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SEATTLE ETHICS AND ELECTIONS COMMISSION

In Re: )  
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APPEAL AND OBJECTION TO SEATTLE ) **SEATTLE CITY ATTORNEY'S**  
CITY ATTORNEY'S EXPLANATORY ) **RESPONSE TO EXPLANATORY**  
STATEMENT FOR METROPOLITAN PARK ) **STATEMENT APPEAL AND**  
DISTRICT MEASURE ) **OBJECTION**  
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**I. INTRODUCTION**

The Seattle Displacement Coalition and the Seattle Community Council Federation (collectively, "Appellants"), pursuant to Seattle Municipal Code 2.14.030(B), have filed an objection to the explanatory statement prepared by the Seattle City Attorney describing City of Seattle Proposition Number 1 ("Proposition 1"). As part of their objection, Appellants have proposed a number of changes to the explanatory statement.

The City Attorney agrees with one of Appellants' proposed changes, but disagrees with the others. The City Attorney respectfully requests that the Commission approve the explanatory statement as originally prepared, with the exception of the agreed-to change discussed below.

**II. BACKGROUND**

On April 28, 2014, the Seattle City Council passed Ordinances Nos. 124467 and 124468. Both ordinances were signed by Mayor Murray on May 7, 2014.

1 Ordinance No. 124467 (Exhibit A hereto) requested that a special election be held on  
2 August 5, 2014 to put to Seattle's voters the question of whether the Seattle Park District should  
3 be created as a metropolitan park district, an entity authorized under RCW Ch. 35.61. Sixteen  
4 local jurisdictions in the State of Washington have already created metropolitan park districts  
5 pursuant to this statutory authority.<sup>1</sup> The Seattle Park District would have the same boundaries  
6 as the City of Seattle, and would be governed by a board composed of the nine Seattle City  
7 Councilmembers.

8 Ordinance No. 124468 approved the form of an interlocal agreement ("ILA") between  
9 the City and the Park District, and authorized the Mayor to sign it on behalf of the City. The  
10 ordinance and the ILA are attached hereto as Exhibit B. (The Mayor has already signed the ILA.  
11 But the ILA cannot yet be executed by the Park District, which would not exist unless its  
12 creation is approved by the voters.) The ILA provides, among other terms, that the Park District  
13 would be staffed entirely by City employees; that all Park property, facilities and equipment  
14 would remain the property of the City; that the Park District would levy property taxes that could  
15 be used only for Park purposes, including the maintenance, operation and improvement of parks  
16 and other recreation facilities; and that the Park District would not exercise condemnation  
17 powers within the City of Seattle.<sup>2</sup>

18 On May 13, 2014, the City Attorney submitted the explanatory statement for Proposition  
19 1 (Exhibit C hereto). The explanatory statement, as currently written, states:

20 Seattle Proposition 1, if approved, creates the Seattle Park District, a  
21 metropolitan park district with the same boundaries as the City of Seattle. The  
22 Seattle Park District would be a distinct municipal corporation with all the powers

23 <sup>1</sup> See list at <http://www.mrsc.org/subjects/parks/SPD-MPDLlist.aspx>.

<sup>2</sup> Any condemnation of property that is required for Seattle Park District purposes would be exercised by the City instead.

1 granted by state law in RCW chapter 35.61. The governing body of the District  
2 would be the councilmembers on the Seattle City Council. The District's  
3 governing body may choose to dissolve the District if requested by either the City  
4 or by petition with 10% of Seattle voters. Among the District's powers is the  
5 ability to levy a property tax, up to \$0.75 per thousand dollars of assessed value,  
6 to raise revenues to provide ongoing funding to maintain, operate and improve  
7 parks, community centers, pools, and other recreation facilities and programs. As  
8 a separate taxing district from the City of Seattle, the Seattle Park District levy  
9 would not be included when determining the limits on the City's ability to levy  
10 property taxes.

11 When the City placed this measure on the ballot, the Mayor and the  
12 Council also approved an ordinance that authorized the Mayor to sign an  
13 interlocal agreement with the District should its creation be approved by the  
14 voters. This agreement provides that the City would maintain its current general  
15 fund support of the Seattle Park system and that the District would pay the City to  
16 increase support to the Park System. The District would pay for this increased  
17 support by imposing a property tax of approximately \$47.9 million per year for  
18 the first six years of the District. That would be \$0.33 per thousand dollars of  
19 assessed value or \$133 per year for an average home with a value of \$400,000.  
20 The money would be used to pay the City to improve and maintain City parks,  
21 address a maintenance backlog of projects, increase programs for seniors,  
22 improve park safety, and support other Parks programs. The City will retain  
23 ownership of all parks property and the District will not hire its own staff.

The companion ordinance, proposed interlocal agreement and spending  
plan is available at: <http://go.usa.gov/8YQA><sup>3</sup>

Appellants timely filed their appeal on May 19, 2014.

