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Cook County Recorder of Deeds  
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This agreement was prepared by and after recording return to:  
Saundra N. Fried, Esq.  
City of Chicago Department of Law  
121 North LaSalle Street, Room 600  
Chicago, IL 60602

SMART HOTELS/OLYMPIA CHICAGO, LLC REDEVELOPMENT AGREEMENT

This Smart Hotels/Olympia Chicago, LLC Redevelopment Agreement (this "Agreement") is made as of this 9<sup>th</sup> day of August, 2012, by and between the City of Chicago, an Illinois municipal corporation (the "City"), through its Department of Housing and Economic Development ("HED"), and Smart Hotels/Olympia Chicago, LLC, a Delaware limited liability company (the "Hotel Developer").

RECITALS

A. Constitutional Authority. As a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the State of Illinois (the "State"), the City has the power to regulate for the protection of the public health, safety, morals and welfare of its inhabitants, and pursuant thereto, has the power to encourage private development in order to enhance the local tax base, create employment opportunities and to enter into contractual agreements with private parties in order to achieve these goals.

NA-453855-02

11 of 16

B. Statutory Authority. The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., as amended from time to time (the "Act"), to finance projects that eradicate blighted conditions and conservation area factors through the use of tax increment allocation financing for redevelopment projects.

C. City Council Authority. To induce redevelopment pursuant to the Act, the City Council of the City (the "City Council") adopted the following ordinances on January 10, 2001: (1) "An Ordinance of the City of Chicago, Illinois Approving a Redevelopment Plan for the 53rd Street Redevelopment Project Area"; (2) "An Ordinance of the City of Chicago, Illinois Designating the 53rd Street Redevelopment Project Area as a Redevelopment Project Area Pursuant to the Tax Increment Allocation Redevelopment Act"; and (3) "An Ordinance of the City of Chicago, Illinois Adopting Tax Increment Allocation Financing for the 53rd Street Redevelopment Project Area" (the "TIF Adoption Ordinance") (items(1)-(3) collectively referred to herein as the "TIF Ordinances"). The redevelopment project area referred to above (the "Redevelopment Area") is legally described in Exhibit A hereto.

D. The Property. The development site is located in the Redevelopment Area, is generally bounded by East Harper Court Place (private), South Harper Court Place (private), East 52nd Place and South Harper Avenue, is approximately 15,488 square feet in area, and is legally described in Exhibit B (the "Property"). The Property abuts the development site for a mixed use project (the "Harper Court Development Project") on the north and east. The Harper Court Development Project is being undertaken by CJUF III Harper Court LLC (the "Phase I Developer") pursuant to that certain the Harper Court Redevelopment Agreement (as defined in Recital H below). At the time of the conveyance, the Property was improved with the Hotel Pad (as hereinafter defined) as was required pursuant that certain Hotel Purchase Agreement (as hereinafter defined). Such Hotel Purchase Agreement also obligates the Phase I Developer to construct approximately 50 below-grade parking spaces (together with drive aisles and means of ingress and egress), as well as certain right of way, streetscape, landscape and utility improvements on or about the completion date of the Project on the Property and/or adjacent to the Property (collectively, the "Parking").

E. The Project. Upon acquisition of the Property from the Phase I Developer and receipt of all necessary government approvals, the Hotel Developer intends to construct a six story hotel on the Hotel Pad, comprised of approximately 84,000 square feet of gross building area, approximately 131 rooms, limited retail and dining, a green roof and a dedicated work out facility (the "Hotel"). The Hotel and related improvements (including but not limited to those TIF-Funded Improvements as defined below and set forth on Exhibit C) are collectively referred to herein as the "Project." The completion of the Project would not reasonably be anticipated without the financing contemplated in this Agreement.

F. Redevelopment Plan. The Project will be carried out in accordance with this Agreement and the City of Chicago 53rd Street Redevelopment Project Area Plan and Project (the "Redevelopment Plan") included in the TIF-Adoption Ordinance and published at pages 49803 to 49880 of the Journal of the Proceedings of the City Council (the "Journal").

G. City Financing. Pursuant to an ordinance approving this Agreement adopted by City Council on June 6, 2012 and published at pages 27968 to 28050 of the Journal, the City agrees to use, in the amounts set forth in Section 4.03 hereof, Available Incremental Taxes (as defined below), to pay for or reimburse the Hotel Developer for the costs of TIF-Funded Improvements pursuant to the terms and conditions of this Agreement. Such payment and/or reimbursement will be undertaken by principal and interest payments on the City Note (as

defined below) and annual reimbursement of TIF-Funded Interest Costs (as defined below) all in accordance with the terms and conditions of this Agreement.

In addition, the City may, in its discretion, issue tax increment allocation bonds ("TIF Bonds") secured by Incremental Taxes pursuant to a TIF bond ordinance (the "TIF Bond Ordinance") at a later date as described in Section 4.03(d) hereof, the proceeds of which (the "TIF Bond Proceeds") may be used to pay for the costs of the TIF-Funded Improvements not previously paid for from Incremental Taxes (including any such payment made pursuant to any City Note provided to the Hotel Developer pursuant to this Agreement), to make payments of principal and interest on the City Note, or in order to reimburse the City for the costs of TIF-Funded Improvements.

H. Prior TIF Financing. Pursuant to an ordinance adopted by the City Council on September 13, 2006, and published in the Journal of Proceedings of the City Council for said date at pages 83420 to 83440, the City extended the Small Business Improvement Fund program within the Redevelopment Area in the amount of \$750,000 (the "SBIF Obligation").

Pursuant to an ordinance adopted by the City Council on May 4, 2011, and published in the Journal of Proceedings of the City Council for said date at pages 116874 to 116887, the City entered into that certain redevelopment agreement with the Phase I Developer and Lake Park Associates, Inc., an Illinois for profit corporation ("Lake Park"), dated as of October 20, 2011 (the "Harper Court Redevelopment Agreement"), for the issuance of tax-increment financing notes and the payment of tax-increment financing to the Phase I Developer in the aggregate principal amount not to exceed \$20,045,000 secured by the pledge of certain Incremental Taxes for the payment of redevelopment project costs in connection with the Harper Court Project (the "Harper Court Obligation").

The SBIF Obligation and the Harper Court Obligation are collectively referred to in this Agreement as the "Prior TIF Financing."

The Hotel Developer acknowledges that the Prior TIF Financing is a prior lien on monies in the TIF Fund (as defined below) and that Hotel Developer has no claim on any monies except monies which are Available Incremental Taxes.

Now, therefore, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### SECTION 1. RECITALS, HEADINGS AND EXHIBITS

The foregoing recitals are hereby incorporated into this Agreement by reference. The paragraph and section headings contained in this Agreement, including without limitation those set forth in the following table of contents, are for convenience only and are not intended to limit, vary, define or expand the content thereof. Hotel Developer agrees to comply with the requirements set forth in the following exhibits which are attached to and made a part of this Agreement. All provisions listed in the Exhibits have the same force and effect as if they had been listed in the body of this Agreement.

Table of Contents	List of Exhibits
1. Recitals, Headings and Exhibits	A *Redevelopment Area
2. Definitions	B *Property
3. The Project	C *TIF-Funded Improvements
4. Financing	D Intentionally Omitted
5. Conditions Precedent	E Construction Contract
6. Agreements with Contractors	F Intentionally Omitted
7. Completion of Construction or Rehabilitation	G *Permitted Liens
8. Covenants/Representations/Warranties of Hotel Developer	H-1* Project Budget
9. Covenants/Representations/Warranties of the City	H-2* MBE/WBE Budget
10. Hotel Developer's Employment Obligations	I Approved Prior Expenditures
11. Environmental Matters	J Opinion of Hotel Developer's Counsel
12. Insurance	K Jobs Certificate
13. Indemnification	L Requisition Form
14. Maintaining Records/Right to Inspect	M* Specimen City Note
15. Defaults and Remedies	N Subordination Agreement
16. Mortgaging of the Project	O Specimen Payment Bond
17. Notice	(An asterisk (*) indicates which exhibits are to be recorded.)
18. Miscellaneous	

## SECTION 2. DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals, the following terms shall have the meanings set forth below:

"Act" shall have the meaning set forth in the Recitals hereof.

"Actual Residents of the City" shall have the meaning set forth in Section 10.02 hereof.

"Affiliate" shall mean any person or entity directly or indirectly controlling, controlled by or under common control with the Hotel Developer, Hotel Operator or Retail Operator, as applicable.

"Annual Compliance Report" shall mean a signed report from the Hotel Developer to the City in accordance with Section 8.21. The obligations to be covered by the Annual Compliance Report shall include the following: (1) compliance with the covenant to operate as a hotel (Section 8.06); (2) compliance with the Jobs Covenant (Section 8.06); (3) delivery of Financial Statements and unaudited financial statements (Section 8.13); (4) delivery of updated insurance certificates, if applicable (Section 8.14); (5) delivery of evidence of payment of Non-Governmental Charges, if applicable (Section 8.15); (6) delivery of evidence that LEED Certification has been obtained (Section 8.23); and (7) compliance with all other executory provisions of the RDA.

"Available Incremental Taxes" shall mean an amount equal to the Incremental Taxes which are received and that have been deposited in the TIF Fund as of December 31 of a calendar year and which are attributable to the taxes levied on the Property as adjusted to reflect the amount of the City Fee described in Section 4.05(c) hereof. Although the Harper Court Obligation is a Prior TIF Financing, the Harper Court Redevelopment Agreement provides

that Incremental Taxes for the Harper Court Development Project shall not include an amount equal in any year to the amount of ad valorem taxes generated by the Property; as such, no adjustment shall be made to Available Incremental Taxes to reflect the Prior TIF Financing.

“Available Project Funds” shall mean: (1) the undisbursed City Funds; (2) the undisbursed Lender Financing, if any; (3) the undisbursed Equity and (4) any other amounts deposited by Hotel Developer pursuant to this Agreement.

“Benefited Employee” shall mean an employee of the Hotel Developer, the Hotel Operator, or the Retail Operator at the Project (or an Affiliate of one of the foregoing) who is employed in a permanent position during the applicable month (excluding persons engaged as or employed by independent contractors, third party service providers or consultants) and who is eligible to receive benefits in connection with their employment at the Project.

“Bond(s)” shall have the meaning set forth for such term in Section 8.05 hereof.

“Bond Guaranty” shall mean that certain Bond Guaranty Agreement dated December 30, 2010 between the University and MB Financial Bank, N.A., as amended from time to time.

“Bond Ordinance” shall mean the City ordinance authorizing the issuance of Bonds.

“Business Relationship” shall have the meaning set forth for such term in Section 2-156-080 of the Municipal Code.

“Certificate of Completion” shall mean the Certificate of Completion of Construction described in Section 7.01 hereof.

“Certificate of Expenditure” shall mean any Certificate of Expenditure referenced in the City Note pursuant to which the principal amount of the City Note will be established.

“Change Order” shall mean any amendment or modification to the Scope Drawings, Plans and Specifications or the Project Budget as described in Section 3.03, Section 3.04 and Section 3.05, respectively.

“City Contract” shall have the meaning set forth in Section 8.01(l) hereof.

“City Council” shall have the meaning set forth in the Recitals hereof.

“City Fee” shall mean the fee described in Section 4.05(c) hereof.

“City Funds” shall mean the funds described in Section 4.03(b) hereof, as the same may be reduced or terminated pursuant to this Agreement and shall not be excess of the Maximum TIF Assistance.

“City Note” shall mean the taxable City of Chicago Tax Increment Allocation Revenue Note (Smart Hotels/Olympia Chicago, LLC Redevelopment Project), to be in the form attached hereto as Exhibit M, in the maximum principal amount of \$965,000 issued by the City to Hotel Developer on or as of the date hereof. The City Note shall bear interest at the City Note Interest Rate and shall provide for accrued, but unpaid, interest to bear interest at the same annual rate.

“City Note Interest Rate” shall mean eight and one-half percent (8.5%) per annum.

"Closing Date" shall mean the date of this Agreement as first provided above.

"Contract" shall have the meaning set forth in Section 10.03 hereof

"Contractor" shall have the meaning set forth in Section 10.03 hereof.

"Construction Contract" shall mean that certain contract, substantially in the form attached hereto as Exhibit E, to be entered into between the Hotel Developer and the General Contractor providing for construction of the Project.

"Compliance Period" shall mean period of time between the date of the issuance of the Certificate of Completion and the earlier of (1) the Term of the Agreement, or (2) the date when all City Funds due and owing to the Hotel Developer pursuant to this Agreement have been paid.

"Corporation Counsel" shall mean the City's Department of Law.

"EDS" shall mean the City's Economic Disclosure Statement and Affidavit, on the City's then-current form, whether submitted in paper or via the City's online submission process.

"Employer(s)" shall have the meaning set forth in Section 10 hereof.

"Environmental Laws" shall mean any and all federal, state or local statutes, laws, regulations, ordinances, codes, rules, orders, licenses, judgments, decrees or requirements relating to public health and safety and the environment now or hereafter in force, as amended and hereafter amended, including but not limited to (i) the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601 et seq.); (ii) any so-called "Superfund" or "Superlien" law; (iii) the Hazardous Materials Transportation Act (49 U.S.C. Section 1802 et seq.); (iv) the Resource Conservation and Recovery Act (42 U.S.C. Section 6902 et seq.); (v) the Clean Air Act (42 U.S.C. Section 7401 et seq.); (vi) the Clean Water Act (33 U.S.C. Section 1251 et seq.); (vii) the Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.); (viii) the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. Section 136 et seq.); (ix) the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.); and (x) the Municipal Code of Chicago.

"Equity" shall mean funds of Hotel Developer (other than funds derived from Lender Financing) irrevocably available as and when required for the Project, in the amount set forth in Section 4.01 hereof, which amount may be increased pursuant to Section 4.06 (Cost Overruns) or Section 4.03(g).

"Event of Default" shall have the meaning set forth in Section 15 hereof.

"Financial Statements" shall mean complete financial statements of the Hotel Developer (or, if applicable, consolidated financial statements) prepared under the direction of a certified public accountant in accordance with generally accepted accounting principles and practices consistently applied throughout the appropriate periods and reviewed by an independent, third-party certified public accounting firm.

"Full-Time Equivalent Employee" or "FTE" shall mean an employee of the Hotel Developer, Hotel Operator, or the Retail Operator (or an Affiliate of one of the foregoing) at the Project if such employee is employed at the Project during an applicable month (excluding

persons engaged as or employed by independent contractors, third party service providers or consultants) and works at least thirty-five (35) hours per week. For calculations to determine the number of FTE's at the Project, up to three (3) employees totaling at least thirty-five (35) hours are able to be counted collectively as a single FTE.

"General Contractor" shall mean the general contractor(s) hired by the Hotel Developer pursuant to Section 6.01.

"Harper Court Obligation" shall have the meaning set forth in the Recitals hereof.

"Hazardous Materials" shall mean any toxic substance, hazardous substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Law, or any pollutant or contaminant, and shall include, but not be limited to, petroleum (including crude oil), any radioactive material or by-product material, polychlorinated biphenyls and asbestos in any form or condition.

"HED" shall mean the City's Department of Housing and Economic Development, or any successor department thereto.

"Hotel" shall have the meaning set forth in the Recitals hereof.

"Hotel Developer" shall have the meaning set forth in the Recitals hereof, together with its permitted successors and/or assigns.

"Hotel Operator" shall mean the third party entity with whom the Hotel Developer contracts to run, manage and operate the Hotel.

"Hotel Purchase Agreement" shall mean that certain Real Estate Purchase and Sale Agreement as of December 30, 2010, as amended by First Amendment to Real Estate Purchase and Sale Agreement dated as of May 31, 2011, Second Amendment to Real Estate Purchase and Sale Agreement dated as of June 27, 2011, Third Amendment to Real Estate Purchase and Sale Agreement dated as of November 20, 2011, Fourth Amendment to Real Estate Purchase and Sale Agreement dated as of June 29, 2012 and Fifth Amendment to Real Estate Purchase and Sale Agreement dated the Closing Date by and among the Hotel Developer, Lake Park and the Phase I Developer.

"Human Rights Ordinance" shall have the meaning set forth in Section 10 hereof.

"In Balance" shall have the meaning set forth in Section 4.07 hereof.

"Incremental Taxes" shall mean such ad valorem taxes which, pursuant to the TIF Adoption Ordinance and Section 5/11-74.4-8(b) of the Act, are allocated to and when collected are paid to the Treasurer of the City of Chicago for deposit by the Treasurer into the TIF Fund established to pay Redevelopment Project Costs and obligations incurred in the payment thereof.

"Indemnitee" and "Indemnitees" shall have the meanings set forth in Section 13.01 hereof.

"Jobs Covenant" shall have the meaning set forth in Section 8.06 hereof.

"Journal" shall have the meaning set forth in the Recitals hereof.

"Lake Park" shall have the meaning set forth in the Recitals hereof.

"Laws" shall mean all applicable federal, state, local or other laws (including common law), statutes, codes, ordinances, rules, regulations or other requirements, now or hereafter in effect, as amended or supplemented from time to time, and any applicable judicial or administrative interpretation thereof, including any applicable judicial or administrative orders, consent decrees or judgments, including, without limitation, Sections 7-28 and 11-4 of the Municipal Code of Chicago relating to waste disposal.

"LEED Certification" shall mean basic certification of the Project under the Leadership in Energy and Environmental Design (LEED) Green Building Rating System maintained by the U.S. Green Building Council and applicable to new construction.

"Lender" shall mean any provider of Lender Financing, including without limitation, MB Financial Bank, N.A., as purchaser of the Illinois Finance Authority's \$21,500,000 Recovery Zone Facility Bonds (Smart Hotels/Olympia Chicago, LLC Project), Series 2010, pursuant to a Bond and Loan Agreement, dated as of December 1, 2010, among the Illinois Finance Authority, MB Financial Bank, N.A., and the Hotel Developer and the University as the guarantor of such aforementioned bonds pursuant to the Bond Guaranty and further evidenced by the Loan and Indemnification Agreement.

