

March 9, 2022

## MEMORANDUM

**To:** Transportation & Seattle Public Utilities Committee  
**From:** Lish Whitson, Analyst  
**Subject:** 2&U Alley Vacation

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On March 15, 2022, the Transportation & Seattle Public Utilities Committee (Committee) will receive a briefing on a proposed bill that would grant final approval for the vacation of the southern half of the alley in the block bounded by 1st and 2nd avenues and Seneca and University streets in Downtown Seattle (Council District 7). Council conditional approval of the vacation was granted on September 26, 2016, through [Clerk File \(CF\) 314320](#). The bill is attached to this memorandum as Attachment 1.

Approval of the vacation facilitated the development of [2&U](#), a 38-story office tower on three-quarters of the block. A four-story brick building, the Diller Building, remains on a quarter of the block and abuts the portion of the alley that remains. Attachment 2 provides a diagram of the block.

The Council's decision at this point is to determine whether the project has satisfied the conditions of CF 314320. If those conditions have been met, the Council should approve the bill.

### Street Vacation Process

The Street Vacation process, as laid out in the City Council's Street Vacation Policies ([Resolution 31809](#)), includes three Council reviews of a project. Soon after a property owner submits a petition to vacate right-of-way, the Council may choose to hold an early public forum or briefing to learn about the proposal and provide early feedback. After receiving this early feedback, City departments, the Seattle Design Commission, and other interested parties review the petition and provide recommendations. The Seattle Department of Transportation (SDOT) compiles and transmits their recommendations to the City Council alongside a recommendation from the SDOT Director to the City Council.

Once the Council receives this recommendation, the Council holds a public hearing and reviews the petition. At this point, the Council decides (1) whether to grant the petition, and (2) if the Council determines that the vacation is appropriate, it decides which conditions should be placed on the vacation. This conditional approval allows the petitioner to build in the right-of-way and to complete their project.

Once the project is complete, SDOT confirms that the conditions have been met and transmits a bill to finalize the vacation to Council. At this phase of Council's review, the Council's role is to

determine that the conditions have been met. Passage of the bill allows for the official transfer of ownership of the right-of-way to the petitioner.

### Review of Vacation Conditions

The vacation conditions included in CF 314320 included eight conditions. These conditions require that:

1. The project be built substantially as presented to the Council;
2. Street improvements must be designed to City standards and reviewed by SDOT;
3. Any utilities that run through the alley are relocated and there may not be disruptions to utility service to the remaining building abutting the portion of the alley to remain;
4. Development should begin within two years of approval and be completed within five years of approval;
5. Access to the 2&U building and the Diller Building shall be provided as shown to the Council;
6. Additional review and conditioning would be required under the State Environmental Policy Act (SEPA) and City codes and regulations;
7. Free speech activities must be allowed in public spaces on site and signage must indicate to the public that those activities are allowed; and
8. The project must provide and maintain the following public benefit features for the life of the building:

Table 1: PUBLIC BENEFITS AS PROPOSED

	Public Benefit	Location/ Description	Code Reqt.	Public Benefit	Total	Estimated Value
<b>OPEN SPACE (Including Programming Commitment)</b>						
<b>A</b>	Central Plaza	Central covered plaza with seating, bike infrastructure, upgraded materials and adjacent retail, open during park hours	650 SF	5,910 SF	6,560 SF	\$3,368,700
<b>B</b>	Bike Dock	Bicycle infrastructure and laydown area	None	2,520 SF	2,520 SF	\$1,436,400
<b>C</b>	Pedestrian Amenities	Individual seats, benches, and seat steps	None	82 Seats	82 Seats	\$350,000
		Drinking fountain	None	1 Unit	1 Unit	\$5,000
<b>D</b>	Event Infrastructure	Infrastructure to support events within the central plaza (electricity, water)	None			\$275,000
<b>E</b>	Overlook	Playful seating, site furnishings designed with children + families in mind	None	5,930 SF	5,930 SF	\$3,380,100
<b>F</b>	On-Site Trees	On-site trees	None	15 Trees	15 Trees	\$58,800
<b>TOTAL:</b>						<b>\$8,874,000</b>

	Public Benefit	Location/ Description	Code Req.	Public Benefit	Total	Estimated Value
<b>SETBACKS</b>						
<b>G</b>	1st Avenue Setback	Generous streetscape with seating, bike parking and covered walkway	None	124' x 20'	2,480 SF	\$1,413,600
<b>H</b>	Northeast Corner Plaza Setback	Corner plaza between north end of lobby and small retail on University St.	700 SF	35' x 17'	1,320 SF	\$353,400
<b>I</b>	Southeast Stoop Setback	Large covered seating and gathering setback from 2nd Ave.	None	46' x 15'	690 SF	\$441,600
					<b>TOTAL:</b>	<b>\$2,208,600</b>
<b>RIGHT-OF-WAY (ROW) IMPROVEMENTS</b>						
<b>J</b>	ROW Planting	High quality trees, soil and irrigation within ROW	640 SF	1,245 SF	1,885 SF	\$55,000
<b>K</b>	ROW Seating	Seating and benches	None	12 Seats	12 Seats	\$28,000
<b>L</b>	ROW Bike Parking	Elegant, secure and durable bike racks within the ROW	None	15 Racks	30 Bike Stalls	\$5,250
					<b>TOTAL:</b>	<b>\$88,250</b>
<b>ARTS AND CULTURE SPACES (Including Programming Commitment)</b>						
<b>M</b>	Performance Triangle	Flexible gallery/production/performance space provided rent free to emerging artists	None	835 SF	835 SF	\$613,725
<b>N</b>	The Studio	Small, visible studio for artists or musicians to perform, record and display rent free	None	290 SF	290 SF	\$213,150
					<b>TOTAL:</b>	<b>1,125 SF \$826,875</b>
<b>HILL CLIMB ASSIST</b>						
<b>O</b>	1st Avenue Elevator	Hill climb assist connects 1st and 2nd Avenues and is accessible to all, open during park hours	None	Elevator	1	\$25,000
<b>P</b>	2nd Avenue Elevator	See above	None	Elevator	1	\$25,000
					<b>TOTAL:</b>	<b>\$50,000</b>
<b>BICYCLE INFRASTRUCTURE</b>						
<b>Q</b>	Bike Racks	Bike Racks (2 bikes per unit), 5 (exterior) units on site	None	5 Racks	10 Bike Stalls	\$1,750
<b>R</b>	Electric Bike Charging Station	Incorporated into the Plaza bike infrastructure for public access	None	1 Unit	1 Unit	\$4,000
<b>S</b>	Electric Bike Charging Station Fix It Repair Stand	Repair + air-pump station in Plaza, visible + accessible from ROW	None	1 Unit	1 Unit	\$1,500
					<b>TOTAL:</b>	<b>\$7,250</b>
					<b>TOTAL ESTIMATED VALUE OF PUBLIC BENEFIT:</b>	<b>\$12,054,975</b>

