

V1
Instrument Number: 20180611001256 Document:AG Rec: \$108.00 Page-1
Record Date:6/11/2018 4:36 PM
King County, WA

WHEN RECORDED RETURN TO:
Board of Regents of the University of Washington
UW Tower T12
Campus Box 359446
Seattle, WA 98195-0001



20180611001256

AGREEMENT Rec: \$108.00
6/11/2018 4:36 PM
KING COUNTY, WA

DOCUMENT TITLE(S)

Property Use and Development Agreement

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

N/A

GRANTOR(S):

University of Washington

This document filed for record by
Fidelity National Title Major Accounts as
an accommodation only. It has not been
examined as to its effect upon the title.

GRANTEE(S):

City of Seattle

PLS 5342
(10) / 83

ABBREVIATED LEGAL DESCRIPTION:

Brooklyn Add Blk 23 N1/2 of Lot 14 all 15-16 & 17 less St; Lots 9 thru 13 Tgw S 1/2 of 14; Blk 22 Lots 1 thru 4 Tgw Lots 21 thru 24 (Additional legal description can be found in Exhibit A)

TAX PARCEL NUMBER(S): 1142002345, 1142002325, 1142002135

To King County:

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

When recorded, return to:
Board of Regents of the University of Washington
UW Tower T12
Campus Box 359446
Seattle, WA 98195-0001

Grantor: UNIVERSITY OF WASHINGTON
Grantee: CITY OF SEATTLE
Abbreviated Legal Description: Brooklyn Add Blk 23 N 1/2 Of Lot 14 all 15-16 & 17 less st; Lots 9 thru 13 Tgw S 1/2 of 14; Blk 22 Lots 1 thru 4 Tgw Lots 21 thru 24 (Additional legal description can be found in Exhibit A)
Assessor's Property Tax Parcel(s): 1142002345, 1142002325, 1142002135
Reference Number of Related Document: N/A

PROPERTY USE AND DEVELOPMENT AGREEMENT

THIS Property Use and Development Agreement ("PUDA") is executed this date in favor of the City of Seattle, a municipal corporation ("City"), by the University of Washington, an Washington State institution of higher education (the "University").

WITNESSETH:

WHEREAS, the University is vested in fee simple title in the real property situated in King County, Washington, described on Exhibit A (the "Property"), which is part of the University's campus; and

WHEREAS, the University filed two vacation petitions: C.F. 310162 for the vacation of the alley located between Northeast 41st Street, Brooklyn Avenue Northeast, Northeast Campus Parkway, and 12th Avenue Northeast in Block 22 of the Brooklyn Addition to the City of Seattle, together with portions of Lots 4 and 21 in Block 22; and C.F. 310163 for the vacation of the alley located between Northeast Campus Parkway, University Way Northeast, Northeast 40th Avenue, and Brooklyn Avenue Northeast, in Block 23, Brooklyn Addition to the City of Seattle; all for the development of student housing, which petitions were considered under Chapter 35.79 of the Revised Code of Washington and Chapter 15.62 of the Seattle Municipal Code; and

WHEREAS, on April 13, 2010, the Transportation Committee of the Seattle City Council held a public hearing on the vacation petitions; and

WHEREAS, on April 19, 2010, the City Council granted preliminary approval of the vacation petitions, subject to conditions; and

WHEREAS, The State Environmental Policy Act (SEPA) process was completed, the Master Use Permit was issued and building permits were issued for both sites; and

WHEREAS, the projects in Blocks 22 and 23 are now completed in conformity with the project plan presented to the City Council and reviewed by the Transportation Committee in April 2010:

- All street improvements were designed, reviewed, approved, and constructed to City standards, with sidewalks significantly improved, new trees added, landscape design and planting in both the rights-of-way and on the sites improved, and the two medians of NE Campus Parkway receiving “face lifts” with the thinning of some existing trees, the addition of new ones, and new soil and turf were added along with an irrigation system;
- The right-of-way improvements around Block 22 and Block 23 are complete and the eight-foot sidewalk width was met or exceeded at all but two sidewalk locations. (The sidewalk on the north side of Elm Hall (41st Street) was reduced to seven feet because of existing site conditions and having to relocate the curb. The sidewalk on the south side of Alder Hall (40th Street) measures six feet as existing conditions did not allow enough space to increase this sidewalk to eight feet.) The sidewalks on NE Campus Parkway on both blocks have a twelve-foot sidewalk with an additional six-foot apron at the curb. These sidewalk widths do not include the additional space in the right-of-way for the planting pits that hold the trees and shrubs. (Some modifications were made to the planting pits because of curb locations and the locations of existing light poles and curb ramps, but in general, the tree pit areas are as outlined to the Transportation Committee in 2010.) The bus shelters, benches, lean rails, and bike racks all meet or exceed the proposed numbers for the two blocks, and include:
 - Three new bus shelters on Campus Parkway;
 - Seventeen benches on or adjacent to the right-of-way (with eight of them supporting bus stops);
 - Twenty-seven lean rails on or adjacent to the right-of-way (with twenty-three of them supporting bus stops);
 - Seven sidewalk canopies (with four of them providing cover near the bus stops);
 - Forty-two bike racks on or adjacent to the right-of-way; and
 - Forty-three new trees located in the sidewalk planting pits.

