

After Recording Return To:
City of Tacoma
Community and Economic Development Department
747 Market Street, 9th Floor
Tacoma, WA 98402
Attn: Director

DRAFT

**DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF TACOMA,
AND YARETON INVESTMENT & MANAGEMENT (WASHINGTON) L.L.C.**

THIS DEVELOPMENT AGREEMENT (this "Agreement") is entered into this _____ day of _____, 2014, by and between the **CITY OF TACOMA** ("City"), a Washington First-Class Charter City, acting in its proprietary capacity, and **YARETON INVESTMENT & MANAGEMENT (WASHINGTON) L.L.C.**, a Washington limited liability company ("Yareton") (collectively the "Parties").

RECITALS

A. Since the City's initial development of the Greater Tacoma Convention and Trade Center ("GTCTC"), the City intended for the southern portion of tax parcel 2015060011, together with tax parcels 2015050110, 2015050120, and 2015050130, an area containing approximately 76,700 square feet, and a portion of Broadway to be vacated by the City, containing approximately 7,142 square feet (collectively, the "Subject Property"), all as legally described and depicted on Exhibit A, to be developed with a hotel/mixed-use development that would complement the GTCTC.

B. On January 21, 2014, the City issued a Request for Interest ("RFI") regarding the development of the Subject Property. A copy of the RFI is attached hereto as Exhibit B. Interested parties had until February 24, 2014 to respond to the RFI.

C. Yareton and four other firms submitted responses to the City's RFI. Because Yareton's submittal most closely met the City's requirements for selling the Subject Property to be developed in a manner consistent with the City vision for the area, the City Council authorized negotiations with Yareton by motion on April 15, 2014.

D. The Parties have concluded their initial negotiations, have agreed upon a preliminary Development Plan and Construction Schedule for the Subject Property, as attached hereto as Exhibit C, and intend by this Agreement to bilaterally bind themselves to fulfilling the Development Plan within the timeframes specified herein.

AGREEMENT

NOW, THEREFORE, in consideration of the various undertakings and promises contained herein and other valuable consideration, the adequacy of which is hereby acknowledged, the Parties agree as follows:

Section 1. Definitions. In addition to the terms defined in the Recitals above (which Recitals are incorporated in the body of this Agreement as an integral part hereof), the following terms shall have the meanings set forth below:

"Certificate of Completion" means a certificate issued by City to Yareton pursuant to Section 5 of this Agreement.

"Closing" for the purposes of any conveyance contemplated/required under this Agreement, is defined as the date that all documents are executed, the sale proceeds are available for disbursement to the seller, and legal title passes to the buyer.

"Commence Construction" or "Commencement of Construction" means the commencement of construction of the foundation of the building to be constructed as part of the Project. Site preparation, grading, excavation and mobilization alone are not sufficient to "Commence Construction."

"Construction Commencement Date" means the first date on which all conditions precedent to the actual commencement of construction for any part of the overall Project have been satisfied or waived as agreed to in writing by the Parties, and the party responsible has Commenced Construction on the Project.

"Construction Schedule" means the schedule for construction of the Improvements that comprise the Project as approved herein.

“Council” means the Tacoma City Council.

“Declaration” means that certain Declaration of Covenants, Easements and Restrictions attached hereto as Exhibit D.

“Design Guidelines” means, collectively, the Development Plan, the City of Tacoma Municipal Code, the City of Tacoma Land Use Regulatory Code, the City of Tacoma Comprehensive Plan, the Design Guidelines for the Union Depot/Warehouse District and other Legal Requirements or applicable laws that affect either the Project or the Subject Property.

“Development Plan” means Yareton’s plan for development of the Subject Property consisting of the Hotel/Mixed Use Development (defined below) cooperatively produced by the Parties that has received written administrative and initial regulatory approval from the City. The development is slated to be built in two phases. At a minimum, the Development Plan must provide for:

A. Phase One of the Project: Constructing on the Subject Property (1) a 4-star hotel containing not less than 300 rooms, (2) in-hotel retail and at least 10,000 sf of street level retail, (3) a minimum 10,000 net sf Grand Ballroom and 9,000 net sf of other function rooms within the hotel and providing the GTCTC the first right of use as specified in an agreement with the GTCTC, which use shall be obtained at market rate; (4) not less than 200 private parking stalls and (5) a plaza;

B. Phase Two of the Project: If supported by Yareton’s pro forma and market demand after completion and stabilization of Phase One, constructing on the Subject Property (1) a minimum of 200 condominiums and/or market rate apartments, (2) at least 20,000 sf of street level retail and (3) not less than 200 private parking stalls. Yareton may also construct commercial office space as part of the mixed use development;

C. Obtaining City approval of the hotel operator, which approval shall not be unreasonably withheld (in accordance with A. above, the City will not approve any less than a 4-star hotel);

D. Facilitating negotiations to enable the GTCTC to obtain a long-term room block agreement for at least 250 rooms with the hotel operator;

E. The possibility of constructing public parking on the Subject Property as directed by the City of Tacoma for the City to meet existing contractual obligations and/or accommodate increased public demand; if

elected by the City, public parking must begin at street level on Commerce Street, all levels must be contiguous, and must be established as a condominium estate to be owned by the City; the City shall pay for the required parking stalls upon completion or on a payment schedule as otherwise agreed upon and shall be responsible for the costs associated with the creation of the condominium estate;

F. Maintain public/vehicular access to the existing Greater Tacoma Convention and Trade Center parking;

G. Include a Construction Schedule with a date for Substantial Completion of Phase One of not later than 1,450 days after the Effective Date.

In accomplishing the above, Yareton agrees to include measures designed to promote environmental sustainability through the incorporation of conservation design elements and green building principles. Yareton also agrees to consult with City staff regarding how Yareton can incorporate Small Business Enterprise ("SBE" as set forth in Tacoma Municipal Code Chapter 1.07) and Local Employment and Apprenticeship Training Program ("LEAP" as set forth in Tacoma Municipal Code Chapter 1.90) participation in construction of the Project.

The final Development Plan that has received preliminary administrative approval from the City is (or will be) attached hereto as Exhibit C.

"Effective Date" means the date of the mutual execution of this Agreement, including attached Exhibits. It is acknowledged that some of the Exhibits will be produced at a later date during the initial 5-month due diligence period when more information is known. Any placeholders attached hereto instead of full exhibits will indicate which party or parties is responsible for the production and inclusion of exhibits not yet extant at the time of execution.

"Environmental Standards" means all federal, state and local environmental laws and ordinances and all regulations promulgated thereunder, whether currently in effect or enacted or amended from time to time in the future (to the extent that compliance with future laws or amendments is legally required) including, but not limited, to the Comprehensive Environmental Response, Compensation, and Liability Act at 42 U.S.C. § 9601 et seq., the Clean Air Act at 42 U.S.C. § 7401, et seq., the Toxic Substances Control Act at 15 U.S.C. § 2601, et seq., the Hazardous Waste Management Act, Ch. 70.105 RCW, the Clean Air Act, and the Model Toxic Substances Control Act at RCW 70.105.D, et seq., and also including, but not limited to, any guidelines, levels, and standards currently in

effect or enacted or amended from time to time in the future (to the extent that compliance with future laws or amendments is legally required) by the applicable federal, state or local regulatory authority for addressing any contamination of any sort.

“Event(s) of Default” shall be as defined in Section 8 herein.

“Fair Market Value” shall mean the value of a given conveyable unit of real property as determined by qualified MAI appraisal.

“Financing Obligations” means the financial obligations of any party relevant to the financing of the Project.

“Financing Plan” means Yareton’s City approved plan for financing the Project to completion. The Financing Plan must be approved by the City prior to conveyance of any portion of the Subject Property. Yareton acknowledges that the City may have its independent financial consultant(s) review the Financing Plan for, among other things, viability. The City acknowledges that Yareton intends to finance the Project through a combination of its own capital investment, EB-5 investor funding, and traditional loans.

“Force Majeure” shall have the meaning given in Section 11.20 herein.

“Governmental Authorities” means any board, bureau, commission, department, or body of any local, municipal, county, state, or federal governmental or quasi-governmental unit, or any subdivision thereof, or any utility provider serving the Subject Property, having, asserting, or acquiring jurisdiction over or providing utility service to the Project, and/or the management, operation, use, or improvement thereof.

“Hotel/Mixed Use Development” means the combination of hotel, longer term residential, retail and potential commercial office uses as well as parking to be developed on the Subject Property in accordance with this Agreement and the Development Plan.

“Improvements” means all buildings, structures, improvements, both on and off-site, and fixtures now or hereafter placed or constructed in, under, or upon the Subject Property, together with all additions to or replacements thereof made from time to time, and all accessways, pedestrian areas, fences, paved areas, utility distribution facilities, lighting, signage, loading docks and other infrastructure improvements to be built by any party on the Subject Property.

“Legal Requirements” means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect, whether or not presently contemplated, applicable to the Subject Property, the Project or any part thereof including, without limitation, ownership, operation or possession, and/or all matters relating to parking regulations, building codes, zoning, or other land use matters, life safety requirements and Environmental Standards.

“Project” inclusively means the development of Phase One of the Subject Property in accordance with the approved Development Plan, including construction of all Phase One Improvements, and all related obligations of the Parties with respect to those Phase One Improvements.

“Project Documents” means this Agreement, the Declaration, and the approved Development Plan and Construction Schedule.

“Substantial Completion” or “substantially complete” means the date on which all of the following have occurred: (i) the Phase One Improvements required to be developed by this Agreement are complete according to the approved Development Plan, except for punchlist items that do not substantially prevent the use of the Improvements for their intended purposes; and (ii) the City has issued a temporary or final certificate of occupancy for the building portions of the Improvements.