"Lender Financing" shall mean any funds borrowed by the Hotel Developer from any provider of funds, including but not limited to the \$21,500,000 Recovery Zone Facility Bonds (Smart Hotels/Olympia Chicago, LLC Project), Series 2010, issued by the Illinois Finance Authority pursuant to a Bond and Loan Agreement, dated as of December 1, 2010, among the Illinois Finance Authority, MB Financial Bank, N.A., and the Hotel Developer, which are guaranteed by the University pursuant to the Bond Guaranty and further evidenced by the Loan and Indemnification Agreement, and irrevocably available to pay for Project costs, in the amount set forth in Section 4.01 hereof.

"Living Wages" shall mean a base wage as that term is defined and calculated in Section 2-92-610 of the City of Chicago Municipal Code.

"Loan and Indemnification Agreement" shall mean that certain Loan and Indemnification Agreement dated as of December 30, 2010, between the University and the Hotel Developer, as amended from time to time.

"Maximum TIF Assistance" shall mean a combination of the amount of TIF-Funded Interest Costs and the City Note in an aggregate amount not to exceed the lesser of: (1) Two Million Nine Hundred One Thousand One Hundred Forty-Six Dollars (\$2,901,146) and (2) ten and seven hundredths percent (10.07%) of the Project Budget.

"MBE(s)" shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

"MBE/WBE Budget" shall mean the budget attached hereto as Exhibit H-2, as described in Section 10.03.



"MBE/WBE Program" shall have the meaning set forth in Section 10.03 hereof.

"Municipal Code" shall mean the Municipal Code of the City of Chicago, as amended from time to time.

"New Mortgage" shall have the meaning set forth in Article 16 hereof.

"Non-Governmental Charges" shall mean all non-governmental charges, liens, claims, or encumbrances relating to the Hotel Developer, the Property or the Project.

"Operating Covenant" shall have the meaning set forth in Section 8.06(a) hereof.

"Parking" shall have the meaning set forth in the Recitals hereof.

"Permitted Liens" shall mean those liens and encumbrances against the Property and/or the Project set forth on Exhibit G hereto.

"Permitted Mortgage" shall have the meaning set forth in Article 16 hereof.

"Phase I Developer" shall have the meaning set forth in the Recitals hereof.

"Planned Development" shall mean Planned Development No. BRPD 38, dated December 8, 2010, as amended from time to time.

"Plans and Specifications" shall mean initial construction documents, and any amendments thereto, containing a site plan and working drawings and specifications for the Project, as submitted to the City as the basis for obtaining building permits for the Project.

"Prior Expenditure(s)" shall have the meaning set forth in Section 4.05(a) hereof.

"Prior TIF Financing" shall have the meaning set forth in the Recitals hereof.

"Project" shall have the meaning set forth in the Recitals hereof.

"Project Budget" shall mean the budget attached hereto as Exhibit H-1, showing the total cost of the Project by line item, furnished by Hotel Developer to HED, in accordance with Section 3.03 hereof.

"Property" shall have the meaning set forth in the Recitals hereof.

"Qualified Investor" shall mean a purchaser of the City Note that provides the City with an acceptable investment letter as further described in Section 4.03(e) hereof.

"Redevelopment Area" shall have the meaning set forth in the Recitals hereof.

"Redevelopment Plan" shall have the meaning set forth in the Recitals hereof.

"Redevelopment Project Costs" shall mean redevelopment project costs as defined in Section 5/11-74.4-3(q) of the Act that are included in the budget set forth in the Redevelopment Plan or otherwise referenced in the Redevelopment Plan.

"Reporting Period" shall have the meaning as set forth in Section 8.21 hereof.

“Requisition Form” shall mean the document, in the form attached hereto as Exhibit L, to be delivered by Hotel Developer to HED pursuant to Section 4.03(c) of this Agreement.

“Retail Operator” shall mean one or more third parties that manage and operate the retail facilities at the Project.

“Scope Drawings” shall mean preliminary construction documents containing a site plan and preliminary drawings and specifications for the Project.

“SBIF Obligation” shall have the meaning set forth in the Recitals hereof.

“Survey” shall mean a plat of survey in the most recently revised form of ALTA/ACSM land title survey of the Property, meeting the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, effective February 23, 2011, dated within 75 days prior to the Closing Date, acceptable in form and content to the City and the Title Company, prepared by a surveyor registered in the State of Illinois, certified to the City and the Title Company, and indicating whether the Property is in a flood hazard area as identified by the United States Federal Emergency Management Agency (and updates thereof to reflect improvements to the Property in connection with the construction of the Project and related improvements as required by the City or lender(s) providing Lender Financing).

“Term of the Agreement” shall mean the period of time commencing on the Closing Date and ending on December 31, 2025, the date on which the Redevelopment Area is no longer in effect.

“TIF Adoption Ordinance” shall have the meaning set forth in the Recitals hereof.

“TIF Bonds” shall have the meaning set forth in the Recitals hereof.

“TIF Bond Ordinance” shall have the meaning set forth in the Recitals hereof.

“TIF Fund” shall mean the special tax allocation fund created by the City in connection with the Redevelopment Area into which Incremental Taxes will be deposited.

“TIF-Funded Improvements” shall mean those improvements of the Project which (i) qualify as Redevelopment Project Costs, (ii) are eligible costs under the Redevelopment Plan and (iii) the City has agreed to pay for out of the City Funds, subject to the terms of this Agreement. Exhibit C lists the TIF-Funded Improvements for the Project.

“TIF-Funded Interest Costs” shall mean interest expense incurred by the Hotel Developer in connection with Lender Financing as described in, and subject to the limitations of, Section 5/11-74.4-3(q)(11) of the Act, but in no event shall the maximum aggregate gross amount of TIF-Funded Interest Costs payable to the Hotel Developer be greater than \$1,936,146 (NPV discounted at 7% over the Term of the Agreement).

“TIF Ordinances” shall have the meaning set forth in the Recitals hereof.

“Title Company” shall mean First American Title Insurance Company, or such other title company reasonably acceptable to the City and Developer.

"Title Policy" shall mean a title insurance policy in the most recently revised ALTA or equivalent form, showing Hotel Developer as the insured, noting the recording of this Agreement as an encumbrance against the Property, and a subordination agreement in favor of the City with respect to previously recorded liens against the Property related to Lender Financing, if any, issued by the Title Company.

"University" shall mean the University of Chicago, an Illinois not-for-profit corporation.

"WARN Act" shall mean the Worker Adjustment and Retraining Notification Act (29 U.S.C. Section 2101 et seq.).

"WBE(s)" shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a women-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

### SECTION 3. THE PROJECT

3.01. The Project. With respect to the Project, the Hotel Developer shall, pursuant to the Plans and Specifications and subject to the provisions of Section 18.17 hereof, the receipt of all necessary permits and the conveyance of the Property: (i) commence construction no later than October 1, 2012; and (ii) complete construction and conduct business operations therein no later than November 30, 2013.

3.02. Scope Drawings and Plans and Specifications. Subject to the conditions set forth in Section 3.01, the Hotel Developer has delivered (a) the Plans and Specifications to all appropriate City departments (including but not limited to plans concerning green roof(s)) and HED has approved same, (b) Scope Drawings to HED and HED has approved same, and (c) submitted the Plans and Specifications to the Building Department. After such initial approvals, subsequent proposed changes to the Scope Drawings or Plans and Specifications shall be submitted to HED as a Change Order in accordance with to Section 3.04 hereof. The Scope Drawings and Plans and Specifications shall at all times conform to the terms and conditions of the Agreement, the Planned Development and the Redevelopment Plan and all applicable Laws, including without limitation, all zoning and building code requirements. The Hotel Developer shall submit all necessary documents to the City's Building Department, Department of Transportation and such other City departments or governmental authorities as may be necessary to acquire building permits and other required approvals for the Project.

3.03. Project Budget. The Hotel Developer has furnished to HED, and HED has approved, a Project Budget showing total costs for the Project in an amount of not less than Thirty Million Ninety Dollars (\$30,000,090). The Hotel Developer hereby certifies to the City that: (a) the City Funds, together with Lender Financing and Equity described in Section 4.02 hereof, shall be sufficient to complete the Project; and (b) the Project Budget is true, correct and complete in all material respects as of the date hereof. Hotel Developer shall promptly deliver to HED certified copies of any Change Orders with respect to the Project Budget for approval pursuant to Section 3.04 hereof.

3.04. Change Orders. Except as provided below in this Section 3.04, all Change Orders (and documentation substantiating the need and identifying the source of funding therefor) relating to changes to the Project must be submitted by Hotel Developer to HED concurrently with the progress reports described in Section 3.07 hereof; provided, that any

Change Order relating to any of the following must be submitted by the Hotel Developer to HED for HED's prior written approval: (a) a reduction in the square footage of the Project by five percent (5%) or more (either individually or cumulatively); (b) a change in the use of Project to a use other than hotel use as described in Recital E to this Agreement; (c) a delay in the completion of the Project by six (6) months or more; (d) any change which would impair the ability of a hotel to be constructed on the Property; or (e) Change Orders resulting in an aggregate increase to the Project Budget of ten percent (10%) or more. The Hotel Developer shall not authorize or permit the performance of any work relating to any Change Order or the furnishing of materials in connection therewith prior to the receipt by the Hotel Developer of HED's written approval (to the extent said City prior approval is required pursuant to the terms of this Agreement). The Construction Contract, and each contract between the General Contractor and any subcontractor, shall contain a provision to this effect. An approved Change Order shall not be deemed to imply any obligation on the part of the City to increase the amount of City Funds which the City has pledged pursuant to this Agreement or provide any other additional assistance to the Hotel Developer. Notwithstanding anything to the contrary in this Section 3.04, Change Orders other than those set forth above do not require HED's prior written approval as set forth in this Section 3.04, but HED shall be notified in writing of all such Change Orders within 10 business days after the execution of such Change Order and the Hotel Developer, in connection with such notice, shall identify to HED the source of funding therefor.

3.05. HED Approval. Any approval granted by HED of the Scope Drawings, Plans and Specifications and the Change Orders is for the purposes of this Agreement only and does not affect or constitute any approval required by any other City department or pursuant to any City ordinance, code, regulation or any other governmental approval, nor does any approval by HED pursuant to this Agreement constitute approval of the quality, structural soundness or safety of the Property or the Project.

3.06. Other Approvals. Any HED approval under this Agreement shall have no effect upon, nor shall it operate as a waiver of, the Hotel Developer's obligations to comply with the provisions of Section 5.03 (Other Governmental Approvals) hereof. The Hotel Developer shall not commence construction of the Project until Hotel Developer has obtained all necessary permits and approvals (including but not limited to HED's approval of the Plans and Specifications) and proof of the General Contractor's and each subcontractor's bonding as and when required hereunder.

3.07. Progress Reports and Survey Updates. The Hotel Developer shall provide HED with written quarterly construction progress reports (i.e., on or about January 1<sup>st</sup>, April 1<sup>st</sup>, July 1<sup>st</sup> and September 1<sup>st</sup>) detailing the status of the Project, including a revised completion date, if necessary (with any change in completion date being considered a Change Order, requiring HED's written approval pursuant to Section 3.04 if such date is more than six (6) months after the completion date set forth in Section 3.01). The Hotel Developer shall provide three (3) copies of an updated Survey to HED upon the request of HED or any Lender providing Lender Financing, reflecting improvements made to the Property.

3.08. Inspecting Agent or Architect. An independent agent or architect at LM Consultants, Inc., an Illinois corporation, shall be the inspecting agent or architect, at the Hotel Developer's expense, for the Project. The inspecting agent or architect shall perform periodic inspections with respect to the Project, providing certifications with respect thereto to HED. With the written consent of HED, the inspecting architect may be the inspecting architect engaged by or on behalf of any Lender and/or the Hotel Developer, provided that said architect is an independent architect licensed by the State of Illinois, or an inspecting agent of HED.

3.09. Barricades. Prior to commencing any construction requiring barricades, the Hotel Developer shall install a construction barricade of a type and appearance satisfactory to the City and constructed in compliance with all Laws. HED retains the right to approve the maintenance, appearance, color scheme, painting, nature, type, content and design of all barricades.

3.10. Signs and Public Relations. The Hotel Developer shall erect a sign of size and style approved by the City in a conspicuous location on the Property during the Project, indicating that financing has been provided by the City; provided, however, the Hotel Developer shall not be required to expend more than \$1,000 on such signage. The City reserves the right to include the name, photograph, artistic rendering of the Project and other pertinent information regarding the Hotel Developer, the Property and the Project in the City's promotional literature and communications.

3.11. Utility Connections. The Hotel Developer may connect all on-site water, sanitary, storm and sewer lines constructed on the Property to City utility lines existing on or near the perimeter of the Property, provided the Hotel Developer first complies with all City requirements governing such connections, including the payment of customary fees and costs related thereto.

3.12. Permit Fees. In connection with the Project, the Hotel Developer shall be obligated to pay only those building, permit, engineering, tap on and inspection fees that are assessed on a uniform basis throughout the City of Chicago and are of general applicability to other property within the City of Chicago.

#### SECTION 4. FINANCING

4.01. Total Project Cost and Sources of Funds. The cost of the Project is estimated to be Thirty Million Ninety Dollars (\$30,000,090), to be applied in the manner set forth in the Project Budget. Such costs shall be funded from the following sources:

Lender Financing	\$21,500,000
Equity (subject to Sections 4.03(b) and 4.06)	\$ 8,500,090
ESTIMATED TOTAL	\$30,000,090

4.02. Hotel Developer Funds. Equity and/or Lender Financing may be used to pay any Project cost, including but not limited to Redevelopment Project Costs.

4.03. City Funds.

(a) Uses of City Funds. City Funds may only be used to pay directly or reimburse the Hotel Developer for costs of TIF-Funded Improvements that constitute Redevelopment Project Costs. Exhibit C sets forth, by line item, the TIF-Funded Improvements for the Project, and the maximum amount of costs that may be paid by or reimbursed from City Funds for each line item therein (subject to Sections 4.03 and 4.05(c)) contingent upon receipt by the City of documentation satisfactory in form and substance to HED evidencing such cost and its eligibility as a Redevelopment Project Cost. In no event, however, shall City Funds be paid to the Hotel Developer in excess of the Maximum TIF Assistance amount.

(b) Sources of City Funds. Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to pay for or reimburse the Hotel Developer for the actual Project costs of the TIF-Funded Improvements, in an amount not to exceed the Maximum TIF Assistance Amount (the "City Funds"), as follows:

(i) *TIF-Funded Interest Costs.* Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City agrees to annually reimburse Hotel Developer for TIF-Funded Interest Costs on or about each September 1st through and including the year following the expiration of the TIF District. The first reimbursement payment shall occur on or about September 1st of the year following the Closing Date. To the extent that Available Incremental Taxes are insufficient to make a TIF Funded Interest Costs payment in any given year, any unpaid amount due shall be carried forward, without accruing interest, and paid in the following year. The City shall first pay TIF Funded Interest Cost due and owing (including any amounts carried forward due to the limitations on the maximum payment amount as set forth in the Act) and shall then make principal and interest payments on the City Note in accordance with Section 4.03(b)(ii) below.

(ii) *City Note.* Subject to the terms and conditions of this Agreement, including but not limited to this Section 4.03 and Section 5 hereof, the City hereby agrees to issue the City Note to the Hotel Developer on the Closing Date. The initial principal amount of the City Note shall be in an amount equal to the costs of the TIF-Funded Improvements (less TIF-Funded Interest Costs) which have been incurred by the Hotel Developer and are to be reimbursed by the City through payments of principal and interest on the City Note, subject to the provisions hereof and the amount of Available Incremental Taxes deposited into the TIF Fund being sufficient for such payments. Interest on the City Note will accrue at the City Note Interest Rate from the date of the issuance and will compound annually. Payments of principal and interest on the City Note shall be made from Available Incremental Taxes; provided, however, no payments shall be made prior to the issuance of the Certificate of Completion. Notwithstanding the foregoing, if actual Project costs are less than the amounts set forth in the Project Budget by five percent (5%) or more, the principal amount of the City Note may be reduced by \$0.75 for every \$1.00 (or portion thereof) above the five percent (5%) threshold by which the actual Project costs, as set forth in the documentation supporting the Certificate of Completion, are less than the Project Budget. For purposes of the calculations to be made to determine the percentages in the previous sentence, the Project Budget shall not include TIF-Funded Interest Costs that are due and owing to the Lender after the issuance of the Certificate of Completion.

(c) The amounts payable pursuant to Section 4.03(b)(i) shall be paid by the City directly from the TIF Fund to the Hotel Developer in reimbursement of TIF-Funded Interest Costs. The City will reimburse the Hotel Developer for such TIF-Funded Interest Costs and payments on the City Note upon the Hotel Developer's submission to HED of an executed requisition form substantially in the form attached hereto as Exhibit L (the "Requisition Form"), which shall be submitted on or about each June 1st after the date of issuance of the Certificate of Completion through the date that the TIF District is in effect. The Hotel Developer shall be permitted to submit a Requisition Form concurrently with its request for a Certificate of Completion. Upon a Requisition Form's approval, the City Comptroller shall pay, from Available Incremental Taxes, the amount requested in the Requisition Form. Available Incremental Taxes, to the extent available, shall be disbursed first to pay TIF-Funded Interest

Costs (including any previously unpaid amounts that are carried forward), next to pay outstanding interest on the City Note, and then next to pay principal of the City Note. If Available Incremental Taxes are insufficient to pay the amount set forth in the Requisition Form, then, with respect to TIF-Funded Costs, such unpaid costs shall carry forward to the following year without accrual of interest. Along with the Requisition Form, the Hotel Developer shall also submit to HED at the address specified in Section 17(a) with respect to the TIF-Funded Interest Costs: copies of the invoices sent by any Lender providing Lender Financing and/or any lender providing Permitted Refinancing for such year through the date of the Requisition Form, and a statement of interest accrual on such financing based on the Hotel Developer's most recent Financial Statements (or such other substantiating evidence as the City may accept) to evidence the accrual of such amounts for TIF-Funded Interest Costs, and (b) with respect to the City Note: documentation substantiating incurrence of TIF Funded Improvements to HED's satisfaction to the extent not already approved by HED.