- Sidewalk construction is complete on both blocks. In addition to the sidewalk improvements for the alley vacations, the University improved the sidewalk on the eastern half of the block that Poplar Hall was built—the north side of NE Campus Parkway, across from Block 23 (Alder Hall). This improvement matches the sidewalk that was constructed on the rest of the block facing NE Campus Parkway and the sidewalks constructed on blocks 22 and 23 facing NE Campus Parkway. The sidewalk on the north side of 41st Street across from Block 22 (Elm Hall) was also improved with a new sidewalk, new planting pits, new trees and shrubs, and new bike racks.
- Signs have been provided to clearly indicate spaces that are available for use by the general public such as retail facilities and outside public areas.; and

WHEREAS, during construction, reports concerning the conditions for the alley vacations were submitted to the Seattle Department of Transportation and Certificates of Occupancy have been obtained; and

WHEREAS, there were no significant issues with the following utilities: Seattle Public Utilities (SPU), Seattle Department of Transportation (SDOT), Seattle City Light (SCL), and Quest/CenturyLink Communications. Requirements for SPU were all satisfied during the construction phase of the projects on blocks 22 and 23, as were all requirements for SDOT, SCL, and Quest/CenturyLink. Electrical service for these blocks is now supplied by the University system, and the telecommunication service is also provided by the University; and

WHEREAS, on June 24, 2014 the Seattle Design Commission awarded the University a Design Excellence Award for the UW West Campus Alley Vacation commending the University and its development partners on their vision and execution; and

WHEREAS, executing a PUDA is desired to ensure compliance with on-going conditions of the vacation approval after passage of the vacation ordinance;

NOW, THEREFORE, the University covenants, bargains, and agrees on behalf of itself, its successors, and assigns as follows:

Section 1: About conditions of the vacation approval that require on-going responsibility of the University and could not, therefore, be fully met prior to passage of the vacation ordinance, the University agrees to the following:

- A. The University shall maintain the following features that it installed as approved public benefits relating to the vacations (the “Public Amenities”):

- i. Elm Plaza, a public open space of approximately 11,680 square feet located on the quarter block at Northeast Campus Parkway and Brooklyn Avenue Northeast. Elm Plaza shall be maintained as a public open space and the University shall retain the heritage elm tree, to the extent the University reasonably deems feasible consistent with public safety and the health of the tree. The plaza shall be maintained for passive recreation, including the terrace along the north, and the installed secluded seating area, benches, lean rail, and paths.
 - ii. Northeast Campus Parkway enhancements between 12th Avenue Northeast and University Way Northeast, including the two medians areas of approximately 23,000 square feet with amended soil and the additional 10 trees planted in the median.
 - iii. Pedestrian passageways provided to allow pedestrian access through each block. Except for closures as provided in Section 2 of this PUDA, the passageway through Block 22 shall remain open and accessible at all times while access to Block 23 may be limited during nighttime hours.
 - iv. Street furniture, including 17 benches, 27 lean rails, 44 bike racks and 3 transit shelters.
 - v. Wayfinding signage that clearly indicates spaces that are available for use by the general public.
- B. The University shall provide for the maintenance and replacement for the approved public benefits installed as listed in the Council Conditions of Approval. Maintenance and replacements shall be at least the quantities listed below with exceptions as noted:

Public Benefit Summary	Block 22	Block 23
Voluntary setbacks	789 sf	1,602 sf
Widened sidewalks	8 ft. minimum, as constructed*	
Additional tree pits/planting	2,451 sf	1,413 sf
Pervious paving over structural soil	2,019 sf	2,018 sf
Larger street tree caliper	2 - 3 times City requirements	
Greater tree pit volume	As constructed	
Canopies with lighting	1,784 sf	2,265 sf
Custom bus shelters	1	2
Benches	12	6
Lean rails	12	12
Bicycle racks – (2 bikes each)	25	13
Midblock pass through	As constructed	As constructed

Public courtyard	As constructed	As constructed
Elm Plaza	11,680 sf	
Campus Parkway medians	23,000 sf	
*Due to existing conditions before the vacation, two locations shall be maintained with narrower widths: NE 40 th Street sidewalk at 6 ft.; NE 41 st Street at 7 ft.		

C. The replacement of any of the Public Amenities shall be of similar quality in design and materials as the original. Significant changes to the streetscape or Public Amenities provided shall require prior approval by the Seattle Department of Transportation.

Section 2: The University shall have the right to temporarily close, obstruct, or limit access to the Public Amenities for: (1) construction; (2) maintenance and repair; (3) temporary use for private functions directly related to student housing or the University; (4) the maintenance of or security for the student housing or persons using the student housing; or (5) addressing other circumstances beyond the University control.

Section 3: The University may adopt reasonable rules and regulations regarding the use and access to the Public Amenities, and the student housing. The rules and regulations shall be consistent with this Agreement. A summary of the current rules and regulations may be posted in several visible locations.

