

When Recorded, Return to:
THE SEATTLE CITY CLERK
600 Fourth Ave, Floor 3
PO Box 94728
Seattle, WA 98124-4728

PROPERTY USE AND DEVELOPMENT AGREEMENT

Grantors: Trenton Associates-McClellan, LLC, a Washington limited liability company

Grantee: The City of Seattle, a Washington charter city

Legal Description:

LOTS 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 AND 14, BLOCK 2, MCARTHUR'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE(S) 92, IN KING COUNTY, WASHINGTON; AND

LOTS 1, 2, 3, 4, 5, 6, 7 AND 8, BLOCK 5, MCARTHUR'S ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 11 OF PLATS, PAGE(S) 92, IN KING COUNTY, WASHINGTON.

Legal Description	Tax Parcel Number
Lots 1 and 2, Block 2, McArthur's Addition	526030-0135
Lots 3 and 4, Block 2, McArthur's Addition	526030-0140
Lots 5 and 6, Block 2, McArthur's Addition	526030-0155
Lots 7 and 8, Block 2, McArthur's Addition	526030-0165
Lots 9 and 10, Block 2, McArthur's Addition	526030-0175
Lots 11 and 12, Block 2, McArthur's Addition	526030-0185
Lots 13 and 14, Block 2, McArthur's Addition	526030-0195

Legal Description	Tax Parcel Number
Lots 1, 2, 7 & 8, Block 5, McArthur's Addition	526030-0275
Lots 3 and 4, Block 5, McArthur's Addition	526030-0283
Lots 5 and 6, Block 5, McArthur's Addition	526030-0290

THIS PROPERTY USE AND DEVELOPMENT AGREEMENT ("Agreement") is executed as of this _____ day of _____, 2013, in favor of the CITY OF SEATTLE, a Washington charter city (the "City"), by TRENTON ASSOCIATES-MCCLELLAN, LLC, a Washington limited liability company (the "Owner").

RECITALS

A. Owner is the owner of that certain real property legally described as: Lots 1-14 of Block 2, and Lots 1-8 of Block 5, McArthur's Addition, according to the plat thereof recorded in Volume 11 of plats, page 92, in King County, Washington. (the "Property"). The Property is located in the City of Seattle and is zoned Single Family 5000 (SF5000). Exhibit 1 to this Agreement shows the location of the Property and the area to be rezoned.

B. On or around September 16, 2011, the Owner submitted to the City a request to rezone the Property from SF5000 to Seattle Mixed/Residential with a 65-foot height limit (SM/R-65), as authorized under Seattle Municipal Code (SMC) Section 23.34 (the "Rezone"). The Rezone would allow proposed development at the Property that will include two seven-story mixed use structures, as reflected in Master Use Permit Nos. 3012417 and 3012217.

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

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

1. **Agreement.** Pursuant to 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 limitations and conditions in consideration of the Rezone:

- a. Future development of the Property shall be those improvements in substantial conformance with the approved plans for Master Use Permit numbers 3012217 and 3012247, dated September 6, 2012, and as presented to the Hearing Examiner as Exhibit 2 at the public hearing on January 28, 2013.
- b. Prior to the granting of any Certificate of Occupancy for either or both of the proposed structures, the Owner will supply, in lieu of other improvements to the 24th Avenue South right-of-way, a plan and timetable for development of a pedestrian access path from South McClellan Street to the Cheasty Greenbelt, substantially as contained in the plans presented to the Hearing Examiner on January 28, 2013. Should the Owner, having otherwise met the standard requirements for a Certificate of Occupancy for either or both of the proposed structures, be unable to secure plan approval from the Seattle Department of Transportation, the Department of Parks and Recreation, and the Department of Planning and Development, the Owner may instead grant to the Department of Parks and Recreation an easement suitable to accommodate future development of a pedestrian access path from South McClellan Street to the Cheasty Greenbelt where such path crosses the Property. The easement must be utilized by the Department of Parks and Recreation for use of the pedestrian path within ten years of its granting, or the easement will expire. Should the

easement be utilized by the Department of Parks and Recreation for use of the pedestrian path, the easement will remain in perpetuity.

