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CITY OF SEATTLE

2017 JUL 21 PM 2:32

**Property Use and Development Agreement**

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

**PROPERTY USE AND DEVELOPMENT AGREEMENT**

<b>Grantor(s):</b>	(1)	Union and 24 <sup>th</sup> Associates LLC, a Washington limited liability company	(2)	n/a
<input type="checkbox"/> Additional grantors on page <u>n/a</u>				
<b>Grantee:</b>	(1)	The City of Seattle		
<input type="checkbox"/> Additional on page <u>n/a</u>				
<b>Legal Description</b> <i>(abbreviated if necessary):</i>	See below.			
<input type="checkbox"/> Additional legal description on page <u>n/a</u> :				
<b>Assessor's Tax Parcel ID #:</b>	7217400045, 7217400040, and 7217400035			
<b>Reference Nos. of Documents Released or Assigned:</b>				

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 20<sup>th</sup> day of July, 2017, in favor of the CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Union and 24<sup>th</sup> Associates; LLC, a Washington limited liability company (the "Owner").

**RECITALS**

A. Union and 24<sup>th</sup> Associates, LLC is the owner of that certain real property (the "Rezone Site") in the City of Seattle zoned Neighborhood Commercial 2 with a Pedestrian Overlay and a 40-foot height limit (NC2P-40) and Neighborhood Commercial 2 with a 40-foot height limit (NC2-40) shown in Attachment A and legally described as:

Parcel A

Lots 7 and 8, Block 1, J. H. Rengstorff's Addition to the City of Seattle, according to the plat thereof recorded in Volume 2 of Plats, Page 101, in King County, Washington. Together with unplatted strip adjoining said lots on the west.

and

Parcel B

Lots 9, 10, 11, and 12 Block 1, J. H. Rengstorff's Addition to the City of Seattle, according to the plat thereof recorded in Volume 2 of Plats, Page 101, in King County, Washington.

B. On August 4, 2016, the Owner submitted to the City of Seattle an application under Project No. 3018178 for a rezone of the Rezone Site from Neighborhood Commercial 2 with a Pedestrian Overlay and 40-foot height limit (NC2P-40) and Neighborhood Commercial 2 with a 40-foot height limit (NC2-40) to Neighborhood Commercial 2 with a Pedestrian Overlay and a 65-foot height limit (NC2P-65). The purpose of the application is to allow the Rezone Site to accommodate a new structure with low-income apartment units above ground floor commercial space.

C. SMC 23.34.004.B authorizes the Council to apply the provisions of Chapters 23.58B and 23.58C through a contract rezone. SDCI Director's Rule 14-2016 (April 6, 2017) ("The Rule") sets forth performance and payment requirements that shall be applied where the City has not adopted pertinent performance and payment requirements in SMC 23.58C.

D. Seattle Municipal Code Section 23.34.004 allows the City to approve a rezone subject to "self-imposed restrictions upon the use and development of the property in order to ameliorate adverse impacts that could occur from unrestricted use and development permitted by development regulations otherwise applicable after the rezone."

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 hereby 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 of the Rezone Site from Neighborhood Commercial 2 with a Pedestrian Overlay and 40-foot height limit (NC2P-40) and Neighborhood Commercial 2 with a 40-foot height limit (NC2-40) to Neighborhood Commercial 2 with a Pedestrian Overlay and a 65-foot height limit (NC2P-65):

- a) Development of the Rezone Site is restricted to a project developed in substantial conformance with the final approved plans for Master Use Permit number 3018178.
- b) Development of the Rezone Site is subject to the requirements of SMC 23.58B and 23.58C. However, the requirements of SMC 23.58B are not applicable to a project developed in substantial conformance with the final approved plans for Master Use Permit number 3018178, as the plans do not specify more than 4,000 square feet of gross floor area in commercial use (SMC 23.58B.020.B) And, a project developed in substantial conformance with the final approved plans for Master Use Permit number 3018178 meets the conditions of exemption from the requirements of SMC 23.58C (SMC

23.58C.025.C) per the information recorded on page G2.01 of Hearing Examiner Exhibit #4, Council File 314349.

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

**Section 3. Termination of Zoning Designation.**

The new zoning designation shall expire according to SMC 23.76.060.C, or if the rezone is revoked pursuant to SMC 23.34.004.

**Section 4. Termination of Conditions.**

The conditions listed in Section 1 of this Agreement shall expire according to SMC 23.76.060.C, or if the Rezone is revoked pursuant to SMC 23.34.004.

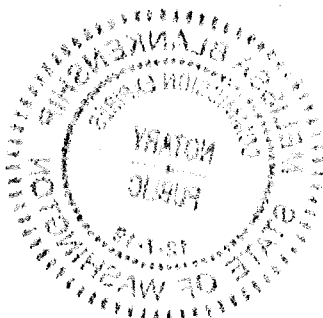
**Section 5. Amendment.** This Agreement may be amended or modified by agreement between Owner and the City, if such amendments are approved by the City Council by ordinance.

**Section 6. Exercise of Police Power.** Nothing in this Agreement shall prevent the City Council from making such further amendments to the Seattle Municipal Code or Land Use Code as it may deem necessary in the public interest.

**Section 7. No Precedent.** The conditions contained in this Agreement are based on the unique circumstances applicable to this Property and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

**Section 8. 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 avail themselves of the benefits of this rezone but then fail 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 Rezone Site to conform to the requirements of the previous NC2P-40 and NC2-40 zoning designations or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.



SIGNED this 20 day of JULY, 2017.

Union and 24<sup>th</sup> Associates, LLC

a Washington limited liability company

By: [Signature]

Christopher Persons

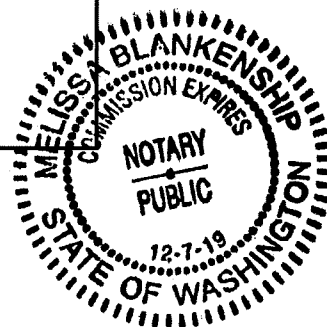
Its: Chief Executive Officer

On this day personally appeared before me Christopher Persons, to me known to be the Chief Executive Officer, of Union and 24<sup>th</sup> Associates, 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 20<sup>th</sup> day of July, 2017

<u>Melissa Blankenship</u>	Printed Name
<u>King Co.</u>	NOTARY PUBLIC in and for the State of Washington, residing at
<u>M/Be</u>	My Commission Expires <u>12-7-19</u>

STATE OF WASHINGTON	}	
COUNTY OF KING		SS.



Attachment A: Rezone Map