Section 2. Intent/Property Acquisition/General Standards.

2.1 Intent/Subject Property Conveyance. Pursuant to this Agreement and subject to the satisfaction of the conditions precedent stated herein, the City agrees to sell and Yareton agrees to purchase the Subject Property on or before 720 days after the Effective Date (“Closing”) for a Fair Market Value price based on that certain appraisal conducted by Kidder Matthews, dated August 26, 2013 (the “Appraisal”), which valued the Subject Property at \$75.00 per square foot. The Parties understand and acknowledge that the Appraisal made a number of assumptions, including that the Subject Property was free of contamination, contained no unusual or soil conditions detrimental to the construction of the Project, and not burdened with any encroachments or easements. The purchase price for the Subject Property shall be based on the above referenced Fair Market Value price determined in the Appraisal, as adjusted by any factors found to affect the same during the Due Diligence Period (the “Purchase Price”). The adjusted Purchase Price shall be determined by an appraisal/valuation update conducted by the same firm that conducted the Appraisal. Notwithstanding any other

provision of this Agreement, the Due Diligence Period shall not expire any earlier than ten (10) days after delivery to the parties of the updated appraisal.

Prior to the conveyance of the Subject Property, Yareton will (a) conduct due diligence sufficient to satisfy itself and its investors that it can develop the Subject Property in accordance with the approved Development Plan, (b) satisfy the City with its Financing Plan regarding Yareton's ability to construct the Project through Substantial Completion in accordance with the Development Plan and Construction Schedule, and (c) obtain all necessary City permits including approval of building plans. The City agrees to provide Yareton with copies of any documents, reports or other materials in its possession that could assist Yareton in performing its due diligence on the Subject Property.

2.2 Title to the Subject Property.

2.2.1 Condition of Title. The City represents that title to the Subject Property shall be free of monetary encumbrances or defects at Closing except for the lien for ad valorem real property taxes with respect to the fiscal year of Closing not yet due and payable, which shall be prorated as of the Closing Date. The City shall satisfy or cause to be satisfied prior to Closing or at Closing from the Purchase Price all monetary encumbrances or defects. For the purposes of this paragraph, the phrase "monetary encumbrances or defects" as used herein means encumbrances or defects to title, other than ad valorem real property taxes, which by their terms require the payment of money, whether in installments or at a fixed time or otherwise, including, but not limited to, mortgages, deeds of trust, mechanic's or materialmen's liens, liens associated with public improvement districts and special assessments. The phrase "non-monetary exceptions" shall be defined as all defects, reservations, conditions, covenants, easements and other exceptions to title other than "monetary exceptions or encumbrances."

2.2.2 Title Commitment. Within ten (10) days of the Effective Date of this Agreement, the City shall deliver or cause to be delivered to Yareton a current title commitment (the "Title Commitment") for an owner's extended coverage title policy ("Title Policy"), issued by Fidelity Title Insurance Company (the "Title Company") in the amount of the Purchase Price, showing the status of the title of the Subject Property. The City shall also concurrently deliver to Yareton legible copies of all exceptions disclosed in the Title Commitment.

2.2.3 Survey. Within thirty (30) days of the Effective Date of this Agreement, the City shall deliver or cause to be delivered to Yareton a current survey of the Subject Property (herein, "Survey"), which Survey shall contain the legal description of the Land, a certification of the square footage thereof, shall

show the boundaries of the Land and any encroachments thereto, and shall show each exception listed in the Title Commitment.

2.2.4 Review of Title Commitment and Survey. Yareton shall have thirty (30) days following the receipt of the Title Commitment, the exceptions thereto, and the Survey to review and comment on the non-monetary exceptions and other matters contained therein. Yareton shall be entitled, in its sole and absolute discretion, to terminate this Agreement, or to object to any of the exceptions to title or matters disclosed by the Title Commitment or the Survey, and/or to condition its acquisition of the Subject Property upon the release, discharge or removal of said non-monetary exceptions prior to Closing, and the deletion of such non-monetary exception or exceptions from the Title Policy to be issued at Closing.

2.2.5 The City's Right to Cure Objections to Title. If Yareton raises any objections to the title of the Subject Property in accordance with the provisions of this paragraph, then the City shall remove said objection matters before Closing unless the City, within ten (10) days after the receipt of Yareton's objections gives Yareton notice that the City elects not to cause such exceptions to be removed. If the City gives Yareton such notice, then Yareton may either waive its original objections, in which event this Agreement shall continue in full force and effect, or terminate this Agreement by notice delivered to the City on or before the Closing Date (failing which Yareton shall be deemed to have waived such objections). Notwithstanding anything herein to the contrary, the City shall remove all monetary defects or encumbrances. All non-monetary exceptions approved or deemed approved by Yareton shall be defined as "Permitted Exceptions" hereunder.

2.3 Delivery of Information. Within ten (10) days of the Effective Date of this Agreement, the City shall deliver or cause to be delivered to Yareton the following items which the City has in its possession, or to which the City has reasonable access:

2.3.1 Environmental Documentation. Copies of any environmental and hazardous waste studies, reports, and tests, and all correspondence in respect thereto, including any correspondence with governmental agencies or third parties; copies of any no action letters, administrative orders or consent decrees;

2.3.2 Reports and Studies. Copies of any engineering studies, feasibility reports, wetland studies, traffic reports, soil-bearing test data, and any similar reports and studies with respect to the Subject Property;

2.3.3. Plans and Specifications. Copies of any plans and specifications, as-built plans, engineering drawings, relating to the improvements on the Subject Property.

2.3.4 Contracts. Copies of any contracts or agreements in connection with the Subject Property.

2.3.5 Proceedings. Copies of any lawsuits, administrative, arbitrate or other proceedings or other governmental investigations pending or, to the City's best knowledge, threatened against or affecting, the Subject Property

2.4 As Is; Where Is. Except as otherwise provided in this Agreement or in the Deed delivered to Yareton, Yareton acknowledges that the Subject Property will be conveyed in an "AS IS" "WHERE IS" condition and that Yareton will be responsible for all site preparation work, including demolition and installation of infrastructure needed to serve the Project. Notwithstanding the foregoing, the City represents, warrants and covenants to Yareton:

2.4.1 Power and Authority. The City has the authority and power to enter into this Agreement and to consummate the transaction provided for herein. This Agreement and all other documents executed and delivered by the City constitute legal, valid, binding and enforceable obligations of the City.

2.4.2 No Violations. The execution, delivery and performance by the City of its obligations under this Agreement will not conflict with or result in a breach of any law, governmental rule, regulations, judgment, decree or order by which the City or the Subject Property is bound, or by any of the provisions of any contract to which the City is a party or by which the City or the Subject Property is bound. The City has not received any notice of the existence of any violation of any applicable covenant, condition or restriction or any applicable statute, ordinance, regulation, order, permit, rule or law, including, without limitation, any building, zoning or environmental restriction or requirement concerning filling, use, construction, maintenance, repair, replacement, operation or occupancy of the Subject Property.

2.4.3 No Default or Breach. There is no default or breach by the City under any covenants, conditions, restrictions, rights-of-way, or easements which may affect the Subject Property or any portion thereof.

2.4.4 No Leases or Contracts. There are no leases or other agreements or contracts affecting all or any part of the Subject Property that will survive the Closing.

2.4.5 No Proceedings. There are no claims, actions, suits or governmental investigations or proceedings existing or pending or, to the best of the City's knowledge, threatened against or involving the Subject Property (including, without limitation any condemnation or eminent domain proceeding or matter related to the formation of or assessment by a local improvement district).

2.4.6 Hazardous Materials. To the best of The City's knowledge, the City is in full compliance with all Environmental Standards applicable to the Subject Property.

2.5 Closing.

2.5.1 Time and Place. Provided that all the conditions set forth in this Agreement have been previously fulfilled or waived, the Closing shall take place at the offices of the Title Company.

2.5.2 Documents to be Delivered to Yareton. The City shall obtain and deliver to Yareton at Closing the following documents (all of which shall be duly executed and acknowledged where required and shall survive the Closing):

(a) Deed. A fully executed Quit Claim ("Deed") in recordable form and in such form that will convey to Yareton all City right, title and interest (subject to retained easements as mutually agreed upon) in and to the Subject Property, free and clear of all liens, encumbrances, conditions, easements, assignments, and restrictions, except where otherwise mutually agreed upon and except for general real estate taxes not yet due and payable and the Permitted Exceptions.

(b) Title Policy. A Title Policy in the face amount of the Purchase Price, subject only to the Permitted Exceptions.

(c) Authority. Such evidence as a Title Company may reasonably require as to authority of the City to convey the Subject Property to Yareton.

2.5.3 Closing Costs. The City shall pay the real estate excise or transfer tax due upon conveyance of the Property, and the premium for an owner's standard coverage policy of title insurance, and one-half of Title

Company's closing escrow fee. Yareton shall pay one-half of the Title Company's closing escrow fee, recording fees, and any fees for extended or additional coverage or endorsements Yareton requires.

Once the Subject Property is conveyed to Yareton, the Parties acknowledge that Yareton's development thereof is intended to be primarily a private undertaking without City subsidy of any kind. City participation will be limited to the potential purchase of a public parking component within the Project to be constructed by Yareton and purchased at cost upon completion or on a payment schedule as otherwise agreed upon as a fee owned condominium estate within the development.

The foregoing notwithstanding, Yareton may apply for and benefit from any programs available to it as a developer of real property in the City's downtown core.