(d) After the issuance of the City Note and prior to the one year anniversary of the issuance of the Certificate of Completion, the Hotel Developer may, up to four times per calendar year (but in no event more frequently than once per quarter), provide HED with a Certificate of Expenditure to request an increase in the principal amount of the City Note. The Hotel Developer shall also submit, along with such Certificate of Expenditure, documentation necessary to establish that the Hotel Developer has incurred the additional TIF-Funded Costs covered by such certificate. Exhibit C sets forth certain TIF-Funded Costs for the Project that are intended to be reimbursed through the City Note. Upon HED's request, the Hotel Developer shall meet with HED to discuss any Certificate of Expenditure that is submitted to HED. If HED approves and executes such Certificate of Expenditure, the outstanding principal indebtedness under the City Note shall then be increased by the amount set forth in such Certificate of Expenditure effective as of the execution date of such certificate. In no instance shall the Hotel Developer submit a Certificate of Expenditure that includes costs that the Hotel Developer has not previously paid, nor costs for correcting deficient work, nor costs for replacing deficient materials, or other costs attributable to a failure to initially complete the Project in accordance with all applicable laws and City requirements. No Certificate of Expenditure will be issued after the one year anniversary date of the issuance of the Certificate of Completion, and the principal amount of the City Note shall be finally fixed on such date.

(e) After issuance, the City Note may be pledged to a Lender. In addition, Hotel Developer may sell the City Note any time after the one year anniversary of the issuance of the Certificate of Completion, but only to a Qualified Investor with no view to resale and pursuant to, and upon receipt of, an investment letter in form and substance acceptable to the City, and in a manner and on terms, including a debt service schedule, otherwise acceptable to the City.

(i) Section 4.03(a) through (e) above is hereby qualified by the following: the City Funds to be derived from Available Incremental Taxes and/or TIF Bond proceeds, if any, shall be available to pay costs related to TIF-Funded Improvements and allocated by the City for that purpose only so long as the amount of the Available Incremental Taxes deposited into the TIF Fund shall be sufficient to pay for such costs (provided that if sufficient Available Incremental Taxes are not available in any given year, such insufficiency shall not relieve the City of its payment obligations if and when Available Incremental Taxes do become available).

(f) the Hotel Developer acknowledges and agrees that the City's obligation to pay any amount due under the City Note is contingent upon satisfaction of all applicable terms and conditions of this Agreement, including without limitation, compliance with the covenants in Section 8 (Covenants/Representations/ Warranties of the Hotel Developer). In the event that such conditions are not fulfilled, the amount of Lender Financing and/or Equity to be contributed by the Hotel Developer pursuant to Section 4.01 hereof shall be increased, as necessary, to complete the Project.

4.04. Intentionally omitted.

4.05. Treatment of Prior Expenditures and Subsequent Disbursements.

(a) Prior Expenditures. Only those expenditures made by the Hotel Developer with respect to the Project prior to the Closing Date, evidenced by documentation satisfactory to HED and approved by HED as satisfying costs covered in the Project Budget, shall be considered previously contributed Equity or Lender Financing hereunder (the "Prior Expenditures"). HED shall have the right, in its sole discretion, to disallow any such expenditure as a Prior Expenditure. Exhibit I hereto sets forth the prior expenditures approved by HED as of the Closing Date as Prior Expenditures. Prior Expenditures made for items other than TIF-Funded Improvements shall not be reimbursed to Hotel Developer, but shall reduce the amount of Equity and/or Lender Financing required to be contributed by Hotel Developer pursuant to Section 4.01 hereof.

(b) City Fee. Annually, the City may allocate an amount not to exceed two and one half percent (2.5%) of the Available Incremental Taxes for payment of costs incurred by the City for the administration and monitoring of the Redevelopment Area, including the Project. Such fee shall be in addition to and shall not be deducted from or considered a part of the City Funds, and the City shall have the right to receive such funds prior to any payment of City Funds hereunder.

(c) Allocation Among Line Items. Disbursements for expenditures related to TIF-Funded Improvements may be allocated to and charged against the appropriate line only, with transfers of costs and expenses from one line item to another, without the prior written consent of HED, being prohibited; provided, however, that such transfers among line items, in an amount not to exceed \$25,000 or \$100,000 in the aggregate, may be made without the prior written consent of HED.

4.06. Cost Overruns. If the aggregate cost of the TIF-Funded Improvements exceeds City Funds available pursuant to Section 4.03 hereof, or if the cost of completing the Project exceeds the Project Budget, the Hotel Developer shall be solely responsible for such excess cost, and shall hold the City harmless from any and all costs and expenses of completing the TIF-Funded Improvements in excess of City Funds and of completing the Project.

4.07. Preconditions of Disbursement. Prior to each disbursement of City Funds hereunder by the City, the Hotel Developer shall submit documentation regarding the applicable expenditures to HED, which shall be satisfactory to HED in its sole discretion. Delivery by the Hotel Developer to HED of any request for disbursement of City Funds hereunder shall, in addition to the items therein expressly set forth, constitute a certification to the City, as of the date of such request for disbursement, that:



(a) the total amount of the disbursement request is TIF-Funded Improvements that represent the actual cost of the Property acquisition or the actual amount payable to (or paid to) the General Contractor, subcontractors and/or consultants who have performed work on the Project, and/or their payees (such costs may also include costs incurred by the Hotel Developer or the Hotel Operator in the self-performance of job training);

(b) all amounts shown as previous payments on the current disbursement request have been paid to the parties entitled to such payment (or have been incurred by the Hotel Developer or the Hotel Operator);

(c) the Hotel Developer has approved all work and materials for the current disbursement request and such work and materials conform to the Plans and Specifications;

(d) the representations and warranties contained in this Redevelopment Agreement are true and correct and Hotel Developer is in compliance with all applicable covenants contained herein;

(e) the Hotel Developer has received no notice and has no knowledge of any liens or claim of lien either filed or threatened against the Property except for the Permitted Liens and/or liens bonded by the Hotel Developer or insured by the Title Company;

(f) no Event of Default or condition or event which, with the giving of notice or passage of time or both, would constitute an Event of Default exists or has occurred; and

(g) the Project is In Balance. The Project shall be deemed to be in balance ("In Balance") only if the total of the Available Project Funds equals or exceeds the aggregate of the amount necessary to pay all unpaid Project costs incurred or to be incurred in the completion of the Project. The Hotel Developer hereby agrees that, if the Project is not In Balance, Hotel Developer shall, within 10 days after a written request by the City, provide the City with evidence of sufficient sources of funds that will place the Project In Balance.

The City shall have the right, in its discretion, to require the Hotel Developer to submit further documentation as the City may require in order to verify that the matters certified to above are true and correct, and any disbursement by the City shall be subject to the City's review and approval of such documentation and its satisfaction that such certifications are true and correct; provided, however, that nothing in this sentence shall be deemed to prevent the City from relying on such certifications by the Hotel Developer. In addition, the Hotel Developer shall have satisfied all other preconditions of disbursement of City Funds for each disbursement, including but not limited to requirements set forth in the Bond Ordinance, if any, TIF Bond Ordinance, if any, the Bonds, if any, the TIF Bonds, if any, the TIF Ordinances, and/or this Agreement.

4.08. Conditional Grant. The City Funds being provided hereunder are being provided on a conditional basis, subject to the Hotel Developer's compliance with the provisions of this Agreement. The City Funds are subject to being terminated and/or reimbursed as provided in Section 15.02 hereof.

## SECTION 5. CONDITIONS PRECEDENT

The following conditions have been complied with to the City's satisfaction on or prior to the Closing Date:

5.01. Project Budget. The Hotel Developer has submitted to HED, and HED has approved, a Project Budget in accordance with the provisions of Section 3.03 hereof.

5.02. Scope Drawings and Plans and Specifications. The Hotel Developer has submitted to HED, and HED has approved, the Plans and Specifications accordance with the provisions of Section 3.02 hereof.

5.03. Other Governmental Approvals. The Hotel Developer has secured all other necessary approvals and permits required by any Laws to construct the Project and has submitted evidence thereof to HED.

5.04. Financing. The Hotel Developer has furnished proof reasonably acceptable to the City that the Hotel Developer has Equity and Lender Financing in the amounts set forth in Section 4.01 hereof to complete the Project and satisfy its obligations under this Agreement. If a portion of such funds consists of Lender Financing, the Hotel Developer has furnished proof as of the Closing Date that the proceeds thereof are available to be drawn upon by the Hotel Developer as needed and are sufficient (along with the Equity set forth in Section 4.01) to complete the Project. Any liens against the Property in existence at the Closing Date, except Permitted Liens, have been subordinated to certain encumbrances of the City set forth herein pursuant to a Subordination Agreement, in a form acceptable to the City, executed on or prior to the Closing Date/substantially in the form of Exhibit N hereto with such changes as acceptable to the City, which is to be recorded, at the expense of the Hotel Developer, with the Office of the Recorder of Deeds of Cook County.

5.05. Acquisition and Title. On the Closing Date, Hotel Developer has furnished the City with a copy of the Title Policy for the Property, certified by the Title Company, showing the Hotel Developer as the named insured. The Title Policy is dated as of the Closing Date and contains only those title exceptions listed as Permitted Liens on Exhibit G hereto and evidences the recording of this Agreement pursuant to the provisions of Section 8.18 hereof. The Title Policy also contains such endorsements as shall be required by Corporation Counsel, including but not limited to an owner's comprehensive endorsement and satisfactory endorsements regarding zoning (3.1 with parking), contiguity, location, access and survey. The Hotel Developer has provided to HED, on or prior to the Closing Date, documentation related to the purchase of the Property and certified copies of all easements and encumbrances of record with respect to the Property not addressed, to HED's satisfaction, by the Title Policy and any endorsements thereto.

5.06. Evidence of Clean Title. Hotel Developer, at its own expense, has provided the City with searches as indicated in the chart below under the Hotel Developer's name showing no liens against Hotel Developer, the Property or any fixtures now or hereafter affixed thereto, except for the Permitted Liens:

Jurisdiction	Searches
Secretary of State	UCC, Federal tax
Cook County Recorder	UCC, Fixtures, Federal tax, State tax, Memoranda of judgments
U.S. District Court	Pending suits and judgments (including bankruptcy)
Clerk of Circuit Court, Cook County	Pending suits and judgments

5.07. Surveys. The Hotel Developer has furnished the City with three (3) copies of the Survey.

5.08. Insurance. The Hotel Developer, at its own expense, has insured the Property in accordance with Section 12 hereof, and has delivered certificates required pursuant to Section 12 hereof evidencing the required coverages to HED.

5.09. Opinion of Hotel Developer's Counsel. [(a)] On the Closing Date, the Hotel Developer has furnished the City with an opinion of counsel, substantially in the form attached hereto as Exhibit J, with such changes as required by or acceptable to Corporation Counsel. If the Hotel Developer has engaged special counsel in connection with the Project, and such special counsel is unwilling or unable to give some of the opinions set forth in Exhibit J hereto, such opinions were obtained by the Hotel Developer from its general corporate counsel.

5.10. Evidence of Prior Expenditures. The Hotel Developer has provided evidence satisfactory to HED in its sole discretion of the Prior Expenditures in accordance with the provisions of Section 4.05(a) hereof.

5.11. Financial Statements. The Hotel Developer has provided Financial Statements to HED for its most recent fiscal year, and audited or unaudited interim financial statements.

5.12. Documentation. The Hotel Developer has provided documentation to HED, satisfactory in form and substance to HED, with respect to current employment matters and a copy of the executed Hotel Purchase Agreement.

5.13. Environmental. The Hotel Developer has provided HED with copies of any: (a) phase I environmental audit procured by the Hotel Developer and completed with respect to the Property and (b) phase II environmental audit procured by the Hotel Developer with respect to the Property required by the City. The Hotel Developer has provided the City with a letter from the environmental engineer(s) who completed such audit(s), authorizing the City to rely on such audits.

5.14. Corporate Documents; Economic Disclosure Statement. The Hotel Developer has provided a copy of its Articles or Organization containing the original certification of the Secretary of State of its state of incorporation; certificates of good standing from the Secretary of State of its state of incorporation and all other states in which the Hotel Developer is qualified to do business; a secretary's certificate in such form and substance as the Corporation Counsel may require; operating agreement; and such other corporate documentation as the City has requested.

The Hotel Developer has provided to the City, in EDS in the City's then current form, dated as of the Closing Date, which is incorporated by reference, and the Hotel Developer

further will provide any other affidavits or certifications as may be required by Law in the award of public contracts, all of which affidavits or certifications are incorporated by reference. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Hotel Developer and any other parties required by this Section 5.14 to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code of the City, as such is required under Section 2-154-020, and failure to promptly provide the updated EDS(s) to the City will constitute an Event of Default under this Agreement.

5.15. Litigation. The Hotel Developer has provided to Corporation Counsel and HED, a description of all pending or threatened litigation or administrative proceedings involving the Hotel Developer, specifying, in each case, the amount of each claim, an estimate of probable liability, the amount of any reserves taken in connection therewith and whether (and to what extent) such potential liability is covered by insurance.

## SECTION 6. AGREEMENTS WITH CONTRACTORS

6.01. Bid Requirement for General Contractor and Subcontractors. The City has approved the Hotel Developer's selection of William A. Randolph, Inc. an Illinois corporation, as the General Contractor. The Hotel Developer shall submit copies of the Construction Contract to HED in accordance with Section 6.02 below. Photocopies of all subcontracts entered or to be entered into in connection with hard construction TIF-Funded Improvements, if any, shall be provided to HED within five (5) business days of the execution thereof. The Hotel Developer shall ensure that the General Contractor shall not (and shall cause the General Contractor to ensure that the subcontractors shall not) begin work on the Project until the Plans and Specifications have been approved by HED and all requisite permits have been obtained.

6.02. Construction Contract. Prior to the execution thereof, the Hotel Developer shall deliver to HED a copy of the proposed Construction Contract with the General Contractor selected to handle the Project in accordance with Section 6.01 above, for HED's prior review. Within ten (10) business days after execution of such contract by the Hotel Developer, the General Contractor and any other parties thereto, the Hotel Developer shall, upon request, deliver to HED and Corporation Counsel a certified copy of such contract together with any modifications, amendments or supplements thereto.

6.03. Performance and Payment Bonds. Prior to commencement of construction of any portion of the Project, the Hotel Developer shall require that the General Contractor be bonded for its performance and payment by sureties having an AA rating or better using American Institute of Architect's Form No. A311 or its equivalent. Prior to the commencement of any portion of the Project which includes work on the public way, the Hotel Developer shall require that the General Contractor be bonded for its payment by sureties having an AA rating or better using a bond in the form attached as Exhibit O hereto. The City shall be named as obligee or co-obligee on any such bonds.

6.04. Employment Opportunity. The Hotel Developer shall contractually obligate and cause the General Contractor and each subcontractor to agree to the provisions of Section 10 hereof.

6.05. Other Provisions. In addition to the requirements of this Section 6, the Construction Contract and each contract with any subcontractor shall contain provisions required pursuant to Section 3.04 (Change Orders), Section 8.09 (Prevailing Wage), Section 10.01(e) (Employment Opportunity), Section 10.02 (City Resident Employment Requirement), Section 10.03 (MBE/WBE Requirements, as applicable), Section 12 (Insurance) and Section 14.01 (Books and Records) hereof. Photocopies of all contracts or subcontracts entered or to be entered into in connection with the TIF-Funded Improvements, if any, shall be provided to HED within five (5) business days of the execution thereof.

## SECTION 7. COMPLETION OF CONSTRUCTION

### 7.01. Certificate of Completion of Construction.

(a) Upon (i) satisfaction of the conditions set forth in Section 7.01(c) hereof, and (ii) the Hotel Developer's written request (which shall include a final Project Budget detailing the total actual cost of the construction of the Project), HED shall issue to the Hotel Developer a Certificate of Completion in recordable form certifying that all obligations to complete the Project have been fulfilled by the Hotel Developer in accordance with the terms of this Agreement.

(b) HED shall respond to the Hotel Developer's written request for a Certificate of Completion within forty-five (45) days by issuing either a Certificate of Completion or a written statement detailing the ways in which the Project does not conform to this Agreement or has not been satisfactorily completed, and the measures which must be taken by the Hotel Developer in order to obtain the Certificate of Completion. The Hotel Developer may resubmit a written request for a Certificate of Completion upon completion of such measures.

(c) The Hotel Developer acknowledges that the City will not issue a Certificate of Completion until all of the following conditions have been met:

(i) the Hotel Developer has given the City written notification that construction of the Project, including all of the hard construction TIF-Funded Improvements, if any, has been completed and has provided the City with a certified amount of final total Project costs (which certification shall include an estimate of interest costs to be incurred through the end of the Term of the Agreement);

(ii) the Hotel Developer has provided HED with evidence acceptable to HED showing that the Hotel Developer has completed the Project in compliance with the Plans and Specifications, the Planned Development and all building permit requirements, including without limitation, receipt of all required certificate(s) of occupancy for the Project and that the Project will operate as a Hyatt Place brand hotel or similar national brand;

(iii) the Hotel Developer has provided HED with documentation acceptable to HED that the Jobs Covenant has been met in accordance with Section 8.06 hereof;

(iv) the City's monitoring unit has determined in writing that the Hotel Developer is in complete compliance with all requirements of Section 8.08 (Prevailing Wage), and Section 10 (the Hotel Developer's Employment Obligations); and

(v) the Hotel Developer has provided documentation acceptable to HED showing expenditures to comply with Section 8.23 (LEED Certification) and that the Hotel Developer has applied for LEED Certification. If there is a lack of approval of the Hotel Developer's LEED submission, and such lack of approval (A) is the sole requirement not met for issuance of the Certificate of Completion by HED pursuant to this Agreement, and (B) has not resulted in any reduction of funds in order to complete the Project in accordance with the scope of work approved by the City in accordance with Sections 3.02 and 3.04 hereof, then HED, may, but shall not be obligated to, in the HED Commissioner's sole discretion, issue the Certificate of Completion.