According to CF 314320, the project must be “substantially in conformity with the project presented to the City Council” during the Council’s review of the petition. There were changes to some of the proposed public benefits as the project’s final design was completed. The Property Use and Development Agreement (PUDA) that has been recorded to ensure the permanent provision of these public benefit features (Attachment 2) describes these changes as follows:

Table 2: PUBLIC BENEFITS AS PROVIDED

	Public Benefit	Location/ Description	Code Req.	Public Benefit	Total	Notes
<b>OPEN SPACE</b>						
<b>A</b>	Central Plaza	Central covered plaza with seating, bike infrastructure, upgraded materials and adjacent retail, open during park hours	650 SF	<del>5,910</del> <u>6,535</u> SF	<del>6,560</del> <u>7,185</u> SF	Increased 625 SF due to changes in setbacks
* * *						
<b>C</b>	Pedestrian Amenities	Individual seats, benches, and seat steps		<del>82</del> <u>134</u> Seats	<del>82</del> <u>134</u> Seats	Voluntarily increased by 52 seats
* * *						
<b>F</b>	On-Site Trees	On-site trees	None	<del>15</del> <u>14</u> Trees	<del>15</del> <u>14</u> Trees	A mature Japanese maple replaced two smaller pine trees that were in the original design
<b>SETBACKS</b>						
<b>G</b>	1st Avenue Setback	Generous streetscape with seating, bike parking and covered walkway	None	<del>2,480</del> <u>1,587</u> SF	<del>2,480</del> <u>1,587</u> SF	Decreased 893 SF due to a more prominent public staircase, adjustments for ADA access, and moving retail spaces closer to the street front
<b>H</b>	Northeast Corner Plaza Setback	Corner plaza between north end of lobby and small retail on University St.	700 SF	<del>1,320</del> <u>1,455</u> SF	<del>1,320</del> <u>1,455</u> SF	Increased 135 SF due to minor building changes
<b>I</b>	Southeast Stoop Setback	Large covered seating and gathering setback from 2nd Ave.	None	<del>690</del> <u>1,045</u> SF	<del>690</del> <u>1,045</u> SF	Increased 355 SF due to minor building changes
<b>RIGHT-OF-WAY (ROW) IMPROVEMENTS</b>						
<b>J</b>	ROW Planting	High quality trees, soil and irrigation within ROW	640 SF	<del>1,245</del> <u>891</u> SF	<del>1,885</del> <u>1,531</u> SF	Direction from SDOT during Street Improvement Permit (SIP) review reduced planting area by 354 SF. No change to number of street trees.

	Public Benefit	Location/ Description	Code Reqt.	Public Benefit	Total	Notes
K	ROW Seating	Seating and benches	None	<del>12 28</del> Seats	<del>12 28</del> Seats	Voluntarily increased
* * *						
<b>ARTS AND CULTURE SPACES (Including Programming Commitment)</b>						
M	Performance Triangle	Flexible gallery/production/ performance space provided rent free to emerging artists	None	<del>835</del> <u>1,183</u> SF	<del>835</del> <u>1,183</u> SF	The Performance Space was enlarged by 348 instead of providing a separate recording studio at the recommendation of the Office of Arts and Culture and an arts programming consultant
N	<del>The Studio</del>	<del>Small, visible studio for artists or musicians to perform, record and display rent free</del>	<del>None</del>	<del>290 SF</del>	<del>290 SF</del>	See above, a single larger space was determined to be more useful than two smaller spaces
* * *						

The combination of these changes increases publicly accessible open space on the site, increases the seating available to the public, and increases the amount of rent-free performance space available for emerging artists. The number of trees on site is reduced by one and on-street planting areas are also reduced without impacting the number of street trees provided.

SDOT has reviewed the project as built and the PUDA and has determined that the project substantively meets all vacation conditions and recommends approval of the bill.

**Next Steps**

The Committee is anticipated to consider and may vote on the proposed bill at its April 5 meeting. The bill could be considered by the City Council as early as April 12.

**Attachments:**

1. Proposed bill to approve the 2&U alley vacation
2. Location of the 2&U alley vacation
3. Recorded Property Use and Development Agreement

cc: Aly Pennucci, Deputy Director  
Yolanda Ho, Lead Analyst

Amy Gray  
SDOT Block 6 2 & U Vacation ORD  
D1b

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

..title

AN ORDINANCE vacating a portion of the alley in Block 6, A.A. Denny’s Second Addition, in the block bounded by University Street, 1st Avenue, Seneca Street, and 2nd Avenue, in Downtown, and accepting a Property Use and Development Agreement, on the petition of HS 2U Owner, LLC (Clerk File 314320).

..body

WHEREAS, SCD 2U LLC, filed a petition under Clerk File 314320 to vacate a portion of the alley in Block 6, A.A. Denny’s Second Addition, in the block bounded by University Street, 1st Avenue, Seneca Street, and 2nd Avenue; and

WHEREAS, HS 2U Owner, LLC (“Petitioner”) is the successor in interest and the current Petitioner; and

WHEREAS, following a September 14, 2016, public hearing on the petition, the Seattle City Council (“City Council”) conditionally granted the petition on September 26, 2016; and

WHEREAS, a Property Use and Development Agreement recorded on August 27, 2021, with the King County Recorder’s Office under Recording No. 20210827002417 commits the Petitioner and their successors to fulfill ongoing public-benefit obligations required as part of the vacation; and

WHEREAS, as provided for in Section 35.79.030 of the Revised Code of Washington (RCW) and Seattle Municipal Code Chapter 15.62, the Petitioner has paid the City a vacation fee of \$3,640,000 on June 18, 2019, which is the full appraised value of the property; and

WHEREAS, the Petitioner has met all conditions imposed by the City Council in connection with the vacation petition; and

WHEREAS, vacating a portion of the alley in Block 6, A.A. Denny’s Second Addition, is in the public interest; NOW, THEREFORE,

1 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

2           Section 1. A portion of the alley in Block 6, A.A. Denny’s Second Addition, described  
3 below, is vacated:

4           The portion of the alley adjacent to Lots 5 through 8, and adjacent to the south 40 feet of  
5 Lots 3 and 4 in Block 6, A.A. Denny’s Second Addition to the City of Seattle, recorded  
6 in Volume 1 of Plats, page 30, Records of King County, Washington, with is the block  
7 bounded by University Street, 1st Avenue, Seneca Street, and 2nd Avenue (Clerk File  
8 314320).

