

After recording return to:

The City of Seattle
c/o Department of Neighborhoods
Attn: Sarah Sodt, Historic Preservation Officer
P.O. Box 94649
Seattle, WA 98104

**COVENANTS FOR
LANDMARK TRANSFERABLE DEVELOPMENT POTENTIAL**

Grantor: UNB PROPERTY, LLC

Grantee: THE CITY OF SEATTLE

Legal Description:

Lots 16 and 17, Block 1, University Heights, according to the plat thereof recorded in Volume 9 of Plats, Page 41, in King County, Washington; Except that part of said Lot 17 as conveyed to J. W. Taylor and Emma Taylor by deed recorded July 14, 1925 under recording no. 2045590; and Except that portion of Lot 16 lying within the right of way for Northeast 45th Street.

Assessor's Property Tax Parcel Account Number(s): 8816400105

Reference numbers of related documents: NOT APPLICABLE

THIS AGREEMENT is entered into this xx day of xxx, 2023 between **UNB PROPERTY, LLC**, a Washington limited liability company (“Grantor”), and **THE CITY OF SEATTLE**, a Washington municipal corporation acting through its Department of Neighborhoods (the “City” or “Grantee”).

RECITALS

A. Chapter 23.48 of the City’s Land Use Code (“Land Use Code”) authorizes the transfer of Transferable Development Potential (“TDP”) from certain structures designated as landmarks pursuant to the Landmark Preservation Ordinance, Chapter 25.12 (“Landmarks Ordinance”) of the Seattle Municipal Code (“SMC”).

B. Grantor is the owner of the structure commonly known as the University National Bank (the “Building”), which is located at 4500-4502 University Way NE in Seattle’s University District neighborhood, King County, Washington, in the Neighborhood Commercial (NC) zone (the “Property”). The legal description of the Property is included on **Exhibit A** attached and incorporated by this reference.

C. The Building is a designated City of Seattle Landmark, as stated in Ordinance No. 126569, and is eligible to participate in the City’s Landmark TDP program pursuant to the Land Use Code.

D. Grantor has renovated, repaired, and maintained the Building in accordance with one or more Certificates of Approval issued by the Seattle Landmarks Preservation Board (the “Board”).

E. The Land Use Code makes executing and recording an agreement to restore and maintain historically significant features of a Landmark structure a condition for a property to qualify for transfer of Landmark TDP. This Agreement is being entered into to satisfy that condition of the Land Use Code.

F. Grantor enters into this Agreement freely and voluntarily.

COVENANTS

NOW, THEREFORE, for good and valuable consideration, receipt of which is acknowledged, the Grantor grants in favor of the City the covenants and negative easements set forth below, and the parties acknowledge and agree as follows:

1. AMOUNT OF TDP AND EFFECT OF TRANSFER

A. The Seattle Department of Construction and Inspections (“SDCI”) has determined that the amount of TDP attributable to the Property and available for transfer and sale is 18,151 square feet, as stated in the letter from SDCI attached as **Exhibit B** and incorporated by this reference, and based on the assumptions stated in that letter and as of the date thereof. The TDP available for transfer may be sold in whole or in part to any eligible buyer in accordance with the Land Use Code.

B. Grantor understands that the transfer of TDP from the Property will reduce the allowable non-exempt gross floor area that may be built on the Property pursuant to SMC Title 23. Grantor covenants not to commence or expand any non-exempt use of floor area on the Property, or permit any non-exempt use of floor area on the Property to commence or expand, contrary to the applicable terms of SMC Title 23, as applied after taking account of any transfer of TDP from the Property.

2. CONTROLS; RENOVATION OF THE PROPERTY

A. Controls on the Building (“Controls”) have been established through Ordinance No. 126569, a copy of which is attached as **Exhibit C** and incorporated by this reference. The features described in Section of 2 of the Ordinance are referred to as “Designated Features” and the controls established pursuant to the Ordinance are referred to as the “Controls.” The Ordinance continues to apply to the Building and Property.

B. The exterior of the Building is in good condition and repair and does not have a present need for further rehabilitation as a condition to the transfer of TDP.

