

**AGREEMENT REGARDING THE PURCHASE AND SALE AND
DEVELOPMENT OF REAL PROPERTY BETWEEN
THE CITY OF TACOMA AND
NORTH AMERICA ASSET MANAGEMENT, LLC**

This PURCHASE AND SALE AND DEVELOPMENT AGREEMENT (this "Agreement") is entered into as of August 18, 2015 between the City of Tacoma, a first class municipal corporation ("Seller" or the "City") and North America Asset Management Group, LLC, a Washington limited liability company ("Buyer" or "NAAM")(collectively, the "Parties").

RECITALS

WHEREAS, Seller is the owner of those certain parcels of real property, together with all improvements thereon, located in the City of Tacoma in and around 21st to 23rd, and Jefferson to Tacoma Ave. more particularly described in Section 1, below (the "Property"); and

WHEREAS, the Property was proposed for sale by Seller via a Request for Proposal ("RFP") process beginning in 2012 for which no proposals were initially received, but in 2015, Buyer responded to Seller's RFP with a conforming proposal, and has agreed to develop the Property in substantial compliance with the RFP; and

WHEREAS, Buyer desires to purchase from Seller, and Seller desires to sell the Property to Buyer subject to the terms and conditions and development requirements/covenants set forth herein;

NOW THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, Seller and Buyer agree as follows:

AGREEMENT

1. **Real Property.** Seller agrees to sell and convey to Buyer and Buyer agrees to purchase from Seller, subject to the terms, conditions and covenants set forth in this Agreement, the real property and improvements legally described in Exhibit A and depicted in Exhibit B, together with all of Seller's right, title and interest therein (collectively the "Property"). The Property consists of the following tax parcels:

2021100011, 2021100040, 2021100050, 2021100060, 2021100070, 2021100080,
2021100090, 2021100100, 2021100110, 2021100120, 2021100130, 2021100140,
2021110130, 2021110120, 2021110091, 2021110061, 2021110050, 2021110040,
2021110030, 2021110020, 2021110010, 2021080011, 2021090020, 2021090031,
2021090050, 2021090060, 2021090070, 2021090080, 2021090090, 2021090100,
2021090111, 0320092000, 0320092005, and 2021090011.

The Parties acknowledge that the Fawcett Street right of way that bisects the Property is not part of the transaction or purchase price set forth herein, but can potentially be vacated in accordance with applicable state and local laws.

2. **Purchase Price.** The purchase price for the Property (the "Purchase Price") shall be Three Million Five Hundred Thousand U.S. DOLLARS (\$3,500,000.00) based on the appraisal of the Property dated March 13, 2015 issued by Tony Colombini of Puget Sound Appraisal. The Purchase Price will be paid to Seller in cash or other readily available funds at Closing (as defined at Section 8.1 below).

3. Additional Consideration. In addition to the Purchase Price and as part of the consideration for this Agreement, Buyer hereby agrees that, at Closing, the Property shall be made subject to the Development Covenants and Conditions attached hereto and incorporated herein as Exhibit C. The Development Covenants and Conditions shall be recorded against the Property at Closing in a separately recordable document and shall be enforceable upon their own terms.

4. Earnest Money Deposit. Upon execution of this Agreement by both Seller and Buyer, Buyer shall deliver to Chicago Title Company in Tacoma, Washington (the "Title Company"), as escrow agent for the closing of this transaction, an earnest money deposit in the amount of Seven Hundred Thousand U.S. Dollars (\$700,000.00) (the "Deposit") as part payment of the Purchase Price of the Property. The Deposit will be held by the Title Company for the benefit of the Parties pursuant to the terms of this Agreement. Any interest that accrues on the Deposit will be for the benefit of Buyer; provided, however, that if Buyer forfeits the Deposit to Seller pursuant to the terms of this Agreement, then all interest accrued on the Deposit will be paid to Seller.

5. Title to Property.

5.1 Conveyance. At Closing, Seller shall convey the Property to Buyer by duly executed and acknowledged Quit Claim Deed (the "Deed") subject only to those encumbrances that Buyer approves pursuant to Section 5.3 below (the "Permitted Encumbrances"). The Deed shall be substantially in the form attached hereto as Exhibit D.

5.2 Commitment. Upon execution of this Agreement, Seller authorizes Buyer to order a commitment for an owner's standard coverage policy of title insurance (or, at Buyer's election, an owner's extended coverage policy of title insurance) for the Property in the amount of the Purchase Price to be issued by the Title Company and accompanied by copies of all documents referred to in the commitment ("Commitment").

5.3 Condition of Title. If Buyer elects to obtain a Commitment for the Property, Buyer shall review any encumbrances on the Property listed in the Commitment and shall advise Seller by written notice what encumbrances to title, if any, are disapproved by Buyer ("Disapproved Encumbrances") within 30 (thirty) business days of receipt of the Commitment. Any monetary encumbrances other than non-delinquent ad valorem property taxes will be deemed to be disapproved. Seller will have thirty (30) business days after receipt of Buyer's notice to give Buyer notice that (i) Seller will remove Disapproved Encumbrances, or (ii) Seller elects not to remove Disapproved Encumbrances. If Seller fails to give Buyer notice before the expiration of the thirty (30) day period, Seller will be deemed to have elected not to remove Disapproved Encumbrances. If Seller elects not to remove any Disapproved Encumbrances, Buyer will have fifteen (15) business days to notify Seller of Buyer's election either to proceed with the purchase and take the Property subject to those encumbrances, or to terminate this Agreement. If Buyer elects to terminate this Agreement pursuant to this section, the escrow will be terminated, the Deposit will be returned immediately to Buyer, all documents and other funds will be returned to the party who deposited them, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided for in this Agreement. If this Agreement is terminated through no fault of Seller, then Seller and Buyer shall share equally any costs of terminating the escrow and any cancellation fee for the Commitment. Refusing to remove any objected to encumbrance shall not be considered the fault of Seller in any termination. If Buyer elects not to obtain a Commitment for the Property, this Section 5.3 shall not apply.

