

DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between

THE CITY OF GARDEN GROVE

and

NEWAGE GARDEN GROVE II LLC

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Exhibit N	Local Residents/Hiring Preference

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (this “Agreement”) dated for purposes of identification only as of _____, 20__ (the “Date of Agreement”), is entered into by and between the **CITY OF GARDEN GROVE**, a municipal corporation duly organized and existing under the Constitution and laws of the State of California (“City”, or “Successor Agency”), and **NEWAGE GARDEN GROVE II LLC**, a California limited liability company (the “Developer”) (individually a “party” and collectively, “Parties”).

RECITALS

A. Palm Court Lodging, LLC, a California limited liability company (“Palm Court”) and the Garden Grove Agency for Community Development (the “Former Agency”, now succeeded by the Successor Agency”) entered into that certain Disposition and Development Agreement by and between the Former Agency and Palm Court dated as of June 26, 2001 (the “Agency DDA”). Under the Agency DDA, Palm Court was to acquire certain real property from the Former Agency and develop two hotels. Although one hotel was built, the disposition of the remaining property for and development of a second hotel (the “Agency Property”), has not occurred. Under that certain Assignment and Assumption Agreement dated April 27, 2004 (“Assignment”) incorporated herein by reference, Developer is the assignee of Palm Court with regard to the acquisition of land and development of the second hotel on the Agency Property under the Agency DDA.

B. Developer has proposed an approximately 500 room Nickelodeon Hotel & Resort (including a maximum of 22,296 square feet of leasable area of high-quality restaurants and 5,480 square feet gross leasable area of high -quality retail), and of equal or greater (i) quality of exterior construction and Furniture, Fixtures, and Equipment, (ii) quality and scope of amenities, and (iii) service level, as that found in the Nickelodeon Hotel & Resort located in Punta Cana, Dominican Republic or, as an alternative to a Nickelodeon Hotel & Resort, a resort hotel, which is, at a minimum, a AAA Four Diamond Hotel, and in either case, the construction and operating scope and quality shall be not less than the Minimum Development Standards (as defined below) and construction costs shall be not less than the Minimum Construction Costs (as defined below), (such hotel hereafter, the “Conforming ”) to be constructed, opened and operated on the Agency Property and additional, real property owned by the City and conveyed hereunder by the City to the Developer (the “City Property”), The Agency Property and City Property are collectively referred to herein as the “Site” as shown on the Site Map attached hereto as Exhibit A and described in the Legal Description attached hereto as Exhibit B.

C. The Parties now intend to enter into this Agreement pursuant to which, following Developer’s acquisition of the Site, Developer will construct and operate the Conforming Hotel on the Site through the implementation of both the Agency DDA and this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

100. DEFINITIONS

“AAA Four Diamond Hotel” means a Hotel(s) which provides the physical features and operational services which meet or exceed the rating criteria established by the American Automobile

Association (“AAA”) for AAA Four Diamond Hotels or higher. By way of guidance, the Minimum Development Standards for AAA Four Diamond Hotels, which traditionally qualify for AAA Four Diamond Hotel status are shown in Exhibit J.

“AAA Four Diamond Requirements” means those requirements for a AAA Four Diamond Hotel rating as described listed in the definition of AAA Four Diamond Hotel.

“Actual Knowledge” is defined in Section 205.1 (e) hereof.

“Affiliate” means any Person directly controlling, controlled by or under common control with another Person, which, in the case of a limited liability company, shall include each of the managing members thereof. The term “control”, as used in the immediately preceding sentence, means the possession directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled Person.

“Agency Assistance Payments” means the amounts payable by the City to the Developer under Section 311.7 of the Agency DDA, as modified by the Assignment, with a remaining total balance of \$2,750,000.

“Agency Property” is defined in Recital A.

“Agreement” means this Disposition and Development Agreement between City and Developer.

“Applicable Transient Occupancy Tax Rate” means the lesser of the current rate of Transient Occupancy Tax, as applicable from time to time, or fourteen and one-half percent (14.5%). The Applicable Transient Occupancy Tax Rate shall apply for the calculation of any and all Covenant Consideration without regard to any increases, at any time, in the rate of the Transient Occupancy Tax.

“Brand” means the entity whose Flag is used to identify the Conforming Hotel. A list of typical AAA Four Diamond brands is attached hereto as Exhibit M and incorporated herein by reference.

“Breach” is defined in Section 601.

“Building Permits” shall mean building permits issued by the City in accordance with the Uniform Building Code and all other permits required by any governmental entity as a condition to the construction of the Conforming Hotel.

“Capital Cost Budget” is defined in Section 301.1 hereof.

“CEQA” means the California Environmental Quality Act.

“City” means the City of Garden Grove, California.

“City Entities” is defined in Section 705.

“City Disbursement Conditions” is defined in Section 505.

“City Manager” means the City Manager of the City or his/her designee.

“City Property” is shown on the Site Map as the “City Property” and described in the Legal Description.

“City Rules and Powers” is defined in Section 705.

“City’s Condition(s) Precedent” means the condition(s) precedent to the Closing to the benefit of City, as set forth in Section 204.1 hereof.

“Closing” or **“Close”** or **“Close of Escrow”** is defined in Section 201.8 hereof.

“Closing Date” is defined in Section 201.8 hereof.

“Commenced construction” or **“commencement of construction”** means the commencement of vertical construction of for the Conforming Hotel.

“Complete” or **“Completion”** means the last to occur of (i) completion of construction of the Conforming Hotel in substantial compliance with this Agreement, (ii) issuance of a final certificate of occupancy by the City with respect to the Conforming Hotel, or (iii) the opening of all guestrooms and facilities for use and occupancy by the general public.

“Conceptual Site Plan” means the Site Plan attached hereto as Exhibit L and incorporated by reference depicting the Conforming Hotel.

“Condition of Title” is defined in Section 202(b) hereof.

“Conforming Hotel” is defined in Recital B.

“Conforming Hotel Franchise Agreement” means an agreement between the Developer and the Brand authorizing the Developer to construct and operate a particular Flag.

“Conforming Hotel Operating Agreement” means the operating agreement between the Developer and the Hotel Operator.

“Construction Contract(s)” means all contract(s) between Contractor and Developer pursuant to which the Constructor is obligated to construct the Conforming Hotel.

“Construction Financing” means debt and/or equity necessary to fund construction of the Conforming Hotel in accordance with the Capital Cost Budget.

“Contractor” means the general contractor engaged by the Developer to construct the Conforming Hotel pursuant to the Construction Contract(s).

“Conveyance” means the conveyance of the City Property to the Developer.

“County” means the County of Orange, California.

“Covenant Consideration” is defined in Section 502.

“Covenant Consideration Period” is defined in Section 503.

“CPI” means the Consumer Price Index-All Urban Consumers for the Los Angeles-Orange-Riverside County Average, Subgroup “All Items” (1982-1984 = 100) as established by the Bureau of Labor Statistics of the U.S. Department of Labor.

“Date of Agreement” means the date in the first paragraph hereof, which shall be the date on which the City Council approves this Agreement.

“Declaration” means the Declaration of Covenants, Conditions and Restrictions, substantially in the form of Exhibit D attached hereto and incorporated herein.

“Default(s)” is defined in Section 601.

“Design and Specifications” is defined in Section 301.1 hereof.

“Design Development Drawings” means those plans and drawings to be submitted to City for its approval, pursuant to Section 302.1 hereof.

“Developer” means Newage Garden Grove II LLC, a California limited liability company, and its permitted successors and assigns.

“Developer’s Conditions Precedent” means the conditions precedent to the Closing to the benefit of Developer, as set forth in Section 204.2.

“Development Agreement” means that certain statutory Development Agreement entered into concurrently herewith between City and Developer pursuant to Governmental Code Section 65814.

“Eligible Expenses” means those costs on which federal funds may be expended.