- c. In cooperation and coordination with Seattle Public Utilities, the Owner shall undertake a capacity study of the existing sewer system on either side of South Lander Street servicing the Property and provide, if deemed necessary after analysis of the capacity study, improvements to the sewer infrastructure that are deemed adequate by the City to provide capacity to serve the proposed developments.

2. Agreement Runs with the Land. This Agreement shall be recorded in the real property records of King County. The covenants hereof shall be deemed to attach to and run with the Property and shall be binding upon the Owner, its heirs, successors and assigns, and shall apply to after-acquired title of the Owner in the Property.

3. Termination. The covenants herein shall expire as provided in SMC 23.76.060.C .

4. Amendment. This Agreement may be amended or modified by agreement between Owner and the City; provided, such amendment shall be approved by the legislative authority of the City by ordinance and in compliance with SMC 23.76.058.C.

5. Exercise of Police Power. Nothing in this Agreement prevents 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.

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

7. Benefited. This Agreement is made for the benefit of the City and for the benefit of the owners of property within 300 feet of the Property and either the City or any such property owners may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

8. Repeal as Additional Remedy. Owner acknowledges that compliance with the conditions of this Agreement is a condition of the Rezone and that if Owner or its successor(s) 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 revoke the Rezone by ordinance and require the use of the Property to conform to the requirements of the SF 5000 zone, the original zoning of the Property prior to the Rezone.

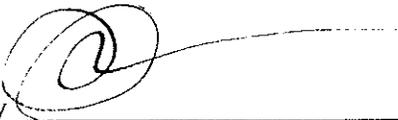
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Signed this 3rd day of May, 2013 by:

TRENTON ASSOCIATES-MCCLELLAN,
LLC, a Washington limited liability company

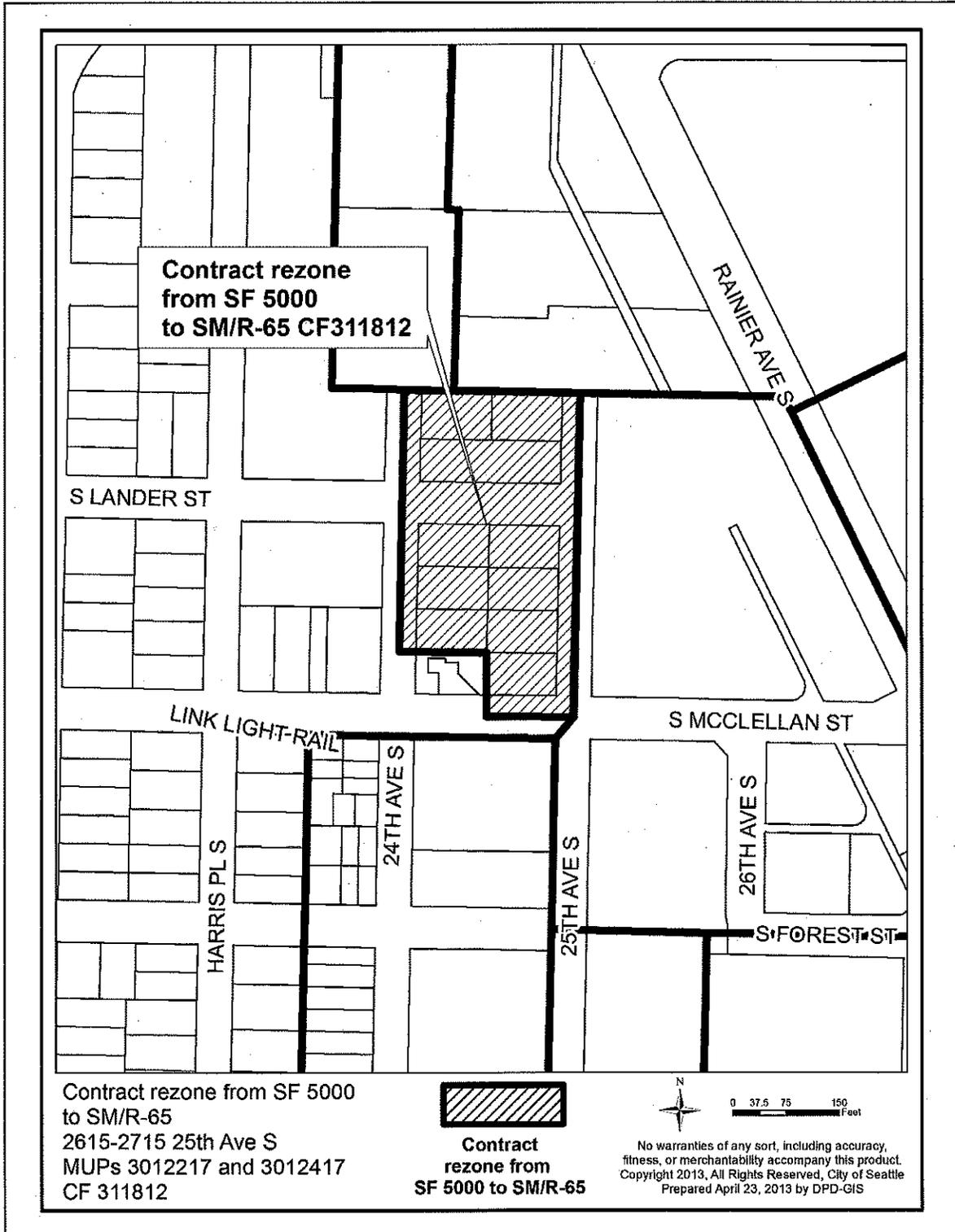
By 

Michael D. Ross, Managing Member

By 

Robert Spitzer, Managing Member

EXHIBIT 1 – REZONE ORDINANCE – 2615 – 25th Avenue S and 2715 – 25th Avenue S



Michael Jenkins
LEG 2615 – 25th Ave S.
April 23, 2013
Version #3a

1 return of the recorded agreement from the King County Records and Elections Division, the
2 original of said Property Use and Development Agreement with this Ordinance at the City
3 Clerk's Office; and to deliver copies of the same to the Director of the Department of Planning
4 and Development and to the King County Assessor's Office.

5 Section 5. This Ordinance, effectuating a quasi-judicial decision of the City Council
6 and not subject to mayoral approval or disapproval, shall take effect and be in force thirty (30)
7 days from and after its passage and approval by the City Council. The new zoning designation
8 shall take effect as provided by SMC 23.76.058.

9
10 Passed by the City Council the ____ day of _____, 2013, and
11 signed by me in open session in authentication of its passage this
12 ____ day of _____, 2013.