9           Section 2. The Property Use and Development Agreement, King County Recording No.  
10 20210827002417, attached as Exhibit 1 to this ordinance is accepted.

1 Section 3. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2022,  
5 and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of  
6 \_\_\_\_\_, 2022.

7 \_\_\_\_\_  
8 President \_\_\_\_\_ of the City Council

9 Approved / returned unsigned / vetoed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

10 \_\_\_\_\_  
11 Bruce A. Harrell, Mayor

12 Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

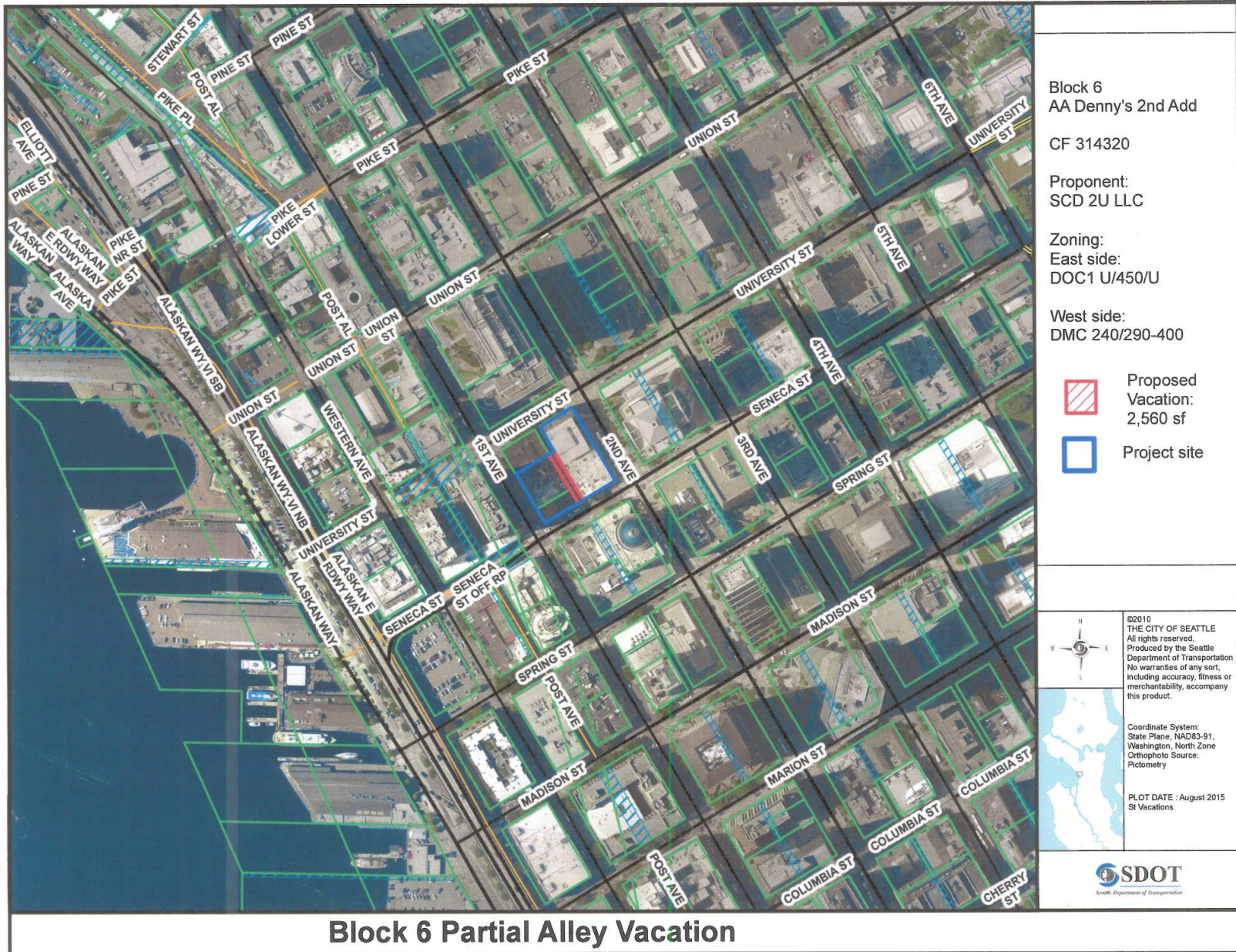
13 \_\_\_\_\_  
14 Monica Martinez Simmons, City Clerk

15 (Seal)

16  
17 Attachments:  
18 Exhibit 1 - Property Use and Development Agreement  
19




Attachment 2: Location of the 2&U alley vacation



When Recorded, Return to:  
McCullough Hill Leary, P.S.  
Attn: Jessie Clawson  
701 5<sup>th</sup> Avenue, Suite 6600  
Seattle, WA 98104

PROPERTY USE AND DEVELOPMENT AGREEMENT

<b>Grantor:</b>	HS 2U Owner, LLC, a Delaware Limited Liability Company
<input type="checkbox"/> Additional on page	
<b>Grantee:</b>	City of Seattle
<input type="checkbox"/> Additional on page	
<b>Legal Description</b> (abbreviated):	LOTS 2, 3, 4, 6, 7 AND 8, BLOCK 6, A.A. DENNY'S 2 <sup>ND</sup> ADD., CITY OF SEATTLE, VOL 1, P. 30 PLATS, KING COUNTY, WASHINGTON
<input checked="" type="checkbox"/> Additional on:	Exhibit A
<b>Assessor's Tax Parcel ID #:</b>	1974700175, 1974700190, 1974700210
<b>Reference Nos. of Documents Released or Assigned:</b>	N/A



## PROPERTY USE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT is executed this date in favor of the City of Seattle, a municipal corporation ("City"), by HS 2U OWNER, LLC, a Delaware limited liability company ("2U").