“Escrow” is defined in Section 201.3 hereof.

“Escrow Agent” is defined in Section 201.3 hereof.

“Exceptions” is defined in Section 202 hereof.

“Final Map” means a final subdivision map, parcel map, or lot line adjustment, as applicable, prepared in accordance with the California Subdivision Map Act and shall include, at a minimum, grading, drainage and water quality plans.

“Final Site Plan” is defined in Section 301.1.

“Fiscal Year” means a year beginning on July 1 and ending the following June 30.

“Flag” means the distinctive name of the Conforming Hotel that, by virtue of its distinctive name, is identified by specific physical and operational features so that guests are assured that they will receive a specified level of service and amenities wherever the property is located.

“Force Majeure Delay” means delays caused by third party litigation (whether or not a temporary restraining order, preliminary injunction, or other similar equitable relief has been granted), delays caused by actions or omissions of City or any public or governmental entity (provided that the acts of, or failure to act by, City shall not excuse performance by City), delays caused by the time taken

to remediate Hazardous Materials located upon the Site, delays caused by the acts or omissions of any contractor or subcontractor, strikes, lockouts, or labor disruption, any governmental entity actions (including, but not limited to, any stop-work orders, reduction in hours of operation or capacity, quarantine or other employee restrictions, or similar requirements) resulting from a pandemic, freight embargoes, the unavailability of materials or supplies, unusually inclement weather, fires, floods, earthquakes, or other casualty losses or supernatural causes, war, insurrection, riots, acts of terrorism or the public enemy, epidemics, and/or quarantine restrictions. A Force Majeure Delay shall extend only for the period that any such circumstance continues to exist.

“Furniture, Fixtures and Equipment” means movable furniture, fixtures or other equipment that have no permanent connection to the structure of a building or utilities within the Conforming Hotel, as well as operational supplies. More specifically, furniture, fixtures and/or equipment would include decorative items, case goods (including headboards, bureaus, chairs, desks, and other room furniture), soft goods (including wall coverings, floor coverings, window treatments, carpeting, bedspreads, lamps, artwork, pictures, wall decorations, upholstery, textile, fabric, and vinyl items). Operating supplies and equipment (including towels, bed linen, crockery and glassware, irons, hairdryers, uniforms, office equipment and cleaning equipment), mirrors, lighting, safes, refrigerators, televisions and coffee makers. Furniture, Fixtures and Equipment shall also include, for purposes of “Furniture, Fixtures and Equipment Costs,” taxes, freight, warehouse expense, installation fees and purchasing agent fees.

“Furniture, Fixtures and Equipment Costs” or ***“FF&E Costs”*** means the actual and direct third-party costs of all Furniture, Fixtures and Equipment. For the purpose of determining Minimum FF&E Costs (as initially set in Section 301.1, below), for each successive calendar year after the Closing Date, the Minimum FF&E Costs shall be adjusted annually, using a starting 2022 baseline of the CPI in effect in the month of the Closing Date. The first adjustment shall be on January 1, 2023 to reflect any increase in the CPI between the month of the Closing Date and December, 2022. Each successive annual adjustment shall be on January 1 of each year to reflect any increase in CPI between January and December of the immediately preceding year.

“Governmental Requirements” means all applicable laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State, the County, the City, or any other political subdivision in which the Site is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the City, the Owner or the Site, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City’s Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, all governmental requirements applicable to public works, including without limitation the payment of prevailing wages in compliance with Labor Code Section 1770, *et seq.*, keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and complying with all regulations and statutory requirements pertaining thereto (“Public Works Statutes”), the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Sections 51, *et seq.*

“Guaranty” means the guaranty of Kam Sang as to the Developer’s obligations under Section 208 in the form attached hereto Exhibit K and incorporated herein by reference.

“Grant Deed” means either the grant deed for the Conveyance of the City Property to Developer, in substantially the form of Exhibit C attached hereto and incorporated herein.

“Hazardous Materials” means any substance, material or waste which is or becomes, prior to the Closing, regulated by any local governmental authority, the State of California or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste,” “acutely hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) listed under Article 9 or defined as “hazardous” or “extremely hazardous” pursuant to Article 11 of Title 22 of the California Code of Regulations, Chapter 20, (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6903), (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.* (42 U.S.C. Section 9601), (xii) Methyl-Tertiary Butyl Ether, or (xiii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any Governmental Requirements either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal.

“Hotel Operator” means the franchisee, manager, lessee, or licensee with whom the Developer has a contract to operate the Conforming Hotel pursuant to a franchise, management, lease, or license arrangement.

“Hotel Operating Agreement” means the Agreement between the Hotel Operator and the Developer governing the operation of the Conforming Hotel.

“Kam Sang Company, Inc” or “Kam Sang” is a California Corporation and is the managing member of Developer.

“Land Use Approvals” is defined in Section 303.

“Legal Description” means the description of the Agency Property and City Property which is attached hereto as Exhibit B and incorporated herein by reference.

“Local Residents” is described in Section 407 relating to hiring preferences and is defined in Exhibit N attached hereto and incorporated herein by reference.

“Losses and Liabilities” as used herein shall mean and include all claims, causes of action, liabilities, losses, damages (including, without limitation, penalties, fines and monetary sanctions), injuries, expenses, charges, penalties or costs of whatsoever character, nature and kind, including reasonable attorney’s fees and costs incurred by the indemnified party with respect to counsel of its

choice, whether to property or to person, whether by direct or derivative action, and whether known or unknown, suspected or unsuspected, latent or patent.

“Minimum Construction Costs” means the sum of the Minimum FF&E Costs and the Minimum Shell Costs.

“Minimum Development Standards” are shown in Exhibit J attached hereto and incorporated herein by reference.

“Minimum FF&E Costs” is defined in Section 301.1.

“Minimum Shell Costs” is defined in Section 301.1.

“Notice” means a notice in the form prescribed by Section 701 hereof.

“Notice of Breach” is defined in Section 603.

“Open(s)(ing)(ed) for Business” or **“Opening”** means the day on which the Conforming Hotel opens for business to the general public.

“Operating Period” is the period commencing on the Opening of the Conforming Hotel and terminating on the thirtieth (30th) anniversary date of the Opening.

“Outside Closing Date” is defined in Section 201.8.

“Preliminary Capital Cost Budget” means that certain capital cost budget attached hereto as Exhibit E, as further described in Section 301.1 hereof.

“Prevailing Wage Statutes” means Labor Code Section 1720, *et seq.* and applicable federal prevailing wage laws.

“Property Condition” is defined in Section 207.1.

“Purchase Price” means the Purchase Price for the City Property as defined in Section 201.2.

“Records” means all books and records of the Developer and its contractors to the extent necessary to confirm construction costs.

“Release of Construction Covenants” is defined in Section 310 hereof and means that certain Release of Construction Covenants substantially in the form of Exhibit F attached hereto.

“Report” is defined in Section 202 hereof.

“Right of Entry Agreement” is attached hereto as Exhibit H and incorporated herein by reference.

“Schematic Design” means a basic layout of locations of all building code elements, such as the heating/ventilation/air conditioning (HVAC), plumbing, and electrical systems, equivalent to approximately 25% of completed construction documents.

“Schedule of Performance” means the schedule for development of the Conforming Hotel attached hereto as Exhibit G and incorporated herein by reference.

“Scope of Development” means the scope of development for the Conforming Hotel attached hereto as Exhibit I, and incorporated herein by reference.

“Section 208 Escrow Instructions” are defined in Section 208.

“Shell Costs” mean actual and direct third -party costs of all materials, labor, and equipment associated with the construction of the Conforming Hotel as determined by the City Manager, acting in his/her sole and absolute discretion. Items excluded from Shell Costs include, without limitation, site costs, parking costs, FF&E Costs, architectural, engineering, permits and fees, legal, accounting, taxes, sale or lease commissions, marketing expenses, initial operating capital and other indirect costs, as well as the developer overhead.