3. MAINTENANCE AND REPAIR

Grantor shall maintain the site, and the exterior and interior of the Building in good condition and repair, reasonable wear and tear excepted, in a manner that preserves the Designated Features consistent with the Controls and Certificates of Approval; and shall neither commit nor suffer any waste; and shall promptly comply with all requirements of federal, state, and local laws, ordinances, regulations, covenants, conditions, and restrictions applicable to the Property. It shall be the obligation of Grantor, at Grantor’s sole cost, to maintain and repair to the full extent necessary to avoid any need to remove, demolish, or alter any Designated Features due to damage or deterioration from any cause other than fire, earthquake, or other like casualty. The extent to which any casualty requires modifying, removing, or demolishing Designated Features shall be subject to review under the Landmarks Ordinance. If the Building is going to be vacant at any time, the Grantor agrees to have the following security measures in place to protect the entire Landmark:

A. Establish and maintain a local management company that responds to on-site property maintenance and security issues as needed. Their contact information shall be provided to the City Historic Preservation Officer and the Landmarks Preservation Board coordinator.

B. Have in place a working, comprehensive smoke alarm system monitored by an offsite company who will notify to the Seattle Fire Department and the property owner if there is an alarm. Devices shall be installed on every level of the building with coverage for all tenant spaces, circulation, and utility areas within the building.

C. If there is evidence of unauthorized access to the building, security cameras shall be required to be installed in a manner that is reviewed and approved by the Landmarks Preservation Board coordinator. The system will be monitored by the owner's representative.

D. If the building is vacant and there is evidence of unauthorized access to the building, temporary barriers shall be required to be installed to restrict access to the building so long as the building remains vacant; designed and installed in a manner that is reviewed and approved by the Landmarks Preservation Board coordinator.

4. LANDMARK DESIGNATION AND CONTROLS

A. Grantor agrees that the Building shall remain designated as a Seattle Landmark and that Grantor shall not apply for any removal of designation after the transfer of TDP. Further, the Building shall remain subject to the Controls and to any restrictions contained in the Certificate of Approval after the transfer of TDP.

B. Grantor further agrees not to physically remove, demolish, or cover any Designated Features without first obtaining a new certificate of approval issued by the Board. Grantor shall remain entitled to seek certificates of approval from the Board for modifications to Designated Features consistent with the historic character of the Building. Further, Grantor shall remain entitled to contest Board decisions on certificates of approval based on the appeal procedure in the Landmarks Ordinance.

5. REMEDIES; ENFORCEABILITY

A. If there is a violation by Grantor of any of the provisions of this Agreement, the City may notify Grantor in writing of the violation. Grantor shall have 30 days from the date of notice to cure the violation, failing which Grantor shall be in default.

Notwithstanding the foregoing, if the violation is of such a nature that it may not practicably be cured within 30 days, the City shall not be entitled to exercise its remedies so long as Grantor commences cure of such violation within the 30-day period and diligently

pursues the cure to completion within 90 days of the City's notice, unless the period is extended by written agreement of the City.

If Grantor does not cure within the 30-day period or commence to cure the violation within the 30-day period, as applicable, and complete the cure within the 90-day period or any extension granted by the City, the City may, in its discretion, pursue any and all remedies provided by this Agreement or available at law or in equity. Grantor agrees that the remedies shall include, to the full extent available under applicable law and without limitation, specific performance, preliminary and permanent injunctive relief, appointment of a receiver on an interim or permanent basis, monetary damages, and the costs of any repairs or other actions reasonably necessary with respect to the Property including the reasonable value of any services provided by City employees in connection this Agreement.

B. No waiver of any breach or violation shall be binding unless in writing signed by the City and no waiver or delay in enforcing the provisions of this Agreement as to any breach or violation shall impair, damage, or waive the right of the City to obtain relief or recover for the continuation or repetition of the breach or violation or any similar breach or violation at any later time or times.

6. REPRESENTATIONS AND WARRANTIES; NO CONFLICT WITH OTHER DOCUMENTS

Grantor represents and warrants it is the sole owner of the Property; that it has full power and authority to enter into and perform this Agreement; that this Agreement represents the valid, binding obligation of Grantor enforceable in accordance with its terms; and that no other agreement or instrument encumbering the Property contains terms that are contrary to the terms of this Agreement or requires any consent or approval for the execution or delivery of this Agreement, except for any consent or approval that has been duly granted.

7. CHOICE OF LAW

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Washington.

