WITH THE NORTH LINE OF SOUTHWEST QUARTER OF SAID SECTION 635.92 FEET; THENCE SOUTH 0°14' WEST 332.94 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER 636.9 FEET TO THE WEST LINE OF THE EAST ONE HALF OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE NORTH 0°14' EAST ALONG SAID WEST LINE 332.94 FEET TO THE POINT OF BEGINNING.**

**ALSO BEING KNOWN AS LOT 19 OF THE UNRECORDED PLAT OF ARCADIA ACRES.**

## REAL ESTATE PURCHASE AND SALE AGREEMENT

On this 4 day of June, 2016 **Frank E. Faruolo, Trustee of the Arline and Frank Faruolo Revocable Living Trust dated July 5, 2005**, hereinafter referred to as "Seller", and the **Clark County, a political subdivision of the State of Washington**, hereinafter referred to as "Purchaser", hereby agree as follows:

Seller agrees to sell real property and Purchaser, subject to the contingencies set forth herein, agrees to buy real property located in Clark County, Washington, commonly known as Lot 19 Arcadia Acres (tax parcel number 099290-000), more fully described as Exhibit "A" attached hereto and made a part hereof.

1.) **Purchase Price:** The total purchase price shall be ~~Seven Hundred Eighty Thousand and No/100 Dollars (\$780,000.00)~~ <sup>\$358,000</sup>, which is based on an independent appraisal. The purchase price shall be payable in cash at closing.

2.) **Earnest Money:** Purchaser herewith delivers to Clark County Title Company (hereinafter "escrow agent" or Title Company") its check/warrant in the sum of Five Thousand and No/100 Dollars (\$5,000.00) as earnest money. Upon closing the earnest money shall be applied against the purchase price. It is understood and agreed that if the Purchaser's pre-closing due diligence reports disclose items that are not acceptable the earnest money will be refunded to the Purchaser. The parties instruct Closing Agent to: (1) provide written verification of receipt of the Earnest Money and notice of dishonor of any check to the parties and Licensees at the addresses and/or fax numbers provided herein; and (2) commence an interpleader action in the county in which the Property is located within 30 days of a party's demand for the Earnest Money unless the parties agree otherwise in writing. The parties authorize the party commencing an interpleader action to deduct up to \$250.00 for the costs thereof.

3.) **Title:** The property shall be conveyed by means of a Statutory Warranty Deed, free and clear from all liens, encumbrances and encroachments, subject only to exceptions numbers 3, 4 and 5 as shown on Schedule "B", Clark County Title Company Preliminary Title Report Number CL4246, dated May 27, 2016, attached hereto. Item Numbers 1, 2 and 6 are to be released prior to closing; Purchaser will assist Seller in obtaining the release of these items. The title insurance commitment shall evidence the Seller's ability to deliver title at closing as set forth in paragraph 5 below. A final title insurance policy will be provided at closing at the expense of the Purchaser.

4.) **Condition of Title:** Seller hereby agrees that from and after the date hereof until the closing of the sale of the property, it will take no action that will adversely affect title of the property. Seller shall disclose all liens, easements or other encumbrances on the real property within 20 days after the effective date of this Agreement. Seller shall, within 30 days of the effective date of this Agreement, provide Purchaser with copies of all environmental studies or analysis that have been done on the property.

5.) **Closing and Prorations:** Purchaser shall pay settlement fees, including real estate excise tax, escrow fees, recording fees, and title insurance. Real property taxes shall be prorated as of closing.

**6.) Closing of Sale:** The sale shall be closed in the office of Clark County Title Company on or before forty-five (45) days following execution of this Purchase and Sale Agreement. "Closing" means the date on which all documents are recorded and sale proceeds are available to the Seller. If closing does not occur on or before said date for any reason other than Seller's breach of this Agreement, then either party shall have the right to terminate this Agreement by written notice to the other party.

**7.) Possession:** Purchaser shall be entitled to possession of the property (and all existing keys to locks, alarms and any portable control devices for accessing property) at time of closing, unless otherwise agreed to herein.

**8.) Section 1031 Like-Kind Exchange:** If either Purchaser or Seller intends for this transaction to be a part of a Section 1031 like-kind exchange, then the other party agrees to cooperate in the completion of the like-kind exchange so long as the cooperating party incurs no additional liability in doing so, and so long as any expenses (including attorneys' fees and costs) incurred by the cooperating party that are related only to the exchange are paid or reimbursed to the cooperating party at or prior to Closing. Notwithstanding the Assignment paragraph of this Agreement, any party completing a Section 1031 like-kind exchange may assign this Agreement to its qualified intermediary or any entity set up for the purposes of completing a reverse exchange.