“Site” means the Agency Property and the City Property, as described in Exhibit A.

“Site Map” means the map of the Site which is attached hereto as Exhibit A and incorporated herein by reference.

“Substantial Conformity” is defined in Section 301.1.

“Temporary Closure” means a period of time, no longer than reasonably necessary for repairs, reconstruction or resolution, of maintenance issues, Force Majeure Delay notwithstanding, in no event longer than two hundred (200) days.

“Third Party Audit” is defined in Section 501.

“Title Company” is defined in Section 202 hereof.

“Title Policy” is defined in Section 203.1 hereof.

“Transfer” as used herein shall mean and include any direct or indirect conveyance, transfer, sale, assignment, lease, sublease, license, concession, franchise, gift, management agreement, operating agreement, hypothecation, mortgage, pledge, encumbrance, or the like of this Agreement, the Site, the Conforming Hotel and/or ownership and/or control of Developer. “Transferee” shall refer to the person or entity receiving any Transfer.

“Transient Occupancy” means an uninterrupted stay of no more than twenty-nine consecutive calendar days.

“Transient Occupancy Tax” means the transient occupancy tax levied and collected pursuant to Chapter 3.12 of the Garden Grove Municipal Code, as it may be amended from time to time and held in the City’s general fund for unrestricted use. Chapter 3.12 of the Garden Grove Municipal Code, as it may be amended from time to time, is referred to therein and herein as the “Transient Occupancy Tax Code,” provided, that, in no event, shall an amendment of the Transient Occupancy Tax Code after the Effective Date result in an increase in the Applicable Transient Occupancy Tax Rate for purposes of calculating Covenant Consideration.

200. ACQUISITION AND CONVEYANCE

201. Conveyance of City Property and Agency Property.

201.1 Conveyance of the Agency Property. The parties anticipate that the Successor Agency will cause the Conveyance of the Agency Property to the Developer pursuant to the Agency DDA concurrently with the Closing hereunder.

201.2 Conveyance of the City Property. Subject to the satisfaction of the Conditions Precedent set forth hereinbelow, on or before the date set forth in the Schedule of Performance, but in no event later than the Outside Date, the City shall cause the Conveyance of the City Property and Developer shall accept Conveyance in accordance with the terms hereof. The purchase price for the City Property shall be Nine Hundred Twenty Thousand Dollars (\$920,000) (the "Purchase Price") payable all cash, at Closing.

201.3 Escrow. Within thirty (30) days of the Date of Agreement, the parties shall open escrows for the Conveyance of the City Property and Agency Property (the "Escrow") with First American Title Company or another escrow company mutually satisfactory to both parties (the "Escrow Agent") by depositing a fully executed copy of this Agreement and the Agency DDA with Escrow Agent. Escrow shall establish a separate escrow for the implementation of the Agency DDA which shall be governed by the terms of the Agency DDA and a separate escrow for the City Property which will be governed by the terms of this Agreement.

201.4 Payment of the Purchase Price. Within two (2) days prior to the scheduled Closing Date the Developer shall deposit the Purchase Price, in good and immediately available funds, into Escrow.

201.5 Costs of Escrow. City and Developer shall pay their respective portions of the premium for the Title Policy as provided in Section 203.1 hereof; the City shall pay for the documentary transfer taxes, if any, due with respect to the Conveyance of the City Property, and except in the event the Escrow is earlier cancelled (in which instance the cancellation provisions described below shall apply), Developer and City each shall pay one-half of all other usual fees, charges, and costs which arise from the Escrow.

201.6 Escrow Instructions. This Agreement shall constitute the joint escrow instructions of Developer and City for the Conveyance of the City Property and the Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts reasonably necessary to close Escrow within thirty (30) days after the fulfillment and/or waiver of the City's Conditions Precedent and the Developer's Conditions Precedent. Insurance policies for fire or casualty are not to be transferred, and City will cancel its own policies after the Closing. All funds received in Escrow shall be deposited with other escrow funds in a separate interest-earning escrow trust account in a bank doing business in the State of California which is acceptable to the Developer and City. All disbursements shall be made by check from such account.

If in the opinion of either party or the Escrow Agent, it is necessary or convenient in order to accomplish the Closing of the Conveyance of the City Property, such party may require that the parties sign supplemental escrow instructions; provided that if there is any inconsistency between this Agreement and the supplemental escrow instructions, then the provisions of this Agreement shall

control. The supplemental escrow instructions and any amendment of these escrow instructions or the supplemental escrow instructions shall be in writing and shall be signed by both the City and the Developer. At the time of any amendment, the Escrow Agent shall agree to carry out its duties as Escrow Agent under such amendment. All communications from the Escrow Agent to the City or the Developer shall be directed to the addresses and in the manner established in Section 701 of this Agreement for notices, demands and communications between the City and the Developer. The parties agree to execute such other and further documents as may be reasonably necessary, helpful or appropriate to effectuate the provisions of this Agreement. The Closing shall take place when all of the City's Conditions Precedent and the Developer's Conditions Precedent to the Closing of the Conveyance of the City Property, as set forth in Section 204, have been satisfied (and/or waived by the appropriate party). Escrow Agent is instructed to release City's escrow closing statements and Developer's escrow closing statements to the respective parties.

201.7 Authority of Escrow Agent. Escrow Agent is authorized to, and shall:

(a) Pay and charge Developer and City for their respective shares of the premium of the Title Policy as set forth in Section 203.1 and pay and charge each party respectively for any amount agreed to by such party in order to place title to the City Property in the condition necessary to satisfy Section 202 of this Agreement.

(b) Pay and charge Developer and City for their respective shares of any escrow fees, charges, and costs payable under Section 201.5 of this Agreement.

(c) Disburse funds, and deliver and record the Grant Deed and the Declaration when all of the Developer's Conditions Precedent and the City's Conditions Precedent to the Closing of the Conveyance have been fulfilled, or waived, in writing, by the party for whose benefit such condition is imposed. Unless the parties mutually direct otherwise, the sales proceeds shall not be disbursed by the Escrow Agent unless and until the Escrow Agent has recorded the Grant Deed for the Agency Property and City Property and the Title Company is irrevocably committed to deliver to the Developer the Title Policy conforming to the requirements of this Agreement.

(d) Do such other actions as necessary, including obtaining the Title Policy, to fulfill its obligations under this Agreement.

(e) Within the discretion of Escrow Agent, direct City and Developer to execute and deliver any instrument, affidavit, and statement, and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulation promulgated thereunder. City agrees to execute a Certificate of Non-Foreign Status by individual transferor, a Certification of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act and/or a California Franchise Tax Board Form 590 or similar form to assure Developer that there exists no withholding requirements imposed by application of law as may be required by Escrow Agent, on the forms to be supplied by Escrow Agent.

(f) Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, if necessary, and be responsible for withholding taxes, if any such forms are provided for or required by law.

(g) Provide to each party all information which it receives with respect to the condition and acquisition of the City Property.

201.8 Closing. The Conveyance of the City Property shall occur within thirty (30) days of the written satisfaction or written waiver of all of City's Conditions Precedent and Developer's Conditions Precedent to Closing of the Conveyance, as set forth in Section 204 hereof, but in no event later than December 31, 2022 (the "Outside Closing Date"). The Closing of the City Property shall occur at a location within Orange County at a time and place reasonably agreed on by the parties. The "Close" or "Closing" of the City Property shall mean the time and day that Escrow Agent (i) holds all documents and funds necessary to effect the Conveyance of the City Property, and (ii) receives written confirmation that all conditions precedent have been satisfied or waived. The "Closing Date" shall mean the day upon which Escrow Agent causes the Grant Deed and any related documents requiring recordation under this Agreement to be recorded by the Orange County Recorder.