WHEREAS, SCD 2U LLC, a predecessor in interest to 2U, filed a petition in Clerk File 314320 for the vacation of a portion of the alley adjacent to Lots 5 through 8, and adjacent to the south 40 feet of Lots 3 and 4 in Block 6, A.A. Denny's Second Addition to the City of Seattle, recorded in Volume 1 of Plats, page 30, Records of King County Washington, which petition was considered under Chapter 35.79 of the Revised Code of Washington and Chapter 15.62 of the Seattle Municipal Code; and

WHEREAS, on September 14, 2016, the Sustainability and Transportation Committee of the Seattle City Council held a public hearing on the vacation petition; and

WHEREAS, on September 26, 2016, the Seattle City Council granted preliminary approval of the vacation petition, subject to conditions; and

WHEREAS, SCD 2U LLC completed development activity authorized under the alley vacation approval before September 26, 2021;

WHEREAS, 2U is the current owner of the building and associated improvements (the "Property") existing on the land legally described on Exhibit A attached hereto (the "Land"); and

WHEREAS, 2U is executing this Property Use and Development Agreement (the "Agreement" or "PUDA") to ensure compliance with any on-going conditions of the vacation approval subsequent to passage of the vacation ordinance; and

NOW, THEREFORE, 2U covenants, bargains, and agrees on behalf of themselves, their successors, and assigns as follows:

Section 1. The conditions passed by the City Council on September 26, 2016 specified the following conditions of approval:

- A. The vacation is granted to allow the Petitioner to build a project substantially in conformity with the project presented to the City Council and for no other purpose. The project must be substantially in conformity with the proposal reviewed by the Sustainability & Transportation Committee in September of 2016.
- B. All street improvements shall be designed to City standards, as modified by these conditions to implement the public benefit requirements, and be reviewed and approved by the Seattle Department of Transportation; elements of the street improvement plan and required street improvements to be reviewed include:

Street improvement plan showing sidewalks, street trees, bike racks, street furniture, lighting, art or artist-made elements, and landscaping around the site and the off-site public benefit features, including but not limited to, these specific elements:

- Alley design and turnaround, including materials and signage;
- Setbacks and landscaping on 1<sup>st</sup> Avenue, Seneca Street, 2<sup>nd</sup> Avenue, and University; and
- Plantings, street furniture, seating or wayfinding in the right-of-way.

C. The utility issues shall be resolved to the full satisfaction of the affected utility prior to the approval of the final vacation ordinance. The Petitioner shall ensure there is no disruption in utility services for the adjacent Diller Hotel. Prior to the commencement of any development activity on the site, Petitioner shall work with the affected utilities and provide for the protection of the utility facilities. This may include easements, restrictive covenants, relocation agreements, or acquisition of the utilities, which shall be at the sole expense of the Petitioner. Utilities impacted include:

- Seattle City Light;
- Seattle Public Utilities;
- Enwave;
- King County Metro;
- Puget Sound Energy; and
- CenturyLink Communications.



D. It is expected that development activity will commence within approximately 2 years of this approval and that development activity will be completed within 5 years. In order to ensure timely compliance with the conditions imposed by the City Council the Petitioner shall provide the Seattle Department of Transportation with Quarterly Reports, following Council approval of the vacation, providing an update on the development activity, schedule, and progress on meeting the conditions. The Petitioner shall not request or be issued a Final Certificate of Occupancy (C of O) for the project until SDOT has determined that all conditions have been satisfied and all fees have been paid as applicable.

E. Access to the buildings shall be provided for as follows, changes to this proposal shall require the review of SDOT: two driveways on Seneca Street are allowed with one providing an in/out driveway to the parking garage and one providing in/out access to the truck loading dock. In addition, the remaining public alley and turnaround provide access to the Diller building.

- F. In addition to the conditions imposed through the vacation process, the project, as it proceeds through the permitting process, is subject to SEPA review and to conditioning pursuant to various City codes and through regulatory review processes including SEPA.
- G. Free speech activities such as hand billing, signature gathering, and holding signs, all without obstructing access to the space, the building, or other adjacent amenity features, and without unreasonably interfering with the enjoyment of the space by others, shall be allowed within these vacation public benefit features. While engaged in allowed activities, members of the public may not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment of the space by others. Signage clearly identifying public access and allowed free speech activities is required at the public open space elements and shall require the review and approval of SDOT Street Vacations. Signage shall be consistent with signage provided for public amenity space, if any, on the site. Any violation of these conditions will be enforced through Chapter 15.90 of the Seattle Municipal Code.
- H. The Petitioner shall develop and maintain the public benefit elements as defined by the City Council. A Property Use and Development (PUDA) or other binding mechanism shall be required to ensure that the public benefit elements remain open and accessible to the public and shall establish the hours of public access for the various public benefit spaces, with temporary closures permitted for reasons such as maintenance, safety, or private functions and to outline future maintenance obligations of the improvements. A plan for programming and use of the art spaces shall be completed and included with the PUDA or by separate agreement that binds future building owners to the obligations of the plan. Such plan shall address program commitments and costs, outreach and engagement for disadvantaged communities, management, reporting obligations, and oversight. The plan shall make provision for a briefing and program review for the City Council at year three of operations or as determined in the plan. Signage shall be provided as described in Condition 7. The final design of the public benefit elements shall require the review and approval of SDOT Street Vacations. SDOT may request additional review by the Design Commission or Administrative Review of the implementation of the public benefit elements in the right-of-way require additional SIP review, street use permits and indemnification; public and private areas must be clearly distinguished and markers in the sidewalk shall be required. The public benefit requirements include the following features as well as corresponding development standards, including approximate square footage dimensions, which shall be outlined in the PUDA:

Public benefit chart:

Public Benefit	Location/Description	Code Req.	Public Benefit	Total	Est. Value
A. Central Plaza	Central covered plaza with seating, bike infrastructure, upgraded materials and adjacent retail, open during park hours	650 SF	5910 SF	6560 SF	\$3,368,700
B. Bike Dock	Bicycle infrastructure and laydown area	None	2520 SF	2520 SF	\$1,436,400
C. Pedestrian Amenities	Individual seats, benches, and seat steps	(MUP)	82 Seats	82 Seats	\$350,000
	Drinking fountain	None	1 Unit	1 Unit	\$5,000
D. Event Infrastructure	Infrastructure to support events within the central plaza (electricity, water)	None			\$275,000
E. Overlook	Playful seating, site furnishings designed with children + families in mind	None	5930 SF	5930 SF	\$3,380,100
F. On-Site Trees	On-site trees	None	15 Trees	15 Trees	\$58,800
Public Benefit	Location/Description	Code Req.	Public Benefit	Total	Est. Value
G. 1 <sup>st</sup> Avenue Setback	Generous streetscape with seating, bike parking and covered walkway	None	124' x 20'	2480 SF	\$1,413,600
H. Northeast Corner Plaza Setback	Corner plaza between north end of lobby and small retail on University St.	700 SF	35' x 17'	1320 SF	\$353,400
I. Southeast Stoop Setback	Large covered seating and gathering setback from 2 <sup>nd</sup> Ave.	None	46' x 15'	690 SF	\$441,600
J ROW Planting	High quality trees, soil and irrigation within ROW	640 SF	1245 SF	1885 SF	\$55,000
K ROW Seating	Seating and benches	None	12 Seats	12 Seats	\$28,000
L ROW Bike Parking	Elegant, secure and durable bike racks within the ROW	None	15 Racks	30 Bike Stalls	\$5,250
M Performance Triangle	Flexible gallery/production/performance space provided rent-free to emerging artists	None	835 SF	835 SF	\$613,725
N The Studio	Small, visible studio for artists or musicians to perform, record and display rent-free	None	290 SF	290 SF	\$213,150
O 1 <sup>st</sup> Avenue	Hill climb assist connects 1 <sup>st</sup>	None	1	1	\$25,000



