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Page 001 of 004
07/08/2015 04:33
King County, WA

After Recording Return To:
Seattle Department of Transportation
Attn: Ms. Beverly Barnett
Seattle Municipal Tower
P.O. Box 34996
Seattle WA 98124-4996

NCS-CM-4217

**THIS DOCUMENT IS RECORDED
AS A COURTESY ONLY.
FIRST AMERICAN TITLE INSURANCE CO.
ASSUMES NO LIABILITY FOR
SUFFICIENCY, VALIDITY OR ACCURACY**

Grantor: 3922 SW Alaska LLC, a Washington limited liability company
Grantee: City of Seattle, a municipal corporation of the State of Washington
Abbreviated Legal:

Lots 10 through 24, Block 56, and Lots 18 through 24 and ptn 17, Block 55,
Boston Co.'s Plat of West Seattle, Vol. 3 of Plats, P. 19, King County, WA, less
ptns for streets and alley
Full legal description at **Exhibit A**

Assessor's Tax Parcel Nos.: 095200-7175, 095200-7265

Reference of Documents
Assigned or Released: Not Applicable

PROPERTY USE AND DEVELOPMENT AGREEMENT

This Property Use And Development Agreement ("Agreement") is executed as of the 10TH
day of JUNE, 2015, by 3922 SW Alaska LLC, a Washington limited liability company,
("Owner") in favor of the City of Seattle, a municipal corporation of the State of Washington
("City").

ORIGINAL
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day of JUNE, 2015, by 3922 SW Alaska LLC, a Washington limited liability company,
("Owner") in favor of the City of Seattle, a municipal corporation of the State of Washington
("City").

WITNESSETH

WHEREAS, Owner is vested in fee simple title to the real property in King County, Washington, legally described in **Exhibit A** (the "Property") that is attached to this Agreement; and

WHEREAS, Owner is developing the Property with a mixed use project as reviewed by the Seattle Department of Planning and Development under Project No. 3009161 as modified by Project No. 3014161, and as reviewed by the Seattle Department of Transportation under Street Improvement Permit No. 21818 (the "Project SIP"); and

WHEREAS, a petition was filed under Council File 308171 to vacate a portion of the north-south mid-block alley extending northerly from SW Alaska Street, to become part of the Project, and contemplated that the Owner would dedicate a section of east-west alley and provide an alley easement in order to preserve the alley functions on the block; and

WHEREAS, on June 18, 2007, the alley vacation was preliminarily approved by the City Council subject to conditions, including a condition that the Project provide certain public benefit features; and

WHEREAS, on November 16, 2012, the preliminary approval was extended with the additional condition of overlapping, continuous rain protection along the SW Alaska Street and 39th Avenue SW facades of the Project; and

WHEREAS, the Owner has conveyed to the City, and the City has accepted, a Deed For Alley Purposes (King County Recording #20140429000572) and Easement For Alley Purposes (King County Recording #20140429000569); and

WHEREAS, the public benefit features included a public plaza space in right-of-way bulb at the SE Project corner at SW Alaska Street and 39th Avenue SW; a public art element in the public plaza space; enhanced sidewalk widths and landscaping along SW Alaska Street and along 39th Avenue SW over and above City code requirements; weather protection along the Project's SW Alaska Street and 39th Avenue SW facades; a decorative bike rack in the right-of-way; and street furniture; and all of which improvements are reflected in the Project SIP; and

WHEREAS, the public benefit features also included a \$25,000 payment to Seattle Parks that the Owner has made prior to the execution of this Agreement; and

WHEREAS, the public benefit features included provision of "flex car" spaces in the Project garage; and

WHEREAS, execution of this Agreement is desired to ensure compliance with any ongoing conditions to provide public benefit features as part of the Project subsequent to passage of the alley vacation ordinance;

NOW, THEREFORE, the Owner covenants, bargains, and agrees on behalf of itself and its successors and assigns to the following conditions:

Section 1. The following features as shown in the approved drawings of the Project SIP in the right-of-way adjacent to the Project shall be maintained by the Owner for the life of the Project:

- A. The public plaza space in right-of-way bulb at the southeast corner Project at the intersection of SW Alaska Street and 39th Avenue SW, which is approximately 2,690 square feet in area (excluding surrounding sidewalks and including landscaped areas), as shown in more detail in the Project SIP;
- B. The public art element of a ground-level mosaic that is installed in the public plaza space;
- C. The sidewalks and landscaping adjacent to the Project along SW Alaska Street and along 39th Avenue SW;
- D. The weather protection along the Project's SW Alaska Street and 39th Avenue SW facades;
- E. The decorative bike rack in the right-of-way; and
- F. The street furniture as shown in the Project SIP.