201.9 Termination. If Escrow is not in condition to close by the Outside Closing Date, then either party which has fully performed under this Agreement may, in writing, demand the return of money or property and terminate the Escrow. If either party makes a written demand for return of documents or properties, the Escrow shall not terminate until five (5) days after Escrow Agent shall have delivered copies of such demand to the other party at the address shown in this Agreement. If any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all funds and documents until instructed by a court of competent jurisdiction or by mutual written instructions of the parties. If no such objections are timely raised, the Escrow Agent shall immediately return the demanded money and/or documents, and the escrow cancellation charges shall be paid by the party in Default, or if no party or both parties are in Default half of the escrow cancellation charges shall be paid by each party. Termination of the Escrow shall be without prejudice as to whatever legal rights either party may have against the other arising from this Agreement. If no demands are made for return of documents or properties, the Escrow Agent shall proceed with the Closing as soon as possible. Nothing in this Section 201.9 shall be construed to impair or affect the rights of the Developer to specific performance. If the Escrow for the Conveyance of the City Property is terminated pursuant to this Section 201.9, then this Agreement shall terminate, and Developer shall have no further right to purchase the City Property. The foregoing paragraph shall not be deemed to limit any other right of the City to terminate this Agreement or seek remedies for Developer's default set forth elsewhere in this Agreement.

201.10 Close of Escrow. Escrow Agent shall close Escrow for the Conveyance of the City Property as follows:

(a) Record the Grant Deed, with instructions for the Recorder of Orange County, California to deliver the recorded Grant Deed to Developer;

(b) Record the Declaration against the City Property with instructions for the Recorder of Orange County, California to deliver the recorded Declaration to the City and a conformed copy to Developer.

(c) File any informational reports required by Internal Revenue Code Section 6045I, as amended, and any other applicable requirements;

(d) Deliver the FIRPTA Certificate, if any, to Developer;

(e) Forward to both Developer and City a separate accounting of all funds received and disbursed for each party and copies of all executed and recorded or filed documents deposited into Escrow, with such recording and filing date and information endorsed thereon.

202. Review of Title. The City shall cause First American Title Company or another title company mutually agreeable to both parties (the "Title Company"), to deliver to Developer a standard preliminary title report (the "Report") with respect to the title to the City Property, together with legible copies of the documents underlying the exceptions ("Exceptions") set forth in the Report, within five (5) days following the Date of Agreement. The Developer may, at its own expense, also obtain a survey of the Site (the "Survey") within thirty (30) days of receipt of the Report. The Developer shall have the right to reasonably approve or disapprove the Exceptions and the Survey; provided, however, that the Developer hereby approves the following Exceptions:

(a) The lien of any non-delinquent property taxes and assessments (to be prorated at close of Escrow); and

(b) The provisions set forth in the Grant Deed and the Declaration to be recorded concurrently with the Closing.

Developer shall have thirty (30) days from the date of its receipt of the Report (or sixty (60) days if Developer seeks to obtain a Survey) to give written Notice to City and Escrow Agent of Developer's approval or disapproval of any of such Exceptions and the items shown on the Survey. If Developer notifies City of its disapproval of any Exceptions in the Report and/or Survey items, City shall have the right, but not the obligation, to remove any disapproved Exceptions and/or Survey items, after receiving written notice of Developer's disapproval or provide assurances satisfactory to Developer that such Exception(s) and/or Survey items will be removed within thirty (30) days. If City cannot or does not elect to remove any of the disapproved Exceptions and/or Survey items within that thirty (30) day period, Developer shall have ten (10) business days after the expiration of such thirty (30) day period to either give the City written notice that Developer elects to proceed with the purchase of the City Property subject to the disapproved Exceptions and/or Survey items or to give the City written notice that the Developer elects to terminate this Agreement or that Developer will remove such disapproved Exceptions at Developer's sole cost and expense. The Exceptions to title and Survey items approved by Developer or subject to which Developer agrees to take title to the City Property as provided herein shall hereinafter be referred to as the "Condition of Title." Developer shall have the right to approve or disapprove any Exceptions reported by the Title Company and/or new Survey items (which are not created by Developer) after Developer has approved the Condition of Title for the City Property. Notwithstanding the above, City shall remove any new Exception to title which is voluntarily created by City following the Date of Agreement. Notwithstanding the foregoing, it shall be the responsibility, but not the obligation of the Developer, to remove any restrictions on title which prohibits or limit the construction of the Conforming Hotel.

203. Title Insurance.

203.1 Title Policy for Conveyance of City Property. Concurrently with recordation of the Grant Deed conveying title to the City Property to Developer, City will cause Title Company to issue to Developer a CLTA (1970 Form B) Standard Coverage owner's policy of title insurance, issued by the Title Company insuring that the title to the City Property is vested in Developer in the condition required by this Section 203.1 with insurance coverage in the amount of _____ Dollars (\$_____) (the "Title Policy"). The Title Company shall provide the City with a copy of the

Title Policy. The City shall pay the portion of the premium for the Title Policy equal to the cost of a CLTA standard coverage title policy. Any additional costs, including the incremental cost of an ALTA policy extended coverage above the cost of a CLTA policy in the same policy amount, the costs of any required survey, or any endorsements requested by the Developer, shall be borne by the Developer. Exclusive possession of the City Property shall be delivered to the Developer at the Closing unless Developer specifies otherwise in its sole and absolute discretion.

204. Conditions of Closing. The Closing for the Conveyance of the City Property is conditioned upon the satisfaction of the following terms and conditions within the times designated below:

204.1 City's Conditions Precedent. City's obligation to proceed with the Closing of the Conveyance of the City Property is subject to the fulfillment by Developer (or written waiver by City) of each and every one of the conditions precedent (a) through (l) inclusive, described below ("City's Conditions Precedent"), which are solely for the benefit of City, and which shall be fulfilled or waived by the Outside Closing Date (or such other time periods provided for herein):

(a) **Execution of Documents.** The Developer shall have executed and acknowledged the Grant Deed, the Declaration, and any other documents required hereunder and delivered such documents into Escrow. Developer shall have delivered into Escrow organizational documents evidencing Developer's organization and good standing within the State of California.

(b) **Agency Property.** The Parties shall be in a position to close concurrently on the Agency Property.

(c) **Environmental.** The Developer shall not have elected to cancel Escrow and terminate this Agreement due to the environmental condition of the City Property pursuant to and within the time frame set forth in Section 207.1 hereof.

(d) **Land Use Approvals.** All land use approvals required pursuant to Section 303 hereof shall have been obtained, except a Final Map; provided that a completed application for a tentative map shall have been submitted for processing.

(e) **Insurance.** The Developer shall have provided proof of insurance (or self-insurance) as required by Section 306 hereof.

(f) **Predevelopment Financing.** The Developer shall have provided evidence reasonably satisfactory to the City that the Developer has sufficient internal funds and/or has obtained a loan or financing for the preparation, submittal, and approval by the City of Design and Specifications and such other plans and permits as may be necessary to secure Building Permits to construct the Conforming Hotel pursuant to Section 309 hereof ("Predevelopment Financing"), and such Predevelopment Financing shall close and/or be available to the Developer upon the Closing.

(g) **Project Architect and Project Engineer.** Developer shall have entered into an agreement with a licensed architect to prepare the Design and Specifications and with a duly licensed engineer to prepare and process a Final Map.

(h) **No Litigation.** No litigation, administrative or adjudicative proceeding, including without limitation an application for a writ of mandate, shall be pending or

threatened which seeks to challenge or enjoin the Conveyance or any portion of the Conforming Hotel then being developed in conjunction with the Closing or the transactions covered by this Agreement, or, except to the extent Developer provides adequate security therefor in the reasonable discretion of the City, to obtain damages in connection therewith.