2.6 City's Covenants. On or before Closing, the City shall:

2.6.1 Subdivide the Subject Property from tax parcel 2015060011 in order for the Subject Property to be a separately conveyable parcel;

2.6.2 Complete vacation of all areas of right-of-way, including that portion of Broadway that is within the Subject Property, and/or air rights necessary to the development of the Project.

2.7 Standards. The Parties shall perform the terms of this Agreement according to the following standards:

2.7.1 All construction hereunder shall comply with, and be performed in accordance with, the approved Development Plan, Design Guidelines, this Agreement, and all applicable Legal Requirements.

2.7.2 Yareton agrees to diligently design, construct and complete the Improvements in a good and workmanlike manner and of good quality.

2.7.3 During the Initial Due Diligence Period (as set forth at subsection 3.5.1 below), Yareton agrees to provide the City with an estimated price per parking stall (together with all engineering and other supporting documentation used in making the estimate) for a possible purchase by the City of parking stalls within Phase One of the Project. The City shall advise Yareton within 60 days after its receipt of such estimate whether the City intends to purchase any stalls at such estimated price and the number of stalls it would like

constructed. If the City elects to purchase parking as part of the Project, Yareton shall construct the City's parking paying prevailing wages (with separately trackable accounting also at City expense), and to the extent necessary, the Parties shall include provisions in the Declaration relevant to their shared parking interests. The City will work with Yareton and its contractor to establish the most cost effective accounting method for paying allocable prevailing wages in constructing the garage in order to comply with applicable laws. The City acknowledges that Yareton's estimated price per parking stall provided to the City will be increased to include the excess of such allocable prevailing wages over the wages that would have otherwise been payable by Yareton if there had been no requirement to pay prevailing wages. Further, Yareton agrees that the rates it charges for any public transient/monthly parking shall be established at no less than market rate. For purposes of this section, "market rate" shall mean the average charged for parking by similarly situated parking operators in the downtown Tacoma area.

In the event that the City initially declines purchasing parking at Yareton's offered per stall price, but Yareton later decides to sell any component of parking in the Project to a third party at a price less than what was offered to the City, Yareton shall first offer such parking to the City for purchase at such lower price and the City shall have sixty (60) days to accept or reject such offer.

Section 3. Development.

3.1 Generally. Yareton and its contractors, subcontractors, agents and employees shall construct and complete Phase One of the Improvements on the Subject Property as specifically described and depicted in the approved Development Plan in conformance with the Construction Schedule. Yareton agrees that once construction has begun on the Improvements, it will proceed diligently (subject only to delays for Force Majeure) with such construction until the Improvements and the Project have been completed.

The City agrees, in its regulatory role, and as the seller of the Subject Property, to use all commercially reasonable efforts to assist Yareton (a) in its due diligence prior to conveyance of the Subject Property, (b) in all other preparatory efforts prior to commencement of construction, and (c) in the actual construction of the Project; provided that the City shall provide no assistance that could be considered a subsidy.

3.2 Conditions Precedent to Conveyance of the Subject Property. The following conditions shall have been satisfied before the City conveys the Subject Property:

3.2.1 Compliance with Agreement. The Parties must be in full compliance with this Agreement, including, without limitation, being in compliance with all Legal Requirements, having completed the boundary line adjustment/short plat, and being in receipt of all initial permits for construction of the buildings.

3.2.2 Financing Plan. The City shall have approved Yareton's Financing Plan, such approval not to be unreasonably withheld.

3.2.3 Actual Financing. Yareton must demonstrate to the City that it has sources of funds for 100% of cost of the Project, and represents and warrants to the City at that time that such funds are committed to the Project. The Total Project Cost of Phase One of the Project is currently estimated at \$85 million. Yareton shall demonstrate that it has a minimum of 40 percent of equity committed to Phase One of the Project, which is currently estimated to be approximately \$34 million, and up to 60 percent of debt committed to Phase One of the Project, which is currently estimated to be approximately \$51 million, as confirmed by City staff prior to conveyance of the Subject Property. Acceptable evidence of financing consists of:

3.2.3.1 A letter from a reputable U.S. bank that verifies the amount of the developer's funds on account with the bank; and

3.2.3.2 A letter from a reputable U.S. bank that verifies an EB-5 financing escrow account has been established in the U.S. and specifies the amount of EB-5 funds on account; and

3.2.3.3 A letter of commitment for a construction loan with terms and conditions consistent with market rate commercial construction loan commitments and which are reasonably acceptable to the City. The terms of the commitment letter shall include an explanation of when bank funds will be released.

3.2.4 Project Entitlements. Yareton must be reasonably satisfied with the results of its due diligence that it will be able to complete the Project in accordance with the Development Plan and the Construction Schedule. Initial Project permits for construction of the buildings must be ready for issuance and pickup upon conveyance.

3.2.5 Hotel Operator Agreement. Yareton must have entered into an agreement, acceptable to the City, with a hotel operator to operate the hotel to be built. The operating agreement (to operate a 4-star hotel on the Subject Property) must be for a minimum of five years commencing upon grand opening of the Project. As part of the conveyance of the Subject Property, Yareton shall enter into a covenant to keep an operating 4-star hotel on the Subject Property (whether under the initial operator, or a successor) for a minimum of 25 years.

3.3 Permits and Approvals. Yareton shall be responsible for obtaining building and mechanical permits, electric, water, and all other required permits or approvals for construction of the Project. The City agrees to act in its regulatory role with all due dispatch in order to facilitate Yareton's compliance with the Construction Schedule.

3.4 City Review during Construction. After conveyance of the Subject Property, the City shall have the right to enter the Property at any time during the construction of the Project for the purpose of inspecting the same to assure itself that the Project is being developed pursuant to the accepted Development Plan and the terms of this Agreement. Upon completion of construction and prior to occupancy, Yareton shall deliver to the City two complete sets of as-built drawings for the Project.

3.5 Timing of Performance. Development of the Project shall essentially be broken down into four stages: (1) a five- (5) month period following the Effective Date prior to conveyance of the Subject Property during which the Parties conduct initial due diligence, (2) second stage due diligence during the remaining time prior to conveyance of the Subject Property and preparation to obtain initial construction permits (3) conveyance of the Subject Property and final construction preparation, and (4) construction of the Project. These stages are referred to below by number.

3.5.1 Yareton Due Diligence. Beginning on the Effective Date of this Agreement, Yareton shall have 150 days to conduct due diligence regarding the purchase of the Subject Property and its required development of the Subject Property under this Agreement (the "Initial Due Diligence Period" which is stage (1) in Section 3.5 above).

3.5.2 Right of Entry. During the Initial Due Diligence Period, Yareton and Yareton's agents, representatives, consultants, architects and engineers will have the right, from time to time, from and after the Effective Date of this Agreement to enter onto the Subject Property and make borings, drive test piles and conduct any other reasonable tests and studies that may be necessary or desirable to ascertain the condition and suitability of the Subject Property for

Yareton's development of the Subject Property in accordance with the Development Plan. Such tests and inspections are to be performed in a manner not disruptive to the operation and present use of the Subject Property. The Subject Property shall be returned to its original condition. All such access shall be coordinated with the City through its Public Works Department. Yareton shall protect, defend and indemnify the City from and against any suits, claims or damages, and any construction or other liens or encumbrances arising out of or in connection with its exercise of this right of entry and shall cause any such liens or encumbrances to be promptly released.

3.5.3 Provision of Materials and Information. During the Initial Due Diligence Period, Yareton shall provide the following information to the City:

- A. Within thirty (30) days following the Effective Date, Yareton shall provide the City confirmation of its development team. Yareton will identify the key firms and individuals responsible for the planning, design, construction and engineering components of the Project.
- B. Overall development concept, including information regarding the target market. This information shall be used in arriving at the final Development Plan.
- C. A site plan, which depicts building locations, how the proposed hotel will connect to the GTCTC, building design/elevations, height, square footage, construction materials, parking, loading, access points, pedestrian and vehicular circulation, landscaped areas and adjacencies to the surrounding neighborhood.
- D. Information regarding the desired commercial tenant mix by type of use, including identification of the hotel operator, star rating (level of service) and minimum room block anticipated to be made available to the GTCTC, which would obtain the first right of inventory. Yareton must indicate within the hotel the minimum amount of square feet designated for the Grand Ballroom and additional space for other function rooms anticipated to be made available to the GTCTC, which would acquire the first right of use for such space.
- E. The Financing Plan which outlines the sources and amounts of equity and debt capital for construction of the

Project, uses of funds and timeframe to obtain capital.

F. Final development schedule of key milestones, such as month and year to obtain entitlements, complete design and permitting, secure financing, Subject Property acquisition date, start and completion of construction, and intended date for obtaining the Certificates of Completion.

During the Initial Due Diligence Period, City Community and Economic Development staff will work with Yareton's representatives to coordinate a scoping meeting to identify and fulfill the above requirements.

3.5.4 Project Milestones. The Parties additionally agree upon the following general milestones for the Project, subject to the final development schedule described in Section 3.5.3(F) above:

A. Yareton and the City shall complete the scoping process within 150 days after the Effective Date.

B. Pursuant to Section 3.2.5 above, Yareton shall procure and have entered into an operating agreement acceptable to the City with a four-star hotel operator before the conveyance of the Subject Property.

C. Yareton shall secure approval of all drawings, construction documents, entitlements, designs and permitting (Phase One) by 690 days after the Effective Date.

D. The conditions described in Sections 3.2 and 3.3 shall have been satisfied by 690 days after the Effective Date.

E. The City shall convey the Subject Property by 720 days after the Effective Date, provided all conditions have been met prior to conveyance (Section 3.2).