After installing the public amenity features above, the amenities may be repaired or modified after written consent of the Director of the Department of Transportation, provided that the quality of the amenities shall not be diminished. After installation, the amenity features shall remain in place in the configuration shown in the Project SIP unless changed by action of the City, such as right-of-way reconfigurations for bicycle lanes or other public purposes at the City's sole discretion.

Section 2. The Owner shall make available at a commercially-reasonable rate up to two spaces for flex cars in the Project's parking garage. If in the future, flex cars are no longer used as a means of transportation in the neighborhood, SDOT may waive or modify this requirement in its sole discretion.

Section 3. Upon the effective date of the vacation ordinance, the Owner 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 any damages to persons or property related to Owner's installation, maintenance and use of the public amenities listed above. The insurance policy shall name the City as an additional insured.

Section 4. The Owner shall indemnify, hold harmless, and defend the City for any and all claims arising from Owner's installation and use of the public amenities as set forth in that certain Public Place Indemnity Agreement ("Indemnity Agreement") between the Owner and the City and recorded under King County Recording No. 20130408002187. The Indemnity Agreement shall remain in place for the life of the Project.

Section 5. An executed copy of this Agreement shall be recorded in the records of King County, and the covenants contained in the Agreement shall be deemed to touch and concern the use of the Property and shall run with the land.

Section 6. This Agreement is made for the benefit of the City and the public as represented by the City. The City may institute and prosecute a proceeding at law or in equity against the Owner to enforce this Agreement.

Section 6. In the event any covenant or condition or restriction of this Agreement is deemed invalid or void, such invalidity or voidness shall not affect any other covenant, condition, or restriction.

Executed as of the date first written above:

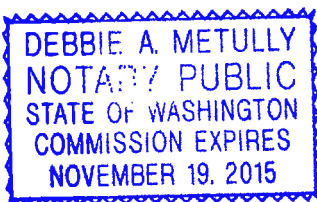
3922 SW ALASKA LLC,
a Washington limited liability company

By: *Thomas M. Lee*
Name: Thomas M. Lee
Its: Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this 11th day of June, 2015, I certify that I know of have satisfactory evidence that THOMAS M. LEE appeared before me and acknowledged that he signed this instrument and on oath stated that he was authorized to execute this instrument as the Manager or 3922 SW ALASKA LLC, a Washington limited liability company, and acknowledged it to be the free and voluntary act of such company for the uses and purposes mentioned in this instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 11th day of June, 2015.



Debbie A. Metully
Debbie A. Metully
(Print or type name)
NOTARY PUBLIC in and for the State of Washington,
Residing at Seattle
My commission expires 11/19/2015

Exhibit A

PARCEL A

LOTS 17 THROUGH 24, INCLUSIVE, BLOCK 55 OF BOSTON CO.'S PLAT OF WEST SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 19, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF SAID LOT 24 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NO. 70682, AS PROVIDED BY ORDINANCE NO. 21302 OF THE CITY OF SEATTLE;

AND EXCEPT THAT PORTION OF SAID LOT 17, DEDICATED FOR ALLEY PURPOSES, RECORDED UNDER RECORDING NUMBER 20140429000572, RECORDS OF KING COUNTY, WASHINGTON;

AND EXCEPT THAT PORTION OF SAID LOT 17, AS SHOWN ON A BOUNDARY LINE AGREEMENT, RECORDED UNDER RECORDING NUMBER 20130909001729, RECORDS OF KING COUNTY, WASHINGTON.

PARCEL B

LOTS 10 THROUGH 24, INCLUSIVE, BLOCK 56, OF BOSTON CO.'S PLAT OF WEST SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE 19, IN KING COUNTY, WASHINGTON;

EXCEPT THAT PORTION OF SAID LOTS 23 AND 24 CONDEMNED IN KING COUNTY SUPERIOR COURT CAUSE NOS. 70682 AND 93059 FOR STREET PURPOSES, AS PROVIDED BY ORDINANCE NOS. 21302 AND 29063, RESPECTIVELY, OF THE CITY OF SEATTLE;

AND EXCEPT THAT PORTION OF SAID LOTS 10 THROUGH 16, INCLUSIVE, DEDICATED FOR ALLEY PURPOSES, RECORDED UNDER RECORDING NUMBER 20140429000572, RECORDS OF KING COUNTY, WASHINGTON.

PARCEL C

THAT PORTION OF THE ALLEY DESCRIBED AS FOLLOWS WHICH, UPON VACATION, WOULD ATTACH BY OPERATION OF LAW:

THAT PORTION OF ALLEY LYING BETWEEN BLOCKS 55 AND 56, BOSTON CO'S PLAT OF WEST SEATTLE ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 3 OF PLATS, PAGE(S) 19, RECORDS OF KING COUNTY, WASHINGTON, LYING NORTH OF SOUTHWEST ALASKA STREET AND LYING SOUTH OF THE EASTERLY EXTENSION OF A LINE BEING 23.50 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF LOT 17, BLOCK 55, OF SAID PLAT.