(i) **No Default.** Prior to the Close of Escrow, Developer shall not be in Default in any of its obligations under the terms of this Agreement and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

(j) **Conforming Hotel Franchise Agreement and Conforming Hotel Operating Agreement.** Developer shall have entered into a Conforming Hotel Franchise Agreement and a Conforming Hotel Operating Agreement, each of which shall have been approved by the City acting in its reasonable discretion to determine conformity with this Agreement.

(k) **Hotel Operator.** City shall have approved the Hotel Operator.

(l) **Section 208 Escrow Instructions.** The parties shall have agreed upon terms of the escrow instructions required in regard to Developer's deposit of the grant deeds for the Agency Property, City Property pursuant to Section the 208 Escrow Instructions.

204.2 Developer's Conditions Precedent. Developer's obligation to proceed with the purchase of the City Property is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent (a) through (j) inclusive, described below ("Developer's Conditions Precedent"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the Outside Closing Date (or such other time periods provided for herein):

(a) **No Default.** Prior to the Close of Escrow, City shall not be in Default in any of its obligations under the terms of this Agreement and all representations and warranties of City contained herein shall be true and correct in all material respects.

(b) **Execution of Documents.** The City shall have executed and acknowledged the Grant Deed, the Declaration, and any other documents required hereunder, and delivered such documents into Escrow.

(c) **Agency Property.** The Parties shall be in a position to close concurrently on the Agency Property.

(d) **Title Policy.** Developer shall have reviewed and approved the Condition of Title of the City Property, as provided in Section 202 hereof, and the Title Company shall, conditioned only upon payment of Title Company's regularly scheduled premium, have irrevocably committed to provide the Title Policy for the City Property upon the Close of Escrow, in accordance with Section 203 hereof.

(e) **Property Condition.** The Developer shall not have elected to cancel Escrow and terminate this Agreement due to the Property Condition pursuant to Section 207.1 hereof.

(f) **Land Use Approvals.** All land use approvals required pursuant to Section 303 hereof shall have been obtained, except a Final Map; provided that a completed application for a tentative map shall have been submitted for processing.

(g) **No Litigation.** No litigation, administrative or adjudicative proceeding, including without limitation an application for a writ of mandate, shall be pending or threatened which seeks to challenge or enjoin the Conveyance or any portion of the Conforming Hotel then being developed in conjunction with the Closing, or the transactions covered by this Agreement or, except to the extent Developer provides adequate security therefor in the reasonable discretion of the City, to obtain damages in connection therewith.

(h) **Conforming Hotel Franchise Agreement and Conforming Hotel Operating Agreement.** Developer shall have entered into a Conforming Hotel Franchise Agreement and a Conforming Hotel Operating Agreement, each of which shall have been approved by the City acting in its reasonable discretion to determine conformity with this Agreement.

(i) **Hotel Operator.** City shall have approved the Hotel Operator. City hereby approves Kam Sang as the operator.

(j) **Section 208 Escrow Instructions.** The parties shall have agreed upon terms of the escrow instructions required in regard to Developer's deposit of the grant deeds for the Agency Property, City Property, and Housing Authority Property pursuant to Section 208 Escrow Instructions.

205. Representations and Warranties.

205.1 City Representations. City represents and warrants to Developer as follows:

(a) City is a municipal corporation organized under the Constitution and laws of the State of California.

(b) The execution and delivery of this Agreement by City has been fully authorized by all requisite actions on the part of City.

(c) City's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which City is a party or by which it is bound.

(d) City shall have, as of the Closing, provided Developer access to all written materials regarding the City Property that the City has Actual Knowledge of and which are in its possession, and City has no actual knowledge of any other such written materials.

(e) The City has no Actual Knowledge, and has not received any notice or communication from any governmental agency having jurisdiction over the City Property notifying the City of the presence of surface or subsurface zone Hazardous Materials in, on or under the City Property or any portion thereof.

"Actual Knowledge," as used herein, shall not impose a duty of investigation, and shall mean the actual knowledge of the City's employees and agents who have participated in the preparation of this Agreement and the acquisition of the City Property.

Until the Closing, City shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 205.1 not to be true as of Closing, immediately give written Notice of such fact or condition to Developer. Such exception(s) to a

representation shall not be deemed a breach by City hereunder, but shall constitute an exception which Developer shall have a right to approve or disapprove if such exception would have a material effect on the value and/or operation of the Conforming Hotel. If Developer elects to close Escrow following disclosure of such information, City's representations and warranties contained herein shall be deemed to have been made as of the Closing, subject to such exception(s). If, following the disclosure of such information, Developer elects to not close Escrow, then the Escrow shall automatically terminate, and the provisions of Section 201.9 shall apply. The representations and warranties set forth in this Section 205.1 shall survive the Closing.

205.2 Developer's Representations. Developer represents and warrants to City as follows:

(a) **Authority.** Developer is a duly organized limited liability company within and in good standing under the laws of the State of California. The copies of the documents evidencing the organization of the Developer that have been delivered to the City through Escrow are true and complete copies of the originals, as amended to the Date of Agreement. The execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of the Developer.

(b) **No Conflict.** Developer's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which the Developer is a party or by which it is bound.

(c) **No Developer Bankruptcy.** Developer is not the subject of a current or pending bankruptcy proceeding.

Until the Closing, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 205.2 not to be true as of Closing, immediately give written Notice of such fact or condition to City. Such exception(s) to a representation shall not be deemed a breach by Developer hereunder, but shall constitute an exception which City shall have a right to approve or disapprove if such exception would have an effect on the value and/or operation of the Conforming Hotel. If City elects to close Escrow following disclosure of such information, Developer's representations and warranties contained herein shall be deemed to have been made as of the Closing, subject to such exception(s). If, following the disclosure of such information, City elects to not close Escrow, then the Escrow shall automatically terminate, and the provisions of Section 201.9 shall apply. The representations and warranties set forth in this Section 205.2 shall survive the Closing.

206. Studies and Reports; Right of Entry. The Developer shall have access to all written reports, documents, data and information on the City Property available to and in the possession of the City, but without warranty or representation by the City as to the completeness, correctness or validity of such written materials. City shall warrant as of the Closing that it has provided access to all such written materials that the City has Actual Knowledge of and which are in its possession or reasonably available to it and that the City has no Actual Knowledge of any other such written materials.

For a period of one hundred twenty (120) days after the Date of Agreement, Developer shall, upon (a) execution by the Developer of a right of entry agreement in the form of Exhibit H attached hereto, and (b) giving at least twenty-four (24) hours' notice to the City, have access to the City Property for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement. The Developer shall hold harmless, indemnify, and release the City and its officers,

employees, and representatives from and against any injury or damages arising out of any activity pursuant to this Section 206. At the City's request, copies of data, surveys and tests obtained or made by the Developer on the City Property shall be filed with the City, without warranty or representation by the Developer as to the completeness, correctness or validity of such data and information. Any preliminary work by the Developer shall be undertaken only when any necessary permits have been secured from the appropriate governmental agencies.

207. Property Condition; Release of City as to City Property.

207.1 Approval of Property Condition. Developer shall be entitled to reasonably approve or disapprove the condition of the City Property as it relates to Hazardous Materials, soils, geology, seismic conditions, suitability for the intended purpose and land use (the "Property Condition") by notice to the City within thirty (30) days following the Date of Agreement. In the event that the Developer disapproves the Property Condition, this Agreement shall be terminated as provided in Section 606 hereof.

207.2 No Further Warranties As To City Property; Delivery of City Property "as is"; Release of City. Except for representations, warranties and covenants of the City in this Agreement to the contrary, which have not otherwise been disavowed to the Developer pursuant to Section 205.1, the physical condition of the City Property is and shall be delivered to Developer in an "as-is" condition, with no warranty expressed or implied by City, including without limitation, regarding the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the City Property for the development purposes intended hereunder.