F. Yareton shall Commence Construction of Phase One of the Project by 720 days after the Effective Date and complete construction by 1,450 days after the Effective Date. The City retains the right to repurchase the Subject Property at the same price Yareton paid if construction in accordance with the Development Plan does not begin within ninety (90) days of closing.

G. Certificates of Occupancy for Phase One of the Project shall be obtained by 1,480 days after the Effective Date.

3.5.5 Earnest Money. Within seven (7) business days of the Effective Date of this Agreement, Yareton shall remit to the City an initial earnest money payment of Five Hundred Seventy Five Thousand Dollars (\$575,000), which shall be deposited into an interest-bearing account.

If there is an Event of Default by Yareton under its obligations under this Agreement referenced in Section 3.5.3 during the Initial Due Diligence Period, one half of this initial earnest money payment (\$287,500) plus interest accrued thereon shall be forfeited to the City and this Agreement shall terminate with the remaining amount (\$287,500) plus interest accrued thereon returned to Yareton.

At the beginning of the second stage of the Due Diligence Period, Yareton shall remit to the City an additional Five Hundred Seventy Five Thousand Dollars (\$575,000) to secure its performance through this second stage of due diligence. Provided that there is no Event of Default by Yareton under this Agreement, and the Subject Property is successfully conveyed, both payments of earnest money and interest will be applicable to the agreed upon purchase price of the Subject Property.

If after the second stage of due diligence (stage (2) of Section 3.5), there is an Event of Default by Yareton under this Agreement or Yareton is otherwise unwilling or unable to take conveyance of the Subject Property and Commence Construction according to the Construction Schedule, Yareton shall forfeit \$287,500 plus interest accrued thereon as damages to the City, and this Agreement shall terminate. A total of \$862,500 plus accrued interest would be returned to Yareton.

3.5.6 Project Progress Reports. Yareton shall submit quarterly reports to the City by January 15th, April 15th, July 15th and October 15th of each year that this Agreement is in effect until completion of Phase One of the Project that describe the construction progress made on the Project. The City shall review the information, and if progress is stalled, shall work with Yareton to determine how to achieve performance.

In addition, Yareton shall share the following information with the City if and when the same becomes available during the initial due diligence and/or second stage due diligence periods:

3.5.6.1 Any letter from the United States Customs and Immigration Service stating that it has extended Yareton's regional center to include the Subject Property for the intended uses (regional center approval); and

3.5.6.2 Any letter from the United States Customs and Immigration Service that provides approval of the specific hotel and mixed use development project (project approval); and

3.5.6.3 Any copy of Yareton's Private Placement Memorandum (PPM) which acts as an investment prospectus that stipulates the terms and conditions of the EB-5 funding.

3.6 Rescission. If Yareton fails to Commence Construction of Phase One of the Project by the Construction Commencement Date set forth herein and more specifically in the Development Plan, the City shall have the option to rescind the sale of the Property (the "Rescission Option") by refunding the purchase price paid by Yareton for the Subject Property under the Purchase and Sale Agreement. If Yareton fails to Commence Construction of the Project by the Construction Commencement Date and the City has not exercised the Rescission Option in writing by the earlier of the date that Yareton Commences Construction of the Project or the 90th day after the Construction Commencement Date, then the City shall be deemed to have waived its right to exercise the Rescission Option as of such date.

The closing of the rescission shall be not later than sixty (60) days following the City's exercise of the Rescission Option on a business day selected by the City on not less than fifteen (15) days written notice to Yareton. If Yareton fails to reconvey the Subject Property to the City as provided in this Section 3.6, then Yareton shall pay to the City liquidated damages in the amount of \$1,000 per day until the Subject Property is reconveyed as required in this section. The parties agree that the City's damages in the event of such delay are difficult to measure and such liquidated damages are a reasonable estimate of the damages that the City will suffer for Yareton's delay in reconveying the Subject Property as provided herein (but are not intended as a measure of damages for Yareton's failure to reconvey the Subject Property).

Developer shall pay all transfer and excise taxes (to the extent not exempt under WAC 458-61A-209) in connection with such transfer. The deed will be in the same form as used to convey the Subject Property to Developer. Upon such reconveyance to the City, no encumbrances shall exist on title other than those that existed when title transferred to Developer, those consented to by the City in writing (except any Mortgage, which shall not be a permitted encumbrance) and

those that were recorded as part of the closing of the acquisition of the Property. Developer shall be responsible for obtaining the release of any Mortgage. If the City exercises the Rescission Option, Developer shall be released from further obligations under this Agreement, except those that by their terms expressly survive termination. If Developer Commences Construction prior to the City's exercise of the Rescission Option, the Rescission Option shall terminate. At Developer's request, upon Commencement of Construction, the City shall provide written confirmation to a Mortgagee that Commencement of Construction occurred to satisfy a condition of a Mortgagee to advance funds under a construction loan.

3.7 Standards of Performance. The Parties shall perform the terms of this Agreement according to the following standards:

(a) Comply with the approved Development Plan and specifications, and the terms and conditions of this Agreement;

(b) Perform in a good and workmanlike manner and in compliance with all applicable laws, ordinances, rules and regulations;

(c) Use code compliant materials that are of first-class quality and workmanship;

(d) Provide utilities adequate in capacity and service for the intended operation and use of the Subject Property;

(e) If the City elects to have public parking constructed, the City and the Developer will agree as to what comprises the cost of constructing a parking stall.

(f) Allow open access by the City to all Project records and accounting to allow the City to monitor use of any grant or loaned proceeds/funds used in the Project.

3.8 Project Manager. Yareton shall appoint and name a project manager as a single point of contact for issues related to the Project. This Project Manager will interface with City staff on a regular basis to ensure the Project remains on target. The Project Manager will have expertise in planning (entitlement process, zoning, etc.) as well as construction management.

3.9 Common Project Concerns.

a. Cross Access—The Parties understand and acknowledge that due to the close proximity of the Improvements to be constructed in the Project and the GTCTC and the desired synergies to be created between the two, cross access will need to be established between the Project and the GTCTC. The Parties agree to use their best efforts to establish all necessary and beneficial cross access points between the two. Easements and other matters relevant to such cross access shall be memorialized in the Declaration.

b. Off-site Improvements—Yareton acknowledges that certain off-site improvements may be required as part of the entitlements process for the Project.

c. Utilities—The Parties acknowledge that additional utility infrastructure will be needed to provide, at least, electric power to the Project. The City has made its Tacoma Public Utilities Division (“TPU”) aware of the Project and TPU has provided the schedule and information attached hereto as Exhibit F for the Parties’ benefit.

d. Access to Parking Under the GTCTC. Yareton understands and acknowledges that the City needs to maintain access to existing parking underneath the GTCTC at the “A” Garage even during construction of the Project. Currently, access to the “A” Garage is achieved across the Subject Property (currently the Broadway Street public right-of-way) and maintaining such access after conveyance of the Subject Property will require the City to retain an easement, the value of which would be accounted for in the Purchase Price in accordance with Section 2.1 above. The value of the easement shall decrease the Purchase Price in an amount determined by the updated Appraisal. In determining the value of the easement, the appraiser shall consider the following two components: (a) the value of an irrevocable easement providing access through the Project after the completion of the construction of the Project, and (b) the extent to which the City requires access through the Project during construction of the Project.

Prior to conveyance, the City and Yareton will work together to determine the most cost-effective solution to preserve the City’s access into the future and during construction of the Project, and any resulting obligations shall be accounted for through adjustment to the Purchase Price (per Section 2.1).,

e. To the extent that the Project is designed in a manner that will require shared use of existing City facilities at the GTCTC, Yareton will pay its proportionate share of operation and maintenance expenses for such shared use.

Yareton's right to such use and other obligations (such as payment) related thereto will be memorialized in the Declaration.

3.10 Non-Discrimination. In the implementation of this Agreement, including construction of all Improvements and any leasing in the Project, neither party shall discriminate against any person or entity by reason of race, color, creed, national origin, age, handicap, marital status, sex, or religion. In the event of a breach of any of these nondiscrimination covenants, subject to the cure provisions herein, the City shall have the right to exercise all of its remedies for default hereunder.

3.11 Governmental Regulatory Approvals and Permits. Each party, for its respective parts of the overall Project, shall apply, as part of its development costs, to the appropriate Governmental Authorities or third parties for, and shall diligently pursue and obtain, all permits, licenses, permissions, consents or approvals required in connection with the construction of the Improvements. The City will cooperate with Yareton to obtain all such permits, licenses, permissions, consents and approvals, but without liability, cost, or expense to the City except in the event the City elects to develop public parking as part of the Project. Any agreement by the City to cooperate does not in any way obligate the City to any particular outcome, in its role as regulator rather than collaborator in the Project, with respect to usual and customary City permitting, code compliance and other regulatory reviews as they may relate to Yareton's requirements hereunder. The outcome of any regulatory review or action undertaken by the City involving Yareton will be independent of and in no way biased, prejudiced, or predetermined in any way by this Agreement. Nothing in this Agreement is intended or shall be construed to require that the City exercise its discretionary authority under its regulatory ordinances in a manner unduly favorable to Yareton.

In the event that any delay in Project milestones is caused by the City in its governmental/regulatory role in connection with the permitting or approval of the Project or portion thereof, after Yareton has submitted complete applications, such delay shall not be grounds for the City to claim default under this Agreement.