7.02. Effect of Issuance of Certificate of Completion; Continuing Obligations. The Certificate of Completion relates only to the construction of the Project, and upon its issuance, the City will certify that the terms of the Agreement specifically related to Hotel Developer's obligation to complete such activities have been satisfied. After the issuance of a Certificate of Completion, however, all executory terms and conditions of this Agreement and all representations and covenants contained herein will continue to remain in full force and effect throughout the Term of the Agreement, except the Jobs Covenant which shall continue for the Compliance Period, as to the parties described in the following paragraph, and the issuance of the Certificate of Completion shall not be construed as a waiver by the City of any of its rights and remedies pursuant to such executory terms.

Those covenants specifically described at Sections 8.01(j), 8.01(k), 8.02, 8.06, 8.19, and 8.21 as covenants that run with the land are the only covenants in this Agreement intended to be binding upon any transferee of the Property (including an assignee as described in the following sentence) throughout the Term of the Agreement notwithstanding the issuance of a Certificate of Completion; provided, that upon the issuance of a Certificate of Completion, the covenants set forth in Section 8.02 shall be deemed to have been fulfilled. The other executory terms of this Agreement that remain after the issuance of a Certificate of Completion shall be binding only upon the Hotel Developer or a permitted assignee of Hotel Developer who, pursuant to Section 18.15 of this Agreement, has contracted to take an assignment of the Hotel Developer's rights under this Agreement and assume the Hotel Developer's liabilities hereunder.

7.03. Failure to Complete. If Hotel Developer fails to complete the Project in accordance with the terms of this Agreement, then the City has, but shall not be limited to, any of the following rights and remedies:

(a) the right to terminate this Agreement and cease all disbursement of City Funds not yet disbursed pursuant hereto;

(b) the right (but not the obligation) to complete those TIF-Funded Improvements that are public improvements and to pay for the costs of TIF-Funded Improvements (including interest costs) out of City Funds or other City monies. In the event that the aggregate cost of completing the TIF-Funded Improvements exceeds the amount of City Funds available pursuant to Section 4.01, Hotel Developer shall reimburse the City for all reasonable costs and expenses incurred by the City in completing such TIF-Funded Improvements in excess of the available City Funds; and

(c) the right to seek reimbursement of the City Funds from the Hotel Developer, provided that the City is entitled to rely on an opinion of counsel that such reimbursement will not jeopardize the tax-exempt status of the TIF Bonds, if any.

7.04. Notice of Expiration of Term of Agreement. Upon the expiration of the Term of the Agreement, HED shall provide Hotel Developer, at Hotel Developer's written request, with a written notice in recordable form stating that the Term of the Agreement has expired.

#### SECTION 8. COVENANTS/REPRESENTATIONS/WARRANTIES OF DEVELOPER.

8.01. General. The Hotel Developer represents, warrants and covenants, as of the date of this Agreement and as of the date of each disbursement of City Funds hereunder, that:

(a) the Hotel Developer is a Delaware limited liability corporation duly organized, validly existing, qualified to do business in its state of organization and in Illinois, and licensed to do business in any other state where, due to the nature of its activities or properties, such qualification or license is required;

(b) the Hotel Developer has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the Hotel Developer of this Agreement has been duly authorized by all necessary corporate action, and does not and will not violate its Articles of Organization or operating agreement as amended and supplemented, any applicable provision of law, or constitute a breach of, default under or require any consent under any agreement, instrument or document to which the Hotel Developer is now a party or by which the Hotel Developer is now or may become bound;

(d) unless otherwise permitted or not prohibited pursuant to or under the terms of this Agreement, the Hotel Developer shall acquire and shall maintain good, indefeasible and merchantable fee simple title to the Property (and all improvements thereon) free and clear of all liens (except for the Permitted Liens, Lender Financing as disclosed in the Project Budget and non-governmental charges that Hotel Developer is contesting in good faith pursuant to Section 8.15 hereof);

(e) the Hotel Developer is now and for the Term of the Agreement shall remain solvent and able to pay its debts as they mature;

(f) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting the Hotel Developer which would impair its ability to perform under this Agreement;

(g) the Hotel Developer has and shall, as and when required, maintain all government permits, certificates and consents (including, without limitation, appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project;

(h) the Hotel Developer is not in default with respect to any indenture, loan agreement, mortgage, deed, note or any other agreement or instrument related to the borrowing of money to which the Hotel Developer is a party or by which the Hotel Developer or the Property is bound;

(i) the Financial Statements are, and when hereafter required to be submitted will be, complete, correct in all material respects and accurately present the assets, liabilities, results of operations and financial condition of the Hotel Developer, and there has been no

material adverse change in the assets, liabilities, results of operations or financial condition of the Hotel Developer since the date of the Hotel Developer's most recent Financial Statements;

(j) prior to the issuance of a Certificate of Completion, the Hotel Developer shall not do any of the following without the prior written consent of HED and after the issuance of the Certificate of completion the Hotel shall not do any of the following without the prior written notice to HED: (1) be a party to any merger, liquidation or consolidation; (2) sell, transfer, convey, lease or otherwise dispose of all or substantially all of its assets or any portion of the Property (including but not limited to any fixtures or equipment now or hereafter attached thereto) except in the ordinary course of business; (3) enter into any transaction outside the ordinary course of the Hotel Developer's business; (4) assume, guarantee, endorse, or otherwise become liable in connection with the obligations of any other person or entity; (5) enter into any transaction that would cause a material and detrimental change to the Hotel Developer's financial condition; or (6) cease to operate the Project as a limited service Hyatt Place brand hotel. After the issuance of a Certificate of Completion, the Hotel Developer shall not, without the prior written consent of HED, cease to operate the Project as a hotel to the standards of the Hyatt Place brand or similar national brand providing comparable or better quality hotel space at the Property.

(k) the Hotel Developer has not incurred, and, prior to the issuance of a Certificate of Completion, shall not, without the prior written consent of the Commissioner of HED, allow the existence of any liens against the Property (or improvements thereon) other than the Permitted Liens and/or liens bonded by the Hotel Developer or insured by the Title Company; or incur any indebtedness, secured or to be secured by the Property (or improvements thereon) or any fixtures now or hereafter attached thereto, except Lender Financing disclosed in the Project Budget;

(l) has not made or caused to be made, directly or indirectly, any payment, gratuity or offer of employment in connection with the Agreement or any contract paid from the City treasury or pursuant to City ordinance, for services to any City agency ("City Contract") as an inducement for the City to enter into the Agreement or any City Contract with Hotel Developer in violation of Chapter 2-156-120 of the Municipal Code of the City; and

(m) neither the Hotel Developer nor any affiliate of the Hotel Developer is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph (m) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.



8.02. Covenant to Redevelop. Upon HED's approval of the Project Budget, the Scope Drawings and Plans and Specifications as provided in Sections 3.02 and 3.03 hereof, Hotel Developer's receipt of all required building permits and governmental approvals and the Phase I Developer's construction of the Pad, the Hotel Developer shall redevelop the Property in accordance with this Agreement and all Exhibits attached hereto, the TIF Ordinances, the Ordinance, the TIF Bond Ordinance, if any, the Scope Drawings, Plans and Specifications, the Planned Development, the Project Budget and all amendments thereto, and all federal, state and local laws, ordinances, rules, regulations, executive orders and codes applicable to the Project, the Property and/or Hotel Developer. The covenants set forth in this Section shall run with the land and be binding upon any transferee, but shall be deemed satisfied upon issuance by the City of a Certificate of Completion with respect thereto.

8.03. Redevelopment Plan. The Hotel Developer represents that the Project is and shall be in compliance with all of the terms of the Redevelopment Plan, which is hereby incorporated by reference into this Agreement.

8.04. Use of City Funds. City Funds disbursed to the Hotel Developer shall be used by Hotel Developer solely to pay for (or to reimburse the Hotel Developer for its payment for) the TIF-Funded Improvements as provided in this Agreement.

8.05. Other Bonds. The Hotel Developer shall, at the request of the City, agree to any reasonable amendments to this Agreement that are necessary or desirable in order for the City to issue (in its sole discretion) any bonds in connection with the Redevelopment Area, the proceeds of which may be used to reimburse the City for expenditures made in connection with, or provide a source of funds for the payment for, the TIF-Funded Improvements (the "Bonds"); provided, however, that any such amendments shall not have a material adverse effect on the Hotel Developer or the Project. Hotel Developer shall, at Hotel Developer's expense, cooperate and provide reasonable assistance in connection with the marketing of any such Bonds, including but not limited to providing written descriptions of the Project, making representations, providing information regarding its financial condition and assisting the City in preparing an offering statement with respect thereto. The Hotel Developer shall not have any liability with respect to any disclosure made in connection with any such issuance that are actionable under applicable securities laws unless such disclosures are based on factual information provided by the Hotel Developer that is deemed to be false or misleading.

#### 8.06. Jobs and Operation Covenant

(a) Job Creation and Retention; Covenant to Operate. The Hotel Developer hereby covenants and agrees to maintain its operations as a hotel at the Project through the Term of the Agreement (the "Operating Covenant"). Additionally, not less than nine (9) Benefited Employees and nine (9) Full-Time Equivalent Employee jobs shall be created by the Hotel Developer, the Hotel Operator and/or the Retail Operator (or an Affiliate of any of the foregoing) at the Project on or before the issuance of the Certificate of Completion and such number of jobs shall be maintained during the Compliance Period. In addition, the Hotel Developer shall cause the Hotel Operator to pay at least Living Wages to all employees of the Hotel Operator working at the Project during the Compliance Period; provided, however, employees such as food/beverage servers and valets who regularly receive gratuities as part of their work shall be paid an hourly rate which, when combined with a reasonable estimate of gratuities, equals at least Living Wages. The Hotel Developer shall also cause the Hotel Operator to make benefits available to all Benefited Employees of the Hotel Operator working at the Project during the Compliance Period. The Hotel Developer's obligations in this

Section 8.06(a) regarding the number of jobs, wage payments and providing benefits is collectively referred to as the "Jobs Covenant".

(b) Throughout the Compliance Period following the issuance of the Certificate of Completion, the Hotel Developer shall submit to HED certified Jobs Certificates (in substantially the form set forth in Exhibit K hereto) disclosing compliance with the Jobs Covenant to HED. These Jobs Certificates shall be submitted to HED with the Requisition Form regarding compliance with the Jobs Covenant for the preceding 12-month period. The Jobs Certificate shall include employee identifiers and titles for Benefited Employee and FTEs employed at the Project as of the end of the prior 12-month reporting period and documentation sufficient to support, to HED's satisfaction, each position as either newly created or maintained.

The covenants set forth in this Section shall run with the land and be binding upon any transferee for the Term of the Agreement.

(c) Jobs Covenant Default and Cure Period. If the Hotel Developer defaults under the Jobs Covenant described in Section 8.06(a), an Event of Default shall not be declared with respect to such default for the first instance of reporting the default in the Jobs Certificate. If the Jobs Certificate submitted in the next subsequent year also documents a default of the Jobs Covenant, then such default shall constitute an Event of Default for noncompliance with the Jobs Covenant in Section 8.06(a) hereof. Additionally, it shall be an Event of Default upon the third non-consecutive year reporting in a Jobs Certificate of noncompliance with the Jobs Covenant in Section 8.06(a). An Event of Default pursuant to this Section 8.06(c) shall be without notice or opportunity to cure and the City shall have such remedies as set forth in Section 15.02 hereof. There shall be no cure period for non-submission of, and no payment of City Funds, if the Jobs Certificate is not submitted with the Requisition Form.

8.07. Employment Opportunity; Progress Reports. The Hotel Developer covenants and agrees to abide by, and contractually obligate and use reasonable efforts to cause the General Contractor and each subcontractor to abide by the terms set forth in Section 10 hereof. Hotel Developer shall deliver to the City written progress reports detailing compliance with the requirements of Sections 8.09, 10.02 and 10.03 of this Agreement. Such reports shall be delivered to the City when the Project is 25%, 50%, 75% and 100% completed (based on the amount of expenditures incurred in relation to the Project Budget). If any such reports indicate a shortfall in compliance, Hotel Developer shall also deliver a plan to HED which shall outline, to HED's satisfaction, the manner in which Hotel Developer shall correct any shortfall.

8.08. Employment Profile. The Hotel Developer shall submit, and contractually obligate and cause the General Contractor or any subcontractor to submit, to HED, from time to time, statements of its employment profile upon HED's request.

8.09. Prevailing Wage. The Hotel Developer covenants and agrees to pay, and to contractually obligate and cause the General Contractor and each subcontractor to pay, the prevailing wage rate as ascertained by the Illinois Department of Labor (the "Department"), to all Project employees. All such contracts shall list the specified rates to be paid to all laborers, workers and mechanics for each craft or type of worker or mechanic employed pursuant to such contract. If the Department revises such prevailing wage rates, the revised rates shall apply to all such contracts. Upon the City's request, the Hotel Developer shall provide the City with

copies of all such contracts entered into by the Hotel Developer or the General Contractor to evidence compliance with this Section 8.09.

8.10. Arms-Length Transactions. Unless HED has given its prior written consent with respect thereto, no Affiliate of Hotel Developer may receive any portion of City Funds, directly or indirectly, in payment for work done, services provided or materials supplied in connection with any TIF-Funded Improvement. The Hotel Developer shall provide information with respect to any entity to receive City Funds directly or indirectly (whether through payment to the Affiliate by the Hotel Developer and reimbursement to the Hotel Developer for such costs using City Funds, or otherwise), upon HED's request, prior to any such disbursement.

8.11. Conflict of Interest. Pursuant to Section 5/11-74.4-4(n) of the Act, the Hotel Developer represents, warrants and covenants that, to the best of its knowledge, no member, official, or employee of the City, or of any commission or committee exercising authority over the Project, the Redevelopment Area or the Redevelopment Plan, or any consultant hired by the City or the Hotel Developer with respect thereto, owns or controls, has owned or controlled or will own or control any interest, and no such person shall represent any person, as agent or otherwise, who owns or controls, has owned or controlled, or will own or control any interest, direct or indirect, in the Hotel Developer's business, the Property or any other property in the Redevelopment Area.

8.12. Disclosure of Interest. The Hotel Developer's counsel has no direct or indirect financial ownership interest in the Hotel Developer, the Property or any other aspect of the Project.

8.13. Financial Statements. The Hotel Developer shall obtain and provide to HED Financial Statements for Hotel Developer's fiscal year ended 2011 and each December 31 thereafter for the Term of the Agreement. In addition, Hotel Developer shall submit unaudited financial statements as soon as reasonably practical following the close of each fiscal year and for such other periods as HED may request.

8.14. Insurance. Hotel Developer, at its own expense, shall comply with all provisions of Section 12 hereof.

8.15. Non-Governmental Charges. (a) Payment of Non-Governmental Charges. Except for the Permitted Liens, Hotel Developer agrees to pay or cause to be paid when due any Non-Governmental Charge assessed or imposed upon the Project, the Property or any fixtures that are or may become attached thereto, which creates, may create, or appears to create a lien upon all or any portion of the Property or Project (except for liens arising out of work performed on the Property by the Phase I Developer); provided however, that if such Non-Governmental Charge may be paid in installments, the Hotel Developer may pay the same together with any accrued interest thereon in installments as they become due and before any fine, penalty, interest, or cost may be added thereto for nonpayment. The Hotel Developer shall furnish to HED, within thirty (30) days of HED's request, official receipts from the appropriate entity, or other proof satisfactory to HED, evidencing payment of the Non-Governmental Charge in question.

(b) Right to Contest. The Hotel Developer has the right, before any delinquency occurs:

(i) to contest or object in good faith to the amount or validity of any Non-Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted, in such manner as shall stay the collection of the contested Non-Governmental Charge, prevent the imposition of a lien or remove such lien, or prevent the sale or forfeiture of the Property (so long as no such contest or objection shall be deemed or construed to relieve, modify or extend Hotel Developer's covenants to pay any such Non-Governmental Charge at the time and in the manner provided in this Section 8.15); or

(ii) at HED's sole option, to furnish a good and sufficient bond or other security satisfactory to HED in such form and amounts as HED shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property or any portion thereof or any fixtures that are or may be attached thereto, during the pendency of such contest, adequate to pay fully any such contested Non-Governmental Charge and all interest and penalties upon the adverse determination of such contest.

8.16. Hotel Developer's Liabilities. The Hotel Developer shall not enter into any transaction that would materially and adversely affect its ability to perform its obligations hereunder or to repay any material liabilities or perform any material obligations of the Hotel Developer to any other person or entity. The Hotel Developer shall immediately notify HED of any and all events or actions which may materially affect Hotel Developer's ability to carry on its business operations or perform its obligations under this Agreement or any other documents and agreements.

8.17. Compliance with Laws.

(a) *Representation.* To the best of the Hotel Developer's knowledge, after diligent inquiry, the Property and the Project are and shall be, as and when required, in compliance with all Laws pertaining to or affecting the Project and the Property. Upon the City's request, the Hotel Developer shall provide evidence satisfactory to the City of such compliance.

(b) *Covenant.* The Hotel Developer covenants that the Property and the Project will be operated and managed in compliance with all Laws. Upon the City's request, the Hotel Developer shall provide evidence to the City of its compliance with this covenant.

