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CITY OF SEATTLE

2016 SEP 15 PM 3:25

CITY CLERK

<i>When Recorded, Return to:</i>	
<b>THE CITY CLERK</b> 600 Fourth Avenue, Floor 3 PO Box 94728 Seattle, Washington 98124-4728	

PROPERTY USE AND DEVELOPMENT AGREEMENT

<b>Grantor(s):</b>	(1)	Brooklyn 50 LLC		
<b>Grantee:</b>	(1)	The City of Seattle		
<b>Legal Description</b> <i>(abbreviated if necessary):</i>	see <i>Recital A</i> , below			
<b>Assessor's Tax Parcel ID #:</b>	8817400180			
<b>Reference Nos. of Documents Released or Assigned:</b>	n/a			

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 13 day of September, 2016, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Brooklyn 50 LLC, a Washington limited company (the "Owner").

RECITALS

A. Brooklyn 50 LLC is the owner of that certain real property (the "Property") in the City of Seattle currently zoned Lowrise 3 (LR3), shown in Attachment A and legally described as:

The South 10 feet of Lot(s) 9 and all of Lot 10, block 11, ASSESSOR'S PLAT OF UNIVERSITY HEIGHTS, according to the plat thereof recorded on Volume 16 of Plats, page(s) 70, records of King County, Washington.

SITUATE in the County of King, State of Washington.

B. In August 2015, the Owner submitted to the City an application under Project No. 3019997 for a rezone of the Property from Lowrise 3 Multi-family Residential (LR3) to Neighborhood Commercial 3 with a 65 foot height limit (NC3-65).

C. Seattle Municipal Code Section 23.34.004 allows the City to approve a rezone subject to "self-imposed restrictions" upon the development of the property.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

## **AGREEMENT**

**Section 1. Agreement.** Pursuant to Seattle Municipal Code Section ("SMC") 23.34.004, the Owner covenants, bargains, and agrees, on behalf of itself and its successors and assigns that it will comply with the following conditions in consideration of the Rezone:

- (a) Future development of the Property is restricted to a project that complies with Master Use Permit (MUP) #3019997, once the Seattle Department of Construction and Inspections (SDCI) issues that MUP. Prior to issuing the MUP, SDCI must confirm that the drawings substantially comply with the conditions established during the design review process, including the structure design and location on the site, structure height, building materials, landscaping, street improvements, parking design, signage and site lighting.
- (b) A Construction/Noise Management Plan shall be submitted to and approved by SDOT prior to issuance of any demolition or construction permit.
- (c) The development pursuant to MUP #3019997 shall include four dwelling units affordable to households earning 40 percent of Area Median Income (AMI) (the "40% AMI Units").
- (d) The location and configuration of the 40% AMI Units shall be shown on the MUP plans and shall be subject to review and approval by the Office of Housing for consistency with the criteria set forth in SMC 23.58C.050.C.1 and 23.58C.050.C.2.
- (e) Prior to issuance of MUP #3019997, an executed and recorded agreement between the City and the owner of the Property shall be provided that specifies the following requirements:
  - The development shall include four dwelling units affordable to households earning 40 percent of Area Median Income (AMI).
  - The 40% AMI Units shall comply with the same requirements as are contained in the following provisions of the SMC, the substance of which requirements shall be stated in its entirety in the agreement:
    - 23.58C.050.B;
    - 23.58C.050.C.1;
    - 23.58C.050.C.2;
    - 23.58C.050.C.3;
    - 23.58C.050.C4; and
    - 23.58C.050.C6.

The agreement shall be recorded on the title of the Property. The agreement shall be enforceable by the City in Superior Court.

**Section 2. Agreement Runs With the Land.** This Agreement shall be recorded in the records of King County by the City Clerk. The covenants contained in this Agreement shall attach to and run with the land and be binding upon the Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner.

**Section 3. Amendment.** This Agreement may be amended or modified by agreement between the Owner and the City; provided any amendments are approved by the City Council by ordinance.

**Section 4. Exercise of Police Power.** Nothing in this Agreement shall prevent the City Council from making further amendments to the Seattle Municipal Code or Land Use Code as it may deem necessary in the public interest.

**Section 5. No Precedent.** The conditions contained in this Agreement are based on the unique circumstances applicable to the Property and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

**Section 6. Repeal as Additional Remedy.** Owner acknowledges that compliance with the conditions of this Agreement is a condition of the subject rezone and that if Owner avails itself of the benefits of this rezone but then fails to comply with the conditions of this Agreement with the City, in addition to pursuing any other remedy, the City may:

- a. Revoke the rezone by ordinance and require the use of the Property to conform to the requirements of the previous LR3 zoning designation or some other zoning designation imposed by the City Council; and
- b. Pursue specific performance of this Agreement.

[signature and acknowledgment on following page]

SIGNED this 13 day of September, 2016.

BROOKLYN 50 LLC

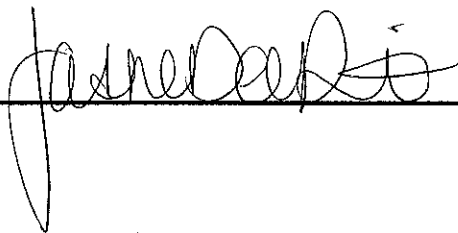
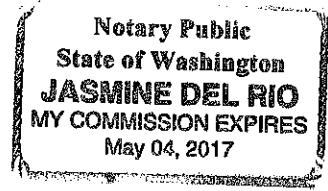
a Washington limited liability company

By: 

Tyson Alexander  
Manager

On this day personally appeared before me Tyson Alexander, to me known to be the Managing Member, of Brooklyn 50 LLC, a Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such limited liability company, for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 13 day of September, 2016.

		Printed Name <u>Jasmine Del Rio</u>
		NOTARY PUBLIC in and for the State of Washington, residing at <u>Seattle</u>
		My Commission Expires <u>May 04, 2017</u>
STATE OF WASHINGTON COUNTY OF KING	}	ss.

ATTACHMENT A  
REZONE MAP