3.12 Prohibition on Encumbering the Mixed Use Property. In the event the City elects to have public parking constructed as part of the Project, neither Yareton nor its agents or affiliates shall encumber the public parking component of the Project in any way, either while in the ownership of Yareton or at any time prior to conveyance to the City unless such encumbrance provides for the partial release of the condominium for the parking stalls upon payment by the City of the purchase price therefor.

Section 4. Disclaimer of Liability, Indemnity.

4.1 Preparation of Site; Utilities. Unless otherwise agreed in a written amendment hereto, the City shall not be responsible for any of the physical aspects of demolition or site preparation in connection with the Project or any existing improvements on the Subject Property. The City makes no representations as to the availability or suitability of utility connections to the Subject Property. Yareton shall make arrangements for utility services directly with utility service providers for their respective development portions of the Project. Any costs of installation, connection, relocating or upgrading shall be paid by the Parties on a pro-rated basis determined by the actual location of use and user, including, but not limited to, water, sanitary sewer and storm sewer mains, streetlights, traffic lights, electric utilities and fire hydrants.

4.2 Approvals. Approval by the City, in its regulatory role, of any item pursuant to this Agreement including the Development Plan shall not constitute a representation or warranty by the City that such item complies with Legal Requirements or Design Guidelines and the City assumes no liability with respect thereto. Approval by the City, in its regulatory role, of any item pursuant to this Agreement including the Development Plan shall not constitute or guarantee issuance of any permit, license, permission, consent or approval required by any Governmental Authority or third party and the City assumes no liability with respect thereto. Notwithstanding any provision of this Agreement to the contrary, the City is under no obligation or duty to supervise the design or construction of the Improvements. The City's approval of any plans shall not constitute any representation or warranty, express or implied, as to the adequacy of the design or any obligation on the City to insure that work or materials are in compliance with the plans or any building requirements imposed by the City in its regulatory capacity or by any other governmental entity.

4.3 Indemnification of the City.

4.3.1 Yareton shall indemnify, defend, and hold the City harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with Yareton's predevelopment activity, construction activity, or arising in any manner out of its activities on the Subject Property, including the construction of the Improvements on the Subject Property, including any act or omission of Yareton or its members, agents, employees, representatives, contractors, subcontractors, successors, assigns or invitees, on or with respect to the Subject Property. The City shall not be entitled to such indemnification to the extent that such claim, liability, loss, damage, cost or

expense is caused by the negligence or willful misconduct of the City. This indemnification shall survive expiration of this Agreement.

Promptly following receipt of notice, the City shall give Yareton written notice of any claim for which Yareton has indemnified the City hereunder, and the relevant party shall thereafter vigorously defend such claim on behalf of the City. Failure to give prompt notice to Yareton shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Yareton in the defense of such claim. If Yareton is required to defend any action or proceeding pursuant to this Section to which action or proceeding the City is made a party, the City shall be entitled to appear, defend or otherwise take part in the matter involved, at its election, by counsel of its own choosing, and to the extent the City is indemnified under this section, Yareton shall bear the cost of the City's defense, including reasonable attorneys' fees and costs. No settlement of any non-monetary claim shall be made without the City's written approval, not to be unreasonably withheld.

4.3.2 Yareton agrees to include in each construction contract for construction of the Project or other work on the Subject Property that if there is liability for damage or injury during construction, each contractor waives immunity under the Workers' Compensation Laws of the State of Washington, Title 51 RCW, for claims brought by its employees against Yareton and the City. Further, each contractor shall agree to indemnify and hold the City harmless for damages attributable to the contractor's negligence.

4.3.3 The City shall indemnify, defend, and hold Yareton harmless from and against all claim, liability, loss, damage, cost, or expense (including reasonable attorneys' fees, court costs, and amounts paid in settlements and judgment) incurred in connection with the City's negligence or other legally culpable conduct in performing its obligations under this Agreement.

4.4 Permits. Yareton acknowledges that the City has not made any representation or warranty with respect to Yareton's ability to obtain any permit or approval, or to meet any other requirements for development of the Property or Project. Nothing in this Agreement is intended to or shall be construed to require that the City exercise its discretionary authority under its regulatory ordinances to further the Project nor binds the City to do so. Yareton understands that the City will process applications for permits and approvals in accordance with its normal processes and this Agreement.

Section 5. Certificate of Completion.

5.1 Certificate of Completion. Upon substantial completion of either phase of the Project in accordance with this Agreement and satisfaction of the other conditions of this Section, the City will furnish Yareton with a recordable Certificate of Completion, substantially in the form attached hereto as Exhibit E hereto. Notwithstanding the foregoing, the City shall not be required to issue a Certificate of Completion if Yareton is not then in material compliance with the terms of this Agreement relevant to construction of the Improvements. In addition, if punchlist items remain when Yareton requests a Certificate of Completion, the City may require as a condition to the issuance thereof that Yareton post a bond or provide other financial assurance reasonably satisfactory to the City (which could include assurances provided to the City for the same items) to insure completion of the punchlist items, and Yareton agrees to proceed with all reasonable diligence to complete the punchlist items.

5.2 Meaning and Effect of Certificate of Completion; Termination of Agreement. Issuance by the City of Certificates of Completion for the final phase of the Project may terminate this Agreement (if the Parties are in agreement to so terminate) and each of its provisions except for the provisions described below that expressly survive termination of this Agreement. Any party thereafter acquiring any portion of the Improvements (such as the public parking component if elected by the City) shall not (because of such purchase or lease) have any obligation whatsoever under this Agreement.

5.3 Form of Certificate of Completion; Procedure if the City Refuses to Issue. If the City refuses or fails to provide a Certificate of Completion in accordance with the provisions of this Section 5, the City, within fifteen (15) business days after written request from Yareton for such Certificate of Completion, shall provide Yareton with a detailed statement indicating in what respects Yareton has failed to complete the Improvements in accordance with the provisions of this Agreement or is otherwise in default and what measures or acts must be taken, in the opinion of the City, to obtain such Certificate of Completion. Upon receipt of such detailed statement, Yareton shall complete the Improvements and cure the alleged deficiency/default in a manner responsive to the stated reasons for disapproval or submit to binding arbitration (pursuant to Section 5.4 herein) the issue of whether the City has unreasonably withheld issuance of such Certificate of Completion. Failure by the City to furnish Yareton with such detailed statement within such fifteen (15) day period shall be deemed an approval by the City of Yareton's request for Certificate of Completion.

5.4 Arbitration. If Yareton elects arbitration under Section 5.3 above, the following provisions shall apply.

5.4.1 Selection of Arbitrator. If the Parties are able to agree upon a single arbitrator within twenty (20) days after written notice by one party to the other of its desire to arbitrate a dispute under Section 5.3, then the dispute shall be submitted to and settled by that single arbitrator. Otherwise, any party (the demanding party) may notify the other party (the noticed party) in writing of its demand for arbitration, stating the question to be submitted for decision and appointing an arbitrator. Within twenty (20) days after receipt of such notice, the noticed party shall appoint an arbitrator and notify the demanding party in writing of such appointment. If the noticed party fails within 20 days after receipt of such notice to name its arbitrator, the arbitrator of the demanding party shall select an arbitrator for the noticed party so failing, and if the arbitrator for the demanding party and the noticed party cannot agree on that selection, said arbitrator shall be appointed by the American Arbitration Association (“AAA”) in compliance with the Rule of Appointment of Neutral Arbitrator upon written notice to all other parties. The arbitrators so chosen shall select one additional arbitrator to complete the board. If they fail to agree upon an additional arbitrator, the same shall, upon application of any party, be appointed by the AAA rules pursuant to the Rule for Appointment of Neutral Arbitrator. If an arbitrator declines or fails to act, the party (or parties in the case of a single arbitrator) who chose that arbitrator, or the AAA, as appropriate, shall appoint another to act in such arbitrator’s place. Any arbitrator appointed by AAA under this Section 5.4 shall possess knowledge or experience of the building and construction industry.

5.4.2 Arbitration Procedures. Upon selection of the arbitrator(s), said arbitrator(s) shall determine the questions raised in said notice of demand for arbitration within twenty (20) days, unless a different period of time is otherwise agreed upon by the parties. Said arbitrator(s) shall then give the Parties reasonable notice of the time (which time shall be within thirty (30) days of the arbitrator(s)’ determination of the questions raised, unless a different period of time is otherwise agreed upon by the Parties), and place (of which the arbitrator(s) shall be the judge) of hearing evidence and argument. The books and papers of all Parties, as far as they relate to any matter submitted for arbitration, shall be open to the examination of the arbitrator(s).

After considering all evidence, testimony and arguments, said single arbitrator or a majority of the board of arbitrators shall, within thirty (30) days of completion of the hearing provided, promptly state its decision or award in writing. Said decision or award shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. Until the arbitrator(s) shall issue the first decision upon any question submitted for the arbitration, performance under this Agreement shall continue in the manner and form existing prior to the rise of such

question. After delivery of said first decision or award, each party shall forthwith comply with said first decision immediately after receiving it.

5.4.3 Costs. Each party to the arbitration shall pay the compensation, costs and expense of the arbitrator appointed in its behalf and all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, cost, and expenses of the single arbitrator or the additional arbitrator in the board of arbitrators shall be paid in equal shares by both/all parties to the arbitration.

Section 6. Damage or Destruction and Insurance; Condemnation.

6.1 Damage or Destruction. At all times during construction of the Project, Yareton shall maintain insurance in types of coverage and amounts based on replacement value.