Elevator	and 2 <sup>nd</sup> Avenues and is accessible to all, open during park hours		Elevator	Elevator	
P 2 <sup>nd</sup> Avenue Elevator	See above	None	1 Elevator	1 Elevator	\$25,000
Q Bike Racks	Bike Racks (2 bikes per unit), 5 (exterior) units on site	None	5 Racks	10 Bike Stalls	\$1,750
R Electric Bike Charging Station	Incorporated into the Plaza bike infrastructure for public access	None	1 unit	1 unit	\$4,000
S Electric Bike Charging Station Fix-It repair stand	Repair + air-pump station in Plaza, visible + accessible from ROW	None	1 Unit	1 Unit	\$1,500

- I. The replacement of any of the Public Benefits shall be of similar quality in design and materials as the original. Significant changes to the streetscape or the required Public Benefits shall require prior approval by the Seattle Department of Transportation. Modified features shall maintain a substantially similar quality and character to the existing required design features.

Section 2. The development project currently on-site, as implemented by Master Use Permit number 3019177-LU, as amended, and building permits 6472029-PH and 6532759-CN, has constructed the “Public Benefits” outlined in Section 1 in the following manner, and as depicted in Exhibit B. The following Public Benefits, as constructed, are acceptable to the City:

- A. The Central Plaza was increased by 625 square feet due to changes in building setbacks, resulting in a 7,185 s.f. Central Plaza. Otherwise, the Central Plaza remains as depicted to the City Council.
- B. The 2520 s.f. Bike Dock was constructed in the manner depicted to the City Council.
- C. The drinking fountain was constructed in the Central Plaza near the southern stairs leading from 1<sup>st</sup> Avenue. The pedestrian seating opportunities were increased from 82 seats as depicted to City Council to 134 seats due to an internal decision to provide more opportunities for different types of seating and gathering within open spaces.
- D. The event infrastructure in the plaza was constructed. It consists of an electrical switch with connections to electrical power at various amperages and data, sufficient to power a small stage, associate lighting and audio/visual equipment.
- E. The 5,930 s.f. Overlook was constructed as depicted to City Council. It includes “playful” furnishings including “bouncy” flooring and family-friendly seating and elements.
- F. Fourteen on-site trees were planted, a reduction of one tree from the City Council presentation. Two smaller pine trees were replaced with one large specimen Japanese

- Maple for significant immediate impact and destination marker. The Japanese Maple is planted adjacent to the Overlook.
- G. Minor changes were made to setbacks related to the 1<sup>st</sup> Avenue Promenade. The Promenade was reduced by 893 s.f., resulting in a total promenade of 1,587 s.f. The reason for these minor changes were: (a) the public stair extended further to the west, making it more inviting for the public; (b) the retail seating area wall moved further north to help resolve ADA grade issues for access into the southwest corner retail; (c) the west façade moved slightly west to bring the retail façade closer to the street for a more enlivened streetscape; and (d) the west core façade moved closer to the street to allow for a bit more lobby space that would better activate the streetscape.
  - H. The Front Deck gained 135 s.f. due to minor building changes, but other than this minor change exists as depicted to the City Council. The final Front Deck area is 730 s.f.
  - I. The Entry Porch gained 355 s.f. but other than this minor change exists as depicted to the City Council. The final Entry Porch area is 1045 s.f.
  - J. The right-of-way planting was reduced by 354 s.f. due to SDOT direction during the Street Improvement Permit process to change the proposed tree species and layouts, which impacted the final planting bed dimensions. The final right-of-way planting area is 894 s.f.
  - K. The right-of-way seating increased from 12 seats to 28 seats (addition of 16 seats) due to an internal decision to provide additional seating and gathering opportunities in the right-of-way.
  - L. Fifteen bike racks in the right-of-way were provided, as depicted to the City Council.
  - M. At the direction of the Office of Arts and Culture and an arts programming consultant, the performance triangle was combined with the studio space so that it may function more effectively for more diverse art uses in a single, larger location. The initial idea for the performance triangle was a recording studio, but due to the volume of glass this was not acoustically possible. The previous square footages were 835 s.f. for the performance triangle, and 290 s.f. for the studio space (1125 s.f. total). With the combination of the two spaces, and the expansion, the rent-free arts space now totals 1,183 s.f., a net increase of 58 s.f.
  - N. Please see above regarding the studio space combination.
  - O. The 1<sup>st</sup> Avenue Elevator was constructed and is open during business hours.
  - P. The 2<sup>nd</sup> Avenue Elevator was constructed and is open during business hours.
  - Q. Five bike racks in the right-of-way were constructed.
  - R. One e-bike charging station was constructed.
  - S. One bike fix-it repair stand was constructed.

Section 3. A programming plan for the studio space is attached to this PUDA, as required by the City Council, as Exhibit C. The programming plan is intended to be a living document and amended or modified to ensure the art space is well-used and programmed for the life of the building. Amending the programming plan does not require amending this PUDA.

Section 4. 2U shall have the reasonable right to temporarily close, obstruct, limit access, or establish temporary hours of public access to the Public Benefits areas for: (1) construction, provided that any removed or permanently closed areas shall be replaced by 2U to



the satisfaction of the City before the area is removed or permanently closed; (2) maintenance and repair; (3) temporary use for private functions by 2U, tenants or other occupants of the Property and users of The Studio; (4) the maintenance of or security for the development or persons using the development; (5) other circumstances beyond 2U's control; or (6) as 2U reasonably deems necessary to comply with any applicable law, regulation or order.

Section 5. 2U may adopt reasonable rules and regulations regarding the use of and access to the Public Benefits. The rules and regulations shall be consistent with this Agreement. A summary of the current rules and regulations, if rules are adopted, shall be posted in several visible locations.