13
14
15 _____
16 President _____ of the City Council

17 Filed by me this ____ day of _____, 2013.

18
19
20 _____
21 City Clerk

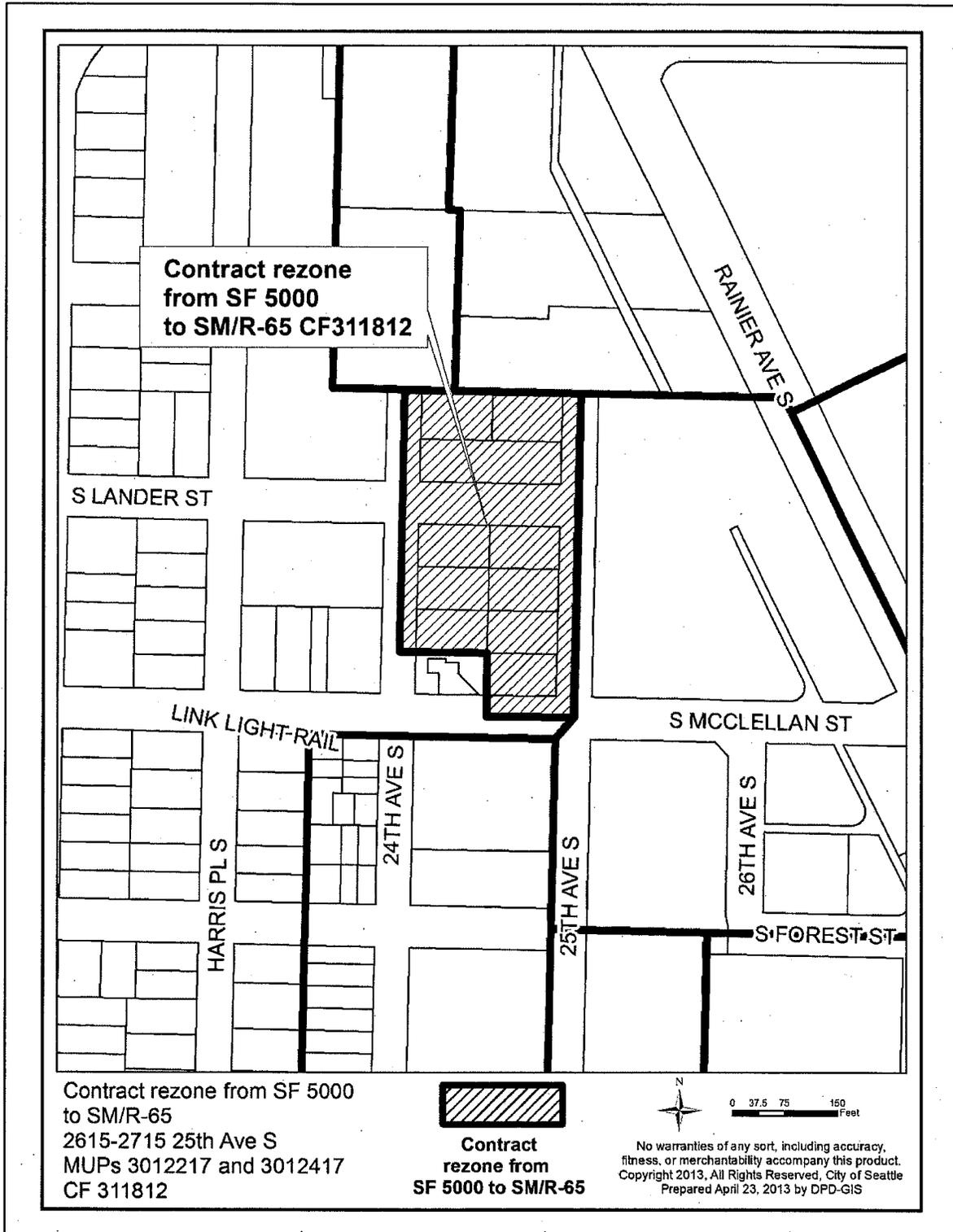
22 (Seal)

23
24 Exhibit A: Rezone Map;

25 Exhibit B: Property Use and Development Agreement



EXHIBIT A – REZONE ORDINANCE – 2615 – 25th Avenue S and 2715 – 25th Avenue S



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Signed this ___ day of _____, 2013 by:

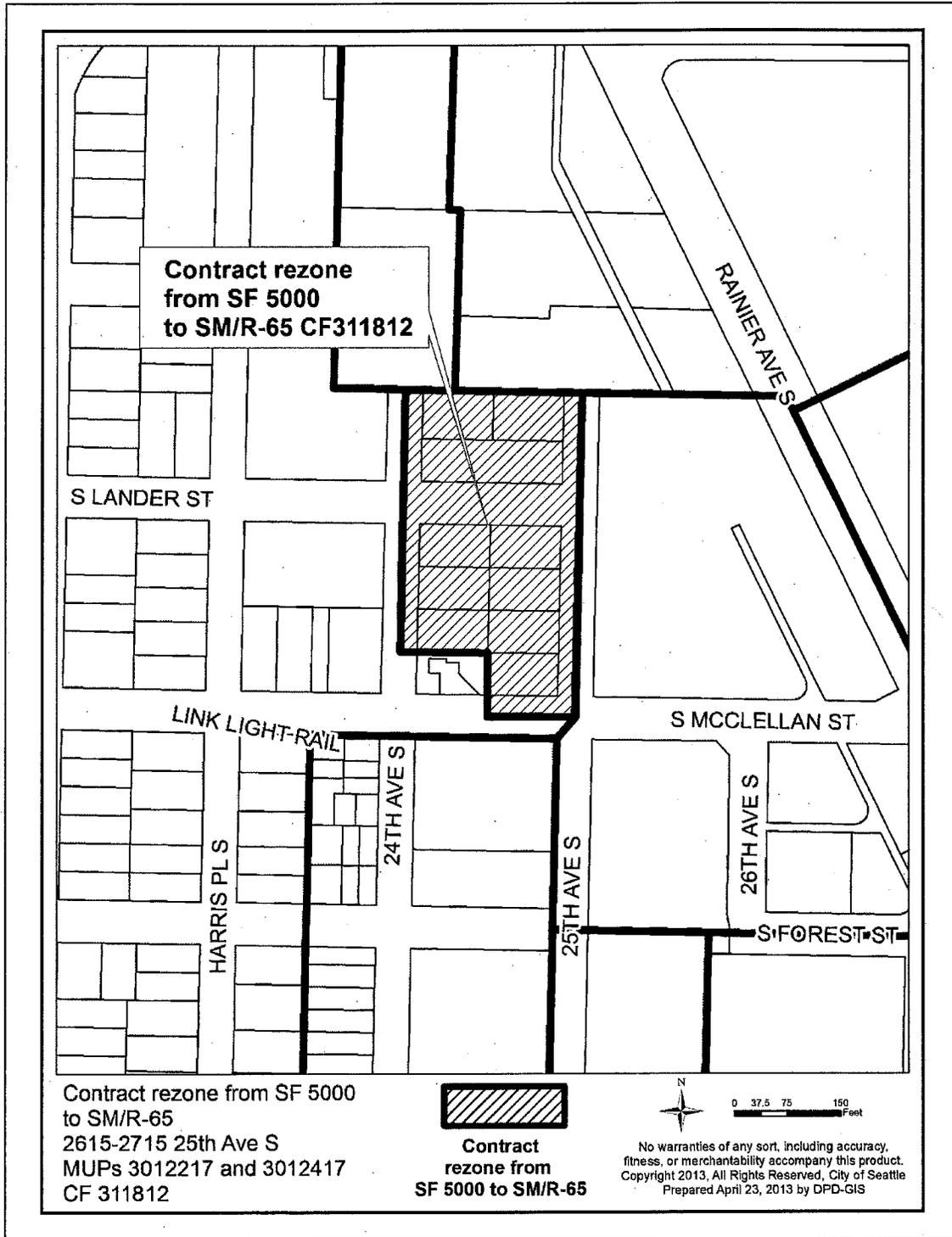
TRENTON ASSOCIATES-MCCLELLAN,
LLC, a Washington limited liability company

By _____
Michael D. Ross, Managing Member

By _____
Robert Spitzer, Managing Member

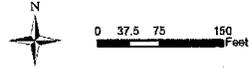


Exhibit 1 – Sites to be rezoned



Contract rezone from SF 5000
to SM/R-65
2615-2715 25th Ave S
MUPs 3012217 and 3012417
CF 311812


Contract
rezone from
SF 5000 to SM/R-65



No warranties of any sort, including accuracy,
fitness, or merchantability accompany this product.
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Prepared April 23, 2013 by DPD-GIS



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Legislative	Michael Jenkins, 5-1674	NA

Legislation Title:

AN ORDINANCE relating to land use and zoning; amending the Official Land Use Map to rezone properties located at 2615 25th Avenue South and 2715 – 25th Avenue South, from Single Family 5000 (SF 5000) to Seattle Mixed/Residential with a 65 foot height limit (SM/R-65).

Summary of the Legislation:

This legislation rezones two properties at 2615 – 25th Ave S and 2715 – 25th Ave. S, in the North Rainier Residential Urban Village of Southeast Seattle. The rezone would change the existing zoning at the properties from Single Family 5000 (SF 5000) to Seattle Mixed/Residential with a 65 foot height limit (SM/R-65).

Background:

This bill approves a petitioner-generated rezone subject to the Council’s rules for quasi-judicial decisions. The original petition, Department of Planning and Development recommendation, Hearing Examiner’s Findings and Recommendation, record established by the Hearing Examiner and Council’s Findings, Conclusions and Decision are contained in Clerk’s File 311812.

Rezone conditions are contained in the Findings, Conclusions and Decision. The conditions would be recorded in a consolidated Property Use and Development Agreement for the rezone. The rezone petitioner anticipates development of a mixed use project on the site.

- *Please check one of the following:*

This legislation does not have any financial implications.