**9.) Access:** Purchaser and its architects, engineers, and other agents or designees shall have reasonable access to the property for the purpose of making any investigation, test or survey reasonably related to the purchase of the property.

**10.) Default:** In the event Purchaser fails, without legal excuse, to complete the purchase of the Property, the following provision shall apply.

The Earnest Money shall be forfeited to the Seller as the sole and exclusive remedy available to Seller for such failure.

**11.) Disclosures in Form 17 or 17C:** Purchaser will have a remedy for Seller's negligent errors, inaccuracies, or omissions in Form 17 or 17C. If Seller provides Purchaser with a disclosure statement pursuant to RCW 64.06 (Form 17 or 17C, whichever is applicable), Purchaser may bring an action in tort to recover economic losses resulting from intentional misrepresentations in Form 17 or 17C; and if the parties so agree, Purchaser may bring an action in tort to recover economic losses resulting from negligent errors, inaccuracies, or omissions in Form 17 or 17C. Nevertheless, Purchaser is advised to use due diligence to inspect the Property to Purchaser's satisfaction, as Seller may not know or have reason to know of defects that careful inspections might reveal. If the parties agree that Purchaser will not have a remedy for economic loss resulting from negligent errors, inaccuracies, or omissions in Form 17 or 17C, then Purchaser assumes the risk of economic loss that may result from Seller's negligent misrepresentation in Form 17 or 17C. Purchaser maintains the right to bring any and all claims permitted under the common law, including fraudulent concealment. Purchaser and Seller acknowledge that home protection plans may be available which may provide additional protection and benefit to Purchaser and Seller.

**12.) Contingencies:**

A. This property is being purchased by Clark County Parks department for a public recreation area, *for perpetuity. 5/11/14*

13.) **Conditions:** Prior to vacating the property, Seller will remove all personal belongings and trash from the site. It is the responsibility of the Seller to notify all utility companies that the property has been sold and to transfer service into Clark County's name upon vacating the property.

14.) **Hazardous Substances:** Seller represents and warrants that they are not aware of any hazardous or toxic waste, substance, or materials on or under the subject property. Seller agrees to indemnify and hold Purchaser harmless from any and all expenses incurred as a result of any hazardous or toxic wastes that existed as of or prior to closing in violation of Seller's representations herein.

15.) **County Council Approval:** It is mutually understood and agreed that this offer and acceptance and closing is specifically conditioned upon approval by the Clark County Board of Council.

16.) **Continuation and Survival of Representations and Warranties:** 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 three years thereafter. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein.

17.) **Seller's Obligations-Certification of Nonforeign Status:** Seller warrants that Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1954, as amended, and that such warranty will be true as of the closing date. Seller shall deliver to Purchaser at closing a Certificate of Nonforeign Status, in a form reasonably acceptable to Purchaser, setting forth Seller's address and United States taxpayer identification number and certifying that Seller is not a foreign person as so defined.

Agreed, Accepted And Acknowledged:

Purchaser:

Clark County, Washington

By:   
Heath H. Henderson, P.E.  
Director of Public Works

Seller:

Arline and Frank Faruolo Revocable  
Living Trust

By:   
Frank E. Faruolo, Trustee

Clark County, Washington

By:   
Mark McCauley, County Manager

**EXHIBIT "A"**

**BEGINNING AT A POINT THAT IS SOUTH 0°14' WEST 1018.82 FEET OF A POINT THAT IS 1306 FEET WEST OF THE CENTER OF SECTION 11, TOWNSHIP 2 NORTH, RANGE 1 EAST AND RUNNING THENCE EAST PARALLEL WITH THE NORTH LINE OF SOUTHWEST QUARTER OF SAID SECTION 635.92 FEET; THENCE SOUTH 0°14' WEST 332.94 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER 636.9 FEET TO THE WEST LINE OF THE EAST ONE HALF OF THE SOUTHWEST QUARTER OF SAID SECTION; THENCE NORTH 0°14' EAST ALONG SAID WEST LINE 332.94 FEET TO THE POINT OF BEGINNING.**