5.4 Title Policy. Buyer, at its election, may cause the Title Company to issue to Buyer at Closing a standard coverage owner's policy of title insurance insuring Buyer's

title to the Property in the full amount of the Purchase Price subject only to the Permitted Encumbrances (the "Title Policy"). The Title Policy must be dated as of the Closing Date.

6. Buyer's Feasibility.

6.1 Feasibility Study. Buyer will have until one hundred twenty (120) days from the execution date of this Agreement (the "Feasibility Study Period") to conduct a review of the Property and satisfy itself with respect to the condition of, and other matters related to the Property and its suitability for Buyer's intended use (the "Feasibility Study"). The Feasibility Study may include all inspections and studies Buyer deems reasonably necessary or desirable as well as inquiry and/or project scoping meetings with Seller's Planning and Development Services Department, and review of South Downtown Sub-Area plan and Final EIS. Buyer's Feasibility Study and entitlements process will likely require a traffic study. To the extent that Buyer's requirement for a traffic study becomes part of a larger, area-encompassing, multi-party study, Buyer's obligation to participate monetarily will be pro-rated based on street frontage of the Property as it relates to other property involved in the multi-party study. Buyer and Buyer's agents, representatives, consultants, architects and engineers will have the right, from time to time, from and after the date of this Agreement to enter onto the 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 Property for Buyer's intended use. Buyer shall coordinate all such entries and activities with Seller through Seller's Facilities Division of its Public Works Department the State Department of Ecology as necessary. All tests and inspections are to be performed in a manner not disruptive to the operation of the Property, in a manner that does not compromise the structural integrity of any improvements on the Property, and that is in compliance with that certain Environmental Covenant No.A-406 dated December 6, 2013 and recorded under Pierce County Auditor's File No. 201312260516 (the "DOE Covenant"). Buyer shall protect, defend and indemnify Seller from and against 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. Buyer and Seller may extend the Feasibility Study Period for one thirty (30) day extension by mutual agreement in a written supplement hereto. To the extent that the Parties agree to any such extension of the Feasibility Study Period and other dates/deadlines in this Agreement are determined from the end of the Feasibility Study Period, all such dates will be modified in accordance with the extension of the Feasibility Study Period.

6.2 Buyer's Indemnification. Buyer agrees to assume all liability for and to defend, indemnify and save Seller harmless from all liability and expense (including reasonable costs and attorneys' fees) in connection with all claims, suits and actions of every name, kind and description brought against Seller or its agents or employees by any person or entity as a result of or on account of injuries or damages to persons, entities and/or property received or sustained, arising out of, in connection with or as a result of the acts or omissions of Buyer, or its agents or employees in exercising its rights under this Agreement and the right of entry granted in connection with its Feasibility Study, except for claims caused by Seller's sole negligence.

6.3 Non-Suitability. At the expiration of the Feasibility Study Period, Buyer will have the right to terminate this Agreement if, in Buyer's good faith judgment, the Property is not suitable for Buyer's intended use. Buyer's right to terminate must be exercised by delivering written notice of its election to Seller on or before the expiration of the Feasibility Study Period. In the event Buyer does not complete the purchase, Buyer shall return the Property as near as is practicable to its original condition. If Buyer terminates this Agreement pursuant to this section, the Deposit, less any costs advanced or committed for Buyer, will be returned to Buyer, this Agreement will terminate, and Seller and Buyer will be released from all further obligation or liability hereunder, except as

otherwise specified by this Agreement and except for Buyer's obligations to indemnify Seller under this section. Failure by Buyer to notify Seller in writing of any matters affecting the suitability of the Property, whether or not an inspection has been carried out, shall deem Buyer to have waived this contingency.

6.4 Feasibility Satisfied. At the expiration of the Feasibility Study Period, if Buyer does not terminate this Agreement pursuant to Section 6.3 "Non-Suitability," Buyer shall (a) provide Seller a written notice indicating Buyer's intention to move forward to closing on the Property and that feasibility is satisfied/waived, and (b) shall deposit an additional One Hundred Seventy Five Thousand U.S. Dollars (\$175,000.00) into the escrow account established under Section 4 above, to be added to the Deposit. With Buyer's satisfaction/waiver of feasibility, the Deposit will become non-refundable to the Buyer unless in the case of this Agreement being terminated due to a material default by the Seller, or due to Seller's failure to obtain Tacoma City Council approval pursuant to Section 7.1.

7. Conditions Precedent to Closing. All of the following must be achieved/completed prior to Closing on Buyer's purchase of the Property:

Seller's Conditions Precedent

7.1 City Council Approval. This Agreement, and the transaction contemplated herein, is subject to Tacoma City Council approval prior to Closing. If Tacoma City Council approval is not obtained, this Agreement will automatically terminate, and all documents and other funds deposited will be returned to the Buyer, and neither party will have any further rights or obligations under this Agreement, except as otherwise provided for in this Agreement. Nothing in this Paragraph 7.1 will obligate the Seller to obtain City Council approval beyond the ordinary course of City procedure.

7.2 Buyer Financing. No later than 180 days after execution of this Agreement (the "Financing Feasibility Date"), Buyer must be able to prove to Seller's reasonable satisfaction that Buyer has procured funds/financing sufficient to (a) pay Seller the Purchase Price, and (b) complete Phase I its proposed project on the Property. Proof of having obtained this financing shall include the following:

- (a) Proof that a minimum of Twenty-Five Million U.S. Dollars (\$25,000,000.00) cash equity has been transferred to the U.S.; and
- (b) Proof of a loan commitment for up to 45% loan to value of total project costs; and
- (c) Proof of firm commitment of financing for 65% of total project development (essentially full financing for Phase I of the project).