### III. SUMMARY OF CITY ATTORNEY'S RESPONSE

The central area of disagreement between Appellants and the City Attorney is the  
significance of the ILA, which is the subject of the second paragraph of the explanatory  
statement. Appellants characterize the ILA as a "draft"; that "has not been agreed to"; that "has  
not even yet been signed"; that is "largely irrelevant to this ballot measure"; that cannot even be  
negotiated until the Park District has been created; and that "is not even on the ballot." *See*

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<sup>3</sup> The link to the ordinance and ILA that was included in the original explanatory statement (<http://go.usa.gov/8avh>),  
which is cited in Appellants' objection, was incorrect. The link in the corrected explanatory statement is the one  
quoted here.

1 Appeal and Objection at pp. 2, 5, 7. Appellants instead want the explanatory statement to focus  
2 on powers that are generally granted to a metropolitan park district under RCW 35.61, even  
3 though there is no plan for the Seattle Park District to actually implement many of those powers.

4 The City Attorney, in contrast, believes that for the voters to understand “the effect of the  
5 measure” (SMC 2.14.030(A)), they should understand what would actually happen if the  
6 creation of the Seattle Park District is approved. And the ILA is the document that sets forth the  
7 structure, powers, and limitations of the contemplated Seattle Park District. It is not correct that  
8 the ILA “has not been agreed to.” The same City Councilmembers who would serve as the  
9 governing board of the Park District have enacted legislation that specifically approves the terms  
10 of the ILA. The Council also authorized the Mayor to sign the ILA, and he has already done so.  
11 If the creation of the Park District is approved, the ILA would then be executed by the  
12 Councilmember serving as Chair of the Park District board. Appellants are simply incorrect to  
13 refer to the ILA as a meaningless “draft” that cannot even be negotiated until and unless the  
14 creation of the Park District has been approved.<sup>4</sup>

15 Instead of discussing the terms of the Council-approved (and Mayor-signed) ILA, which  
16 will govern the operation of the Park District should it be created, Appellants want the  
17 explanatory statement to talk about what they allege to be the most significant and “sweeping”  
18 powers granted to metropolitan park districts in general. RCW Ch. 35.61, the state law that  
19 authorizes the creation of metropolitan park districts, consists of 38 separate statutory provisions  
20 (RCW 35.61.001-.380), and reasonable people can differ as to which provisions are most worthy

21  
22 <sup>4</sup> Any change to the ILA – the mechanism chosen by the Council and Mayor to demonstrate to voters what the  
23 intended limits of the Seattle Park District be – would require a majority vote of the City Council and concurrence of  
the Mayor. Any such changes to the functioning of the Park District would be vetted by the public through the  
legislative process.

1 of mention in an explanatory statement with limited words.<sup>5</sup> The powers that metropolitan park  
2 districts are granted by the state cannot possibly all be summarized – or even referenced – in 250  
3 words. The City Attorney chose to address this by stating – correctly – that the Park District  
4 “would be a distinct municipal corporation with all the powers granted by state law in RCW  
5 chapter 35.61.” But having said that, the City Attorney believed that it was also appropriate to  
6 discuss what is actually planned for the Seattle Park District, and what the impact of those plans  
7 would be for voters. Appellants instead want to focus on statutory powers that, while possibly  
8 “sweeping” in nature, are ones that the Seattle Park District does not plan to exercise (and in  
9 some instances are even prohibited by the ILA).<sup>6</sup> The specifics of the proposed changes are  
10 discussed below.

#### 11 IV. RESPONSES TO SPECIFIC OBJECTIONS

12 1. Appellants propose changing this sentence in the current explanatory statement:

13 *As a separate taxing district from the City of Seattle, the Seattle Park District levy*  
14 *would not be included when determining the limits on the City’s ability to levy*  
15 *property taxes.*

16 to this:

17 *As a separate taxing authority from the City, the District could levy an additional*  
18 *property tax above current “lid” restrictions that state law imposes on Seattle.*

19 The City Attorney agrees with this proposed change, which is reflected in the modified  
20 explanatory statement set forth below.

21 <sup>5</sup> For example, Appellants want the explanatory statement to say that the Seattle Park District would have the power  
22 to raise revenues to build airports. While that may be a power granted by the statute, there is no plan whatsoever for  
23 it do anything of the sort. Voters should not be given the impression that the building of an airport is something that  
is contemplated or likely if the measure is approved. It is also the case that the Park District would be granted the  
power to commission its own police officers (RCW 35.61.370) and to issue revenue bonds (RCW 35.61.115). The  
City Attorney did not include mention of these in the explanatory statement because neither is actually planned.