**ALSO BEING KNOWN AS LOT 19 OF THE UNRECORDED PLAT OF ARCADIA ACRES.**

WSDOT NARRATIVE APPRAISAL REPORT

Clark County Public Works
1300 Franklin Street
Vancouver, WA 98666-9810

Parcel No.: 099290-000
Owner: Arline & Frank Faruolo, Trustee
Federal Aid No.: N/A
Project: Clark County Parks Department Acquisition Project
R/W Plan Title: N/A
Plan Sheet: N/A
Plan Approval Date: N/A
Date of Last Map Revision: N/A

CERTIFICATE OF APPRAISER

We certify that, to the best of our knowledge and belief:

- the statements of fact contained in this appraisal are true and correct;
the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conclusions, and are our personal, unbiased professional analyses, opinions, and conclusions;
we have no present or prospective interest in the property that is the subject of this appraisal, and we have no personal interest or bias with respect to the parties involved;
our compensation is not contingent upon the reporting of a predetermined value or direction that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event;
our analyses, opinions, and conclusions were developed, and this appraisal has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice, the Uniform Appraisal Standards for Federal Land Acquisitions, and Washington State Department of Transportation standards;
I, Dean M. Meyer, MAI, have made a personal inspection of the property that is the subject of this report and I have made a personal inspection of the comparable sales contained in the report addenda. I, Mark M. Lawwill, MAI, have not made a personal inspection of the property that is the subject of this report, nor have I made a personal inspection of the comparable sales;
we have afforded the owner or a designated representative of the property that is the subject of this appraisal the opportunity to accompany us on the inspection of the property.
no one provided significant professional assistance to the persons signing this report;
we have disregarded any increase in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation. We have disregarded any decrease in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation, except physical deterioration within the reasonable control of the owner;
this appraisal has been made in conformity with the appropriate State and Federal laws and requirements, and complies with the contract between the agency and the appraiser;
The signing appraisers have not previously appraised or provided services for the subject property in the three years prior to the engagement for this assignment;

The property has been appraised for its fair market value as though owned in fee simple.

The opinion of value expressed below is the result of, and is subject to the data and conditions described in detail in this report of 32 pages.

I, Dean M. Meyer, MAI, have made a personal inspection of the property that is the subject of this report on May 11, 2016.

The Date of Value for the property that is the subject of this appraisal is May 11, 2016; the date of the most recent physical inspection.

Per the FAIR MARKET VALUE definition herein, the value conclusions for the property that is the subject of this appraisal are on a cash basis and are:

Table with 2 columns: Description and Value. Rows include FAIR MARKET VALUE BEFORE ACQUISITION (\$780,000), FAIR MARKET VALUE AFTER ACQUISITION (\$0), and DIFFERENCE (\$780,000).

Date of Assignment or Contract: April 13, 2016 Name: Mark M. Lawwill, MAI
Date Signed: May 19, 2016 Signature: [Signature]
Washington State-certified general real estate appraiser certification number: 27011 1100311

Date of Assignment or Contract: April 13, 2016 Name: Dean M. Meyer, MAI
Date Signed: May 19, 2016 Signature: [Signature]
Washington State-certified general real estate appraiser certification number: 27011 1100795

DO NOT WRITE BELOW THIS LINE

Headquarters Service Center Date Stamp
Appraiser: Mark M. Lawwill, MAI
RES-208
Rev 09-09

Region Date Stamp

Parcel: 099290-000







BERKSHIRE HATHAWAY | Northwest Real Estate  
HomeServices

June 16, 2016

Bill Bjerke  
Clark County Parks Manager  
4700 NE 78<sup>th</sup> Street  
Vancouver, WA 98665

RE: Real Estate Purchase and Sale Agreement – Faruolo- Lot 19 Arcadia Acres

Bill,

Mr. Faruolo, seller, wanted me to express his gratitude to you and the Clark County Parks Department for submitting this offer to him. He is especially pleased that the property will be a public recreation area. He thinks that this use will benefit and improve the property values and quality of life in the neighborhood he has called home for 65 years.

In review, the list price of the property is \$885,000 and the County's offer is \$780,000. Mr. Faruolo has countered back at \$858,000. He agrees to all other terms and conditions of the contract. He will see to it that if there is any trash on the property, it will be removed before closing, so that the County will not need to deal with any further expense for cleanup other than clearing vegetation.

Thank you again for the offer. We look forward to hearing from you.

Please contact me by phone if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Michele Nigro'.

Michele Nigro  
Real Estate Broker  
Berkshire Hathaway  
360-737-2969  
[mnigro@bhhsnw.com](mailto:mnigro@bhhsnw.com)

enc: Purchase Offer Counteroffer