In addition to the above, the City recognizes that Buyer is targeting EB-5 funding for thirty percent (30%) of overall project costs, and is aiming for a fifteen (15) month recruitment period upon approval of Regional Center status by USCIS. Buyer acknowledges that Seller's primary purpose in entering into this Agreement is to achieve redevelopment and productive use of the Property. To that end, if Buyer is unable to prove to Seller's reasonable satisfaction that it has procured sufficient funds/financing to accomplish (a) through (c) by the Financing Feasibility Date, Seller may discretionarily terminate this Agreement.

7.3 Development Plans. No later than 180 days after execution of this Agreement, Buyer must submit a complete plan set for Phase I of its development on the Property in accordance with Buyer's written proposal dated February 28, 2015 as supplemented on March 17, 2015, which is incorporated herein by this reference. The plan set must comply with the terms and conditions of this Agreement and the Development Covenants and

Conditions attached hereto and incorporated herein as Exhibit C. The submitted plan set must include, at a minimum, the following:

- Construction of a minimum of 360 residential units,
- 200,000 sq. ft. commercial/retail space and 90,000 sq. ft. of office space;
- Of the 200,000 sq. ft. of retail space, a minimum of 4,000 sq. ft. of ground floor commercial/retail

space must be constructed along Tacoma Avenue as part of Phase II construction;

- Approximately 480 parking stalls must be constructed underground or within structures; and
- Gross Floor Area Ratio (FAR), excluding below grade spaces shall be at least 2.0.

The foregoing are minimum requirements only. Buyer may add square footage to the project where feasible, and is encouraged to do so.

7.4 Construction Plan/Schedule. No later than thirty (30) days prior to the scheduled Closing Date, Buyer and Seller must have agreed upon construction plans and a construction schedule for Buyer's project to be completed on the Property.

Buyer's Conditions Precedent

7.5 Feasibility. As set forth at Section 6.1 above, prior to Closing, Buyer must have concluded its Feasibility Study and satisfy itself with respect to the condition of, and other matters related to the Property and its suitability for Buyer's intended use.

7.6 Permits. Buyer shall have either obtained permits for its project on the Property or reasonable assurance of their issuance no later than ten (10) days prior to the scheduled Closing date and in any event no later than one calendar year after execution of this Agreement.

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

Buyer or Seller may waive satisfaction of their specific conditions to Closing listed above at their discretion. To the extent any condition is not either satisfied or waived, either party may terminate this Agreement.

8. Closing.

8.1 Closing. This transaction will be closed in escrow by the Title Company acting as escrow agent ("Escrow Agent"). The Closing will be held at the office of the Title Company on or before that date which is ten (10) days after the end of the Feasibility Study Period and the above conditions (at Section 7) are either satisfied or waived by Buyer and Seller whichever is later, but in no event later than one calendar year after the execution of this Agreement (the "Closing Date"). If Closing does not occur on or before the Closing Date, or any later date mutually agreed to in writing by Seller and Buyer, Escrow Agent will immediately terminate the escrow, forward the Deposit to the party

entitled to receive it as provided in this Agreement and return all documents to the party that deposited them. When notified by Escrow Agent, Buyer and Seller will deposit with Escrow Agent without delay all instruments and moneys required to complete the transaction in accordance with this Agreement. "Closing," for the purpose of 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.

8.2 Closing Costs and Prorations. Seller shall pay state of Washington real estate excise taxes if any are applicable to the sale, and one-half of the Escrow Agent's escrow fee. Buyer shall pay all costs associated with title insurance coverage for the Property (if elected by Buyer) and any endorsements required by Buyer, any financing costs, the cost of recording the deed and any financing documentation, and one-half of the Escrow Agent's escrow fee. Property taxes and assessments for the current year, water and other utility charges, if any, shall be prorated as of the Closing Date unless otherwise agreed. Seller is a property tax exempt organization pursuant to R.C.W. 84.36.010, and therefore property taxes should only be due from Buyer for its ownership from and after the Closing Date.

8.3 Representations and Warranties. As further set forth in the Covenants and Conditions (Exhibit C), Buyer represents and warrants the following:

8.3.1 Buyer shall begin construction of Phase I of its project on the Property no later than sixty (60) days after Closing on the purchase of the Property;

8.3.2 Buyer must commence Phase II construction within six (6) months of receiving a Certificate of Occupancy for Phase I;

8.3.3 Total construction timeline is not to exceed 33 months with the completion date for Phase I to occur no later than June 30, 2018, and completion of Phase II to occur no later than June, 2020;

8.3.4 Buyer represents and warrants that Buyer shall develop the Property in accordance with the Development Plans set forth at Section 7.3 above;

8.3.5 In constructing its project on the Property, Buyer agrees to use its best efforts to comply with the City of Tacoma's SBE and LEAP program as outlined in Exhibit B to the Development Covenants and Conditions;

8.3.6 In constructing its project on the Property, Buyer agrees to employ architects, engineers and construction firms, contractors and subcontractors that have a minimum of five (5) years' experience in Tacoma/Pierce or Seattle/King County areas of Washington, and Buyer shall identify a project manager to oversee all aspects of the project and coordinate with City planning, permitting and development staff;

8.3.7 In constructing its project on the Property, Buyer intends to promote hiring staff from the Tacoma/Pierce County area.