Section 6. Free speech activities such as passing out of leaflets or brochures, signature gathering, and individuals holding signs, all without physically obstructing access to the Property or to other adjacent amenity features, and without unreasonably interfering with the use and enjoyment of the Property, shall be allowed within the Public Benefit areas described in this Agreement. Nothing herein allows the posting of signs, painting, graffiti or pasting signs or handbills onto any improvements on the Land. 2U may remove and dispose of any signs or other property left on the Land. While lawfully engaged in allowed activities that do not interfere with use and enjoyment of the Property by others, members of the public may not be asked to leave because of their involvement with the allowed activities. Any violation of this Section may be enforced through Chapter 23.90 of the Seattle Municipal Code. Signage to this effect, as required by the City Council's conditional approval, is posted on the Property.

Section 7. This Agreement may be amended or modified by agreement between 2U and the City; provided any such amendment, per Council rules, shall be subject to approval by the City Council by ordinance. Nothing in this Agreement shall be construed as a surrender of the City's governmental powers.

Section 8. 2U reserves the right to use the Public Benefits areas for any purpose which does not interfere with the public's use rights established hereunder, including but not limited to the right to use the areas as described in this Agreement for 2U's purposes (including the right to use the areas by 2U's tenants, subtenants and other occupants), and the right to grant easements, provided the easements are consistent with the public's use rights established hereunder.

Section 9. Nothing in this Agreement shall constitute a public dedication of any portion of the Property or the Land or impose any restriction on any part of the Property or the Land other than the areas designated for the Public Benefits.

Section 10. The legal description of the Land on which the Property is located is set forth in Exhibit A to this Agreement, which is incorporated into this Agreement. An executed copy of this Agreement shall be recorded in the records of King County and the covenants contained herein shall attach to and run with title to the Property.

Section 11. 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 12. If any covenant, condition, or restriction in this instrument or any portion is invalidated or voided, the invalidity or voidness shall in no way affect any other covenant, condition, or restriction.

Section 13. Upon the effective date of the vacation ordinance, 2U shall provide and thereafter maintain in full force and effect, commercial general liability insurance providing for a limit of not less than \$1,000,000 per occurrence for damages arising out of bodily injuries or death. The insurance policies obtained shall be issued by companies authorized to conduct business in Washington State and shall name the City as an additional insured. 2U shall provide evidence of insurance to the City Risk Manager at the City's reasonable request.

Section 14. 2U covenants and agrees to defend, indemnify, and hold harmless the City of Seattle, its officials, officers, employees, and agents from all liabilities, claims, causes of action, judgments, or expenses, including reasonable attorney fees and necessary litigation expenses, resulting from any actual or alleged bodily injury including death or actual or alleged damage to property arising out of or in connection with the use or occupation of the Public Benefits during the term of its building ownership. Upon any transfer of building ownership, this obligation shall be binding on all successors and assigns. The indemnification obligations under this Agreement do not apply to any liabilities, claims, causes of action, judgments or expenses resulting from bodily injury or property damage caused by the negligence or intentional acts of the public or the City, or the City's officers, employees, elected officials, agents, or subcontractors.

Section 15. This Agreement shall be binding on 2U's successors and assigns. 2U and each future owner of the Property shall be bound to this Agreement only during the period of its ownership.


*[Remainder of page intentionally left blank – Signature page follows]*

DATED this 19<sup>th</sup> day of August, 2021.

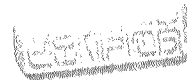
**HS 2U Owner, LLC, a Delaware limited liability company**

By: HS 2U JV, LLC, a Delaware limited liability company  
Its: Managing Member

By: HS 2U REIT, LLC, a Delaware limited liability company  
Its: Managing Member

By:   
Name: Hae Sung Jung  
Title: Director

*[Notary acknowledgement on attached page]*



Unofficial Copy

**EXHIBIT A**

**Legal Description of the Property**

**PARCEL A:**

LOTS 2, 3, 6 AND 7, BLOCK 6, ADDITION TO THE TOWN OF SEATTLE AS LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S SECOND EDITION TO THE CITY OF SEATTLE), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 30, IN KING COUNTY, WASHINGTON.

EXCEPT THE NORTHEASTERLY 12 FEET THEREOF CONDEMNED IN DISTRICT COURT CAUSE NO. 7097 FOR SECOND AVENUE, AS PROVIDED BY ORDINANCE NO. 1107; ALSO

EXCEPT THE SOUTHWESTERLY 2 FEET OF LOT 2 AND THE SOUTHWESTERLY 2 FEET OF THE NORTH 20 FEET OF LOT 3 AS CONVEYED TO THE CITY OF SEATTLE FOR ALLEY PURPOSES BY DEED RECORDED UNDER RECORDING NO. 20170330000423

**PARCEL B:**

THE SOUTH 40 FEET OF LOT 4, ALL OF LOT 5 AND THE NORTHWESTERLY 15 FEET OF LOT 8, BLOCK 6, ADDITION TO THE TOWN OF SEATTLE AS LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S SECOND EDITION TO THE CITY OF SEATTLE), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 30, IN KING COUNTY, WASHINGTON.

EXCEPT THE SOUTHWESTERLY 9 FEET THEREOF CONDEMNED FOR THE WIDENING OF FIRST AVE AS PROVIDED BY ORDINANCE NO. 1129 OF THE CITY OF SEATTLE.

**PARCEL C:**

THE SOUTHEASTERLY 45 FEET OF LOT 8, BLOCK 6, ADDITION TO THE TOWN OF SEATTLE AS LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S SECOND EDITION TO THE CITY OF SEATTLE), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF PLATS, PAGE 30, IN KING COUNTY, WASHINGTON.

EXCEPT THE SOUTHWESTERLY 9 FEET THEREOF CONDEMNED FOR THE WIDENING OF FIRST AVE AS PROVIDED BY ORDINANCE NO. 1129 OF THE CITY OF SEATTLE.

**ALLEY VACATION:**

THAT PORTION OF THE ALLEY ADJACENT TO LOTS 5 THROUGH 8, AND ADJACENT TO THE SOUTH 40 FEET OF LOTS 3 AND 4, BLOCK 6, ADDITION TO THE TOWN OF SEATTLE AS LAID OUT BY A.A. DENNY (COMMONLY KNOWN AS A.A. DENNY'S SECOND ADDITION TO

THE CITY OF SEATTLE), ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 1 OF  
PLATS, PAGE 30, IN KING COUNTY, WASHINGTON.

CONTAINING AN AREA OF 2,560 SQUARE FEET OR 0.0588 ACRES, MORE OR LESS.