Section 4: This PUDA may be amended or modified by agreement between the University and the City; provided the amended agreement shall be subject to approval by the City Council by ordinance. Nothing in this PUDA shall be construed as a surrender of the City's governmental powers.

Section 5: The University reserves the right to use the Public Amenities for any purpose which does not interfere with the public's use as provided for in this PUDA, including but not limited to the right to use the areas as described in this PUDA for University purposes, and the right to grant easements, provided the easements are consistent with the public's use of the areas.

Section 6: Notwithstanding the covenants contained in this PUDA, nothing in this PUDA shall constitute a public dedication of any portion of the Property.

Section 7: The legal description of the where the Property is located is included in Exhibit A, which is incorporated by reference. An executed copy of this PUDA shall be recorded in the records of King County and the PUDA covenants shall to attach to and run with the Property.

Section 8: This PUDA is made for the benefit of the City and the public. The City may institute and prosecute any proceeding at law or in equity to enforce this PUDA.

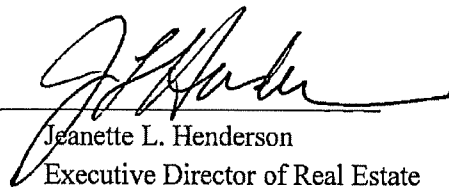
Section 9. The University agrees to indemnify and hold the City harmless from any claims, losses, or liabilities for damage to persons or property arising from the any use of the Public Benefits to the extent caused by the University's negligence.

Section 10: If any covenant, condition, or restriction in this PUDA or any portion is invalidated or voided, the invalidity or voidness shall in no way affect any other covenant, condition or restriction.

Dated this 5th day of June, 2018

UNIVERSITY OF WASHINGTON

By:


Jeanette L. Henderson
Executive Director of Real Estate

ACKNOWLEDGMENT

STATE OF WASHINGTON)

COUNTY OF KING)

On this 5 day of June, 2018, before me personally appeared **Jeanette L. Henderson**, to me known as the **Executive Director of Real Estate of the University of Washington**, who on oath stated that she was authorized to execute this instrument and acknowledged it to be the free and voluntary act and deed of said University of Washington as approved by the **BOARD OF REGENTS OF THE UNIVERSITY OF WASHINGTON**, a state institution of higher education and an agency of the state of Washington, for the uses and purposes mentioned in the instrument.

Signature: [Handwritten Signature]
Print Name: Janelle Ortega-Lieb
Notary Public in and for the State of Washington
Residing at Seattle
My Commission expires on: 12/19/20

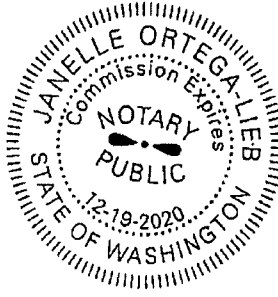


EXHIBIT A
LEGAL DESCRIPTION

Portion of Blocks 20 through 29; all of Blocks 32 through 34; portions of Blocks 35, 36 and 37 lying west of 15th Ave. NE as realigned; all of Block 38; Lots 1 through 12, Block 13; Lots 9 through 17, Block 16; those portions of Lots 11 and 12, Block 17, lying west of Eastlake Avenue NE; all in the Brooklyn addition to the City of Seattle; Block D, Brooklyn Supplemental Addition to the City of Seattle; portions of Blocks 20, 20A, 21, 21A, 22 and 22A, Lake Union Shorelands and the Second Supplement thereto lying West of Lot 17 Block 20 Lake Union Shorelands; Lots 1 through 10, Block 12, Lake View Addition to the City of Seattle, as per plat recorded in Volume 5 of Plats, page 34, records of King County, EXCEPT those portions of Lots 1, 2, 9 and 10 condemned by the City of Seattle for street purposes under Ord. #14073, AND EXCEPT portions of Lots 8 and 9 condemned by the City of Seattle for street purposes under Ord. #37483; and Lots 1 through 5, Block 10, Latona 1st Addition, according to plat recorded in Volume 5 of Plats, page 16; Lots 1 through 11, Block 11, and Lots 7 and 8, Block 14, Lake View Addition, according to Plat recorded in Volume 5 of Plats, page 34; Lots 4 and 5, Block 25, Lake Union Shorelands, SUBJECT TO Agreement recorded under Auditor's File No. 718342, Right of the City of Seattle under Judgment on Verdicts in King County Superior Court Cause No. 125369, as provided for in Ord. #37483; all including any vacated rights of way. All in Section 17, T25N, R4E, W.M.; Excepting all Rights of Way, and excepting the following privately owned properties:

(College Inn- 4000 University Was NE) Lot 13, Block 24, Brooklyn Addition;
(LDS- 3925- 15th Ave NE) Lots 10 – 13, Block 25, Brooklyn Addition;
(Jensen Property- 1101 NE Boat St) Lots 15 thru 20, Block 37, Brooklyn Addition, Lots 17 thru 22, Block 20 and Lot 4, Block 20-A Lake Union Shorelands.

EXHIBIT B
LOCATION OF ALLEY VACATIONS