<sup>6</sup> The considerable range of powers generally granted in RCW 35.61 permits local jurisdictions to fashion a park  
district that meets their specific needs. (For example, metropolitan park districts have been created for the sole  
purpose of constructing and maintaining a swimming pool.) The ILA is the document that sets out the specific focus  
and limitations of the Seattle Park District.

1 Appellants also propose changing this language:

2 *Among the District's powers is the ability to levy a property tax, up to \$0.75 per*  
3 *thousand dollars of assessed value . . .*

4 to this:

5 *Among the District's powers is the ability to levy an annual property tax, up to*  
6 *\$0.75 per thousand dollars of assessed value (or \$375 on a \$500,000 home);*

7 This proposed change does not accurately the effect that approval of Proposition 1 would  
8 actually have on Seattle voters. First, Appellants are incorrect in asserting that the average  
9 assessed value of a Seattle home is "approaching \$500,000." According to the King County  
10 Assessor, the 2013 median assessed value of a residence in Seattle was \$348,000. (Exhibit D  
11 hereto.)<sup>7</sup> For 2014, the median assessed value is \$382,000. *Id.* In 2016, when the Seattle Park  
12 District's property tax would be first be levied, the estimate of the City Budget Office is that this  
13 figure will be \$440,000. The City Attorney believed that using a round figure to illustrate the  
14 dollar effect of the proposed tax would help voters more easily arrive at a rough calculation of  
15 the amount they would have to pay. Since \$400,000 is the closest round figure to the anticipated  
16 median assessed value of a Seattle residence, that is the figure that was used.

17 Second, Appellants want to discuss the financial impact under the maximum taxing  
18 authority granted to metropolitan park districts, i.e., 75 cents per \$1,000 of assessed property  
19 value. The City Attorney chose instead to discuss the financial impact of the tax rate that the  
20 Park District actually intends to levy, i.e., 33 cents per \$1,000 of assessed value for at least the  
21 first six years of the Park District's existence – less than half the maximum authorized rate.

22  
23 <sup>7</sup> This document was obtained from the web site of the King County Assessor  
(<http://www.kingcounty.gov/Assessor/Reports/AnnualReports/2014.aspx>).

1           2.       Appellants propose deleting the following sentence:

2                   *The District's governing body may choose to dissolve the District if requested by*  
3                   *either the City or by petition with 10% of Seattle voters.*

4 Appellants do not dispute that this sentence accurately summarizes RCW 35.61.310, but view  
5 this as "pointless" and "wasteful of precious words." The City Attorney disagrees, and believed  
6 it was important to inform the voters that they are empowered by state law to petition for  
7 dissolution of the Park District. Because the Park District commissioners are directly answerable  
8 to Seattle's voters at the ballot (in their capacity as Councilmembers), that is not a meaningless  
9 right. As noted, deciding which provisions of the statute are worthy of mention in an  
10 explanatory statement is a judgment call about which reasonable people can disagree. What  
11 strikes Appellants as "pointless" was something the City Attorney believed was important to  
12 include, and the City Attorney urges the Commission to retain this language.

13           3.       Appellants propose adding the following language:

14                   *Once approved, the District's powers and taxing authority are not subject to City*  
15                   *laws, its Charter, nor can Seattle voters reverse any board action via a local*  
16                   *initiative or referendum. The District may be dissolved only by its board, the*  
17                   *state legislature, or statewide initiative.*

18 The City Attorney objects to this change for two reasons. First, Appellants raise the specter of  
19 an entity untethered by Seattle's laws or voters. Metropolitan park districts are indeed a creature  
20 of state law, but in this case the governing board would be the nine Seattle City  
21 Councilmembers, all of whom are bound by Seattle laws, regulations and code of ethics, as are  
22 the City employees who will staff the Park District. And, as noted, the nine Councilmembers  
23 who will be the Park District commissioners are directly answerable to Seattle's voters. The City  
Attorney believes that the sentence in the existing explanatory statement regarding dissolution of  
a metropolitan park district is more accurate, and tracks the statute. Second, the "sky is falling"

1 tone of this proposed addition is not consistent with the “clear and concise” requirement of SMC  
2 2.14.030. Metropolitan park districts have long been authorized under Washington law,  
3 numerous other jurisdictions have chosen to create them, and voters should be given the  
4 opportunity to make a reasoned decision about the measure without being incorrectly led to  
5 believe that they would effectively be signing away all City control of parks in perpetuity.