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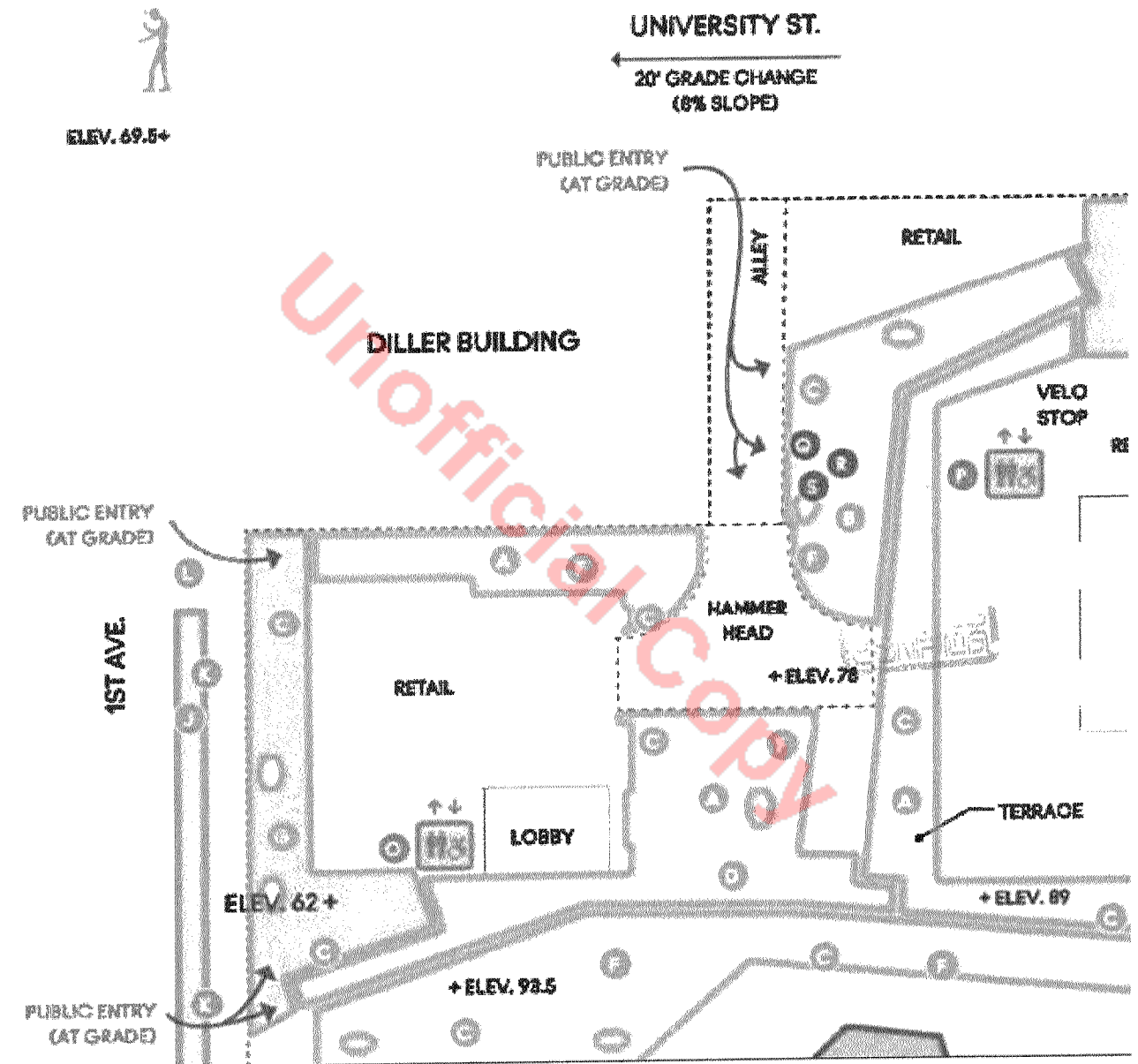
**EXHIBIT B**

**Site depiction of public benefit areas**

[see attached page]

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## EXHIBIT C

### 2 + U Arts and Programming Plan

The Plan is required as part of the Public Benefit package included in the City Council's conditional approval of the alley vacation associated with the building and improvements located at 1201 2<sup>nd</sup> Avenue (the "Project") and known as 2 + U. The details of the conditional approval and associated conditions are referenced in Clerk's file 314320. As used herein, the term "Owner" means HS 2U Owner, LLC and its successors and assigns who own the Project from time to time. HS 2U Owner, LLC and each future owner of the Project shall be bound to this Plan only during the period of its ownership.

#### Background

Rapid development and economic growth in Seattle have displaced many affordable urban cultural spaces, especially in the Central Business District (CBD). Few downtown arts spaces remain, and the few that do are often economically out of reach for emerging artists, underserved populations, and arts organizations. The lack of access is especially pronounced for communities of color and other groups who have not historically had equitable access to the City's arts and culture infrastructure. At the same time, few new arts and cultural spaces are being developed that might add to the vibrancy and diversity of a neighborhood. This reality was communicated to Skanska early in the Project's development process by Seattle Office of Arts and Culture (OAC), Benaroya Hall, and the Seattle Art Museum (SAM). Each of these groups played an important collaborative role in helping shape the arts and cultural vision for the Project.

#### The Plan

To implement the Plan, Owner's predecessor-in-interest developed a concept called The Studio. The concept for The Studio as a required public benefit feature was developed to address the challenge of providing access to affordable, or even free of charge, arts and cultural space in the CBD for emerging artists and underserved communities. The Studio creates a new and innovative public-private partnership that allows public benefits to accrue to the neighborhood and larger City by creating a space that will support and empower arts and cultural activities and that can be curated and managed to provide access to a wide variety of users.

The Council's conditional approval included the requirement to develop this Plan, which includes a framework for programming The Studio. The City Council's expressed intention was that this Plan to include programming commitments and costs, outreach to disadvantaged communities, management, reporting obligations, and oversight.

The Plan is attached as an exhibit to the Property Use and Development Agreement ("PUDA") required as part of the City Council's final approval of the alley vacation for the Project. This Plan is intended to be a document that may be amended in the future independent of the PUDA and without City Council approval, subject to the amendment provisions below.