8.3.8 After Closing, Buyer shall not oppose the formation of any Local Improvement District ("LID") in which Buyer, as the owner of the Property, is considered a benefitted owner; and

8.3.9

It is Buyer's intention to petition the City of Tacoma to vacate Fawcett Ave. and use Fawcett as a public plaza area with limited vehicular access. If the vacation is approved, Buyer agrees to use public art that will be integrated into or attached

to portions of the project that, upon completion, that will be visible and/or accessible to the public as part of the public plaza area. Buyer agrees to use, a minimum 1% of Phase 1 construction costs or \$500,000, whichever is lower, in completing this public art component of the project

Up to seventy-five percent (75%) of the public art allocation may be used to implement and design integrated elements in the public plaza and streetscape as long as the elements are designed by a professional artist. Art and artist selection will be coordinated by the City's Public Art Coordinator and selected by a panel comprised of representative(s) of the Buyer and the Seller. Buyer may offer artist names to be considered. The selected artist(s) will work directly with the public plaza design team to play a significant role affecting the overall aesthetic design of the plaza and streetscape that will result in the integration of art and design in paving patterns, lighting, seating and functional elements that would be included as part of the plaza and streetscape design and associated costs. Material and construction costs associated with implementing the artist designed elements will be credited toward this public art funding requirement. If requested by the Buyer, a portion of this amount may also be used to create distinct works of art by artists that are not in the plaza or streetscape but that may be viewed by the public.

The remaining twenty-five percent (25%) shall be used for artist fees, all aspects of art coordination, design, fabrication, and installation of additional site artworks.

In the event that Fawcett Ave. cannot be vacated, the Parties must meet and negotiate a functional equivalent public art component to the project using the same allocation set forth herein.

8A. Condition Subsequent to Closing—Seller's Rescission Right. Seller shall have the right to rescind conveyance of the Property under the following, two circumstances ("Rescission Right"):

First, if Buyer fails to "commence construction" of Phase I of the project on the Property by the one hundred twentieth (120th) day after Closing, Seller shall have the discretionary right to rescind the sale of the Property by refunding the Purchase Price to Buyer.

For purposes of this Agreement, "commencing construction" shall mean that Buyer, or its agents, employees or contractors have begun vertical construction work involving the foundation or the structure of the building(s) to be constructed as part of the project. Site preparation, grading, excavation and mobilization alone are not sufficient to "commence construction" and prevent Seller's Rescission Right from accruing. If Buyer fails to commence construction of Phase I of the project by the construction start date set forth above and Seller has not given written notice of its intent to exercise the Rescission Right by the 180th day after the construction start date, then Seller shall be deemed to have waived its right to exercise the Rescission Right as of such 180th day.

Second, In the event that Buyer fails to substantially complete Phase I of the project on the Property by the date set in 8.3.3 above, or if at any time during construction of Phase I of the project, Buyer ceases construction for six (6) months or more and fails to cure such cessation within sixty (60) days of Seller's delivery of written notice of its intent to exercise the Rescission Right, Seller shall have the right to rescind the conveyance of the Property by refunding the Purchase Price.

Notwithstanding either of the foregoing triggering events, if Buyer cures its failure to commence construction or its cessation of construction prior to sixty (60) days' passage of Seller's notice of

its intent to rescind, Seller's Rescission Right shall be held in abeyance pending completion of Phase I of the project.

The reconveyance of the Property pursuant to this Rescission Right shall be realized no later than sixty (60) days following Seller's notice of exercise of the Rescission Right. If Buyer commences construction or completes construction within the sixty (60) day notice of exercise of the Rescission Right at any time prior to reconveyance, Seller's notice shall lapse. Seller and Buyer agree that the reconveyance of the Property pursuant to Seller's Rescission Right is self-executing and that Buyer shall execute a reconveyance deed to Seller upon presentation by Seller. If Buyer fails to reconvey the Property to Seller as provided in this Section 8A., then Buyer shall pay to Seller liquidated damages in the amount of \$500 per day until the Property is reconveyed as required in this section. The parties agree that Seller's damages in the event of such delay are difficult to measure and such liquidated damages are a reasonable estimate of the damages that Seller will suffer for Buyer's delay in reconveying the Property as provided herein. Buyer is entitled to specific performance of this Rescission Right.

Buyer shall pay all transfer and excise taxes (to the extent not exempt under WAC 458-61A-209) in connection with such reconveyance. The deed will be in substantially the same form as used to convey the Property to Buyer. Upon such reconveyance to Seller, no encumbrances shall exist on title other than those that existed when title transferred to Buyer, those consented to by Seller 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. Buyer shall be responsible for obtaining the release of any Mortgage. If Seller exercises the Rescission Right, Buyer shall be released from further obligations under this Agreement, except those that by their terms expressly survive termination. If Buyer commences construction prior to Seller's exercise of the Rescission Right, the Rescission Right shall terminate. At Buyer's request, upon commencement of construction, Seller shall provide written confirmation to a Mortgagee that commencement of construction has occurred to satisfy a condition of a Mortgagee to advance funds under a construction loan.

9. Condition of the Property.

9.1 "AS-IS" Buyer acknowledges that the Property will be sold under this Agreement in an "as is" "where is" condition. Seller shall surrender the Property in as good condition, except for normal wear and tear, as exists on the date of this Agreement. Seller agrees that it will not damage or commit waste on the Property between the date of acceptance of this Agreement and the date of closing. The "as is" "where is" basis of this Agreement includes releasing Seller, without limitation, from all potential liabilities under all applicable laws such as (by way of illustration and not limitation) the Model Toxics Control Act (RCW 70.105D *et seq*) and CERCLA (42 USC 103 *et seq*) and their related regulations. Buyer understands that, unless released, Buyer will take title to the Property subject to the DOE Covenant.

9.2 Inspections. Buyer agrees that it will rely on its own inspections and evaluations of the Property, with the exception of written documentation, including, but not limited to any disclosures required by law, provided to it by Seller, to determine the suitability of the Property for Buyer's intended use. Buyer acknowledges that Seller has provided it copies of all printed materials Seller has in its possession regarding the current physical and environmental condition of the Property and all improvements thereon.