8. CAPTIONS

The section captions used in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.

9. GENDERS

The use of any gender shall be deemed to include any other gender, and the use of the singular shall be deemed to include the plural and vice versa, wherever appropriate.

10. MORTGAGEE PROTECTIONS

The following provisions are for the benefit of holders of first mortgages (“Mortgagees”) encumbering all or a portion of the Grantor Property and/or the Grantee Property (“Mortgages”). Any Mortgagee who provides a written request to Grantor or Grantee, as applicable, stating its name and address and indicating the property to which its Mortgage relates shall be deemed an eligible mortgage holder (“Eligible Holder”) and shall be entitled to a copy of any notice of default of this Agreement sent to either Grantor or Grantee, and such Eligible Holder shall have the right, but not the obligation, to cure any such default or delinquency within the same cure period as is provided to such defaulting/delinquent Grantor hereunder. Nothing in this provision shall cause the City of Seattle to be financially responsible for the Property.

11. RECORDING AND BINDING EFFECT

A. Grantor shall record this Agreement with the King County Recorder as an encumbrance on the Property within 10 working days after the date of this Agreement. The provisions shall not be amended or revised except by an instrument in writing duly executed by the City and Grantor or their successors and duly recorded. This Agreement shall not be terminated except by an instrument in writing authorized and executed by the City.

B. Grantor agrees that the restrictions on modifications in this Agreement shall burden the Property as negative easements, for the benefit of the City.

C. References to “Grantor” shall include its successors and assigns. The parties agree that this Agreement shall run with the land in perpetuity and shall bind Grantor and its heirs, successors, and assigns as owners of the Property or any interest therein, in perpetuity.

12. SEVERABILITY

The invalidity of any clause, part or provision of this Agreement shall not affect the validity of the remaining portions.

13. DELIVERY OF NOTICE

Any notice or other document required by this Agreement to be delivered to a party shall be deemed delivered two business days after mailing, postage prepaid, or upon personal delivery. Delivery to the Grantor and the City shall be made to the following addresses or such other address as either party shall provide to the other by written notice in accordance with this Section:

Grantor:

UNB PROPERTY, LLC
1620 Broadway, Suite 200
Seattle, WA 98122
Attn: Michael Oaksmith
Email: Moaksmith@hunterscapital.com

With copy to:

McCullough Hill Leary, P.S.
701 Fifth Avenue, Suite 6600
Seattle, WA 98104
Attn: Jessica Roe
jroe@mhseattle.com

City:

Department of Neighborhoods
600 Fourth Avenue – 4th Floor
Seattle, Washington 98104
Attn: Historic Preservation Officer

14. ENTIRE AGREEMENT

This Agreement, including any exhibits, attachments, and documents incorporated by reference contains the entire Agreement and understanding of Grantor and the City with respect to the subject matter of this Agreement.

15. LANDMARKS ORDINANCE

The obligations of Grantor are in addition to, and not in substitution for, Grantor's obligations under the Landmarks Ordinance and the related Controls. No consent or approval of the City by this Agreement shall operate to waive or otherwise affect the need for consents or approvals from the Board.

16. ACCEPTANCE OF AGREEMENT; EFFECT OF CHANGES

The City accepts this Agreement as complying with the Land Use Code provisions in effect as of the date of this Agreement that are applicable to transferring TDP from the Property, including without limitation transferring the TDP for use consistent with applicable Land Use Code provisions, by a deed in proper form, duly executed, acknowledged, and

recorded.

If there is any change in the Land Use Code or any applicable law prior to the transfer of TDP from the Property, including any re-transfer of any TDP that may revert to the Property for any reason, any or all of the following may occur: the amount of TDP transferable from the Property (if any) may change; additional conditions may apply, which may require amendment to this Agreement; or the terms on which TDP may be held or used by the transferee may change.

The use of any TDP transferred from the Property is subject to the applicable provisions of the Land Use Code for the receiving lot effective on the date as of which, under applicable law, the provisions of the Land Use Code then in effect apply to the transferee's application for a permit from the City for the development intended to use the TDP.

[Signature pages follow]

EXECUTED as of the day and year first above written.