6.2 Condemnation. If during the term of this Agreement, the whole or any substantial part of the Subject Property is taken or condemned by the exercise of eminent domain powers (or by conveyance in lieu thereof), such that Yareton can no longer materially meet its obligations under this Agreement, this Agreement shall terminate upon the date when possession of the Subject Property or portion thereof so taken shall be acquired by the condemning authority. As used herein, "substantial" shall be defined as reasonably preventing the conduct of the activities contemplated hereby. If a taking occurs that is not substantial, this Agreement shall continue in full force and effect as to all parts of the Subject Property not taken.

Section 7. Right to Assign or Otherwise Transfer. Any assignment or transfer of any right or obligation hereunder shall be subject to the prior written approval of the City due to the unique nature of the Project and the Subject Property. During the term of this Agreement, any approved transfers of the Subject Property shall be made expressly subject to the terms, covenants and conditions of this Agreement.

7.1 “Transfer” as used herein includes any sale, conveyance, transfer, or assignment whether voluntary or involuntary, of any interest in the Subject Property and includes transfer to a trustee in bankruptcy, receiver or assignee for the benefit of creditors, any merger, consolidation, liquidation or dissociation of Yareton (or any parent/controlling member entity), or any transfer of a controlling interest in the management of either. Excluded from the definition of a Transfer are leases of space within the Project and the encumbrance of the Project by Yareton’s lenders and the rights of such lenders pursuant thereto, provided that the City has approved such lenders when the City approves Yareton’s Financing Plan.

7.2 If the City approves of a transfer under this Section 7, the transferring party shall deliver to the City (a) a copy of the document evidencing such transfer, including a suitable estoppel agreement(s), and (b) an assumption of all obligations of the transferring party under this Agreement in a form reasonably satisfactory to the City.

7.3 The transferee (and all succeeding and successor transferees) shall succeed to all rights and obligations of the transferring party under this Agreement, including any unperformed obligations of the transferring party as of the date of such transfer. No transfer by Yareton, or any successor, shall release Yareton, or its successor, from any unperformed obligations without the written consent and release of the City.

Section 8. Default. Any party’s failure to keep, observe, or perform any of its duties or obligations under this Agreement shall be a default hereunder, including, without limitation, any of the following specific events:

8.1 The failure of Yareton to substantially comply with the standards of performance for the Project as set forth in this Agreement.

8.2 The failure of Yareton to comply with the terms of any Financing Obligations, and such failure is not cured within any time permitted by the City or Yareton’s lender(s) holding such obligation.

8.3 The failure of Yareton to construct the Improvements substantially in accordance with the approved Development Plan.

8.4 The failure of Yareton to diligently prosecute construction and complete the Improvements in accordance with the Construction Schedule, subject to Force Majeure.

8.5 Conversion of any portion of the Subject Property or the Improvements to any use other than the uses permitted in this Agreement.

8.6 The failure of Yareton to satisfy the indemnities set out in this Agreement.

8.7 Yareton's making an assignment for the benefit of creditors, contrary to the terms of this Agreement, or filing a petition in bankruptcy or reorganization under any bankruptcy or insolvency law or filing a petition to effect a composition or extension of time to pay its debts.

8.8 The appointment of a receiver or trustee of the property of Yareton, which appointment is not vacated or stayed within sixty (60) days, or the filing of a petition in bankruptcy against Yareton or for the reorganization of either under any bankruptcy or insolvency law which is not dismissed or stayed by the court within sixty (60) days after such filing.

8.9 The failure of Yareton to provide and maintain any security required under this Agreement, including but not limited to, the construction performance bonds.

8.10 Any sale, assignment or other transfer in violation of Section 7 of this Agreement.

8.11 The City's failure to complete the subdivision required to convey the Subject Property or any right-of-way vacation necessary for the Project.

Upon the happening of any of the above described events, the non-defaulting party ("NDP") shall notify the defaulting party ("DP") in writing of its purported breach, failure, or act above described. Except in the case of Section 8.8, 8.9, and 8.10 above as to which notice but no cure period shall apply, and as to which the occurrence of the event described therein shall be deemed an "Event of Default" hereunder, the DP's failure to cure such breach, failure or act, within thirty (30) days from receipt of such notice (or if such failure cannot reasonably be cured within 30 days, if the DP fails to promptly commence and diligently pursue such cure to completion) shall be deemed an "Event of Default" hereunder.

Section 9. Remedies.

9.1 Remedies Upon Default. If an Event of Default shall occur, the NDP shall have all cumulative rights and remedies under law or in equity, including, but not limited to, the following:

9.1.1 Damages. The DP shall be liable for any and all damages incurred by the NDP, except that the DP shall not be liable for consequential damages incurred by the NDP.

9.1.2 Specific Performance. The NDP shall be entitled to specific performance of each and every obligation of the DP under this Agreement without any requirement to prove or establish that the NDP does not have an adequate remedy at law. The DP hereby waives the requirement of any such proof and acknowledges that the NDP would not have an adequate remedy at law for the DP's commission of an Event of Default hereunder.

9.1.3 Injunction. The NDP shall be entitled to restrain, by injunction, the actual or threatened commission or attempt of an Event of Default and to obtain a judgment or order specifically prohibiting a violation or breach of this Agreement without, in either case, being required to prove or establish that the NDP does not have an adequate remedy at law. The DP hereby waives the requirement of any such proof and acknowledges that the NDP would not have an adequate remedy at law for the DP's commission of an Event of Default hereunder.

9.1.4 Copy of Notice of Default to Mortgagee. In the event that the City has approved encumbrance of the Subject Property by mortgage after conveyance to another party, whenever the City shall deliver any notice or demand to Yareton with respect to any breach or default by either in its obligations or covenants under this Agreement, the City shall at the same time forward a copy of such notice or demand to each Mortgagee approved by the City at the last address of such holder shown in the records of the City. Yareton agrees to keep such contact information with the City current.

9.1.5 Mortgagee's Option To Cure Defaults. In the event that the City has approved encumbrance of the Subject Property by mortgage after conveyance to Yareton, after any default in or breach of this Agreement by Yareton or any successor in interest, each Mortgagee shall (insofar as the rights of the City are concerned) have the right, at its option, to cure or remedy such breach or default within thirty (30) days after Yareton's failure to cure said default or breach prior to the expiration of an applicable cure period, and if permitted by its loan documents, to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the breach or default is with respect to construction of the

Improvements, nothing contained in this Agreement shall be deemed to prohibit such Mortgagee, either before or after foreclosure or action in lieu thereof, from undertaking or continuing the construction or completion of the Improvements, provided that the Mortgagee notifies the City in writing of its intention to complete the Project according to the approved final construction documents. Any Mortgagee who shall properly complete the Project shall be entitled, upon written request made to the City, to issuance of a Certificate of Completion in accordance with Section 5 above.

9.1.6 Amendments Requested by a Party or Mortgagees. The City agrees to execute amendments to this Agreement or separate agreements or Project Documents from time to time, to the extent reasonably requested by Yareton or a proposed Mortgagee, provided that such proposed amendments or other agreements do not materially and adversely affect the rights of the City or its interest in the Subject Property, the Project or under the Project Documents.

9.1.7 Provisions Surviving Termination. The indemnifications and Hold Harmless in Section 4 shall survive any termination of this Agreement including issuance of a Certificate of Completion.

Section 10. Representations and Warranties. Each party hereby represents and warrants to the other that (a) it has full statutory right, power and authority to enter into this Agreement and perform in accordance with its terms and provisions; (b) the individuals signing this Agreement on its behalf have the authority to bind and to enter into this transaction; and (c) it has taken all requisite action to legally authorize the execution, delivery, and performance of this Agreement.

All of the representations and warranties of the City contained in this Agreement are made to the best of the City's knowledge, as represented by the knowledge of the individual who would have the most knowledge of the respective representation or warranty, (i) shall be true and correct in all material respects as of the date of this Agreement and as of Closing and the truth thereof shall be a condition to Closing; and (ii) Yareton's rights to enforce such representations and warranties and covenants shall survive Closing and such rights to enforce shall not be merged into any documents delivered by the City at Closing. The parties shall indemnify, defend and hold the other harmless from and against any cause, claim, loss, damage or expense, including attorney's fees, which that party suffers as a result of a breach of the representations, warranties and covenants made to that party as contained in this Agreement.

Section 11. Miscellaneous.

11.1 Estoppel Certificates. The Parties shall at any time and from time to time, within fifteen (15) days after written request by the other, execute, acknowledge and deliver, to the party requesting same or to any prospective mortgagee, assignee or subtenant designated by Yareton, a certificate stating that (i) this Agreement is in full force and effect and has not been modified, supplemented or amended in any way, or if there have been modifications, identifying such modifications; and if this Agreement is not in force and effect, the certificate shall so state; and (ii) to its knowledge, all conditions under the Agreement have been satisfied by the City, or Yareton, as the case may be, and that no defenses or offsets exist against the enforcement of this Agreement by the other party, or, to the extent untrue, the certificate shall so state. The party to whom any such certificate shall be issued may rely on the matters therein set forth and thereafter the party issuing the same shall be estopped from denying the veracity or accuracy of the same.

11.2 Inspection. Until the Certificate of Completion is recorded, the City shall have the right, at all reasonable times and upon at least twenty-four (24) hours previous notice, to inspect on a confidential basis the books, records and all other documentation of Yareton pertaining to its obligations under this Agreement. The City shall have the further right at all reasonable times upon the same notice to inspect the Subject Property, including any construction work thereon, to determine compliance with the provisions of this Agreement and any permits.

11.3 Entire Agreement. This Agreement, the Project Documents and any documents attached as exhibits hereto, contain the entire agreement between the Parties as to the subject matter hereof and supersede all prior discussions and understandings between them with reference to such subject matter.