10. Casualty Loss. Seller shall promptly notify Buyer of any event prior to the Closing Date which causes damage to or destruction of any portion of the Property. If Buyer and Seller cannot come to an agreement regarding any such damage to or destruction of the Property, including the settlement of any insurance claims, then Buyer and Seller will each have the right to terminate this Agreement by giving written notice of termination to the other party within twenty (20) days

after receipt of actual notice of such casualty loss. Upon exercise of such termination election by either party, this Agreement shall terminate, and the Deposit will be returned to Buyer.

11. Possession. Seller shall deliver possession of the Property to Buyer once the Deed is recorded with the Pierce County Auditor.

12. Events of Default. In the event Buyer fails, without legal excuse to complete the purchase of the Property, then that portion of the Deposit not exceeding twenty-five percent (25%) of the Purchase Price shall be forfeited to Seller as the sole and exclusive remedy available to Seller for such failure. In the event Seller fails, without legal excuse, to complete the sale of the Property, Buyer shall be entitled to immediate return of its Deposit as the sole and exclusive remedy available to Buyer.

13. Notices. Any notice under this Agreement must be in writing and be personally delivered, delivered by recognized overnight courier service, or given by mail or via facsimile. E-mail transmission of notice shall not be effective. All notices must be addressed to the parties at the following addresses, or at such other addresses as the parties may from time to time direct in writing:

Seller: City of Tacoma, Real Property Services
Attn: Jennifer Hines
747 Market Street, 7th Floor
Tacoma, WA 98402
Phone: 253-591-5320
Facsimile No. 253-594-7941

With a copy to: City of Tacoma, Legal Department
Attn: Jeff H. Capell, Deputy City Attorney
747 Market Street, Rm 1120
Tacoma, WA 98402
Facsimile No. 253-591-5755

Buyer: North America Asset Management Group. LLC
Attn: Luo Xun Kun
9420 N. 5th St.
Bellevue, WA 98004
Ph. 206-548-9984

Any notice will be deemed to have been given, when personally delivered, and if delivered by courier service, one business day after deposit with the courier service, and if mailed, two business days after deposit in the U.S. mail, and if delivered by facsimile, the same day as verified.

14. Counterparts; Faxed Signatures. This Agreement may be executed in any number of counterparts by the parties hereto, each of which counterpart when so executed shall have the same force and effect as if that party had signed all other counterparts. Facsimile transmitted signatures shall be fully binding and effective for all purposes.

15. Brokers and Finders. Each party represents and warrants to the other that, to such party's knowledge, no broker, agent or finder is involved in this transaction. In the event any broker or other person makes a claim for a commission or finder's fee based upon the transaction contemplated by this Agreement, the party through whom said broker or other person makes its claim shall indemnify and hold harmless the other party from said claim and all liabilities, costs and expenses related thereto, including reasonable attorneys' fees, which may be incurred by

such other party in connection with such claim. This indemnity shall survive the closing of this transaction.

16. **Amendments.** This Agreement may be amended or modified only by a written instrument executed by Seller and Buyer, and shall be attached as an addendum to this Agreement.

17. **Continuation and Survival of Representations and Warranties.** All representations and warranties by the respective parties contained in this Agreement or made in writing pursuant to this Agreement are intended to and will remain true and correct as of the time of closing, will be deemed to be material and will survive the execution and delivery of this Agreement and the delivery of the Deed and transfer of title. Such representations and warranties, however, are not assignable and do not run with the land, except as may be expressly provided herein or contained in a written instrument signed by the party to be charged.

18. **Governing Law.** This Agreement will be governed and construed in accordance with the laws of the State of Washington.

19. **Attorney Fees.** If either party fails to perform any of its obligations under this Agreement or if a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the party not prevailing in the dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights under this Agreement, including without limitation, court costs and reasonable attorney fees incurred in connection with any federal, state or bankruptcy proceeding.

20. **Time of the Essence.** Time is of the essence of this Agreement and of all acts required to be done and performed by the parties hereto.

21. **Waiver.** Neither Seller's nor Buyer's waiver of the breach of any covenant under this Agreement will be construed as a waiver of the breach of any other covenants or as a waiver of a subsequent breach of the same covenant.

22. **Non-merger.** The terms and provisions of this Agreement, including without limitation, all indemnification obligations and the Rescission Right will not merge in, but will survive, the closing of the transaction contemplated under the Agreement.

23. **Assignment.** Buyer shall not assign this Agreement without Seller's prior written consent.

24. **Negotiation and Construction.** This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the parties, and the language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either party.

25. **Additional Acts.** Except as otherwise provided herein, in addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by any party hereto, the parties agree to perform, execute and/or deliver, or cause to be performed, executed and/or delivered, any and all such further acts, deeds and assurances, which may reasonably be required to give effect to the Agreement contemplated herein.

26. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the purchase and sale of the Property, and supersedes all prior agreements and understandings, oral or written, between the parties relating to the subject matter of this Agreement.

27. **Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal, unenforceable or in conflict with the law, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby

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

SELLER:

CITY OF TACOMA, a first class municipal corporation



T.C. Broadnax
City Manager

Attest:



Doris Sorum
City Clerk

Department Approval:



Ricardo Noguera
Director, Community and Economic Development

Approved as to form:



Deputy City Attorney

Legal Description(s) Approved



City Surveyor

BUYER:

North America Asset Management Group, LLC, a Washington Limited Liability Company



Luo Xun Kun, Managing Member

Exhibit A
Legal Description

That portion of the Southwest quarter of the Southwest quarter of Section 04 and the Northwest quarter of the Northwest quarter of Section 09, all in Township 20 North, Range 03 East, W.M. and more particularly described as follows:

All of Blocks 2110 and 2111 of CAVENDER'S SECOND ADDITION TO TACOMA, W.T. as recorded in Volume 1 of Plats at Page 103, records of Pierce County Auditor;