(c) The Hotel Developer acknowledges the rights of the employees of the Hotel Operator to affiliate with labor unions of such employees' choice. The Hotel Developer shall comply with all laws pertaining to such affiliation including but not limited to the National Labor Relations Act and shall not take any retaliatory action against any employee that seeks to exercise such rights.

8.18. Recording and Filing. The Hotel Developer shall cause this Agreement, certain exhibits (as specified by Corporation Counsel), all amendments and supplements hereto to be recorded and filed against the Property on the date hereof in the conveyance and real property records of the county in which the Project is located. The Hotel Developer shall pay all fees and charges incurred in connection with any such recording. Upon recording, the Hotel Developer shall immediately transmit to the City an executed original of this Agreement showing the date and recording number of record.

8.19. Real Estate Provisions.

(a) Governmental Charges.

(i) Payment of Governmental Charges. The Hotel Developer agrees to pay or cause to be paid when due all Governmental Charges (as defined below) which are duly assessed or imposed upon the Hotel Developer, the Property or the Project, or become due and payable, and which create, may create, a lien upon the Hotel Developer or all or any portion of the Property or the Project. "Governmental Charge" shall mean all federal, State, county, the City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances (except for those assessed by foreign nations, states other than the State of Illinois, counties of the State other than Cook County, and municipalities other than the City) relating to the Hotel Developer, the Property or the Project including but not limited to real estate taxes.

(ii) Right to Contest. The Hotel Developer has the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of the Property. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending Hotel Developer's covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless the Hotel Developer has given prior written notice to HED of Hotel Developer's intent to contest or object to a Governmental Charge and, unless, at HED's sole option,

(iii) The Hotel Developer shall demonstrate to HED's satisfaction that legal proceedings instituted by the Hotel Developer contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the Property to satisfy such Governmental Charge prior to final determination of such proceedings; and/or

(iv) the Hotel Developer shall furnish a good and sufficient bond or other security satisfactory to HED in such form and amounts as HED shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the Property during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest.

(b) Hotel Developer's Failure To Pay Or Discharge Lien. If the Hotel Developer fails to pay any Governmental Charge or to obtain discharge of the same, Hotel Developer shall advise HED thereof in writing, at which time HED may, but shall not be obligated to, and without waiving or releasing any obligation or liability of the Hotel Developer under this Agreement, in HED's sole discretion, make such payment, or any part thereof, or obtain such discharge and take any other action with respect thereto which HED deems advisable. All sums so paid by HED, if any, and any expenses, if any, including reasonable attorneys' fees, court costs, expenses and other charges relating thereto, shall be promptly disbursed to HED by the Hotel Developer. Notwithstanding anything contained herein to the contrary, this paragraph shall not be construed to obligate the City to pay any such Governmental Charge. Additionally, if the Hotel Developer fails to pay any Governmental Charge, the City, in its sole

discretion, may require the Hotel Developer to submit to the City audited Financial Statements at the Hotel Developer's own expense.

8.20. Survival of Covenants. All warranties, representations, covenants and agreements of Hotel Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of Hotel Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate of Completion) shall be in effect throughout the Term of the Agreement.

8.21. Annual Compliance Report. The Hotel Developer shall provide to HED an Annual Compliance Report consisting of (a) a letter from the Hotel Developer itemizing all ongoing requirements including references to all the relevant Sections of this Agreement, and (b) sufficient documentation and certifications, to the satisfaction of HED, to evidence that all ongoing requirements have been satisfied during the preceding reporting period (which HED shall have the right, but not the obligation, to audit compliance with to determine the sufficiency of such Annual Compliance Report). The Annual Compliance Report shall be submitted each year on the yearly anniversary of the issuance of the Certificate of Completion (each such year being a "Reporting Period"). Failure by the Hotel Developer to submit the Annual Compliance Report shall constitute an Event of Default under Section 15.01 hereof, without notice or opportunity to cure pursuant to Section 15.03 hereof. The covenants contained in this Section 8.21 shall run with the land and be binding upon any transferee for the Term of the Agreement.

8.22. Inspector General. It is the duty of the Hotel Developer and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all of the Hotel Developer's officers, directors, agents, partners, and employees and any such bidder, proposer, contractor, subcontractor or such applicant: (a) to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code and (b) to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to Chapter 2-55 of the Municipal Code. Hotel Developer represents that it understands and will abide by all provisions of Chapters 2-56 and 2-55 of the Municipal Code and that it will inform subcontractors of this provision and require their compliance.

8.23. LEED Certification. Hotel Developer covenants and agrees to obtain LEED certification for the Project and satisfy all green building requirements applicable to the Property in accordance with the Planned Development.

8.24. Job Readiness Program. The Hotel Developer shall undertake a job readiness program, to work with the City, through the Mayor's Office of Workforce Development (or with a community organization acceptable to the City), to participate in job training programs to provide job applicants for the jobs created by the Project and the operation of the Hotel Developer's business on the Property.

8.25. Survival of Covenants. All warranties, representations, covenants and agreements of the Hotel Developer contained in this Section 8 and elsewhere in this Agreement shall be true, accurate and complete at the time of the Hotel Developer's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and (except as provided in Section 7 hereof upon the issuance of a Certificate of Completion) shall be in effect throughout the Term of the Agreement.

## SECTION 9. COVENANTS/REPRESENTATIONS/WARRANTIES OF CITY

9.01. General Covenants. The City represents that it has the authority as a home rule unit of local government to execute and deliver this Agreement and to perform its obligations hereunder.

9.02. Survival of Covenants. All warranties, representations, and covenants of the City contained in this Section 9 or elsewhere in this Agreement shall be true, accurate, and complete at the time of the City's execution of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto and be in effect throughout the Term of the Agreement.

## SECTION 10. DEVELOPER'S EMPLOYMENT OBLIGATIONS

10.01. Employment Opportunity. Hotel Developer, on behalf of itself and its successors and assigns, hereby agrees, and shall contractually obligate its or their various contractors, subcontractors or any Affiliate of Hotel Developer operating on the Property (collectively, with Hotel Developer, the "Employers" and individually an "Employer") to agree, that for the Term of this Agreement with respect to Hotel Developer and during the period of any other party's provision of services in connection with the construction of the Project or occupation of the Property:

(a) No Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code, except as otherwise provided by said ordinance and as amended from time to time (the "Human Rights Ordinance"). Each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income and are treated in a non-discriminatory manner with regard to all job-related matters, including without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, the Employers, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income.

(b) To the greatest extent feasible, each Employer is required to present opportunities for training and employment of low- and moderate-income residents of the City and preferably of the Redevelopment Area; and to provide that contracts for work in connection with the construction of the Project be awarded to business concerns that are located in, or owned in substantial part by persons residing in, the City and preferably in the Redevelopment Area.

(c) Each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including but not limited to the City's

Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), and any subsequent amendments and regulations promulgated thereto.

(d) Each Employer, in order to demonstrate compliance with the terms of this Section, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the Project, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any Affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or Affiliate of the Hotel Developer, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 10.01 shall be a basis for the City to pursue remedies under the provisions of Section 15.02 hereof.

10.02. City Resident Construction Worker Employment Requirement. Hotel Developer agrees for itself and its successors and assigns, and shall contractually obligate its General Contractor and shall cause the General Contractor to contractually obligate its subcontractors, as applicable, to agree, that during the construction of the Project they shall comply with the minimum percentage of total worker hours performed by actual residents of the City as specified in Section 2-92-330 of the Municipal Code (at least 50 percent of the total worker hours worked by persons on the site of the Project shall be performed by Actual Residents of the City); provided, however, that in addition to complying with this percentage, Hotel Developer, its General Contractor and each subcontractor shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

Hotel Developer may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code in accordance with standards and procedures developed by the Chief Procurement Officer of the City.

"Actual Residents of the City" shall mean persons domiciled within the City. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

Hotel Developer, the General Contractor and each subcontractor shall provide for the maintenance of adequate employee residency records to show that actual Chicago residents are employed on the Project. Each Employer shall maintain copies of personal documents supportive of every Chicago employee's actual record of residence.

Weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) shall be submitted to the Commissioner of HED in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that the Employer hired the employee should be written in after the employee's name.

Hotel Developer, the General Contractor and each subcontractor shall provide full access to their employment records to the Chief Procurement Officer, the Commissioner of



HED, the Superintendent of the Chicago Police Department, the Inspector General or any duly authorized representative of any of them. Hotel Developer, the General Contractor and each subcontractor shall maintain all relevant personnel data and records for a period of at least three (3) years after final acceptance of the work constituting the Project.

At the direction of HED, affidavits and other supporting documentation will be required of Hotel Developer, the General Contractor and each subcontractor to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

Good faith efforts on the part of Hotel Developer, the General Contractor and each subcontractor to provide utilization of actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the Chief Procurement Officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section concerning the worker hours performed by actual Chicago residents.

When work at the Project is completed, in the event that the City has determined that Hotel Developer has failed to ensure the fulfillment of the requirement of this Section concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section. Therefore, in such a case of non-compliance, it is agreed that 1/20 of 1 percent (0.0005) of the aggregate hard construction costs set forth in the Project budget (the product of .0005 x such aggregate hard construction costs) (as the same shall be evidenced by approved contract value for the actual contracts) shall be surrendered by Hotel Developer to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Hotel Developer, the General Contractor and/or the subcontractors to prosecution. Any retainage to cover contract performance that may become due to Hotel Developer pursuant to Section 2-92-250 of the Municipal Code of the City may be withheld by the City pending the Chief Procurement Officer's determination as to whether Hotel Developer must surrender damages as provided in this paragraph.

Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246 " and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement or related documents.

Hotel Developer shall cause or require the provisions of this Section 10.02 to be included in all construction contracts and subcontracts related to the Project.

10.03. MBE/WBE Commitment. Hotel Developer agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the General Contractor to agree that during the Project:

- (a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code (the "Procurement Program"), and (ii) the Minority- and Women-Owned

Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code of the City (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 10.03, during the course of the Project, at least the following percentages of the MBE/WBE Budget (as set forth in Exhibit H-2 hereto) shall be expended for contract participation by MBEs and by WBEs:

- (1) At least 24 percent by MBEs.
- (2) At least four percent by WBEs.

(b) For purposes of this Section 10.03 only, Hotel Developer (and any party to whom a contract is let by Hotel Developer in connection with the initial construction of the Project) shall be deemed a "contractor" and this Agreement (and any contract let by the Hotel Developer in connection with the Project) shall be deemed a "contract" or a "construction contract" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code of Chicago, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code of Chicago, Hotel Developer's MBE/WBE commitment may be achieved in part by Hotel Developer's status as an MBE or WBE (but only to the extent of any actual work performed on the Project by Hotel Developer) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture or (ii) the amount of any actual work performed on the Project by the MBE or WBE), by Hotel Developer utilizing a MBE or a WBE as the General Contractor (but only to the extent of any actual work performed on the Project by the General Contractor), by subcontracting or causing the General Contractor to subcontract a portion of the Project to one or more MBEs or WBEs, or by the purchase of materials or services used in the Project from one or more MBEs or WBEs, or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to Hotel Developer's MBE/WBE commitment as described in this Section 10.03. In accordance with Section 2-92-730, Municipal Code of Chicago, Hotel Developer shall not substitute any MBE or WBE General Contractor or subcontractor without the prior written approval of HED.

(d) Hotel Developer shall deliver quarterly reports to the City's monitoring staff during the Project describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by Hotel Developer or the General Contractor to work on the Project, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the Project, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining Hotel Developer's compliance with this MBE/WBE commitment. Hotel Developer shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the Project for at least five years after completion of the Project, and the City's monitoring staff shall have access to all such records maintained by Hotel Developer, on five Business Days' notice, to allow the City to review Hotel Developer's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the Project.

(e) Upon the disqualification of any MBE or WBE General Contractor or subcontractor, if such status was misrepresented by the disqualified party, Hotel Developer shall be obligated to discharge or cause to be discharged the disqualified General Contractor

or subcontractor, and, if possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730, Municipal Code, as applicable.

(f) Any reduction or waiver of Hotel Developer's MBE/WBE commitment as described in this Section 10.03 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730, Municipal Code, as applicable.

(g) Prior to the commencement of the Project, Hotel Developer shall be required to meet with the City's monitoring staff with regard to Hotel Developer's compliance with its obligations under this Section 10.03. The General Contractor and all major subcontractors shall be required to attend this pre-construction meeting. During said meeting, Hotel Developer shall demonstrate to the City's monitoring staff its plan to achieve its obligations under this Section 10.03, the sufficiency of which shall be approved by the City's monitoring staff. During the Project, Hotel Developer shall submit the documentation required by this Section 10.03 to the City's monitoring staff, including the following: (i) subcontractor's activity report; (ii) contractor's certification concerning labor standards and prevailing wage requirements; (iii) contractor letter of understanding; (iv) monthly utilization report; (v) authorization for payroll agent; (vi) certified payroll; (vii) evidence that MBE/WBE contractor associations have been informed of the Project via written notice and hearings; and (viii) evidence of compliance with job creation/job retention requirements. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that Hotel Developer is not complying with its obligations under this Section 10.03, shall, upon the delivery of written notice to Hotel Developer, be deemed an Event of Default. Upon the occurrence of any such Event of Default, in addition to any other remedies provided in this Agreement, the City may: (1) issue a written demand to Hotel Developer to halt the Project, (2) withhold any further payment of any City Funds to Hotel Developer or the General Contractor, or (3) seek any other remedies against Hotel Developer available at law or in equity.

## SECTION 11. ENVIRONMENTAL MATTERS

Hotel Developer hereby represents and warrants to the City that Hotel Developer has conducted environmental studies sufficient to conclude that the Project may be constructed, completed and operated in accordance with all Environmental Laws and this Agreement and all Exhibits attached hereto, the Scope Drawings, Plans and Specifications and all amendments thereto, the Bond Ordinance, if any, and the Redevelopment Plan.

Without limiting any other provisions hereof, Hotel Developer agrees to indemnify, defend and hold the City harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses or claims of any kind whatsoever including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under any Environmental Laws incurred, suffered by or asserted against the City as a direct or indirect result of any of the following, regardless of whether or not caused by, or within the control of Hotel Developer: (i) the presence of any Hazardous Material on or under, or the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Material from (A) all or any portion of the Property or (B) any other real property in which Hotel Developer, or any person directly or indirectly controlling, controlled by or under common control with Hotel Developer, holds any estate or interest whatsoever (including, without limitation, any property owned by a land trust in which the beneficial interest is owned, in whole or in part, by Hotel Developer), or (ii) any liens against the Property permitted or imposed by any Environmental

Laws, or any actual or asserted liability or obligation of the City or Hotel Developer or any of its Affiliates under any Environmental Laws relating to the Property.

## SECTION 12. INSURANCE

Hotel Developer must provide and maintain, at Hotel Developer's own expense, or cause to be provided and maintained during the Term of the Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

(a) Prior to execution and delivery of this Agreement.

(i) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident, illness or disease.

(ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations independent contractors, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) All Risk Property

All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(b) Construction. Prior to the construction of any portion of the Project, Hotel Developer will cause its architects, contractors, subcontractors, project managers and other parties constructing the Project to procure and maintain the following kinds and amounts of insurance:

(i) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work under this Agreement and Employers Liability coverage with limits of not less than \$ 500,000 each accident, illness or disease.

(ii) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (for a minimum of two (2) years following project completion), explosion, collapse, underground, separation of insureds, defense, and

contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

(iii) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

(iv) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Hotel Developer must provide cause to be provided with respect to the operations that Contractors perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

(v) All Risk /Builders Risk

When Hotel Developer undertakes any construction, including improvements, betterments, and/or repairs, Hotel Developer must provide or cause to be provided All Risk Builders Risk Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. The City of Chicago is to be named as an additional insured and loss payee/mortgagee if applicable.

(vi) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000. Coverage must include contractual liability. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

(vii) Valuable Papers

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

(viii) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, Hotel Developer must cause remediation contractor to provide Contractor Pollution Liability covering bodily injury, property damage and other losses caused by pollution conditions that arise from the contract scope of work with limits of not less than \$1,000,000 per

occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City of Chicago is to be named as an additional insured.

(c) Post Construction

(i) All Risk Property Insurance at replacement value of the property to protect against loss of, damage to, or destruction of the building/facility. The City is to be named as an additional insured and loss payee/mortgagee if applicable.

(d) Other Requirements

Hotel Developer must furnish the City of Chicago, Department of Housing and Economic Development, City Hall, Room 1000, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Hotel Developer must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to closing. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Hotel Developer is not a waiver by the City of any requirements for Hotel Developer to obtain and maintain the specified coverages. Hotel Developer shall advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Hotel Developer of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to stop work and/or terminate agreement until proper evidence of insurance is provided.

The insurance must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self insured retentions on referenced insurance coverages must be borne by Hotel Developer and Contractors.

Hotel Developer hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

The coverages and limits furnished by Hotel Developer in no way limit Hotel Developer's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by Hotel Developer under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Hotel Developer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Hotel Developer must require Contractor and subcontractors to provide the insurance required herein, or Hotel Developer may provide the coverages for Contractor and subcontractors. All Contractors and subcontractors are subject to the same insurance requirements of Hotel Developer unless otherwise specified in this Agreement.

If Hotel Developer, any Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements during the Term of the Agreement.