Except for representations, warranties, and other covenants of the City in this Agreement to the contrary, which have not otherwise been disavowed to the Developer pursuant to Section 205.1, the Developer hereby waives, releases and discharges forever the City, and its employees, officers, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with the City's or the Developer's use, maintenance, ownership or operation of the City Property, any Hazardous Materials on the City Property, or the existence of Hazardous Materials Contamination in any state on the City Property, however they came to be placed there.

The Developer acknowledges that it is aware of and familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

Except for representations, warranties and covenants of the City in this Agreement to the contrary, which have not otherwise been disavowed to the Developer pursuant to Section 205.1, as such provision relates to this Section 207.2, the Developer hereby waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

207.3 Developer Precautions. From and after the Date of Agreement, the Developer shall use commercially reasonable efforts to prevent the release into the environment of any Hazardous

Materials that are located in, on or under the City Property. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials.

207.4 Required Disclosures. From and after the Date of Agreement, the Developer shall notify the City, and provide to the City a copy or copies, of all environmental permits, disclosures, applications, entitlements or inquiries relating to the City Property, including notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks. Upon request, the Developer shall furnish to the City a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the City Property including, but not limited to, all permit applications, permits and reports.

207.5 Developer Indemnity. Except as to the representations, warranties and covenants of the City in this Agreement to the contrary which have not otherwise been disavowed to the Developer pursuant to Section 207.2, Developer agrees to indemnify, defend and hold City and their respective officers, employees, agents, representatives and volunteers harmless from and against any claim, action, suit, proceeding, damage, liability, deficiency, fine, penalty, or punitive damage (including, without limitation, reasonable attorneys' fees), resulting from, arising out of, or based upon the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Site which occurs from and after the Date of Agreement.

208. Post-Closing Conditions and Obligations. The Developer shall fulfill the following post-closing conditions within the timeframe set forth herein.

(a) On or before January 30, 2023, Developer shall provide evidence to the City that it has begun processing Final Maps.

(b) On or before April 30, 2023, Developer shall begin processing Final Maps with the County of Orange.

(c) On or before May 30, 2023, the City shall have approved the Final Site Plan and the Developer shall have cause to be prepared the Schematic Design for the Conforming Hotel.

(d) On or before September 30, 2023, the Developer shall have caused the Design Development Drawings (with exterior Designs and Specifications only) to be submitted to the City for initial review.

(e) On or before June 30, 2024, Developer shall have provided City with evidence of Construction Financing.

(f) On or before August 1, 2024, Developer shall have received Building Permits for foundation and superstructure, and recorded and funded its Construction Financing.

(g) On or before November 1, 2024, Developer shall commence excavation.

(h) On or before February 1, 2025, Developer shall have commenced Construction.

In the event that any of these conditions are not fulfilled within the prescribed timeframes, City will have the right to declare such failure of condition a Breach and following notice and an opportunity to cure, as described in Section 602, such Breach and failure to cure, shall become a Default.

208.1 Return of Agency Property and City Property. Upon such Default, Developer shall convey or cause the conveyance of the City Property and Agency Property to the City, with the property condition and title condition as when each was conveyed and the City shall then return Developer the Purchase Price for the City Property (\$920,000.00); provided, however the parties may jointly agree to allow the Developer to retain the Agency Property for purposes of development in accordance with the Agency DDA.

In furtherance of the requirements of this Section 208.1, Developer shall, concurrently with the Closing, deposit grant deeds for the Agency Property, City Property and Housing Authority Property with Escrow Agent together with escrow instructions mutually agreed to by the Developer and City, consistent with the terms of this Section 208.1 (“208 Escrow Instructions”).

Kam Sang hereby guaranties the performance of Developer under this Section 208.1 pursuant to the Guaranty.

300. DEVELOPMENT OF THE SITE

301. Scope of Development.

301.1 Conforming Hotel. Developer shall develop the Site in substantial conformance with the Conceptual Site Plan, Land Use Approvals and the Scope of Development, within the time periods set forth in the Schedule of Performance. The physical quality of the Conforming Hotel, including, without limitation, construction quality, finish material, lighting, landscaping and site amenities shall be comparable to (i) that achieved at the Nickelodeon Hotel & Resort located in Punta Cana, Dominican Republic or (ii) another resort hotel which, at a minimum meets the AAA Four Diamond Requirements. In addition to the foregoing, and in either case, the actual and direct third-party construction costs for the Conforming Hotel shall not be less than Two Hundred Fifty Thousand Dollars (\$250,000) per room computed by dividing the total actual and direct third -party construction costs by the number of rooms (“Minimum Shell Costs”). The actual and direct third -party costs per room for Furniture, Fixtures, and Equipment shall be not less than Forty-Five Thousand Dollars (\$45,000) (“Minimum FF&E Costs”). Following the issuance of the Release of Construction Covenants for the Conforming Hotel and thereafter until the expiration or termination of the Covenant Consideration Period, the Conforming Hotel and repair and maintenance thereof shall remain comparable in terms of quality and level of amenities existing for the Conforming Hotel as of the date of issuance of the Release of Construction Covenants. In order to ensure that these quality expectations of each party for the Conforming Hotel are met, Developer hereby agrees to construct the Conforming Hotel in accordance with the Minimum Development Standards and the Preliminary Capital Cost Budget. The architectural and interior designs and specifications (the “Design and Specifications”) for the buildings in the Conforming Hotel will be prepared in conformity with such Minimum Development Standards and Preliminary Capital Cost Budget. The Developer shall submit

the Design and Specifications for the Conforming Hotel for review by the City as part of the submittal of the Design Development Drawings set forth in Section 302.1 below. The Design and Specifications shall include a detailed budget for the construction, furnishing and equipping of the Conforming Hotel, exclusive of land costs (the “Capital Cost Budget” for the Conforming Hotel), which Capital Cost Budget shall be at least equal to the Preliminary Capital Cost Budget for the Conforming Hotel, as adjusted pursuant to the third paragraph of this Section 301.1, if applicable.

In addition to the requirement that such Design and Specifications must be in compliance with the Land Use Approvals, the City shall review the Capital Cost Budget submitted with such Design and Specifications to assure that it: (a) represents a reasonable estimate of the cost required to construct, furnish and equip those portions of the Conforming Hotel proposed to be constructed; and (b) reflects a total square footage and a total cost at least equal to the Preliminary Capital Cost Budget for the Conforming Hotel as adjusted pursuant to the third paragraph of this Section 301.1, if applicable. The City shall also review the Design and Specifications to assure that the Design and Specifications is in conformity with the Minimum Development Standards. The Design and Specifications shall be deemed to be in conformity with the Minimum Development Standards, and the associated Capital Cost Budget shall be deemed to be a reasonable estimate of the cost required to construct, furnish and equip the portions of the Conforming Hotel proposed to be constructed if a registered California architect delivers a certification to the City to such effect. If the Capital Cost Budget does not fulfill the aforementioned conditions, or the Design and Specifications are not in conformity with the Minimum Development Standards, the City shall have the right, but not the obligation, to reject the Design and Specifications (including the Capital Cost Budget) for the Conforming Hotel until Developer corrects such matters to the reasonable satisfaction of City. Provided that Developer is not otherwise in Default and subject to the right to terminate as a result of the expiration of the term of this Agreement, the foregoing process shall be repeated as many times as necessary until the Design and Specifications and associated Capital Cost Budget are ascertained to have met the standards set forth above, or the City, in its sole discretion, approves such Design and Specifications (including the Capital Cost Budget) irrespective of such requirement. Once the Design and Specifications (including the Capital Cost Budget) are approved in the foregoing manner, such Design and Specifications (including the Capital Cost Budget) shall be referred to as the “Final Site Plan” for the Conforming Hotel. Developer shall file such Design and Specifications (including the Capital Cost Budget) with respect to the Conforming Hotel Design and Specifications (including the Capital Cost Budget) shall be submitted on or before three (3) months prior to the proposed date for commencement of construction.