6 4. Appellants propose deleting the following language:

7 *[Among the District’s powers is the ability] to raise revenues to provide ongoing*  
8 *funding to maintain, operate and improve parks, community centers, pools, and*  
9 *other recreation facilities and programs.*

10 and replacing it with:

11 *[Among the District’s powers is the ability] to buy, sell, or condemn land; to raise*  
12 *revenues for roads, airports, performing venues, and other park or non-park uses;*  
13 *and to engage in any business activity inside or outside Seattle as it shall judge*  
14 *desirable or beneficial for the public, or for the production of revenue for*  
15 *expenditure incidental to its park duties.*

16 The City Attorney opposes this change, and believes that the statement as written accurately  
17 summarizes the powers of a metropolitan park district as set forth in RCW 35.61.010. While it is  
18 true that community centers and pools are not specifically mentioned in the statute, they are  
19 without question “recreational facilities” within its meaning. Appellants’ proposed change, once  
20 again, focuses on powers that – while generally granted under RCW 35.61 – are not ones that  
21 would be exercised by the Seattle Park District. The powers that the Park District would actually  
22 exercise are expressed in the ILA, and they do not include building airports or condemning land.  
23 As noted, under the ordinances and the ILA, all Seattle Parks and Recreation properties, facilities  
and equipment would remain the property of the City.<sup>8</sup> Additionally, the ILA provides (in  
section D.5) that “[t]he Seattle Park District shall not exercise condemnation powers within the

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<sup>8</sup> Moreover, all Seattle Park property is subject to Initiative 42, and cannot be sold, transferred or changed from park use without a full value exchange for other park land.



1 City of Seattle.” The City Attorney believes that the existing language more accurately informs  
2 Seattle voters about what the Park District’s actual powers will be.<sup>9</sup>

3 5. Finally, Appellants propose substantially reducing the discussion of the ILA. For  
4 the reasons discussed above, the City Attorney believes that the terms of the ILA are important  
5 to inform the voters as to the “effect of the measure.” A link to the ordinance and ILA is  
6 included in the explanatory statement for this reason. Appellants claim that the City Attorney  
7 “has left out the most important piece of information” – that the ILA has not yet been signed.  
8 Appeal and Objection at p. 5. The City Attorney believes that including the words “should its  
9 creation be approved by the voters” in the discussion of the ILA communicates that it has not yet  
10 been fully executed. The Park District cannot, of course, sign the ILA unless its creation is  
11 approved by the voters. But to treat it as nothing more than a theoretical document, when the  
12 Council (also the future Park District board) has approved its terms and the Mayor has signed it,  
13 does not present an accurate picture to the voters.

#### 14 V. CONCLUSION

15 The City Attorney requests that the Commission approve the following explanatory  
16 statement for Proposition 1, which includes the change proposed by Appellants with which the  
17 City Attorney agrees:

18 Seattle Proposition 1, if approved, creates the Seattle Park District, a  
19 metropolitan park district with the same boundaries as the City of Seattle. The  
20 Seattle Park District would be a distinct municipal corporation with all the powers  
21 granted by state law in RCW chapter 35.61. The governing body of the District  
22 would be the councilmembers on the Seattle City Council. The District’s  
23 governing body may choose to dissolve the District if requested by either the City  
or by petition with 10% of Seattle voters. Among the District’s powers is the

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<sup>9</sup> Since the power to condemn property for use as a park already rests with the City, and since the creation of the Park District would not change that, the measure would have no effect in this respect. The City Attorney chose not to include discussion of condemnation powers that are generally granted to metropolitan park districts, but that the Seattle Park District will not have.

1 ability to levy a property tax, up to \$0.75 per thousand dollars of assessed value,  
2 to raise revenues to provide ongoing funding to maintain, operate and improve  
3 parks, community centers, pools, and other recreation facilities and programs. As  
a separate taxing authority from the City, the District could levy an additional  
property tax above current "lid" restrictions that state law imposes on Seattle.

4 When the City placed this measure on the ballot, the Mayor and the  
5 Council also approved an ordinance that authorized the Mayor to sign an  
6 interlocal agreement with the District should its creation be approved by the  
7 voters. This agreement provides that the City would maintain its current general  
8 fund support of the Seattle Park system and that the District would pay the City to  
9 increase support to the Park System. The District would pay for this increased  
10 support by imposing a property tax of approximately \$47.9 million per year for  
the first six years of the District. That would be \$0.33 per thousand dollars of  
assessed value or \$133 per year for an average home with a value of \$400,000.  
The money would be used to pay the City to improve and maintain City parks,  
address a maintenance backlog of projects, increase programs for seniors,  
improve park safety, and support other Parks programs. The City will retain  
ownership of all parks property and the District will not hire its own staff.


11 The companion ordinance, proposed interlocal agreement and spending plan is  
12 available at: <http://go.usa.gov/8YQA>

13 This modified explanatory statement describes Proposition 1 in clear and concise language, and  
14 accurately describes the effect of the measure if approved. As such, it meets the standard of  
SMC 2.14.030(A), and should be approved.

15 DATED this 28<sup>th</sup> day of May, 2014.

16 PETER S. HOLMES  
17 Seattle City Attorney

18 By:

  
19 \_\_\_\_\_  
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