### SECTION 13. INDEMNIFICATION

13.01. General Indemnity. Hotel Developer agrees to indemnify, pay, defend and hold the City, and its elected and appointed officials, employees, agents and affiliates (individually an "Indemnatee," and collectively the "Indemnitees") harmless from and against, any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, claims, costs, expenses and disbursements of any kind or nature whatsoever (and including without limitation, the reasonable fees and disbursements of counsel for such Indemnitees in connection with any investigative, administrative or judicial proceeding commenced or threatened, whether or not such Indemnitees shall be designated a party thereto), that may be imposed on, suffered, incurred by or asserted against the Indemnitees in any manner relating or arising out of:

(i) Hotel Developer's failure to comply with any of the terms, covenants and conditions contained within this Agreement; or

(ii) Hotel Developer's or any contractor's failure to pay General Contractors, subcontractors or materialmen in connection with the TIF-Funded Improvements or any other Project improvement; or

(iii) the existence of any material misrepresentation or omission in this Agreement, any offering memorandum or information statement or the Redevelopment Plan or any other document related to this Agreement that is the result of information supplied or omitted by Hotel Developer or any Affiliate of Hotel Developer or any agents, employees, contractors or persons acting under the control or at the request of Hotel Developer or any Affiliate of Hotel Developer; or

(iv) Hotel Developer's failure to cure any misrepresentation in this Agreement or any other agreement relating hereto;

provided, however, that Hotel Developer shall have no obligation to an Indemnatee arising from the wanton or willful misconduct of that Indemnatee. To the extent that the preceding sentence may be unenforceable because it is violative of any law or public policy, Hotel Developer shall contribute the maximum portion that it is permitted to pay and satisfy under the applicable law,

to the payment and satisfaction of all indemnified liabilities incurred by the Indemnitees or any of them. The provisions of the undertakings and indemnification set out in this Section 13.01 shall survive the termination of this Agreement.

#### SECTION 14. MAINTAINING RECORDS/RIGHT TO INSPECT

14.01. Books and Records. Hotel Developer shall keep and maintain separate, complete, accurate and detailed books and records necessary to reflect and fully disclose the total actual cost of the Project and the disposition of all funds from whatever source allocated thereto, and to monitor the Project. All such books, records and other documents, including but not limited to Hotel Developer's loan statements, if any, General Contractors' and contractors' sworn statements, general contracts, subcontracts, purchase orders, waivers of lien, paid receipts and invoices, shall be available at Hotel Developer's offices for inspection, copying, audit and examination by an authorized representative of the City, at Hotel Developer's expense. Hotel Developer shall incorporate this right to inspect, copy, audit and examine all books and records into all contracts entered into by Hotel Developer with respect to the Project.

14.02. Inspection Rights. Upon three (3) business days' notice, any authorized representative of the City has access to all portions of the Project and the Property during normal business hours for the Term of the Agreement.

#### SECTION 15. DEFAULT AND REMEDIES

15.01. Events of Default. The occurrence of any one or more of the following events, subject to the provisions of Section 15.03, shall constitute an "Event of Default" by Hotel Developer hereunder:

- (a) the failure of Hotel Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Hotel Developer under this Agreement or any related agreement;
- (b) the failure of Hotel Developer to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations of Hotel Developer under any other agreement with any person or entity if such failure may have a material adverse effect on Hotel Developer's business, property, assets, operations or condition, financial or otherwise;
- (c) the making or furnishing by Hotel Developer to the City of any representation, warranty, certificate, schedule, report or other communication within or in connection with this Agreement or any related agreement which is untrue or misleading in any material respect;
- (d) except as otherwise permitted hereunder, the creation (whether voluntary or involuntary) of, or any attempt to create, any lien or other encumbrance upon the Property, including any fixtures now or hereafter attached thereto, other than the Permitted Liens and/or liens bonded by the Hotel Developer or insured by the Title Company to the satisfaction of HED, or the making or any attempt to make any levy, seizure or attachment thereof;
- (e) the commencement of any proceedings in bankruptcy by or against Hotel Developer or for the liquidation or reorganization of Hotel Developer, or alleging that Hotel Developer is insolvent or unable to pay its debts as they mature, or for the readjustment or arrangement of Hotel Developer's debts, whether under the United States Bankruptcy Code or under any other state or federal law, now or hereafter existing for the relief of debtors, or



the commencement of any analogous statutory or non-statutory proceedings involving Hotel Developer; provided, however, that if such commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such proceedings are not dismissed within sixty (60) days after the commencement of such proceedings;

(f) the appointment of a receiver or trustee for Hotel Developer, for any substantial part of Hotel Developer's assets or the institution of any proceedings for the dissolution, or the full or partial liquidation, or the merger or consolidation, of Hotel Developer; provided, however, that if such appointment or commencement of proceedings is involuntary, such action shall not constitute an Event of Default unless such appointment is not revoked or such proceedings are not dismissed within sixty (60) days after the commencement thereof;

(g) the entry of any final judgment or order against Hotel Developer which remains unsatisfied or undischarged and in effect for sixty (60) days after such entry without a stay of enforcement or execution;

(h) the occurrence of an event of default under the Lender Financing, which default is not cured within any applicable cure period;

(i) the dissolution of Hotel Developer;

(j) the institution in any court of a criminal proceeding (other than a misdemeanor) against Hotel Developer or any natural person who owns a material interest in Hotel Developer, which is not dismissed within thirty (30) days, or the indictment of Hotel Developer or any natural person who owns a material interest in Hotel Developer, for any crime (other than a misdemeanor);

(k) prior to the expiration of the Term of the Agreement, the sale or transfer of a majority of the ownership interests of Hotel Developer without the prior written consent of the City or not operating the Property as a hotel; or

(l) The failure of Hotel Developer, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to Hotel Developer, to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer.

For purposes of Sections 15.01(j) hereof, a person with a material interest in Hotel Developer shall be one owning in excess of ten (10%) of Hotel Developer's membership interests.

15.02. Remedies. Upon the occurrence of an Event of Default, the City may terminate this Agreement and any other agreements to which the City and Hotel Developer are or shall be parties, suspend disbursement of City Funds, place a lien on the Project in the amount of City Funds paid, and/or seek reimbursement of any City Funds paid. The City may, in any court of competent jurisdiction by any action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to damages, injunctive relief or the specific performance of the agreements contained herein. Upon the occurrence of an Event of Default under Section 8.06, Hotel Developer shall be obligated to repay to the City all previously disbursed City Funds.

15.03. Curative Period. In the event Hotel Developer shall fail to perform a monetary covenant which Hotel Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Hotel Developer has failed to perform such monetary covenant within ten (10) days of its receipt of a written notice from the City specifying that it has failed to perform such monetary covenant. Except as provided in Section 8.06, in the event Hotel Developer shall fail to perform a non-monetary covenant which Hotel Developer is required to perform under this Agreement, notwithstanding any other provision of this Agreement to the contrary, an Event of Default shall not be deemed to have occurred unless Hotel Developer has failed to cure such default within thirty (30) days of its receipt of a written notice from the City specifying the nature of the default; provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, Hotel Developer shall not be deemed to have committed an Event of Default under this Agreement if it has commenced to cure the alleged default within such thirty (30) day period and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured; provided, further, that there shall be no cure period under this Section 15.03 with respect to the Hotel Developer's failure to comply with the job creation and operation requirements of Section 8.06 hereof or the filing of the Annual Compliance Report pursuant to Section 8.21 hereof.

15.04. Right to Cure by Lender. In the event that an Event of Default occurs under this Agreement, and if, as a result thereof, the City intends to exercise any right or remedy available to it that could result in termination of this Agreement and all related agreements, or the suspension, cancellation or reduction of the amount of City Funds disbursed hereunder, the City shall prior to exercising such right or remedy, send notice of such intended exercise to the Lender and the Lender shall have the right (but not the obligation) to cure such Event of Default as follows:

(a) if the Event of Default is a monetary default, the Lender may cure such default within 60 days after the later of: (i) the expiration of the cure period, if any, granted to the Hotel Developer with respect to such monetary default; or (ii) receipt by the Lender of such notice from the City; and

(b) if any Event of Default is of a non-monetary nature, the Lender shall have the right to cure such default within 60 days after the later of: (i) the expiration of the cure period, if any, granted to the Hotel Developer with respect to such non-monetary default; or (ii) receipt by the Lender of such notice from the City; and

(c) Notwithstanding the provisions of Section 15.03(b) hereof, if such non-monetary default is an Event of Default set forth in Section 15.01(e), (f), (g), (h), (i) or (j) hereof or Event of Default by the Hotel Developer of a nature so as not reasonably being capable of being cured within such 60 day period (each such default being a "Personal Hotel Developer Default"), the Lender shall provide written notice to the City within 60 days of receipt of notice of such Personal Hotel Developer Default stating that it shall cure such Personal Hotel Developer Default by the assignment of all of the Hotel Developer's rights and interests in this Agreement to the Lender or any other party agreed to in writing by both the Lender and the City. Upon receipt by the City of such notice from the Lender, the cure period shall be extended for such reasonable period of time as may be necessary to complete such assignment and assumption of Hotel Developer's rights hereunder; provided, however, that no payment of City Funds shall occur until such time as such Personal Hotel Developer Default is cured.

## SECTION 16. MORTGAGING OF THE PROJECT

All mortgages or deeds of trust in place as of the date hereof with respect to the Property or any portion thereof are listed on Exhibit G hereto (including but not limited to mortgages made prior to or on the date hereof in connection with Lender Financing) and are referred to herein as the "Existing Mortgages." Any mortgage or deed of trust that Hotel Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof is referred to herein as a "New Mortgage." Any New Mortgage that Hotel Developer may hereafter elect to execute and record or permit to be recorded against the Property or any portion thereof with the prior written consent of the City is referred to herein as a "Permitted Mortgage." It is hereby agreed by and between the City and Hotel Developer as follows:

(a) In the event that a mortgagee or any other party shall succeed to Hotel Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under a New Mortgage (other than a Permitted Mortgage), whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Hotel Developer's interest hereunder in accordance with Section 18.14 hereof, the City may, but shall not be obligated to, attorn to and recognize such party as the successor in interest to Hotel Developer for all purposes under this Agreement and, unless so recognized by the City as the successor in interest, such party shall be entitled to no rights or benefits under this Agreement, but such party shall be bound by those provisions of this Agreement that are covenants expressly running with the land.

(b) In the event that any mortgagee shall succeed to Hotel Developer's interest in the Property or any portion thereof pursuant to the exercise of remedies under an Existing Mortgage or a Permitted Mortgage, whether by foreclosure or deed in lieu of foreclosure, and in conjunction therewith accepts an assignment of Hotel Developer's interest hereunder in accordance with Section 18.14 hereof, the City hereby agrees to attorn to and recognize such party as the successor in interest to Hotel Developer for all purposes under this Agreement so long as such party accepts all of the obligations and liabilities of "Hotel Developer" hereunder; provided, however, that, notwithstanding any other provision of this Agreement to the contrary, it is understood and agreed that if such party accepts an assignment of Hotel Developer's interest under this Agreement, such party has no liability under this Agreement for any Event of Default of Hotel Developer which accrued prior to the time such party succeeded to the interest of Hotel Developer under this Agreement, in which case Hotel Developer shall be solely responsible. However, if such mortgagee under a Permitted Mortgage or an Existing Mortgage does not expressly accept an assignment of Hotel Developer's interest hereunder, such party shall be entitled to no rights and benefits under this Agreement, and such party shall be bound only by those provisions of this Agreement, if any, which are covenants expressly running with the land.

(c) Prior to the issuance by the City to Hotel Developer of a Certificate of Completion pursuant to Section 7 hereof, no New Mortgage shall be executed with respect to the Property or any portion thereof without the prior written consent of the Commissioner of HED.

## SECTION 17. NOTICE

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal

service; (b) telecopy or facsimile; (c) overnight courier, or (d) registered or certified mail, return receipt requested.

<p><b>If to the City:</b></p> <p>City of Chicago          Department of Housing and Economic          Development          121 North LaSalle Street, Room 1000          Chicago, Illinois 60602          Attention: Commissioner</p>	<p><b>If to Hotel Developer:</b></p> <p>Smart Hotels, LLC          3201 Enterprise Parkway          Suite 140          Beachwood, Ohio 44122          Attention: Ed Small</p>
<p><b>With Copies To:</b></p> <p>City of Chicago          Department of Law          121 North LaSalle Street, Room 600          Chicago, Illinois 60602          Attention: Finance and Economic          Development Division</p>	<p><b>With Copies To:</b></p> <p>Dykema Gossett, PLLC          10 South Wacker Drive          Suite 2300          Chicago, Illinois 60606          Attention: Andrew P. Scott</p> <p><b>With Copies to:</b></p> <p>The Olympia Companies          7 Customs House Street          Portland, Maine 04101          Attention: Chief Financial Officer</p> <p><b>With Copies to the Lender at:</b></p> <p>The University of Chicago          5801 South Ellis Avenue, Room 306          Chicago, Illinois 60637          Attention: Director, Commercial Real Estate          Operations</p> <p>and:</p> <p>Office of Legal Counsel          The University of Chicago          5801 South Ellis Avenue          Chicago, Illinois 60637          Attention: Vice President and General          Counsel</p> <p>and:</p> <p>DLA Piper US LLP          203 North LaSalle Street          Chicago, Illinois 60601          Attention: Jeffrey Owen, Esq.</p>

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch. Any notice, demand or request sent pursuant to clause (c) shall be deemed received on the day immediately following deposit with the overnight courier and any notices, demands or requests sent pursuant to subsection (d) shall be deemed received two (2) business days following deposit in the mail.

## SECTION 18. MISCELLANEOUS

18.01. Amendment. This Agreement and the Exhibits attached hereto may not be amended or modified without the prior written consent of the parties hereto; provided, however, that the City, in its sole discretion, may amend, modify or supplement the Redevelopment Plan without the consent of any party hereto. It is agreed that no material amendment or change to this Agreement shall be made or be effective unless ratified or authorized by an ordinance duly adopted by the City Council. The term "material" for the purpose of this Section 18.01 shall be defined as any deviation from the terms of the Agreement which operates to cancel or otherwise reduce any developmental, construction or job-creating obligations of Hotel Developer (including those set forth in Sections 10.02 and 10.03 hereof) by more than five percent (5%) or materially changes the Property or character of the Project or any activities undertaken by Hotel Developer affecting the Property, the Project, or both, or increases any time agreed for performance by Hotel Developer by more than ninety (90) days.

18.02. Entire Agreement. This Agreement (including each Exhibit attached hereto, which is hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and it supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

18.03. Limitation of Liability. No member, official or employee of the City shall be personally liable to Hotel Developer or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Hotel Developer from the City or any successor in interest or on any obligation under the terms of this Agreement.

18.04. Further Assurances. Hotel Developer agrees to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may become necessary or appropriate to carry out the terms, provisions and intent of this Agreement.

18.05. Waiver. Waiver by the City or Hotel Developer with respect to any breach of this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other default or with respect to any particular default, except to the extent specifically waived by the City or Hotel Developer in writing. No delay or omission on the part of a party in exercising any right shall operate as a waiver of such right or any other right unless pursuant to the specific terms hereof. A waiver by a party of a provision of this Agreement shall not prejudice or constitute a waiver of such party's right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by a party, nor any course of dealing between the parties hereto, shall constitute a waiver of any such parties' rights or of any obligations of any other party hereto as to any future transactions.

18.06. Remedies Cumulative. The remedies of a party hereunder are cumulative and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

18.07. Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

18.08. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

18.09. Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

18.10. Conflict. In the event of a conflict between any provisions of this Agreement and the provisions of the TIF Ordinances and/or the the Bond Ordinance, if any, such ordinance(s) shall prevail and control.

18.11. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.

18.12. Form of Documents. All documents required by this Agreement to be submitted, delivered or furnished to the City shall be in form and content satisfactory to the City.

18.13. Approval. Wherever this Agreement provides for the approval or consent of the City, HED or the Commissioner, or any matter is to be to the City's, HED's or the Commissioner's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City, HED or the Commissioner in writing and in the reasonable discretion thereof. The Commissioner or other person designated by the Mayor of the City shall act for the City or HED in making all approvals, consents and determinations of satisfaction, granting the Certificate of Completion or otherwise administering this Agreement for the City.

18.14. Assignment. Except as permitted in Section 8.01(j) hereof, Hotel Developer may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City. Any successor in interest to Hotel Developer under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement, including but not limited to Section 8.02 (Covenant to Redevelop), Section 8.06 (Jobs and Operations Covenant), Section 8.19 (Real Estate Provisions), and Section 8.23 (Survival of Covenants) hereof, for the Term of the Agreement. The proposed buyer or assignee of the Hotel Developer must be qualified to do business with the City (including but not limited to provision of Economic Development Statement(s) and compliance with anti-scofflaw requirements). Hotel Developer consents to the City's sale, transfer, assignment or other disposal of this Agreement at any time in whole or in part.

18.15. Binding Effect. This Agreement shall be binding upon Hotel Developer, the City and their respective successors and permitted assigns (as provided herein) and shall inure to the benefit of Hotel Developer, the City and their respective successors and permitted assigns (as provided herein). Except as otherwise provided herein, this Agreement shall not run to the benefit of, or be enforceable by, any person or entity other than a party to this Agreement and its successors and permitted assigns. This Agreement should not be deemed to confer upon third parties any remedy, claim, right of reimbursement or other right.

18.16. Force Majeure. Neither the City nor Hotel Developer nor any successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other acts of nature beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement. The individual or entity relying on this section with respect to any such delay may rely on this section only to the extent of the actual number of days of delay effected by any such events described above.

18.17. Business Economic Support Act. Pursuant to the Business Economic Support Act (30 ILCS 760/1 et seq.), if Hotel Developer is required to provide notice under the WARN Act, Hotel Developer shall, in addition to the notice required under the WARN Act, provide at the same time a copy of the WARN Act notice to the Governor of the State, the Speaker and Minority Leader of the House of Representatives of the State, the President and minority Leader of the Senate of State, and the Mayor of each municipality where Hotel Developer has locations in the State. Failure by Hotel Developer to provide such notice as described above may result in the termination of all or a part of the payment or reimbursement obligations of the City set forth herein.

18.18. Venue and Consent to Jurisdiction. If there is a lawsuit under this Agreement, each party may hereto agrees to submit to the jurisdiction of the courts of Cook County, the State of Illinois and the United States District Court for the Northern District of Illinois.