Together With: Blocks 2110 and 2111 of AMENDED PLAT OF SMITH AND DENTON'S ADDITION TO NEW TACOMA, W.T. as recorded in Volume 2 of Plats at Pages 38-40, records of Pierce County Auditor;

Together With: REPLAT OF SPINNING'S ADDITION AND BLOCK 2109, AMENDATORY MAP OF SMITH AND DENTON'S ADDITION TACOMA, WASH. As recorded in Volume 10 of Plats at Page 111, records of Pierce County Auditor;

Together With: Blocks 2108 and 2109, BURNS AND BLINN MAP OF A PART OF THE CITY OF TACOMA as recorded in Volume 1 of Plats at Page 28, records of Pierce County Auditor;

Together With: A parcel of unplatted land more particularly described as follows:

Beginning at the Southeast corner of Block 2108, BURNS AND BLINN MAP OF A PART OF THE CITY OF TACOMA as recorded in Volume 1 of Plats at Page 28, records of Pierce County Auditor;

Thence southerly along the westerly right of way margin of Jefferson Avenue a distance of 132 feet more or less to the northerly line of REPLAT OF SPINNING'S ADDITION AND BLOCK 2109, AMENDATORY MAP OF SMITH AND DENTON'S ADDITION TACOMA, WASH. As recorded in Volume 10 of Plats at Page 111, records of Pierce County Auditor;

Thence westerly along said northerly line to the easterly right of way margin of Fawcett Avenue:

Thence northwesterly along said easterly right of way margin a distance of 127 feet more or less to the Southwest corner of Block 2109, BURNS AND BLINN MAP OF A PART OF THE CITY OF TACOMA as recorded in Volume 1 of Plats at Page 28, records of Pierce County Auditor;

Thence easterly along the South line of said Block 2109 and its easterly extension to the Point of Beginning.

Together With: The alleys abutting all aforementioned Blocks as vacated by City of Tacoma Ordinance Number 26780, as recorded under Auditors File Number 200202201465, records of Pierce County Auditor.

Situate in the City of Tacoma, County of Pierce, State of Washington

Exhibit B

Depiction of the Property



**EXHIBIT C
DEVELOPMENT COVENANTS AND CONDITIONS**

When Recorded Return To:

City of Tacoma
Public Works Department
Real Property Services
747 Market Street, Room 737
Tacoma WA 98402-3701

Document Title:	DEVELOPMENT COVENANTS AND CONDITIONS
Reference No.	
Grantor:	North America Asset Management Group, LLC
Grantee:	CITY OF TACOMA
Legal Description:	
Additional Legal Description:	PAGE __, EXHIBIT A
Assessor's Tax Parcel Numbers:	2021100011, 2021100040, 2021100050, 2021100060, 2021100070, 2021100080, 2021100090, 2021100100, 2021100110, 2021100120, 2021100130, 2021100140, 2021110130, 2021110120, 2021110091, 2021110061, 2021110050, 2021110040, 2021110030, 2021110020, 2021110010, 2021080011, 2021090020, 2021090031, 2021090050, 2021090060, 2021090070, 2021090080, 2021090090, 2021090100, 2021090111, 0320092000, 0320092005, and 2021090011.

**DECLARATION OF DEVELOPMENT COVENANTS AND CONDITIONS
FOR THE REAL PROPERTY IN AND AROUND 21ST & JEFFERSON**

The City of Tacoma, a Washington State municipal corporation (the "City"), and **North America Asset Management Group, LLC**, a Washington limited liability company (the "Developer") have agreed pursuant to that certain Agreement Regarding the Purchase and Sale and Development of real Property Agreement dated _____, 201__ (the "PSA"), to the terms and conditions for the sale/disposition and development of certain surplus City owned real property located in and around 21st and Jefferson in the City of Tacoma identified by the Pierce County Tax Parcel nos. captioned above, and as legally described in Exhibit A (the "Property") attached hereto and by this reference incorporated herein, which Property will be conveyed to Developer by a Quit Claim Deed of even date herewith, referenced as City of Tacoma Deed # _____ and recorded under Auditor's File No. _____ (the "Quit Claim Deed") immediately prior to recording this Declaration of Covenants and Conditions. Conveyance and recording of the Quit Claim Deed is conditioned upon Developer executing this Declaration of Covenants and Conditions (this "Covenant").

The City's primary purpose in conveying the Property to the Developer is to see it redeveloped and returned to productive use within a commercially reasonable time. To that end, this Covenant is an integral part of the consideration for the conveyance of the Property. By this Covenant, Developer agrees to use the Property for the purpose of developing the Property into a

mixed use development of no less than 360 residential units, 100,000 square feet of retail/commercial space with a minimum of 4,000 sq. ft. of ground floor retail/commercial space to be constructed along Tacoma Avenue as part of Phase II, together with approximately 480 parking stalls that must be constructed underground or within structures in the project all in conformance with Developer's proposal dated February 28, 2015 as supplemented on March 17, 2015, (the "Designated Development Use").

In light of the foregoing, and as consideration for the conveyance of the Property, the City and the Developer hereby covenant and agree as follows (this "Covenant"):

I. Developer Covenants.

A. Designated Purpose. Developer covenants to use and develop the Property for the Designated Development Use as set forth herein and in the PSA and as further detailed in Developer's proposal dated February 28, 2015 as supplemented on March 17, 2015 (the "Proposal"). To the extent that the City's approved Development Plans deviate from the Proposal, the Development Plans shall control and Developer shall develop the Property in conformance with the Development Plans.

B. Construction Commencement/Completion.

(1) Developer shall begin construction of its project on the Property no later than one hundred twenty (120) days after Closing on the purchase of the Property in accordance with the terms and conditions of the PSA, which date should coincide with the recording of this Covenant.

(2) Once construction is commenced, Developer must diligently pursue construction to completion. If at any time during construction of Phase I of the project, Developer ceases construction for six (6) months or more, Developer shall be in violation of this Covenant.