11.4 Modification. This Agreement may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of each party hereto in the same manner as such party has authorized this Agreement. Any material change in design of the Project from the approved Development Plan must be approved by the City in writing.

11.5 Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inference be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. Any consent or approval by a party required hereunder shall not be unreasonably withheld.

11.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto except that there shall be no transfer of any interest by any of the Parties hereto except pursuant to the express terms of this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired its interest in compliance with the terms of this Agreement, or under law.

11.7 Notices. All notices which may be or are required to be given pursuant to this Agreement shall be in writing and delivered to the parties at the following addresses:

To the City: Community and Economic Development Department
City of Tacoma
747 Market Street, 9th Floor
Tacoma, Washington 98402
Attn: Director
Fax: (253) 591-5232

With a copy to: City Manager
City of Tacoma
747 Market Street, 12th Floor
Tacoma, Washington 98402
Fax: (253) 591-5123

To Yareton: Albert Sze
Yareton Investment & Management WA L.L.C.
22444 Pacific Highway South
Des Moines, Washington 98198
Fax:

With a copy to: Mark Rowley
Garvey Schubert Barer
1191 Second Avenue; Suite 1800
Seattle, Washington 98101
Fax: 206-464-0125

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by

telephone, and by regular mail, in which case notice shall be deemed delivered on the next business day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

11.8 Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Agreement.

11.9 Waiver. No waiver by any party of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

11.10 Rights and Remedies Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise or failure to exercise one or more of such rights or remedies by either party shall not preclude the exercise by it, at the same time or different times, of any right or remedy for the same default or any other default by the other party.

11.11 Applicable Law; Jurisdiction. This Agreement shall be interpreted under and pursuant to the laws of the State of Washington without recourse to any principles of Conflicts of Laws. In the event any action is brought to enforce any of the provisions of this Agreement, the parties agree to be subject to jurisdiction in the Pierce County Superior Court for the State of Washington or in the United States District Court for the Western District of Washington.

11.12 No Joint Venture. Nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between/among the Parties. The Parties intend that the rights, obligations, and covenants in this Agreement and the Project Documents shall be exclusively enforceable by the Parties, their

successors and assigns. No term or provision of this Agreement shall be for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder, except as may be otherwise expressly provided herein.

11.13 Consents. Whenever consent or approval by the City is required under the terms of this Agreement, all such consents or approvals, if given, shall be given in writing from the City Manager of the City and shall not require the additional action of the City Council unless the City Manager or the City's counsel determines that such consent is necessary. Approval of any document that may be approved by the City Manager under this Agreement shall be given, if given, in writing, by the City Manager, and the City Attorney shall approve such document as to form.

11.14 Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Washington, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Washington, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday in the State of Washington.

11.15 Conflict of Interest. No member, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official, or employee of the City shall be personally liable to Yareton or any successor in interest upon the occurrence of any default or breach by the City or for any amount which may become due to Yareton or its successors or on any obligations under the terms of this Agreement.

11.16 Discrimination. Yareton, for itself and any successors and assigns, agrees that during the construction of the Project, it will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, marital status, handicap, or national origin.

11.17 Attorneys' Fees. In the event any proceeding is instituted to interpret or enforce any provision or resolve any dispute under this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, each party shall bear its own attorneys,' paralegals, accountants,' and other experts' fees and all other fees, costs, and expenses, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall

cover costs and attorneys' fees related to or with respect to proceedings in federal bankruptcy courts, including those related to issues unique to bankruptcy law.

11.18 Non-waiver of Government Rights. The parties understand that the City by making and entering into this Agreement is not obligating the City to give governmental approvals, or to take particular action in its governmental capacity.

11.19 Captions; Exhibits. The headings and captions of this Agreement are for convenience of reference only and shall be disregarded in construing or interpreting any part of the Agreement. All exhibits and appendices annexed hereto at the time of execution of this Agreement, or in the future as contemplated herein, are hereby incorporated by reference as though fully set forth herein.

11.20 Force Majeure. In addition to specific provisions of this Agreement, neither party shall be deemed to be in default with regard to performance in accordance with the Construction Schedule or any time periods stated in this Agreement where delays to performance are due to Force Majeure.

Subject to the exclusions in Subsection 2 of this definition, and as more specifically defined below, Force Majeure means any act, event or condition that is beyond the reasonable control of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement, and that directly affects the performance of this Agreement, by materially expanding the scope of the obligations of either party hereunder, materially interfering with, or materially delaying the performance of the obligations of either party hereunder, to the extent that such act, event or condition is not the result of the willful or negligent act, error or omission, failure to exercise reasonable diligence, or breach of this Agreement on the part of such party.

11.20.1 Inclusions. Subject to the foregoing, Force Majeure may include, but is not limited to, the following:

(a) A material change in law, except as otherwise provided in this Agreement;

(b) Naturally occurring events (except weather conditions reasonably anticipated for the climate in which the Project is located) occurring within a fifty (50)-mile radius of downtown Tacoma and directly affecting the performance of this Agreement, such as landslides, underground movement, earthquakes, fires, tornadoes, floods, lightning, epidemics and other acts of God;

(c) Explosion, terrorism, sabotage or similar occurrence, war, blockade or insurrection, riot or civil disturbance occurring in the State of Washington and directly affecting the performance of obligations under this Agreement;

(d) The failure of any contractor or subcontractor (other than Yareton or any affiliate) to furnish services, materials, chemicals or equipment on the dates agreed to, but only if such failure is the result of an event which would constitute a Force Majeure event if it affected Yareton directly, and Yareton is not able after exercising all reasonable efforts to timely obtain substitutes;

(e) The preemption, confiscation, diversion, destruction or other interference in possession or performance of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain of any material portion of the Property;

(f) A violation of Applicable Law by a person other than the affected party or its subcontractors;

(g) With respect to Yareton, any City fault under this Agreement; or

(h) With respect to the City, any fault of Yareton under this Agreement, or

(i) Any delay caused by any Governmental Authority that restrains, enjoins, delays or precludes the commencement, prosecution, or completion of the Project that is beyond Yareton's control.

11.20.2 Exclusions. It is specifically understood that, without limitation, none of the following acts, events or circumstances shall constitute Force Majeure:

(a) Any act, event or circumstance that would not have occurred but for the affected party's failure to comply with its obligations hereunder;

(b) Changes in economic conditions, including, but not limited to, changes in interest rates, inflation rates, wage rates, insurance premiums, commodity prices, currency values, exchange rates;

(c) Changes in the financial condition of Yareton, or its parents, affiliates or subcontractors affecting the ability to perform its respective obligations under this Agreement;

(d) The consequences of error, neglect or omissions by Yareton, any of its parents or affiliates or any other person in performing its obligations under this Agreement;

(e) Union or labor work rules, requirements or demands which have the effect of increasing the number of employees employed by Yareton or otherwise increasing the cost to Yareton of performing its obligations under this Agreement;

(f) Weather conditions reasonably anticipated for the City of Tacoma, Washington;

(g) Any act, event, circumstance or Change in Law occurring outside of the United States;

(h) Mechanical failure of equipment used or supplied by Yareton to the extent not resulting from a condition that is listed in the "Inclusions" section of this definition;

(i) The accuracy or inaccuracy of any as-built drawings provided by the City which could have been verified by Yareton without excavations, cutting through equipment or structures, draining or removing materials from equipment or structures;

(j) Labor disputes involving employees of Yareton, its parents, or affiliates, contractors, or subcontractors;

(k) Any impact of prevailing wage or similar law, customs or practices on Yareton's costs;

(l) Failure of the City in its governmental capacity to approve any design submittals that do not comply with applicable law or this Agreement;

(m) Failure of Yareton to secure any patent or other intellectual property right which is or may be necessary for the performance of the work.

For any Force Majeure delay that will cause substantial completion of the Project to be delayed more than thirty (30) days, Yareton will keep the City informed about the cause and nature of such delay and the progress in achieving such substantial completion. Times of performance under this Agreement may also be extended in writing by the City and Yareton.

11.21 Fair Construction; Severability. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine or neuter, singular or plural, as the context may require. The parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms' length so that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

11.22 Time of the Essence. In all matters under this Agreement, the parties agree that time is of the essence.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the day and year first above written.

CITY OF TACOMA

**YARETON INVESTMENT &
MANAGEMENT (WASHINGTON) L.L.C.**

T.C. Broadnax, City Manager

By: _____

Approved:

Its: _____

Ricardo Noguera, Director
Community and Economic

By: _____

Development Department

Its: _____

Andrew K. Cherullo,
Finance Director

Attest:

Doris Sorum, City Clerk

Approved as to form:

Deputy City Attorney

Risk Manager

EXHIBIT "A"

Legal Description of Subject Property

Property Description S 17th & Broadway

That portion of the Northwest quarter of the Southwest quarter of Section 04, Township 20 North, Range 03 East, W.M. more particularly described as follows:

Lots 14 through 26, inclusive, Block 1506, Map of New Tacoma, Washington Territory, according to the Plat filed for record February 3, 1875 in the office of the County Auditor, Pierce County, Washington.

Together With; Lots 14 through 23, inclusive, Block 1505, Map of New Tacoma, Washington Territory, according to the Plat filed for record February 3, 1875 in the office of the County Auditor, Pierce County, Washington.

Also Together With; that portion of vacated South Broadway Street abutting Lots 14 through 18, inclusive, of said Blocks 1506 and 1505, as vacated by City of Tacoma Ordinance No. 269585 and recorded under Auditors File No. 200207310894, records of Pierce County Auditor.