18.19. Costs and Expenses. In addition to and not in limitation of the other provisions of this Agreement, Hotel Developer agrees to pay upon demand the City's out-of-pocket expenses, including attorney's fees, incurred in connection with the enforcement of the provisions of this Agreement. This includes, subject to any limits under applicable law, attorney's fees and legal expenses, whether or not there is a lawsuit, including attorney's fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals and any anticipated post-judgment collection services. Hotel Developer also will pay any court costs, in addition to all other sums provided by law.

18.20. Business Relationships. Hotel Developer acknowledges (A) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (B) that Hotel Developer has read such provision and understands that pursuant to such Section 2-156-030 (b), it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any

discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as defined in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (C) that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Agreement shall be grounds for termination of this Agreement and the transactions contemplated hereby. Hotel Developer hereby represents and warrants that, to the best of its knowledge after due inquiry, no violation of Section 2-156-030 (b) has occurred with respect to this Agreement or the transactions contemplated hereby.

18.21. Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

18.22. Exhibits. All of the exhibits attached hereto are incorporated herein by reference.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]



IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

SMART HOTELS/OLYMPIA CHICAGO, LLC,  
a Delaware limited liability company

By: SHG Chicago LLC, its Manager

By: SHG University Chicago  
LLC, its Manager

By: \_\_\_\_\_

Name: Edward Small

Title: President

CITY OF CHICAGO, an Illinois municipal corporation

By: \_\_\_\_\_

Name: Andrew J. Mooney

Title: Commissioner, Department of Housing  
and Economic Development


IN WITNESS WHEREOF, the parties hereto have caused this Redevelopment Agreement to be executed on or as of the day and year first above written.

SMART HOTELS/OLYMPIA CHICAGO, LLC,  
a Delaware limited liability company

By: SHG Chicago LLC, its Manager  
By: SHG University Chicago  
LLC, its Manager

By: \_\_\_\_\_  
Name: Edward Small  
Title: President

CITY OF CHICAGO, an Illinois municipal corporation

By:  \_\_\_\_\_  
Name: Andrew J. Mooney  
Title: Commissioner, Department of Housing  
and Economic Development



STATE OF ILLINOIS        )  
                                      ) SS  
COUNTY OF COOK        )

I, the undersigned, a notary public in and for the County and State aforesaid, DO HEREBY CERTIFY THAT Andrew J. Mooney, personally known to me to be the Commissioner of the Department of Housing and Economic Development of the City of Chicago, Illinois (the "City") and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Commissioner, he signed and delivered the said instrument pursuant to authority, as his/her free and voluntary act, and as the free and voluntary act and deed of said City, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 9<sup>th</sup> day of August, 2012.

Juan A Gutierrez  
Notary Public

My Commission Expires

(SEAL)

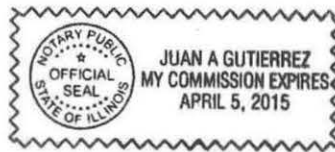


EXHIBIT A  
REDEVELOPMENT AREA

[See Attached.]

*Exhibit "A".*

*53<sup>rd</sup> Street T.I.F. District.*

All that part of Sections 11 and 12 in Township 38 North, Range 14 East of the Third Principal Meridian, bounded and described as follows:

beginning at the point of intersection of the north line of East Hyde Park Boulevard with the west line of South Blackstone Avenue; thence north along said west line of South Blackstone Avenue to the southwesterly extension of the northwesterly line of Lot 5 in Block 5 in Hyde Park, a subdivision of the east half of the southeast quarter and the east half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian; thence northeasterly along said southwesterly extension and the northwesterly line of Lot 5 in said Block 5 in Hyde Park to the southwesterly line of South Lake Park Avenue; thence northeasterly along the northwesterly line of vacated South Lake Park Avenue to the southwest corner of that part of Lot 4 in Block 6 in said Hyde Park

heretofore dedicated as public right-of-way; thence northeasterly along the south line of that part of Lot 4 in Block 6 in said Hyde Park heretofore dedicated as a public right-of-way, said south line being also the north line of the parcel of property bearing Permanent Index Number 20-11-216-066, and along the easterly extension thereof to the easterly line of that part of the Illinois Central Railroad right-of-way bearing Permanent Index Number 20-11-500-003; thence southerly along said easterly line of that part of the Illinois Central Railroad right-of-way bearing Permanent Index Number 20-11-500-003 to the south line of Lot 10 in Block 17 in Hyde Park, a subdivision of the east half of the southeast quarter and the east half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian; thence east along said south line of Lot 10 in Block 17 in Hyde Park to the east line of Lot 12 in said Block 17 in Hyde Park; thence south along said east line of Lot 12 in Block 17 in Hyde Park to the south line of Lot 1 in Charles G. Rose's Lot 1, a subdivision of parts of Lots 10 and 11 in Block 17 in Hyde Park, a subdivision of the east half of the southeast quarter and the east half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian; thence east along said south line of Lot 1 in Charles G. Rose's Lot 1, and along the easterly extension thereof to the easterly line of South Cornell Avenue; thence south along said easterly line of South Cornell Avenue to the south line of East 53<sup>rd</sup> Street; thence west along said south line of East 53<sup>rd</sup> Street to a line 94.57 feet west of and parallel with the west line of South Cornell Avenue, said line being also the west line of the parcel of property bearing Permanent Index Number 20-12-110-034; thence south along said line 94.57 feet west of and parallel with the west line of South Cornell Avenue, a distance of 92.70 feet, to a north line of said parcel of property bearing Permanent Index Number 20-12-110-034; thence west along said north line of the parcel of property bearing Permanent Index Number 20-12-110-034, a distance of 9.60 feet to the southerly most west line of said parcel of property bearing Permanent Index Number 20-12-110-034; thence south along said southerly most west line of said parcel of property bearing Permanent Index Number 20-12-110-034 to the north line of Lot 5 in Block 33 in aforesaid Hyde Park, a subdivision of the east half of the southeast quarter and the east half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian, said north line of Lot 5 being also the north line of the parcel of property bearing Permanent Index Number 20-12-110-002; thence west along said north line of the parcel of property bearing Permanent Index Number 20-12-110-002 to the west line thereof; thence south along said west line of the parcel of property bearing Permanent Index Number 20-12-110-

002 to the north line of Lot 6 in said Block 33 in Hyde Park; thence west along said north line of Lot 6 in Block 33 in Hyde Park to the east line of the Illinois Central Railroad right-of-way bearing Permanent Index Number 20-12-500-003; thence south along said east line of the Illinois Central Railroad right-of-way bearing Permanent Index Number 20-12-500-003 to the easterly extension of the south line of East 54<sup>th</sup> Street, as said East 54<sup>th</sup> Street is opened and laid out in the east half of the southeast quarter of Section 11, Township 38 North, Range 14 East of the Third Principal Meridian; thence west along said easterly extension and the south line of East 54<sup>th</sup> Street, as said East 54<sup>th</sup> Street is opened and laid out in the east half of the southeast quarter of Section 11, Township 38 North, Range 14 East of the Third Principal Meridian, to the southerly extension of a line 120 feet west of and parallel with the east line of Block 31 in Hyde Park, a subdivision of the east half of the southeast quarter and the east half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian; thence north along said southerly extension and along a line 120 feet west of and parallel with the east line of Block 31 in Hyde Park to the south line of Lot 7 in said Block 31 in Hyde Park; thence west along said south line of Lot 7 in Block 31 in Hyde Park to a line 128 feet west of and parallel with the east line of Block 31 in Hyde Park; thence north along said line 128 feet west of and parallel with the east line of Block 31 in Hyde Park to the north line of the south 15 feet of Lot 2 in said Block 31 in Hyde Park; thence west along said north line of the south 15 feet of Lot 2 in said Block 31 in Hyde Park and along the north line of the south 15 feet of Lot 17 in Block 31 in Hyde Park to the east line of South Harper Avenue; thence south along said east line of South Harper Avenue to the easterly extension of the north line of Lot 4 in Block 30 in Hyde Park, a subdivision of the east half of the southeast quarter and the east half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian, said north line of Lot 4 being also the south line of the alley south of East 53<sup>rd</sup> Street; thence west along said easterly extension and the north line of Lot 4 in Block 30 in Hyde Park to the west line of said Lot 4; thence south along said west line of said Lot 4, and along the west line of Lots 5, 6, 7, 8 and 9 in said Block 30 to the south line of the north 16 feet of said Lot 9 in Block 30 in Hyde Park; thence east along said south line of the north 16 feet of said Lot 9 in Block 30 in Hyde Park to the east line of the west 5 feet of said Lot 9 in Block 30 in Hyde Park; thence south along said east line of the west 5 feet of Lot 9 in Block 30 in Hyde Park and along the southerly extension thereof to the south line of East 54<sup>th</sup> Street; thence west along said south line of East 54<sup>th</sup> Street to the west line of South Blackstone Avenue; thence north along said west line of South Blackstone Avenue to the north line of Lot 4 in Block 29 in Hyde Park, a subdivision of the east half of the southeast quarter and the east



half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian; thence west along said north line of Lot 4 in Block 29 in Hyde Park and along the north line of Lot 15 in said Block 29 in Hyde Park and along the westerly extension thereof to the west line of South Dorchester Avenue; thence north along said west line of South Dorchester Avenue to the north line of the south 50 feet of Lots 1, 2 and the easterly 4 feet of Lot 3, all in Block 28 in Kimbark's Addition to Hyde Park, a subdivision of part of the west half of the southeast quarter of Section 11, Township 38 North, Range 14 East of the Third Principal Meridian; thence west along said north line of the south 50 feet of Lots 1, 2 and the easterly 4 feet of Lot 3, all in Block 28 in Kimbark's Addition to Hyde Park to the west line of said easterly 4 feet of Lot 3; thence south along said west line of the easterly 4 feet of Lot 3 in Block 28 in Kimbark's Addition to Hyde Park to the north line of Lot 13 in said Block 28 in Hyde Park; thence west along said north line of Lot 13 in Block 28 in Kimbark's Addition to Hyde Park to the west line of said Lot 13, said west line of Lot 13 being also the east line of the alley west of South Dorchester Avenue; thence south along said east line of the alley west of South Dorchester Avenue to the south line of Lot 16 in said Block 28 in Kimbark's Addition to Hyde Park; thence east along said south line of Lot 16 in Block 28 in Kimbark's Addition to Hyde Park and along the easterly extension thereof to the east line of South Dorchester Avenue; thence south along said east line of South Dorchester Avenue to the south line of East 54<sup>th</sup> Street; thence west along said south line of East 54<sup>th</sup> Street to the east line of South Kenwood Avenue; thence south along said east line of South Kenwood Avenue to the south line of East 55<sup>th</sup> Street; thence west along said south line of East 55<sup>th</sup> Street to the southerly extension of the east line of Lot 41 in Block 29 in aforesaid Kimbark's Addition to Hyde Park, said east line of Lot 41 being also the west line of South Kimbark Avenue; thence north along said southerly extension and along the west line of South Kimbark Avenue to the north line of East 54<sup>th</sup> Street; thence east along said north line of East 54<sup>th</sup> Street to the east line of the westerly 15 feet of Lot 19 in Block 27 in aforesaid Kimbark's Addition to Hyde Park; thence north along said east line of the westerly 15 feet of Lot 19 in Block 27 in Kimbark's Addition to Hyde Park to the north line of said Lot 19, said north line of Lot 19 being also the south line of the alley north of East 54<sup>th</sup> Street; thence west along said south line of the alley north of East 54<sup>th</sup> Street to the southerly extension of the east line of Lot 12 in said Block 27 in Kimbark's Addition to Hyde Park; thence north along said southerly extension and the east line of Lot 12 and along the east line of Lot 11, both in Block 27 in Kimbark's Addition to Hyde Park to the north line of said Lot 11; thence west along said north line of Lot 11 in Block 27 in Kimbark's Addition to Hyde Park and along the westerly extension thereof to the west line of South Kimbark Avenue; thence north along said west line of South Kimbark Avenue to the south line of East 53<sup>rd</sup> Street; thence west along said south line of East 53<sup>rd</sup>

Street to the west line of South Woodlawn Avenue; thence north along said west line of South Woodlawn Avenue to the westerly extension of the south line of Lot 7 in Block 25 in aforesaid Kimbark's Addition to Hyde Park; thence east along said westerly extension and the south line of Lot 7 in Block 25 in Kimbark's Addition to Hyde Park and along the easterly extension thereof to the west line of Lot 5 in said Block 25 in Kimbark's Addition to Hyde Park, said west line of Lot 5 being also the east line of the alley east of South Woodlawn Avenue; thence south along said west line of Lot 5 in Block 25 in Kimbark's Addition to Hyde Park to the south line of said Lot 5, said south line of said Lot 5 being also the north line of the alley north of East 53<sup>rd</sup> Street; thence east along said north line of the alley north of East 53<sup>rd</sup> Street and along the easterly extension thereof to the east line of South Kimbark Avenue; thence south along said east line of South Kimbark Avenue to the south line of Lot 19 in Block 24 in Kimbark's Addition to Hyde Park; thence east along said south line of Lot 19 in Block 24 in Kimbark's Addition to Hyde Park to the east line of South Kimbark Avenue; thence south along said east line of South Kimbark Avenue to the south line of Lot 18 in said Block 24 in Kimbark's Addition to Hyde Park, said south line of Lot 18 being also the north line of the alley north of East 53<sup>rd</sup> Street; thence east along said north line of the alley north of East 53<sup>rd</sup> Street and along the easterly extension thereof to the easterly line of South Kenwood Street; thence south along said easterly line of South Kenwood Street to the north line of Lot 12 in Block 23 in Kimbark's Addition to Hyde Park; thence east along said north line of Lot 12 in Block 23 in Kimbark's Addition to Hyde Park and along the north line of Lots 13 and 14 in said Block 23 in Kimbark's Addition to Hyde Park to the west line of South Dorchester Avenue; thence east along a straight line to the southwest corner of Lot 13 in Block 22 in Hyde Park, a subdivision of the east half of the southeast quarter and the east half of the northeast fractional quarter of Section 11, and the north part of the southwest fractional quarter of Section 12 and the northeast quarter of the northeast quarter of Section 14, all in Township 38 North, Range 14 East of the Third Principal Meridian; thence east along the south line of said Lot 13 in Block 22 in Hyde Park to the east line thereof; thence north along said east line of Lot 13 in Block 22 in Hyde Park to the south line of Lot 5 in said Block 22 in Hyde Park; thence east along said south line of Lot 5 in Block 22 in Hyde Park and along the easterly extension thereof and along the south line of Lot 14 in Block 21 in Hyde Park to the west line of Lot 5 in said Block 21 in Hyde Park; thence north along said west line of Lot 5 in Block 21 in Hyde Park and along the west line of Lots 4, 3, 2 and 1 in said Block 21 in Hyde Park and along the northerly extension thereof to the north line of East 52<sup>nd</sup> Street; thence east along said north line of East 52<sup>nd</sup>

Street to the east line of Lot 8 in Block 15 in Cornell's Resubdivision of Blocks 15 and 16 of Hyde Park, in the east half of the southeast quarter of Section 11, Township 38 North, Range 14 East of the Third Principal Meridian; thence north along said east line of Lot 8 in Cornell's Resubdivision and along the east line of Lots 9 and 10 in said Cornell's Resubdivision to the north line of said Lot 10; thence west along said north line of said Lot 10 and along the westerly extension thereof to the west line of South Harper Avenue; thence north along said west line of South Harper Avenue to the south line of Lot 2 in Block 14 in aforesaid Hyde Park; thence west along said south line of Lot 2 in Block 14 in Hyde Park to the west line thereof; thence north along said west line of Lot 2 in Block 14 in Hyde Park and along the west line of Lot 1 in said Block 14 in Hyde Park to the south line of East Hyde Park Boulevard; thence west along said south line of East Hyde Park Boulevard to the southerly extension of the east line of Lot 12 in Block 9 in aforesaid Hyde Park, said east line of Lot 12 being also the west line of South Blackstone Avenue; thence north along said southerly extension to the point of beginning at the point of intersection of the north line of East Hyde Park Boulevard with the west line of South Blackstone Avenue; all in the City of Chicago, Cook County, Illinois.



*Street Location Of Area.*

The 53<sup>rd</sup> Street R.P.A. consists of approximately one hundred eighty-seven (187) tax parcels and sixty-three (63) buildings on twenty-four (24) blocks and contains approximately eighty-three and five-tenths (83.5) acres of land. The R.P.A. is generally linear in shape, extending east/west along East 53<sup>rd</sup> Street and north/south along South Lake Park Avenue. Most parcels within the R.P.A. front East 53<sup>rd</sup> Street or South Lake Park Avenue and almost entirely consist of commercial, institutional or mixed (commercial/residential) uses. The R.P.A. generally includes the north side of East 53<sup>rd</sup> Street from South Woodlawn Avenue on the west to South Cornell Avenue on the east and the south side of East 53<sup>rd</sup> Street from South Kimbark Avenue on the west to South Cornell Avenue on the east. The R.P.A. extends south to East 55<sup>th</sup> Street between South Kimbark and South Kenwood Avenues to include Nichols Park and south to East 54<sup>th</sup> Street on South Lake Park Avenue. The R.P.A. extends north along both sides of South Lake Park Avenue to approximately East 50<sup>th</sup> Street.

EXHIBIT B

PROPERTY

LOTS 1A AND 1B IN HARPER COURT SUBDIVISION BEING A RESUBDIVISION IN THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED MAY 25, 2012, AS DOCUMENT NO 1214629097, IN COOK COUNTY, ILLINOIS.

EXHIBIT C

TIF-FUNDED IMPROVEMENTS

Line Item	Cost
Land Acquisition Costs	\$ 875,000
Marketing	\$ 30,000
Job Training	\$ 50,000
Allocable Soft Costs	\$ 9,000
Interest Expense (30%)	\$1,936,146

\*TOTAL: Up to a maximum of \$965,000 for inclusion in City Note. Thirty percent (30%) of interest expense is estimated at \$1,936,146 (NPV discounted at 7% over the Term of the Agreement).