The Conforming Hotel will be constructed in Substantial Conformity with the Final Site Plan. If a Development Area is not constructed in substantial conformity with the Final Site Plan, then the City shall not be obligated to pay Covenant Considerations. The Conforming Hotel shall be deemed to have been developed in conformity with its Final Site Plan if a registered California architect delivers a certification to the City stating that the Conforming Hotel has been constructed in Substantial Conformity with the Final Site Plan for the Conforming Hotel. “Substantial Conformity” for purposes of this Section means that the final cost of constructing the Conforming Hotel excluding land costs shall be within ten percent (10%) of the approved Capital Cost Budget including any in lieu payments, the materials shall be of like quality and appearance, and the Conforming Hotel shall be otherwise built in accordance with the Final Site Plan.

302. Design Review.

302.1 Developer Submissions. Before commencement of construction of the Conforming Hotel or other works of improvement upon the Site, the Developer shall submit to the City

any plans and drawings (collectively, the “Design Development Drawings”) which may be required by the City with respect to any permits and entitlements which are required to be obtained to develop the Site.

302.2 City Review and Approval. The City shall have all rights to review and approve or disapprove all Design Development Drawings and other required submittals in accordance with the City Municipal Code, and nothing set forth in this Agreement shall be construed as the City’s approval of any or all of the Design Development Drawings. City shall retain discretionary approval over the quality and appearance of those elements of the Conforming Hotel having a material visual impact on the exterior portions of the Conforming Hotel through the process set forth in Section 301.1 for Developer to obtain an Approved Final Site Plan (as set forth in Section 301.1 above). Following approval of the Approved Final Site Plan for the Conforming Hotel, City shall have no further discretionary approval rights over such exterior portions of the Conforming Hotel except to the extent the Developer does not adhere to such Approved Final Site Plan in construction of the Conforming Hotel.

302.3 Revisions. Any and all change orders or revisions required by the City and its inspectors which are required under the Municipal Code and all other applicable Uniform Codes (e. g. Building, Plumbing, Fire, Electrical, etc.) and under other Governmental Requirements shall be included by the Developer in its Design Development Drawings and other required submittals and shall be completed during the construction of the Conforming Hotel.

302.4 Defects in Plans. The City shall not be responsible either to the Developer or to third parties in any way for any defects in the Design Development Drawings, nor for any structural or other defects in any work done according to the approved Design Development Drawings, nor for any delays reasonably caused by the review and approval processes established by this Section 302.

303. Land Use Approvals. Before commencement of construction of the Conforming Hotel or other works of improvement upon the Site, the Developer shall secure or cause to be secured, at the expense of the Developer, any and all land use and other entitlements, permits and approvals which may be required for the Conforming Hotel by the City or any other governmental agency affected by such construction or work, including without limitation, the Development Agreement and compliance with CEQA (“Land Use Approvals”).

303.1 Developer to Pay Costs. City and Developer shall, without limitation, apply for and secure the following, and Developer shall pay all costs, charges and fees associated therewith:

(a) All permits and fees required by the City, County and other governmental agencies with jurisdiction over the Conforming Hotel:

(b) All approvals for a final subdivision map, parcel map or lot line adjustment necessary to consolidate and re-subdivide the parcels within the Site pursuant to the California Subdivision Map Act.

304. Schedule of Performance. The Developer shall submit all applications for Land Approvals and commence and complete construction of the Conforming Hotel and otherwise comply with its obligations under this Agreement in accordance with the Schedule of Performance, as such dates therein may be extended by the parties or by operation of law.

305. Cost of Construction. All of the cost of planning, designing, developing and constructing the Conforming Hotel shall be borne solely by Developer.

306. Insurance Requirements. On or before the date of commencement of construction of the Conforming Hotel or any portion thereof, the Developer shall take out and maintain or shall cause its contractor to take out and maintain until the issuance of the final Release of Construction Covenants pursuant to Section 310 of this Agreement, a comprehensive general liability policy with a policy limit in the amount of Three Million Dollars (\$3,000,000) combined single limit policy, with limits of One Million Dollars (\$1,000,000) per occurrence, including contractual liability, as shall protect the Developer and City from claims for such damages, and which policy shall be issued by a reputable insurance carrier licensed to do business in the State of California. Such policy or policies shall be written on an occurrence basis. The Developer shall also furnish or cause to be furnished to the City evidence satisfactory to the City that Developer and any contractor with whom it has contracted for the performance of work on the Site or otherwise pursuant to this Agreement carries workers' compensation insurance as required by law. The Developer shall furnish a certificate of insurance countersigned by an authorized agent of the insurance carrier setting forth the general provisions of the insurance coverage. This countersigned certificate shall name the City and its respective officers, employees, agents, representatives and volunteers as additionally insured parties under the policy, and the certificate shall be accompanied by a duly executed endorsement evidencing such additional insured status. The certificate and endorsement by the insurance carrier shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation or termination of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation or termination. Coverage provided hereunder by the Developer shall be primary insurance and not be contributing with any insurance maintained by the City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City. The required certificate shall be furnished by the Developer prior to the commencement of construction of the Conforming Hotel or any portion thereof.

307. Indemnification. The Developer shall defend, indemnify, assume all responsibility for, and hold the City, and its officers, employees, agents, representatives and volunteers, harmless from all claims, demands, damages, defense costs or liability of any kind or nature relating to (a) any damages to property or injuries to persons, including accidental death (including attorneys' fees and costs), which may be caused by any acts or omissions of the Developer under this Agreement, whether such activities or performance thereof be by the Developer or by anyone directly or indirectly employed or contracted with by the Developer and whether such damage shall accrue or be discovered before or after termination of this Agreement, except to the extent such matters are caused by the negligence or willful misconduct of the City, or its officers, employees, agents, representatives or volunteers, its own Default under this Agreement, or the invalidity of any covenants, representations or warranties of the City (except to the extent the invalidity of such covenant, representation, or warranty has been previously disclosed to and approved by Developer), as to which Developer shall not be liable, and (b) any litigation, administrative or adjudicative challenge by third parties to the validity, applicability, interpretation or implementation of this Agreement, or the approval of any environmental analysis with respect to the Conforming Hotel and this Agreement and/or Governmental Requirements ("Action"). The Developer shall have the obligation to defend any such action; provided, however, that this obligation to defend shall not be effective if and to the extent that Developer determines in its reasonable discretion that such Action is meritorious or that the interests of the parties justify a compromise or a settlement of such Action, in which case Developer shall compromise or settle such Action in a way that fully protects City from any liability or obligation. In this regard, Developer's obligation and right to defend shall include the right to hire (subject to written approval by the City)

attorneys and experts necessary to defend, the right to process and settle reasonable claims, the right to enter into reasonable settlement agreements and pay amounts as required by the terms of such settlement, and the right to pay any judgments assessed against Developer or City. If Developer defends any such Action, as set forth above, (i) Developer shall indemnify and hold harmless City and its officers, employees, representatives, agents and volunteers from and against any claims, losses, liabilities, or damages assessed or awarded against either of them by way of judgment, settlement, or stipulation; (ii) City shall be entitled to settle any such claim only with the written consent of the Developer; and (iii) any settlement without Developer's consent shall not constitute a default by City but shall release Developer's obligations under this Section 307 with respect to such settled claim.

308. Rights of Access. Representatives of City shall have the right of access to the Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Conforming Hotel, so long as City representatives comply with all safety rules and do not interfere with, delay or interrupt Developer's construction activities. At the option of the Developer, such City representatives shall be escorted by a representative of the Developer. The City shall indemnify the Developer and hold it harmless from any damage caused or liability arising out of the exercise of the foregoing right of access.