(3) Developer must substantially complete Phase I of the project on the Property by June 30, 2018.

If Developer violates any of the foregoing, the City shall have the right to rescind the conveyance of the Property to Developer in accordance with Section 8A of the PSA.

Notwithstanding any violation of B.1-3 above, if Developer cures its failure to commence construction, its cessation of construction, or failure to complete timely construction of Phase I of the project prior to sixty (60) days' passage of Seller's notice of its intent to rescind, Seller's Rescission Right shall be held in abeyance.

(4) Developer must commence Phase II construction within six (6) months of receiving a Certificate of Occupancy for Phase I.

C. Construction Completion. Developer covenants to complete all construction (both Phase I and II) within 33 months of the recording of this Covenant, with the completion date for Phase I to occur no later than June, 2018, and completion of Phase II to occur no later than June, 2020.

D. Gross Floor Area Ratio. Developer covenants that Gross Floor Area Ratio (FAR) for the project, excluding below grade spaces, shall be at least 2.0.

E. SBE and LEAP Participation. In constructing its project on the Property, Developer agrees to use its best efforts to participate in the City of Tacoma's SBE and LEAP program as outlined in Exhibit B hereto.

F. Local Improvement District. Developer hereby covenants to not oppose the formation of any Local Improvement District ("LID") in which Developer, as the owner of the Property, is considered a benefitted owner.

G. Development Team. Developer has agreed to employ architects, engineers and construction firms, contractors and subcontractors that have a minimum of five (5) years' experience in the Tacoma/Pierce Seattle/King County areas in Washington in constructing its project on the Property, and shall identify a project manager to oversee all aspects of the project and coordinate with City planning, permitting and development staff;

H. Local Staffing. In constructing its project on the Property, Developer intends to promote hiring staff from the Tacoma/Pierce County area.

I. Public Art. It is Developer's intention to petition the City of Tacoma to vacate Fawcett Ave. and use Fawcett as a public plaza area with limited vehicular access. If the vacation is approved, Developer agrees to use public art that will be integrated into or attached to portions of the project that, upon completion, that will be visible and/or accessible to the public as part of the public plaza area. Developer agrees to use, a minimum 1% of Phase 1 construction costs or \$500,000, whichever is lower, in completing this public art component of the project

Up to seventy-five percent (75%) of the public art allocation may be used to implement and design integrated elements in the public plaza and streetscape as long as the elements are designed by a professional artist. Art and artist selection will be coordinated by the City's Public Art Coordinator and selected by a panel comprised of representative(s) of the Developer and the City. Developer may offer artist names to be considered. The selected artist(s) will work directly with the public plaza design team to play a significant role affecting the overall aesthetic design of the plaza and streetscape that will result in the integration of art and design in paving patterns, lighting, seating and functional elements that would be included as part of the plaza and streetscape design and associated costs. Material and construction costs associated with implementing the artist designed elements will be credited toward this public art funding requirement. If requested by the Developer, a portion of this amount may also be used to create distinct works of art by artists that are not in the plaza or streetscape but that may be viewed by the public.

The remaining twenty-five percent (25%) shall be used for artist fees, all aspects of art coordination, design, fabrication, and installation of additional site artworks.

In the event that Fawcett Ave. cannot be vacated, the Developer and the City must meet and negotiate a functional equivalent public art component to the project using the same allocation set forth herein.

II. City Covenants.

The City covenants to work cooperatively with Developer to meet the construction commencement deadline and subsequent construction completion deadlines set forth herein and in the PSA and to assist Developer in order to achieve the following:

1. Compliance with development requirements and standards,
2. Design approval,
3. Building permit issuance, and
4. Issuance of certificate of occupancy upon project completion.

III. Indemnification of the City.

A. Developer covenants to 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 Developer's development activity, construction activity, or other liability arising in any manner out of its activities on the Property, including the construction of improvements on the Property, as well as any act or omission of Developer or its members, agents, employees, representatives, contractors, subcontractors, successors, assigns or invitees, on or with respect to the 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.

B. Promptly following receipt of notice, the City shall give Developer written notice of any claim for which Developer 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 Developer shall not constitute a bar to the indemnification hereunder unless such delay has prejudiced Developer in the defense of such claim. If Developer 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, Developer 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.

C. Developer agrees to include in each construction contract for construction of its project or other work on the 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 the City. Further, each contractor shall agree to indemnify and hold the City harmless for damages attributable to the contractor's negligence.

D. The City shall indemnify, defend, and hold Developer 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 Covenant.

IV. Miscellaneous Provisions.

A. No Joint Venture. It is not intended by this Covenant to, and nothing contained in this Covenant shall, create any partnership or joint venture or create the relationship of

principal and agent between Developer and the City, or any of their successors in interest.

B. Enforcement and Remedies. In the event of any violation of any of the provisions of this Covenant by the parties, the non-violating party shall have the right to enforce the violated covenant by any appropriate proceedings at law or in equity, including the right to apply to a court of competent jurisdiction for an injunction against such violation, or for specific performance. Any remedies specifically provided herein are non-exclusive and are in addition to all other remedies available to the non-violating party at law or in equity.

C. Covenants to Run With the Land. The City and Developer hereby declare their express intent that the covenants and conditions set forth in this Covenant shall run with the land, and shall bind all successors in title to the Property.

D. Governing Law and Choice of Venue. This Covenant shall be governed by the laws of the State of Washington without regard to any principles of Conflicts of Laws. Any action brought regarding this Covenant shall be brought in the Superior Court for the State of Washington in Pierce County.

E. Amendments. This Covenant may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the Official Records of Pierce County, Washington.

F. Severability. If any provision of this Covenant shall be found invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Covenant shall not in any way be affected or impaired thereby.

