



SEATTLE CITY COUNCIL

Legislative Summary

CB 119194

Record No.: CB 119194

Type: Ordinance (Ord)

Status: Passed

Version: 2

Ord. no: Ord 125531

In Control: City Clerk

File Created: 02/06/2018

Final Action: 02/20/2018

Title: AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 90 of the Official Land Use Map to rezone property located at 1600 Dexter Ave N from Neighborhood Commercial 3 with a pedestrian designation and a 40-foot height limit to Neighborhood Commercial 3 with a pedestrian designation, a 75-foot height limit, and the MHA suffix. (Petition by Brook V LLC, C.F. 314358, SDCI Project 3021980)

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Johnson

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Ex A - Rezone Map, Ex B - Executed Property Use and Development Agreement, Ex B - Unexecuted Property Use and Development Agreement

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: Yes No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	02/07/2018	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	02/08/2018	sent for review	Full Council			
	Action Text: The Council Bill (CB) was sent for review. to the Full Council						
	Notes:						
1	Full Council	02/12/2018	referred	Full Council			
	Action Text: The Council Bill (CB) was referred. to the Full Council						
	Notes:						

2 Full Council 02/20/2018 passed as amended Pass

Action Text: The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:

Notes: **ACTION 1:**

Motion was made and duly seconded to pass Council Bill 119194.

ACTION 2:

Motion was made by Councilmember O'Brien, duly seconded and carried, to amend Council Bill 119194, Exhibit B, by substituting an executed Property Use and Development Agreement for the unexecuted Property Use and Development Agreement.

ACTION 3:

Motion was made and duly seconded to pass Council Bill 119194 as amended.

In Favor: 6 Council President Harrell, Councilmember Herbold, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

2 City Clerk 02/20/2018 attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.

Notes:

CITY OF SEATTLE

ORDINANCE 125531

COUNCIL BILL 119194

AN ORDINANCE relating to land use and zoning; amending Chapter 23.32 of the Seattle Municipal Code at page 90 of the Official Land Use Map to rezone property located at 1600 Dexter Ave N from Neighborhood Commercial 3 with a pedestrian designation and a 40-foot height limit to Neighborhood Commercial 3 with a pedestrian designation, a 75-foot height limit, and the MHA suffix. (Petition by Brook V LLC, C.F. 314358, SDCI Project 3021980)

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. This ordinance rezones the following legally described property ("Rezone Area") commonly known as 1600 Dexter Ave N:

PARCEL A:

LOTS 6 AND 7, BLOCK 6, UNION LAKE ADDITION SUPPLEMENTAL TO THE CITY OF SEATTLE. W.T., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 177, IN KING COUNTY, WASHINGTON; EXCEPT THE WEST 18.21 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 61981 FOR DEXTER AVENUE, AS PROVIDED BY ORDINANCE NO. 17628 OF THE CITY OF SEATTLE.

PARCEL B:

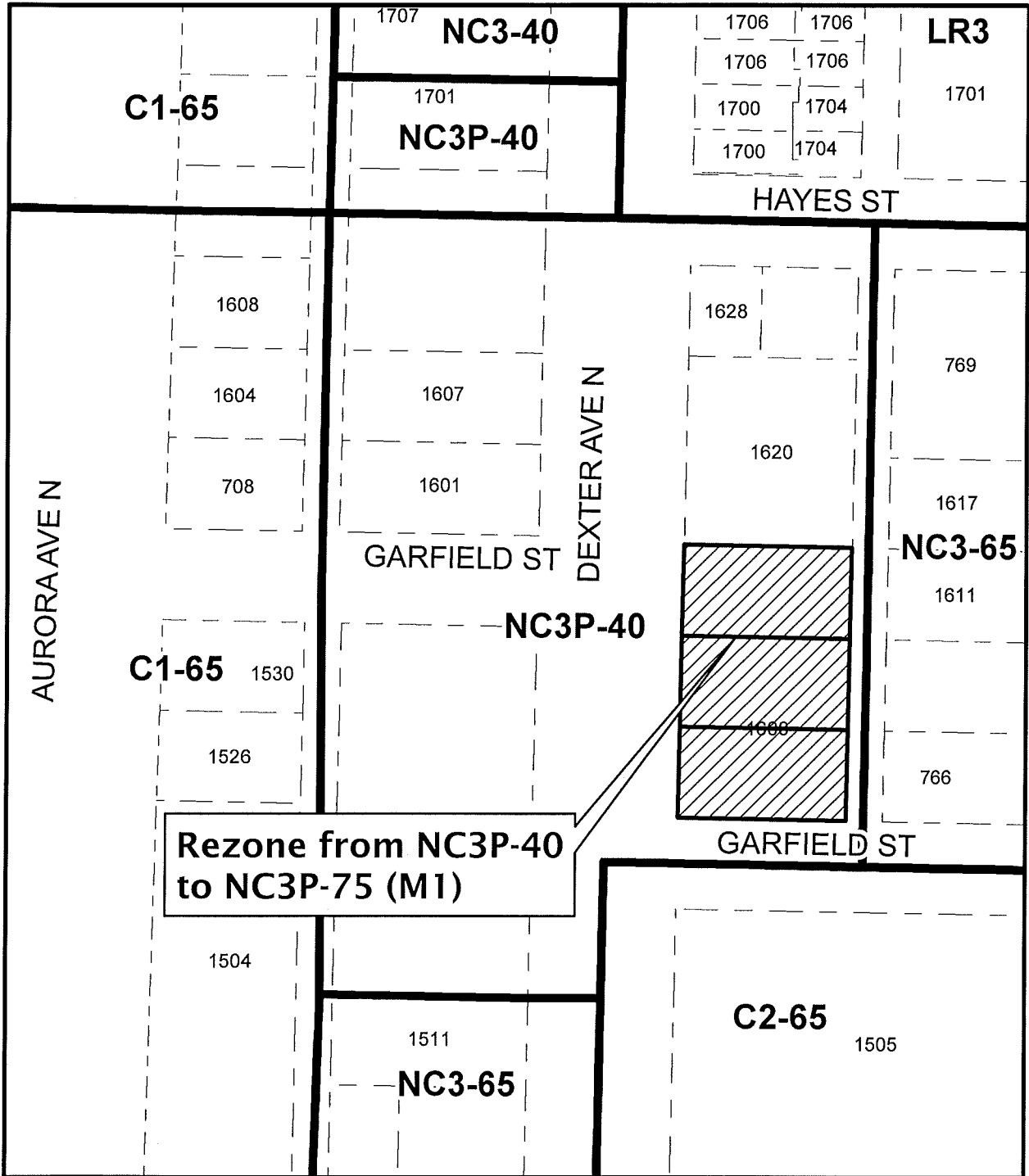
LOT 8, BLOCK 6, UNION LAKE ADDITION SUPPLEMENTAL TO THE CITY OF SEATTLE W.T., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 177, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE NORTH.

Section 2. Page 90 of the Official Land Use Map, Seattle Municipal Code Section 23.32.016, is amended to rezone the Rezone Area described in Section 1 of this ordinance, and shown in Exhibit A to this ordinance, from Neighborhood Commercial 3 with a pedestrian designation and a 40-foot height limit to Neighborhood Commercial 3 with a pedestrian designation, a 75-foot height limit, and the MHA suffix. Approval of this rezone is conditioned

1 upon compliance with the Property Use and Development Agreement (PUDA) approved in
2 Section 3 of this ordinance.

3 Section 3. The PUDA attached to this ordinance as Exhibit B is approved and accepted.

4 Section 4. The City Clerk is authorized and directed to file the PUDA with the King
5 County Recorder's Office; to file, upon return of the recorded PUDA from the King County
6 Recorder's Office, the original PUDA along with this ordinance at the City Clerk's Office; and to
7 deliver copies of the PUDA and this ordinance to the Director of the Seattle Department of
8 Construction and Inspections and to the King County Assessor's Office.



**Rezone from NC3P-40
to NC3P-75 (M1)**

Proposed Rezone
Clerk File 314358
DPD Project No. 3021980
1600 Dexter Ave N

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Rezone Area

0 100 Feet



1 Section 5. This ordinance, effectuating a quasi-judicial decision of the City Council and
2 not subject to mayoral approval or disapproval, shall take effect and be in force 30 days from and
3 after its passage and approval by the City Council.

4 Passed by the City Council the 20th day of February, 2018,
5 and signed by me in open session in authentication of its passage this 20th day of
6 February, 2018.