Also Together With; that portion of South Broadway Street abutting Lots 19 through 23, inclusive, of said Blocks 1506 and 1505, as proposed for future vacation.

EXHIBIT "B"
RFI





Invitation Request for Interest (RFI)

Developers/Hotel Operators are invited to express their interest to the City of Tacoma, Washington in constructing and operating a high quality (preferably four-star or above) hotel and mixed use development on an approximate two-acre, municipally-owned site adjoining the Greater Tacoma Trade & Convention Center in the downtown at 17th & Broadway.

It is the City's goal to attract mid- to large-sized convention business that will more effectively utilize the Convention Center's 79,180 square foot capacity and enhance local economic impact. Furthermore, the City desires to incorporate public parking as part of a hotel-anchored mixed use project. The Convention Center already outperforms customer expectations. Developing synergies with a hotel immediately adjacent to the Convention Center has always been the City's goal for this site.

The property is strategically located in the Central Business District near the market's major lodging demand generators. These include but are not limited to corporate businesses, government offices, educational institutions, health care providers, the area's numerous military installations, arena/convention facilities, cultural amenities and interstate travelers. Downtown Tacoma continues to attract new investment, employment and visitors which support a growing economy.

Development Site

Downtown Tacoma, 17th & Broadway



An approximate two-acre, municipally-owned site adjoining the Greater Tacoma Trade & Convention Center in the downtown at 17th & Broadway is available for a high quality hotel and mixed use development. About 1.76 acres is improved with paved or structured parking adjacent to the Convention Center. An additional 0.16 acres consists of a portion of an existing street which leads to Convention Center parking. Access to the City's parking under the Convention Center must be maintained. The street can be vacated (highlighted in yellow below) under an air rights agreement and combined into the development site. The property will be sold at the current appraised Fair Market Value of \$6,290,000. Utility infrastructure is in place, including light rail along Commerce Street.

Hotels that support Convention Center demand include the proximate 320-room full service Hotel Murano and 162-room select service Courtyard by Marriott as well as the 163-room Holiday Inn Express accessible by light rail about five blocks south of the Convention Center.

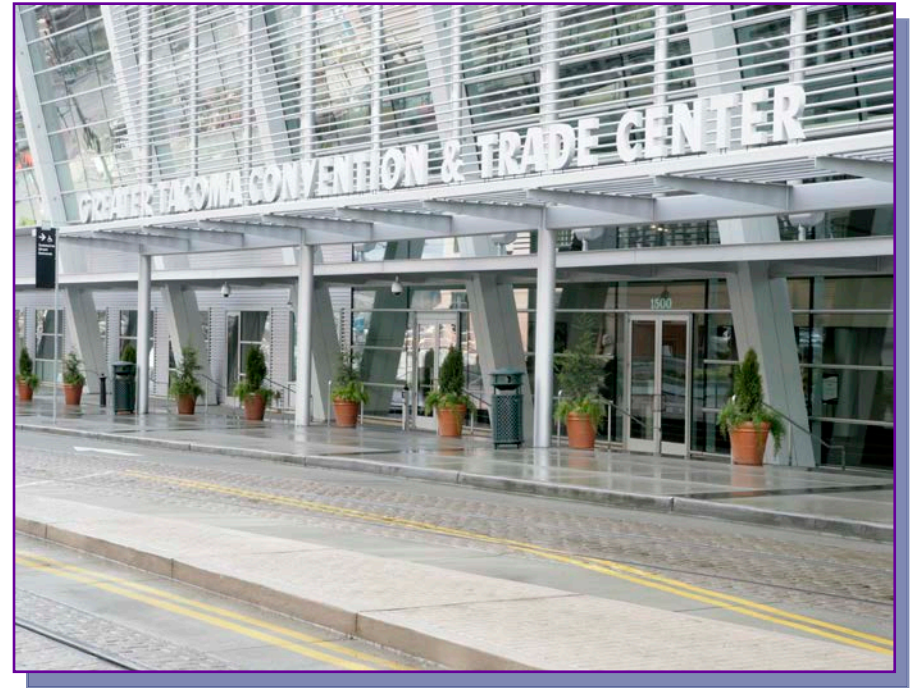
It is the City's vision that the site will accommodate a minimum 250-key hotel with a four-star flag, mixed use development, including retail, and parking. The City contemplates entering into cooperative agreements for any required public parking.

The City prefers that the Convention Center be able to acquire the first right of inventory/space for a minimum room block, a mini-ballroom and breakout rooms within the hotel.

Submittal Information

Developers/Hotel Operators interested in the site are requested to submit a Letter of Interest describing:

1. The overall development concept for the Project, including but not limited to the number of hotel rooms, hotel star rating (level of service), parking, and if a mixed use development, the number of residential units, amount of retail/office/other space, and additional information that responds to the City's vision/preferences as stated on Page 3 of this RFI. Identify the Project phases, if applicable.
2. An overview of the Development Team's qualifications and their Project roles as well as hotel development/operational and other relevant experience.
3. The proposed capital investment and financing plan, including sources of funds. Financial references will be requested if selected to proceed further.
4. The anticipated schedule of key milestones, such as procuring entitlements, securing financing, acquiring the Property, beginning and completing construction, and obtaining Certificates of Occupancy.
5. Preliminary deal terms important to the Developer/Hotel Operator.



Submittal Instructions

Provide five (5) hard copies by 5 p.m. Pacific Time on February 24, 2014 to:

Elly Walkowiak, Business Development Manager
City of Tacoma
Community & Economic Development Department
747 Market Street, Room 900
Tacoma, WA 98402

Questions related to this RFI shall be directed to:
Elly Walkowiak at (253) 591-5209 or
ewalkowiak@cityoftacoma.org



About Tacoma

Tacoma, Washington is located in the Puget Sound region in a metropolitan area of over 3.4 million people. It is approximately 34 miles southwest of Seattle, 11 miles northeast of Joint Base Lewis-McChord (third largest U.S. military installation) and 31 miles northeast of the state capital of Olympia. Our livable, progressive international city is the state's third largest municipality with about 200,000 residents and serves as the center of commerce for the South Sound. Tacoma's key employment sectors include education, health care, finance & insurance, business & professional services, trade & logistics and government. Regionally, aerospace, information technology & software/cyber-security, and clean technology continue to grow.

Evaluation Process

The City will evaluate all responses to this RFI within 30 days of the submittal deadline. During the evaluation period, the City may seek additional information from the respondents. Upon completion of its evaluation, the City may invite RFI respondents to participate further in an RFQ/RFP process, enter into an Exclusive Negotiating Agreement based on submittals received and without added process, or elect not to proceed further. The City reserves all rights of negotiation in this process.

General Conditions

Information provided to the City is subject to the Washington Public Records Act; it should be considered public information and available for review upon request.

Any expenses incurred in preparing the information submitted are solely the responsibility of the respondent.

Our major downtown employers include MultiCare Health System, Franciscan Health System, State Farm Mutual Insurance, DaVita, Regence Blue Shield and Columbia Bank. City, County, State and Federal government offices as well as educational service providers, such as the University of Washington Tacoma, comprise other key components of the downtown economy.

EXHIBIT “C”

Development Plan/Construction Schedule

Yareton to attach upon completion.

EXHIBIT "D"
Declaration of Covenants, Easements and Restrictions

To be attached by the parties jointly upon completion.

EXHIBIT "E"

Form of Certification of Completion

After recording return to

CERTIFICATE OF COMPLETION

GRANTOR: CITY OF TACOMA

GRANTEE: **YARETON INVESTMENT & MANAGEMENT (WASHINGTON)
L.L.C. (Yareton)**

Legal Description

Assessor's Tax Parcel No(s):

Related Document: Development Agreement (Doc. No. _____)

The CITY OF TACOMA, a Washington first-class City, acting in its proprietary capacity ("the City"), hereby certifies that **YARETON INVESTMENT & MANAGEMENT (WASHINGTON) L.L.C.**, a Washington limited liability company ("Yareton"), has satisfactorily completed construction of the Improvements on the Property as such Improvements are described in the Development Agreement dated _____, 2014 (the "Agreement"), which was recorded in the Records of the Pierce County Auditor, Washington, as Document No. _____, on _____, 2014.

This Certificate of Completion is and shall be a conclusive determination that Yareton has satisfied, or the City has waived, each of the agreements, covenants and conditions contained in the Agreement as to the development of the Improvements pursuant to Section 5 of the Agreement.

Notwithstanding this Certificate of Completion, Section 9.1 of the Agreement provides for the survival of certain covenants as between the City and Yareton, and nothing in this Certificate of Completion affects such survival.

The Agreement is hereby terminated and to the extent it is an encumbrance on the Property is released from title to the Property.

IN WITNESS WHEREOF, the City has caused this instrument to be executed this _____ day of _____, _____.

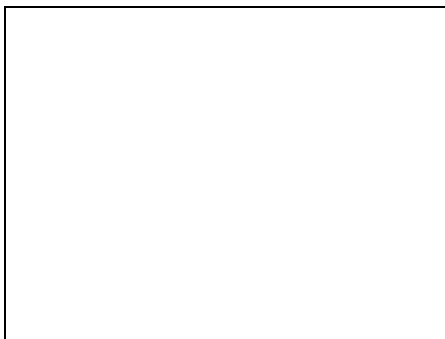
CITY OF TACOMA

By _____
**T.C. Broadnax, City
Manager**

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that T.C. Broadnax is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of CITY OF TACOMA to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____, _____.



(Use this space for notary seal)

Notary Public
Print/Type Name _____
My commission expires _____

EXHIBIT "F" TPU Schedule