G. Recording. This Covenant shall be recorded in the real property records of Pierce County, Washington.

IN WITNESS WHEREOF, the Developer has hereunto set its hand and seal the
_____ day of _____, 201__.

DEVELOPER

**North America Asset Management Group, LLC, a Washington
Limited Liability Company**

Luo Xun Kun, Managing Member

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that Luo Xun Kun is the person who appeared before me, and he acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Managing Member of **North America Asset Management Group, LLC, a Washington limited liability company**, to be the free and voluntary act of such company for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201__.

Notary Public in and for the
State of Washington
Residing in _____
My Commission Expires _____

CITY OF TACOMA

Ricardo Noguera,
Director, Community and Economic Development

Approved as to From

Deputy City Attorney

Legal Description Approved

City Surveyor

EXHIBIT A to Covenants and Conditions

That portion of the Southwest quarter of the Southwest quarter of Section 04 and the Northwest quarter of the Northwest quarter of Section 09, all in Township 20 North, Range 03 East, W.M. and more particularly described as follows:

All of Blocks 2110 and 2111 of CAVENDER'S SECOND ADDITION TO TACOMA, W.T. as recorded in Volume 1 of Plats at Page 103, records of Pierce County Auditor;

Together With: Blocks 2110 and 2111 of AMENDED PLAT OF SMITH AND DENTON'S ADDITION TO NEW TACOMA, W.T. as recorded in Volume 2 of Plats at Pages 38-40, records of Pierce County Auditor;

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Together With: Blocks 2108 and 2109, BURNS AND BLINN MAP OF A PART OF THE CITY OF TACOMA as recorded in Volume 1 of Plats at Page 28, records of Pierce County Auditor;

Together With: A parcel of unplatted land more particularly described as follows:

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Thence westerly along said northerly line to the easterly right of way margin of Fawcett Avenue:

Thence northwesterly along said easterly right of way margin a distance of 127 feet more or less to the Southwest corner of Block 2109, BURNS AND BLINN MAP OF A PART OF THE CITY OF TACOMA as recorded in Volume 1 of Plats at Page 28, records of Pierce County Auditor;

Thence easterly along the South line of said Block 2109 and its easterly extension to the Point of Beginning.

Together With: The alleys abutting all aforementioned Blocks as vacated by City of Tacoma Ordinance Number 26780, as recorded under Auditors File Number 200202201465, records of Pierce County Auditor.

Situate in the City of Tacoma, County of Pierce, State of Washington

Exhibit B to Covenants and Conditions

CITY OF TACOMA LEAP & SBE PARTICIPATION

Developer agrees to use its best efforts to comply with the City of Tacoma's Local Employment and Apprenticeship Training Program (LEAP) and Small Business Enterprise (SBE) program by attempting to ensure that all contractors performing work on the project make their best efforts to comply with the program requirements. In an effort to develop relationships with the local community and promote the local work force and subcontracting businesses, Developer will notify each contractor and Bidders of the LEAP and SBE requirements and strongly encourage participation in the programs.

- I. **LEAP Utilization Goal:** The City of Tacoma's LEAP program has established an annual local hire/apprentice utilization goal of 15 percent of total workforce hours.
- II. **SBE Annual Goal:** The City of Tacoma's SBE program has established an annual subcontracting goal of 22 percent.

Contractors that agree to comply with the City of Tacoma LEAP and SBE programs must track the local hire and apprentice hours worked, and SBE contracts awarded under Developer's project. It shall be the responsibility of the contractors that qualify for and are participating in each respective program to supply the City of Tacoma with a monthly "Progress Report" that shows proof of participation in LEAP and SBE. A final participation tracking report shall be prepared by the Developer and provided to the City of Tacoma upon completion of the project.

LEAP and SBE can assist contractors in identifying qualified workers and subcontractors in meeting their business and workforce needs as identified in their respective bid submittals and scopes of work.

Program Contacts:

LEAP <http://www.cityoftacoma.org/leap>
Peter Guzman 253.594.7933 pguzman@cityoftacoma.org.

SBE <http://www.cityoftacoma.org/Page.aspx?nid=136>
Charles Wilson 253.591.5224 cwilson@cityoftacoma.org

Exhibit D

City of Tacoma Deed No. D-_____

When Recorded Return To:

City of Tacoma
Public Works Department
Real Estate Services
747 Market Street, Room 737
Tacoma WA 98402-3701

Document Title:	DEED
Reference Number:	
Grantor:	CITY OF TACOMA
Grantee:	
Legal Description:	
Additional Legal Description:	SEE PAGE 1 FOR FULL LEGAL DESCRIPTION
Assessor's Tax Parcel Numbers:	2011220020 and 2011220030

QUIT CLAIM DEED NO. 7154

The **CITY OF TACOMA** ("Grantor"), a municipal corporation operating under the laws of the State of Washington as a first class city, conveys and quit claims to **North America Assets Management, LLC**, a _____ Limited Liability Company, ("Grantee"), all of its rights, title, and interest, including any after acquired title, in that certain real property, appurtenances and improvements thereon, situate in the City of Tacoma, County of Pierce, State of Washington, for the consideration of **TEN and 00/100 DOLLARS (\$10.00)**, legally described as follows:

All situate in the City of Tacoma, County of Pierce, State of Washington.

Dated this _____ day of _____, 201__

CITY OF TACOMA

ATTEST:

Marilyn Strickland, Mayor

Doris Sorum, City Clerk

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

On this _____ day of _____, 201__, before me personally appeared **MARILYN STRICKLAND**, to me known to be the **MAYOR** of the municipal corporation that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that seal affixed is the corporate seal of said corporation.

Notary Public in and for the
State of Washington
My Commission Expires _____

Ricardo Noguera,
Director Community and Economic Development

Andrew Cherullo
Finance Director

Approved as to Form:

Deputy City Attorney

Legal Description Approved:

Leonard J. Webster, P.L.S.
Chief Surveyor