7 

8 President _____ of the City Council

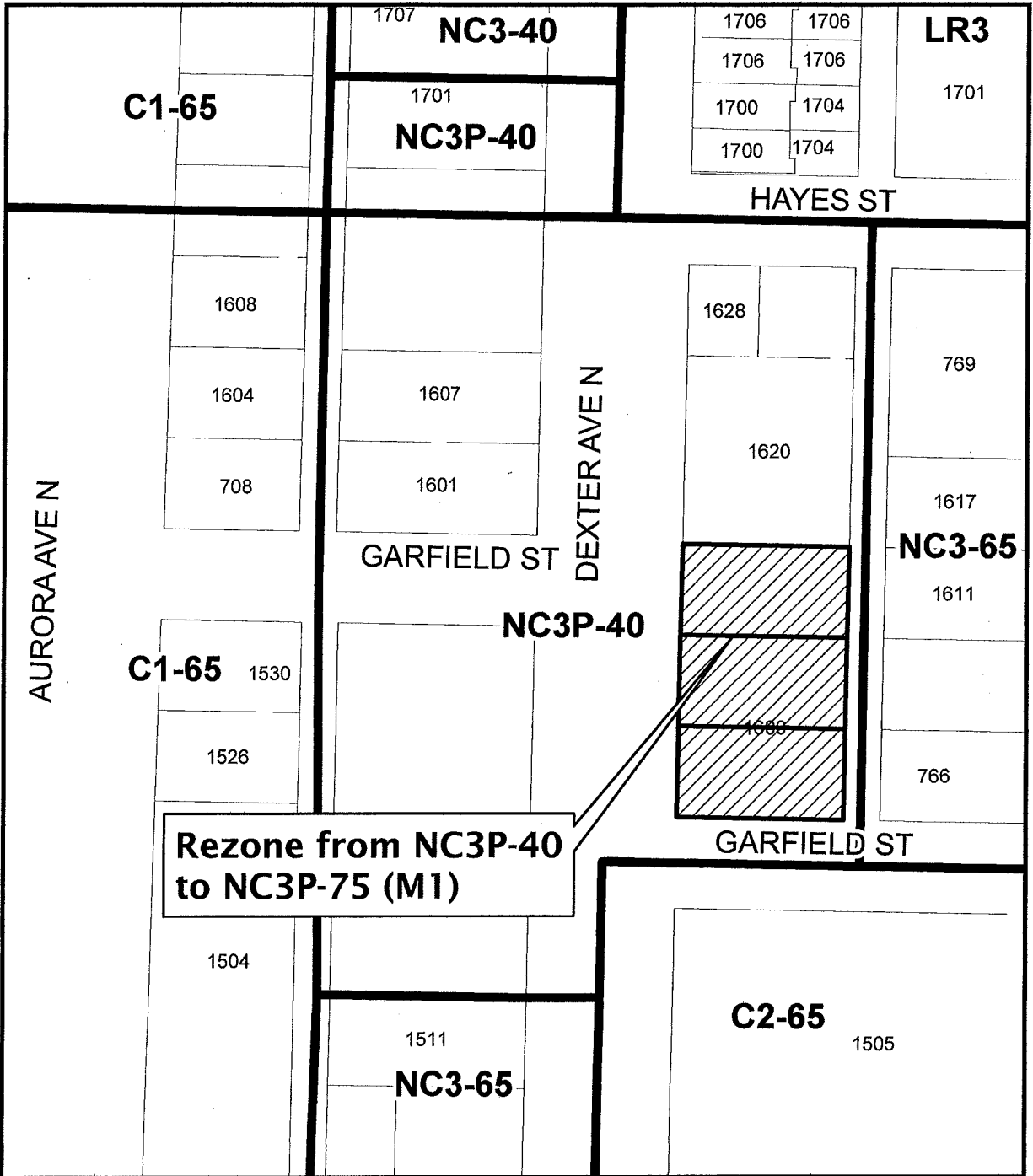
9
10 Filed by me this 20th day of February, 2018.

11 

12 Monica Martinez Simmons, City Clerk

13 (Seal)

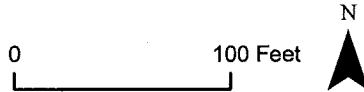
14 Attachments:
15 Exhibit A – Rezone Map
16 Exhibit B – Property Use and Development Agreement



**Rezone from NC3P-40
to NC3P-75 (M1)**

Proposed Rezone
 Clerk File 314358
 DPD Project No. 3021980
 1600 Dexter Ave N

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FILED
 CITY OF SEATTLE
 18 FEB 13 PM 3:35
 CITY CLERK

Ex B – Property Use and Development Agreement

V1a

Property Use and Development Agreement

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

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantor(s):	(1) Brook V LLC	(2) n/a
<input type="checkbox"/> Additional grantors on page <u>n/a</u>		
Grantee:	(1) The City of Seattle	
<input type="checkbox"/> Additional on page <u>n/a</u>		
Legal Description <i>(abbreviated if necessary):</i>	See below.	
<input checked="" type="checkbox"/> Additional legal description on page <u>2</u>		
Assessor's Tax Parcel ID #:	880790-0200 880790-0210	
Reference Nos. of Documents Released or Assigned:	n/a	

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT (the "Agreement") is executed this 9 th day of Feb, 2018, in favor of the Grantee CITY OF SEATTLE (the "City"), a Washington municipal corporation, by Grantor BROOK V LLC a Washington limited company (the "Owner")(together hereafter the "Parties").