\*Notwithstanding the total of TIF-Funded Improvements or the amount of TIF-eligible costs, the assistance to be provided by the City is limited to the amount described in Section 4.03 and shall not exceed the Maximum TIF Assistance.

EXHIBIT D

[INTENTIONALLY OMITTED]

**EXHIBIT E**

**CONSTRUCTION CONTRACT**

[Not attached for Recording purposes.]

EXHIBIT F

[INTENTIONALLY OMITTED]



## EXHIBIT G

### PERMITTED LIENS

1. Liens or encumbrances against the Property:

Those matters set forth as Schedule B title exceptions in the owner's title insurance policy issued by the Title Company as of the date hereof, but only so long as applicable title endorsements issued in conjunction therewith on the date hereof, if any, continue to remain in full force and effect.

2. Liens or encumbrances against Hotel Developer or the Project, other than liens against the Property, if any:

NONE.

EXHIBIT H-1  
PROJECT BUDGET

Land		
Property		<b>\$4,000,000</b>
Hard Costs		
Sitework	\$ 73,500	
Concrete	1,097,000	
Masonry	120,000	
Metals	1,349,721	
Wood & Plastics	492,800	
Thermal & Moisture Protection	2,362,457	
Doors & Windows	261,142	
Finishes	2,960,657	
Specialties	111,702	
Equipment	--	
Furnishings	169,640	
Special Construction	115,000	
Conveying Systems	267,050	
Mechanical	3,817,815	
Electrical	1,772,500	
<b>HARD COST SUBTOTAL</b>		<b>\$14,970,984</b>
FF&E		<b>\$2,350,000</b>
Soft Costs		
Interest/Financing Costs	\$1,186,087	
Working Capital	100,000	
Admin/Tech Services/Travel/Misc.	200,000	
Hard Cost Contingency	681,015	
Soft Cost Contingency	70,000	
Architectural and Engineering	733,000	
Pre-Opening Expenses, Supplies, etc.	139,000	
Job Training Expenses	50,000	
Real Estate Legal/Consultants/Closing/Title/Survey	400,000	
Market Studies/Appraisals/Environmental	50,000	
Website/Advertising/Marketing	50,000	
Franchise Fees	60,000	
Project Development Consultant	225,000	
Permit Fees	250,000	
General Conditions	725,000	
Winter Conditions Allowance	100,000	
General Contractor Fee	631,839	
Developer Fee	1,188,000	
Insurance	131,669	
General Contractor Bond	124,196	
Owner Direct Contracts	530,000	
HCP Charge Backs	100,000	
Loan Financing Costs	554,300	
TIF Legal/Consulting Costs	400,000	
<b>SOFT COST SUBTOTAL</b>		<b>\$8,679,106</b>
<b>TOTAL</b>		<b>\$30,000,090</b>

EXHIBIT H-2  
MBE/WBE BUDGET

Hard Costs	
Sitework	\$ 73,500
Concrete	1,097,000
Masonry	120,000
Metals	960,721
Wood & Plastics	492,800
Thermal & Moisture Protection	1,692,457
Doors & Windows	261,142
Finishes	2,960,657
Specialties	111,702
Equipment	-
Furnishings	169,640
Special Construction	115,000
Conveying Systems	267,050
Mechanical	3,817,815
Electrical	1,772,500
<b>HARD COST SUBTOTAL</b>	<b>\$13,911,984</b>
Soft Costs	
Architectural, Engineering, LEED Commissioning and Consulting, and MBE/WBE Compliance	<u>\$679,294</u>
<b>SOFT COST SUBTOTAL</b>	<b>\$679,294</b>
<b>TOTAL</b>	<b>\$14,591,277</b>

MBE BUDGET (24% OF TOTAL): \$3,501,906.48

WBE BUDGET (4% OF TOTAL): \$583,651.08

**EXHIBIT I**

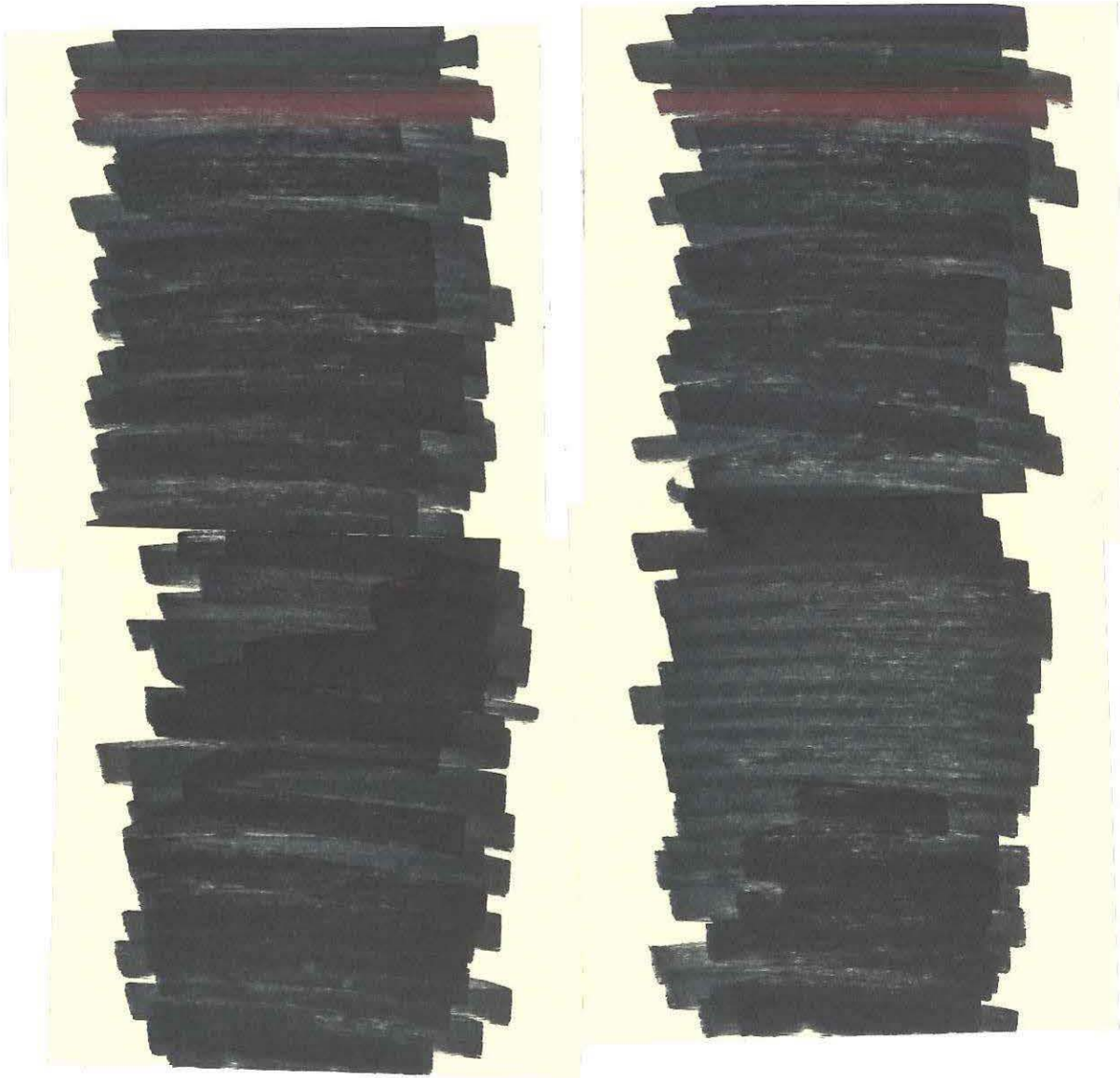
**APPROVED PRIOR EXPENDITURES**

[Not attached for Recording purposes.]

**EXHIBIT J**

**OPINION OF HOTEL DEVELOPER'S COUNSEL**

[Not attached for Recording purposes.]



**EXHIBIT K**

**JOBS CERTIFICATE**

[Not attached for Recording purposes.]

**EXHIBIT L**  
**REQUISITION FORM**

[Not attached for Recording purposes.]

EXHIBIT M  
FORM OF NOTE

REGISTERED  
NO. R-1

MAXIMUM AMOUNT  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF ILLINOIS  
COUNTY OF COOK  
CITY OF CHICAGO  
TAX INCREMENT ALLOCATION REVENUE NOTE ( \_\_\_\_\_  
REDEVELOPMENT PROJECT), [TAXABLE] SERIES [A]

Registered Owner: [Developer]

Interest Rate: \_\_\_ per annum

Maturity Date: \_\_\_\_\_, \_\_\_\_\_ [twenty years from issuance date]

KNOW ALL PERSONS BY THESE PRESENTS, that the City of Chicago, Cook County, Illinois (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns as hereinafter provided, on or before the Maturity Date identified above, but solely from the sources hereinafter identified, the principal amount of this Note from time to time advanced by the Registered Owner to pay costs of the Project (as hereafter defined) in accordance with the ordinance hereinafter referred to up to the principal amount of \$ \_\_\_\_\_ and to pay the Registered Owner interest on that amount at the Interest Rate per year specified above from the date of the advance. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. Accrued but unpaid interest on this Note shall also accrue at the interest rate per year specified above until paid.

Principal of and interest on this Note from the [Available Excess Incremental Taxes] [use applicable term] (as defined in the hereinafter defined Redevelopment Agreement) is due March 1 of each year until the earlier of Maturity or until this Note is paid in full. Payments shall first be applied to interest. The principal of and interest on this Note are payable in lawful money of the United States of America, and shall be made to the Registered Owner hereof as shown on the registration books of the City maintained by the Comptroller of the City, as registrar and paying agent (the "Registrar"), at the close of business on the fifteenth day of the month immediately prior to the applicable payment, maturity or redemption date, and shall be paid by check or draft of the Registrar, payable in lawful money of the United States of America, mailed to the address of such Registered Owner as it appears on such registration books or at such other address furnished in writing by such Registered Owner to the Registrar; provided, that the final



installment of principal and accrued but unpaid interest will be payable solely upon presentation of this Note at the principal office of the Registrar in Chicago, Illinois or as otherwise directed by the City. The Registered Owner of this Note shall note on the Payment Record attached hereto the amount and the date of any payment of the principal of this Note promptly upon receipt of such payment.

This Note is issued by the City in the principal amount of advances made from time to time by the Registered Owner up to \$ \_\_\_\_\_ for the purpose of paying the costs of certain eligible redevelopment project costs incurred by \_\_\_\_\_ [Developer] (the "Project"), which were [acquired], [constructed] and [installed] in connection with the development of an approximately [\_\_\_\_ acre/\_\_\_\_ square foot] site/building in the \_\_\_\_\_ Redevelopment Project Area (the "Project Area") in the City, all in accordance with the Constitution and the laws of the State of Illinois, and particularly the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 et seq.) (the "TIF Act"), the Local Government Debt Reform Act (30 ILCS 350/1 et seq.) and an Ordinance adopted by the City Council of the City on \_\_\_\_\_, \_\_\_\_ (the "Ordinance"), in all respects as by law required.

The City has assigned and pledged certain rights, title and interest of the City in and to certain incremental ad valorem tax revenues from the Project Area which the City is entitled to receive pursuant to the TIF Act and the Ordinance, in order to pay the principal and interest of this Note. Reference is hereby made to the aforesaid Ordinance and the Redevelopment Agreement for a description, among others, with respect to the determination, custody and application of said revenues, the nature and extent of such security with respect to this Note and the terms and conditions under which this Note is issued and secured. THIS NOTE IS A SPECIAL LIMITED OBLIGATION OF THE CITY, AND IS PAYABLE SOLELY FROM AVAILABLE EXCESS INCREMENTAL TAXES, AND SHALL BE A VALID CLAIM OF THE REGISTERED OWNER HEREOF ONLY AGAINST SAID SOURCES. THIS NOTE SHALL NOT BE DEEMED TO CONSTITUTE AN INDEBTEDNESS OR A LOAN AGAINST THE GENERAL TAXING POWERS OR CREDIT OF THE CITY, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION. THE REGISTERED OWNER OF THIS NOTE SHALL NOT HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE CITY, THE STATE OF ILLINOIS OR ANY POLITICAL SUBDIVISION THEREOF TO PAY THE PRINCIPAL OR INTEREST OF THIS NOTE. The principal of this Note is subject to redemption on any date, as a whole or in part, at a redemption price of 100% of the principal amount thereof being redeemed. There shall be no prepayment penalty. Notice of any

such redemption shall be sent by registered or certified mail not less than five (5) days nor more than sixty (60) days prior to the date fixed for redemption to the registered owner of this Note at the address shown on the registration books of the City maintained by the Registrar or at such other address as is furnished in writing by such Registered Owner to the Registrar.

This Note is issued in fully registered form in the denomination of its outstanding principal amount. This Note may not be exchanged for a like aggregate principal amount of notes or other denominations.

This Note is transferable by the Registered Owner hereof in person or by its attorney duly authorized in writing at the principal office of the Registrar in Chicago, Illinois, but only in the manner and subject to the limitations provided in the Ordinance, and upon surrender and cancellation of this Note. Upon such transfer, a new Note of authorized denomination of the same maturity and for the same aggregate principal amount will be issued to the transferee in exchange herefor. The Registrar shall not be required to transfer this Note during the period beginning at the close of business on the fifteenth day of the month immediately prior to the maturity date of this Note nor to transfer this Note after notice calling this Note or a portion hereof for redemption has been mailed, nor during a period of five (5) days next preceding mailing of a notice of redemption of this Note. Such transfer shall be in accordance with the form at the end of this Note.

This Note hereby authorized shall be executed and delivered as the Ordinance and the Redevelopment Agreement provide.

Pursuant to the Redevelopment Agreement dated as of [\_\_\_\_\_, \_\_\_\_] between the City and the Registered Owner (the "Redevelopment Agreement"), the Registered Owner has agreed to [acquire] and [construct] the Project and to advance funds for the [construction of certain facilities] related to the Project on behalf of the City. The cost of such acquisition and construction in the amount of \$[\_\_\_\_\_] shall be deemed to be a disbursement of the proceeds of this Note.

Pursuant to Section 15.02 of the Redevelopment Agreement, the City has reserved the right to [suspend] [terminate] payments of principal and of interest on this Note upon the occurrence of certain conditions, [and the City has reserved the right to offset liquidated damage amounts owed to the City against the principal amount outstanding under this Note]. The City shall not be obligated to make payments under this Note if an Event of Default (as defined in the Redevelopment Agreement), or condition or event that with notice or the passage of time or both would constitute an Event of Default, has occurred. Such rights shall survive any transfer of this Note.

The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary, unless transferred in accordance with the provisions hereof.

It is hereby certified and recited that all conditions, acts and things required by law to exist, to happen, or to be done or performed precedent to and in the issuance of this Note did exist, have happened, have been done and have been performed in regular and due form and time as required by law; that the issuance of this Note, together with all other obligations of the City, does not exceed or violate any constitutional or statutory limitation applicable to the City.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Registrar.

(THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the City of Chicago, Cook County, Illinois, by its City Council, has caused its official seal to be imprinted by facsimile hereon or hereunto affixed, and has caused this Note to be signed by the duly authorized signature of the Mayor and attested by the duly authorized signature of the City Clerk of the City, all as of \_\_\_\_\_, \_\_\_\_\_.

Mayor

(SEAL)  
Attest:

City Clerk

CERTIFICATE  
OF  
AUTHENTICATION

Registrar  
And Paying Agent  
Comptroller of the  
City of Chicago,  
Cook County, Illinois

This Note is described in the  
within mentioned Ordinance and  
is the Tax Increment Allocation  
Revenue Note ( \_\_\_\_\_  
Redevelopment Project), [Taxable]  
Series [A], of the City of  
Chicago, Cook County, Illinois.

Comptroller  
Date:

PRINCIPAL PAYMENT RECORD

DATE OF PAYMENT

PRINCIPAL PAYMENT

PRINCIPAL BALANCE DUE

(ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto [NAME OF ASSIGNEE] the within Note and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated:

Registered Owner

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the Note in every particular, without alteration or enlargement or any change whatever.

Signature Guaranteed:

Notice: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Consented to by:

CITY OF CHICAGO  
DEPARTMENT OF HOUSING AND ECONOMIC DEVELOPMENT

BY:

ITS:

CERTIFICATION OF EXPENDITURE

(Closing Date)

To: Registered Owner

Re: City of Chicago, Cook County, Illinois (the "City")  
\$ \_\_\_\_\_ Tax Increment Allocation Revenue Note  
( \_\_\_\_\_ Redevelopment Project, [Taxable] Series [A])  
(the "Redevelopment Note")

This Certification is submitted to you, Registered Owner of the Redevelopment Note, pursuant to the Ordinance of the City authorizing the execution of the Redevelopment Note adopted by the City Council of the City on \_\_\_\_\_, \_\_\_\_ (the "Ordinance"). All terms used herein shall have the same meaning as when used in the Ordinance.

The City hereby certifies that \$ \_\_\_\_\_ is advanced as principal under the Redevelopment Note as of the date hereof. Such amount has been properly incurred, is a proper charge made or to be made in connection with the redevelopment project costs defined in the Ordinance and has not been the basis of any previous principal advance. As of the date hereof, the outstanding principal balance under the Redevelopment Note is \$ \_\_\_\_\_, including the amount of this Certificate of Expenditure and less payment made on the Redevelopment Note.

IN WITNESS WHEREOF, the City has caused this Certification to be signed on its behalf as of (Closing Date).

CITY OF CHICAGO

By: \_\_\_\_\_  
\_\_\_\_\_  
Commissioner  
Department of Housing and Economic  
Development

AUTHENTICATED BY:

REGISTRAR

**EXHIBIT N**

**SUBORDINATION AGREEMENT**

[Not attached for Recording purposes.]



**EXHIBIT O**

**SPECIMEN PAYMENT BOND**

[Not attached for Recording purposes.]