#### Agreement



Now, therefore, the Owner agrees to the following:

**A. Program Goals/Vision. The Studio's goals, and the goals to program the Studio, include the following:**

1. The Studio (as defined in Section B.1.a. below) provides a flexible space designed to meet the needs of arts and cultural users.
2. The Studio is located in a public benefits space that is visible and directly accessible from adjacent City streets.
3. The Studio is intended to support, empower, and promote local artists and cultural groups, with an emphasis on emerging artists from a diversity of backgrounds and communities.
4. The Studio will be available to artists and art groups free of charge for the life of the Project for the purposes set forth in the Property Use and Development Agreement. Users will be required to comply with the rules and regulations for The Studio and may be required to pay Owner for services provided by Owner relating to the User's usage of the space such as cleaning, set up, security and repair of any damages caused by the User or its invitees. Users may be charged a fee if they reserve The Studio and do not use The Studio during the reserved time.
5. Landlord shall provide or may contract with a third party (the "Studio Manager") who will provide regular activation of the Studio, to create synergy and connection with neighborhood and building occupants.

**B. Implementation Plan / Strategies**

**1. Program Commitments and Costs**

- a. Owner will provide the existing studio space consisting of 1,183 square feet of space at the ground floor of the Project which was designed to support vocal, dance, theater, music rehearsal activities, arts display, and community meetings (the "Studio").
- b. The Studio space includes a sprung floor to support dance events, a restroom, and other accessory spaces that support a variety of room uses.
- c. The Studio space will include a good visual connection with other on-site public benefit areas and adjacent streets.
- d. The Studio management costs and normal and customary operating expenses are covered by the Owner and are not charged back to the Studio Manager, artists, or user groups.
- e. Owner is not required to provide any equipment, supplies or security. Each user will use the Studio at its own risk and will provide its own equipment and supplies. Owner may require users to sign a standard user agreement as a condition to use of the Studio. Owner may require users to provide proof of insurance.

- f. The Studio may, but is not required to be, open outside of normal operating hours for the Project.

**2. Management:**

- a. Following precedent studies, workshops with local neighborhood arts organizations (Benaroya/SAM), and consultation with local arts and cultural subject matter experts, an open Request for Proposals (RFP) was developed to hire a partner organization to manage The Studio. The Studio Manager will have the following responsibilities:
  - i. Liaise with Owner and property manager regarding use, programming, and operations to ensure activation, alignment with vision, and ongoing success;
  - ii. Curate users and uses consistent with stated goals and vision of the Studio;
  - iii. Allow access to The Studio during normal building operating hours;
  - iv. Manage The Studio's day-to-day operations including access, space changeover, and staffing as-needed;
  - v. Advertise The Studio's availability to Seattle's arts and culture community, with an emphasis on emerging and underserved artists and groups;
  - vi. Solicit rolling applications for use of the Studio from Seattle's arts and culture community;
  - vii. Maintain records of Studio use as outlined under "Reporting" below; and
  - viii. Collaborate with cultural venues across Seattle to coordinate activities, identify potential users, and address areas of need.

**3. Outreach and Engagement for Disadvantaged Communities:** The Studio Manager will use their existing network and outreach infrastructure to be continually engaged with the local arts communities. Preferences for use of The Studio shall be given to:

- a. Uses by artists and arts organizations led by or serving communities of color, people with disabilities, LGBTQIA+ community, immigrants and refugees, youth, and seniors; and
- b. Uses that reflect a breadth of artistic genres, subject matters, communities, and messages, showcasing cultural activity that reflects the Ccity's diversity

**4. Reporting:** The Studio Manager shall also be responsible for creating an annual report for the Owner and, pursuant to the requirements and conditions of the Alley Vacation, a report after the third year of operations that will be submitted to the Seattle City Council. Each annual report shall be submitted by December 31.

The annual report to the Owner for use in City updates is envisioned to include, but not be limited to the following components:

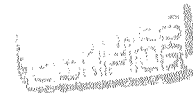
- a. Activity Summary: type, frequency, and duration of use;

- b. User Summary: list of artists/arts organizations that used the space, noting if possible; how they showcased or served emerging or underserved artists or arts organizations;
- c. Marketing Summary: outreach efforts, press, or media related items;
- d. Partnership Summary (public and private); and
- e. Lessons learned and recommended programming changes for the coming year.

Following the first 3 years of The Studio operations, a summary report shall be delivered to the City Council including:

- a. Staff briefing on how and to what extent the Studio's stated objectives have been achieved;
- b. A compilation of activity in years 1-3 with user, budget, and marketing summaries;
- c. Survey of studio users to understand the impact of The Studio; and
- d. A look ahead that identifies next steps and outline the next 3-year plan. The look ahead shall also contain an assessment on whether The Studio goals need to adapt to current community needs.

5. **Amendments to Plan.** The Plan shall, from time to time, be amended to reflect changing conditions and the relative success of the Plan's attainment of the goals stated in Section A of this document. The Owner shall obtain the approval of the Seattle Department of Transportation (SDOT) for changes to the Plan. SDOT may consult with other City Departments, such as the Department of Arts and Culture, prior to approving the Plan changes.



등부 2021 년 제 3945 호

Registered No. 2021 — 3945

**인 증**

**NOTARIAL CERTIFICATE**

위 부동산이용 및 개발합의서 에  
기재된 정 해 성  
의 대리인 정 크리스토퍼 (는)은  
본 공증인의 면전에서 위 본인이  
서명 ---- 한 것임을 자인하였다.

Chung Christopher  
attorney-in-fact of

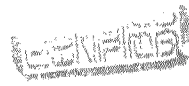
Hae Sung Jung  
appeared before me and  
admitted said principal's  
subscription to the attached

2021 년 8 월 19 일

Property use and development  
Agreement

이 사무소에서 위 인증한다.

This is hereby attested on  
this 19th day of Aug. 2021  
at this office

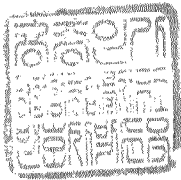


**공증인가 평화합동법률사무소**  
**소속 서울중앙지방검찰청**  
서울특별시 중구 을지로 80-1

**PYEONG-HWA LAW AND NOTARY PUBLIC OFFICE**  
Belong to Seoul Central District Prosecutors' Office  
80-1, Eulji-Ro, Jung-Gu, Seoul, Korea

공증담당  
변호사

*박 승 옥*



*Park Sun Ok*

Attorney-at-Law Park Sun Ok

This office has been authorized  
by the Minister of Justice, the  
Republic of Korea, to act as  
Notary Public since  
September 8, 1971. under  
Law No. 2254



Registered No. 2021 - 3945

# NOTARIAL CERTIFICATE



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**PYEONG-HWA LAW AND NOTARY PUBLIC OFFICE**  
80-1, EULJI-RO, JUNG-GU, SEOUL, KOREA