RECITALS

- A. BROOK V LLC is the owner of that certain real property (the "Rezone Area") in the City of Seattle zoned Neighborhood Commercial 3 with a pedestrian designation and a 40-foot height limit ("NC3P-40") shown in Attachment A and legally described as:

PARCEL A:

LOTS 6 AND 7, BLOCK 6, UNION LAKE ADDITION SUPPLEMENTAL TO THE CITY OF SEATTLE. W.T., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 177, IN KING COUNTY, WASHINGTON; EXCEPT THE WEST 18.21 FEET THEREOF CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 61981 FOR DEXTER AVENUE, AS PROVIDED BY ORDINANCE NO. 17628 OF THE CITY OF SEATTLE.

PARCEL B:

LOT 8, BLOCK 6, UNION LAKE ADDITION SUPPLEMENTAL TO THE CITY OF SEATTLE W.T., ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 2 OF PLATS, PAGE 177, IN KING COUNTY, WASHINGTON; EXCEPT THAT PORTION CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 61981 FOR DEXTER AVENUE NORTH.

- B. In September 2016, the Owner submitted to the City an application under Project No. 3021980 for a rezone of the Rezone Area from NC3P-40 to Neighborhood Commercial 3 with a pedestrian designation and a 65-foot height limit. Because the City was in the process of preparing a proposal for a legislative rezone to apply Mandatory Housing Affordability (MHA) requirements in existing multifamily and commercial zones in Seattle, including the subject property, the Applicant and the Department determined that Neighborhood Commercial 3 with a pedestrian designation, a 75-foot height limit, and the MHA suffix (“NC3P-75 (M1)”) was the appropriate zone designation.
- C. Per Seattle Municipal Code (“SMC”) 23.58B.015 and SMC 23.58C.015, the requirements of Chapter 23.58B and 23.58C SMC apply where the provisions of the zone refer to that Chapter or through the terms of a contract rezone according to SMC 23.34.004.
- D. 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 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 Area from Neighborhood Commercial 3 with a 40-foot height limit and a pedestrian zone designation (“NCP3-40”) to Neighborhood Commercial 3 with a 75-foot height limit, a pedestrian zone designation, and a mandatory housing affordability suffix (“NCP3-75 (M1)”) (the “Rezone”):

- a) Development of the Rezone Area is restricted to a project developed in substantial conformance with the final approved plans for Master Use Permit (“MUP”) number 3021980. Prior to issuing the MUP, Seattle Department of Construction and Inspections

(“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) The provisions of Seattle Municipal Code Chapter 23.58B and 23.58C shall apply to the Rezone Area.

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 Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner of the Rezone Area.

Section 3. Termination of Conditions. The conditions listed in Section 1 of this Agreement shall expire if the Rezone expires according to SMC 23.76.060.C, or if the Rezone is revoked pursuant to SMC 23.34.004.

Section 4. 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 5. 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 6. No Precedent. The conditions contained in this Agreement are based on the unique circumstances applicable to the Rezone Area and this Agreement is not intended to establish precedent for other rezones in the surrounding area.

Section 7. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the Rezone and that if Owner avails itself of the benefits of the Rezone but then fails to comply with the conditions of this Agreement, in addition to pursuing any other remedy, the City may:

- a. revoke the Rezone by ordinance and require the use of the Rezone Area to conform to the requirements of the previous NC3P-40 zoning designation or some other zoning designation imposed by the City Council; and/or
- b. pursue specific performance of this Agreement.

[signature and acknowledgment on following page]

Ex B – Property Use and Development Agreement
V1a

SIGNED this 9th day of February 2018.

BROOK V LLC

A Washington limited liability company


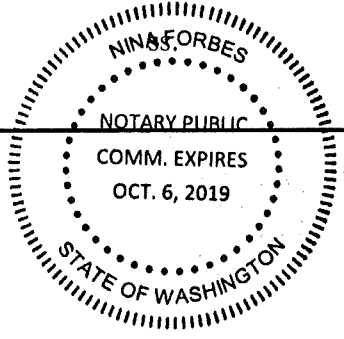
By: 

Marc Angelillo, Manager of Stream Real Estate, LLC

As Manager of Brook V LLC

On this day personally appeared before me Marc Angelillo, to me known to be the Manager of Brook V LLC that executed the foregoing instrument, and acknowledged such instrument to be a free and voluntary act and deed of such Church, 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 9th day of February, 2018.

		Printed Name <u>Nina Forbes</u>
<u></u>		NOTARY PUBLIC in and for the State of Washington, residing at <u>Seattle</u>
		My Commission Expires <u>10/6/19</u>
STATE OF WASHINGTON	}	
COUNTY OF KING		