Grantor:

UNB PROPERTY, LLC,
a Washington limited liability company

By: Hunters Property Holdings LLC, a Washington limited
liability company, its sole Member

By: MJM Holdings LLC, a Washington limited liability company,
its Manager

By: _____
Michael Oaksmith, its Manager

Date: _____

City:
THE CITY OF SEATTLE

By: _____
Name: Jenifer Chao
Title: Director, Department of Neighborhoods

Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lots 16 and 17, Block 1, University Heights, according to the plat thereof recorded in Volume 9 of Plats, Page 41, in King County, Washington; Except that part of said Lot 17 as conveyed to J. W. Taylor and Emma Taylor by deed recorded July 14, 1925 under recording no. 2045590; and Except that portion of Lot 16 lying within the right of way for Northeast 45th Street.

DRAFT

EXHIBIT B

SDCI TDP CERTIFICATION LETTER

Letter dated June 23, 2022; signed by David G. Graves

[Attached]

DRAFT



June 23, 2022

Tony Fan
Studio Meng Strazzara
2001 Western Ave #200
Seattle, WA 98121

RE: 4500 University Way NE: Landmark Transfer of Development Potential / Transfer of Development Rights Certification (Project #3039639-AN).

Dear Mr. Fan:

Thank you for your request to certify the Landmark Transferable Development Potential / Transferable Development Rights (TDP/TDR) available from the University National Bank at 4500 University Way NE. This letter confirms the amount of Landmark TDP/TDR available from this site as of the date of this letter.

The University National Bank is in the Neighborhood Commercial (NC) 3 Pedestrian (P) - 65 zone and was designated a Landmark by Ordinance 126569, signed by the Mayor on May 2, 2022. Based on the floor plans and calculations you have provided, the University National Bank contains 20,400 square feet of chargeable gross floor area, excluding a below-grade story. Based on the survey you provided, the subject lot is 8,116 square feet. Based on the title report you provided, no previous transfers have occurred.

As you state in your letter, pursuant to Seattle Municipal Code (SMC) 23.47A.009.G.2, this site is eligible to transfer Landmark TDP/TDR. Prior to the sale or transfer of any Landmark TDP/TDR, the owner of the Landmark must execute and record an agreement acceptable in form and content to the Landmarks Preservation Board, providing for the restoration and maintenance of the historically significant features of the structure. You will need to provide a copy of this recorded agreement to Seattle Department of Construction Inspections (SDCI) to verify it is in place. Please work with Sarah Sodt, City Historic Preservation Officer, on the Landmarks Preservation Board.

The maximum amount of Landmark TDP/TDR floor area that can be transferred shall not exceed the amount of floor area allowed under the base floor area ratio (FAR) minus any nonexempt floor area existing on the sending lot and minus any TDR or TDP previously transferred from the sending lot per SMC 23.47A.009.G.2.b and SMC 23.58A.042.B.1. The base FAR, pursuant to Table B for 23.47A.013, is 4.75. Therefore, the amount of available TDP/TDR for transfer is calculated as follows:

$(\text{Lot Area} \times 4.75) - (\text{existing chargeable floor area}) - (\text{previously transferred TDR/TDP}) = \text{available TDP/TDR}$
 $(8,116 \times 4.75 = 38,551 \text{ sf}) - (20,400 \text{ sf}) - (0 \text{ sf}) = \mathbf{18,151 \text{ square feet}}$ of available TDP/TDR

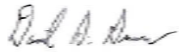
The eligibility of a sending lot to transfer TDP/TDR and the amount that is transferable is determined as of the date of transfer from the sending lot, pursuant to SMC 23.58A.042.I. You must complete the transfer of the TDP/TDR at a time when it is permitted by the Land Use Code.

In order for a project on the receiving site to use the TDP/TDR from your site, it must be vested to a Land Use Code per SMC 23.76.026 in effect at a time that allows the use of the TDP/TDR.

SDCI has determined that the subject site has **18,151 square feet** of Landmark TDP/TDR available if the transfer is completed on a date when such transfers from this site are permitted by the provisions of the zone.

This determination is based on the information available and the Land Use Code in effect on the date of this letter. If I may be of any further assistance, please contact me at David.Graves3@seattle.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "David G. Graves".

David G. Graves
Policy and Technical Land Use Planner

EXHIBIT C
CONTROLS ORDINANCE

[Attached]

DRAFT