

Deleted: November 12
Deleted: 3

**SECOND AMENDMENT
TO
PURCHASE AND SALE AGREEMENT**

THIS SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT (“*Amendment*”) is made and entered into as of _____, 201_, by and between **THE CITY OF SEATTLE**, a Washington municipal corporation (the “*Seller*”) and **TRIAD CIVIC CENTER LLC**, a Washington limited liability company (“*Purchaser*”).

RECITALS

WHEREAS Purchaser and Seller have entered into that certain Purchase and Sale Agreement dated as of February 19, 2008 (the “*Agreement*”), as amended on July 2, 2009; and

WHEREAS Purchaser and Seller desire to further amend certain provisions of the Agreement, all upon the terms and conditions set forth in this Amendment;

NOW, THEREFORE,

IN CONSIDERATION of the respective agreements hereinafter set forth, Seller and Purchaser do each hereby covenant and agree with the other as follows:

1. **AMENDMENT.** The Agreement is amended as follows:
 - a. **Section 11(c)(i)(1)-(3).** Section 11(c)(i)(1)-(3) of the Agreement is deleted and the following is substituted:

(1) For the first extension, Purchaser must (a) provide written notice to Seller of Purchaser’s election to extend the Expiration Date not later than June 30, 2013, (b) execute a “Promissory Note” in the amount of one million dollars (\$1,000,000.00) substantially in the form of Exhibit A (the “**First Extension Payment**”), (c) provide a fully executed “Personal Guarantee” substantially in the form of Exhibit B, and (d) pay the Seller in cash, prepaid and nonrefundable interest on the Promissory Note in the amount of fifty thousand dollars (\$50,000.00) per year for each calendar year that the Closing Date is extended. By February 28, 2014 and to the satisfaction of the City, the Purchaser shall (a) create a publicly accessible marketing website for the Project promoting the character and amenities of the Project Elements and (b) provide a formal written statement from the Triad principals to the City’s Director of Finance and Administrative Services (the “Director”) and to the City Council President detailing the development marketing strategy of Triad. In the event that Purchaser has not executed these tasks by February 28, 2014,

Deleted: November 12

Deleted: 3

Purchaser shall immediately replace the Promissory Note identified in Section 11(c)(i)(1) with a cash payment of \$1,000,000 to the City. Such payment shall be considered the "First Extension Payment" and the City shall release Triad from the Promissory Note upon such proper deposit. Failure by Purchaser to make this substitution, if required, shall be considered failure to make full and proper payment of the First Extension Payment.

(2) For the second extension, Purchaser must have (a) validly extended the Expiration Date, (b) completed to the satisfaction of the City the items required under subsection (1) above, and (c) by May 1, 2014, installed graphic design material on the construction fence at the Property that effectively promotes the design aspects of the Project and conducted at least one meeting of Triad principals and City officials agreed to by the Director to discuss Triad's progress with the Property; (d) provide written notice to Seller of Purchaser's election to extend the Expiration Date not later than June 30, 2014; and (e) provide the Seller with a cash payment of one million dollars (\$1,000,000.00). At the Seller's sole discretion, it shall have the right to determine whether the Purchaser may, in lieu of the \$1,000,000.00 cash payment, provide a second executed Promissory Note and Personal Guarantee, or other form of security for the same amount, or deposit a cash payment with Title Company ("the "Second Extension Payment", and together with the First Extension Payment, the "Extension Payments"). Prepaid and nonrefundable interest in the amount of fifty thousand (\$50,000.00) on the Second Extension shall be due and payable on June 30, 2014 if the Seller elects to accept the Promissory Note in lieu of payment in cash.

Deleted: (a)

Deleted: , (b)

Deleted: c

Deleted:

(3) The Extension Payments made by Purchaser pursuant to item (2) above (a) shall be in consideration for the extension of the Expiration Date; (b) shall not be considered as part of the Earnest Money; (c) if directed by the Seller to be paid in cash shall be paid to the Title Company to be held in an interest bearing account until Closing or until the termination of the Agreement (with all interest thereon considered part of the Extension Payments); and (d) shall not be refundable to the Purchaser. The Extension Payments made by Purchaser pursuant to items (1) and (2) above shall be applicable to the Minimum Purchase Price (and returned to Purchaser to the extent provided in Section 2(a)(iii) above) if Purchaser completes the purchase of the Property prior to the Expiration Date, as extended, and otherwise shall be released to Seller at the same time as Seller is entitled to a release of the Earnest Money. Prepaid and nonrefundable interest shall become

Hillary Hamilton
FAS Civic Square 2nd Amendment ORD ATT A
[December 10, 2013](#)
Version [4](#)

Deleted: November 12

Deleted: 3

the sole property of the Seller immediately upon payment, and shall not be considered a part of the Minimum Purchase Price or the Earnest Money, but solely consideration by Purchaser to Seller for the change in the form of the Extension Payments.

Deleted: 4

2. **EFFECT OF AMENDMENT.** Except as modified by this Amendment, the Agreement remains in full force and effect as originally stated. Purchaser and Seller each represent and warrant to the other that there exists no defense or claim to their respective obligations under the Agreement, as amended.

[Remainder of page intentionally left blank. Signatures on following page.]

Hillary Hamilton
FAS Civic Square 2nd Amendment ORD ATT A
December 10, 2013
Version 4

Deleted: November 12

Deleted: 3

IN WITNESS WHEREOF, this Amendment has been executed as of the day and year first above written.

SELLER: The City of Seattle,
a Washington municipal corporation

By: _____
Its: _____

PURCHASER: Triad Civic Center LLC,
a Washington limited liability company

By: _____
Frederick W. Grimm
Its: Manager

Exhibit A – Promissory Note
Exhibit B – Personal Guaranty