309. Financing of the Conforming Hotel.

309.1 Approval of Financing. As required in §204 (f) and §208 (e), Developer shall submit to City evidence that Developer has obtained sufficient equity capital and/or has obtained firm and binding commitments for Predevelopment and Construction Financing necessary to undertake the development of the Conforming Hotel in accordance with this Agreement. The City shall approve or disapprove such evidence of financing commitments within thirty (30) days of receipt of a complete submission. Approval shall not be unreasonably withheld, delayed or conditioned. If City shall disapprove any such evidence of financing, City shall do so by Notice to Developer stating the reasons for such disapproval and Developer shall promptly obtain and submit to City new evidence of financing. City shall approve or disapprove such new evidence of financing in the same manner and within the same times established in this Section 309.1 for the approval or disapproval of the evidence of financing as initially submitted to City. Developer shall close the approved Construction Financing, if any, prior to or concurrently with the Closing. Such evidence of financing shall include the following: (a) a copy of a legally binding, firm and enforceable loan commitment(s), if any, obtained by Developer from one or more financial institutions for the mortgage loan or loans for construction and permanent financing for the Conforming Hotel, subject to such lenders' reasonable, customary and normal conditions and terms, and/or (b) other documentation satisfactory to the City as evidence of other sources of capital sufficient to demonstrate that Developer has adequate funds to cover the difference between the total cost of the construction and completion, less financing authorized by those loans set forth above.

309.2 No Encumbrances Except Mortgages, Deeds of Trust, or Sale and Lease-Back for Development. Mortgages, deeds of trust and sales and leases-back shall be permitted before completion of the Conforming Hotel only with the City's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, but only for the purpose of securing loans of funds to be used for financing the construction of the Conforming Hotel (including architecture, engineering, legal, and related direct costs as well as indirect costs) on or in connection with the Site, and any other purposes necessary and appropriate in connection with development under this Agreement. In no event, however, shall the amount or amounts of indebtedness secured by mortgages

or deeds of trust exceed the sum of the fair market value of the Site and the projected cost of constructing, furnishing, equipping and leasing the Conforming Hotel, as evidenced by a pro forma and a construction contract which set forth such construction costs. The Developer shall notify the City in advance of any mortgage, deed of trust or sale and leaseback financing, if the Developer proposes to enter into the same before completion of the construction of the Conforming Hotel. The words “mortgage” and “trust deed” as used hereinafter shall include sale and lease-back.

309.3 Holder Not Obligated to Construct the Conforming Hotel. The holder of any mortgage or deed of trust authorized by this Agreement (a “Holder” or “Lender”) shall not be obligated by the provisions of this Agreement to construct or complete the Conforming Hotel or any portion thereof, or to guarantee such construction or completion; nor shall any covenant or any other provision in this Agreement be construed so to obligate such Holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such Holder to devote the Site to any uses or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

309.4 Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure. With respect to any mortgage or deed of trust granted by Developer as permitted herein, whenever the City may deliver any notice or demand to Developer with respect to any default by the Developer of any provision of this Agreement, the City shall at the same time deliver to each Holder of record of any mortgage or deed of trust authorized by this Agreement which City has approved or of which City has knowledge a copy of such notice or demand. City shall not commence the exercise of its remedies under Section 600 of this Agreement by reason of such default, if and so long as, within thirty (30) days after the receipt of the notice:

(a) Lender shall cure or remedy, or commence to cure or remedy and thereafter to pursue with due diligence the cure or remedy, of any such default and to add the cost thereof to the mortgage debt and the lien of its mortgage; or

(b) In case of a default by the Developer in the performance or observance of any term, covenant, condition or agreement on Developer’s part to be performed under this Agreement, other than a term, covenant, condition or agreement requiring the payment of a sum of money, if such default is of such a nature that the same cannot practicably be cured by Lender without taking possession of the Site, or if such default is of such a nature that the same cannot be cured by Lender within thirty (30) days of receipt of such notice, Lender shall deliver to City a written instrument reasonably acceptable to the City wherein Lender agrees that it will seek to obtain possession of the Site and upon obtaining such possession will cure such default, and thereafter Lender commences and diligently proceeds to obtain possession of the Site as mortgagee (through the appointment of a receiver, foreclosure or otherwise), and (i) within one hundred eighty (180) days following the delivery of the aforementioned written instrument to the City, obtains possession and/or conveys the Site to a third party reasonably acceptable to the City, and (ii) upon obtaining possession or conveying to an approved third party, Lender or such approved third party promptly commences and duly prosecutes to completion within thirty (30) days thereafter such action as may be necessary to cure such default and assumes, by execution of a form acceptable to the City, this Agreement.

(c) Nothing contained in this Agreement shall be deemed to permit or authorize any Holder to undertake or continue the construction or completion of the Conforming Hotel or avail itself of the benefits of this Agreement, or any portion thereof (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly

assumed the Developer's obligations to the City by written agreement reasonably satisfactory to the City. The Holder, in that event, must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such Holder relates. Any such Holder properly completing such improvement shall be entitled, upon compliance with the requirements of Section 310 of this Agreement, to a Release of Construction Covenants.

309.5 Failure of Holder to Complete the Conforming Hotel. In any case where, thirty (30) days after the Holder of any mortgage or deed of trust creating a lien or encumbrance upon the Site or any part thereof receives a notice from City of a default by the Developer in completion of construction of any portion of the Conforming Hotel under this Agreement, and such Holder has not notified the City that it has elected to cure the default or seek possession of the Site as set forth above, or if it has exercised the option but has defaulted thereunder and failed to timely cure such default, the City may purchase the mortgage or deed of trust from the Holder of the mortgage or deed of trust, by the payment of any unpaid principal, plus accrued interest thereon.

309.6 Right of the City to Cure Mortgage or Deed of Trust Default. In the event of a mortgage or deed of trust default or breach by the Developer prior to the completion of the construction of the Conforming Hotel or any part thereof, Developer shall immediately deliver to City a copy of any mortgage Holder's notice of default. If the Holder of any mortgage or deed of trust has not exercised its option to construct, the City shall have the right but no obligation to cure the default. In such event, the City shall be entitled to reimbursement from the Developer of all proper costs and expenses incurred by the City in curing such default. To the extent permitted by law, the City shall also be entitled to a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be junior and subordinate to the mortgages or deeds of trust pursuant to this Section 309.6.

309.7 Priority of Lender's or Holder's Lien. Nothing herein shall preclude such lender from taking any action under the loan documents related to the loan secured by the such deed of trust, including extensions, renewals, modifications (including further advances), compromising and collecting. Any lender or transferee acquiring title to the Site shall not be liable to City for acts or omissions of any prior owner or developer, including any obligation for any of the indemnitees that accrued before said acquisition.

310. Release of Construction Covenants. Promptly after completion of the Conforming Hotel, in Substantial Conformity with the Approved Final Site Plan therefor, the City shall furnish Developer with a Release of Construction Covenants as to the Conforming Hotel, upon written request therefor by Developer. The City shall not unreasonably withhold such Release of Construction Covenants. Such Release of Construction Covenants shall be a conclusive determination of satisfactory completion of the construction of the Conforming Hotel, and the Release of Construction Covenants shall so state. The Release of Construction Covenants shall be in such form as to permit it to be recorded in the Recorder's Office of Orange County. If the City refuses or fails to furnish a Release of Construction Covenants after written request from City, the City shall, within ten (10) days of written request therefor, provide Developer with a written statement of the reasons the City refused or failed to furnish a Release of Construction Covenants. The statement shall also contain City's opinion of the actions Developer must take to obtain a Release of Construction Covenants. If the reason for such refusal is confined to the immediate unavailability of specific items of materials for landscaping or other minor "punch list" items, the City shall issue its Release of Construction Covenants upon the posting of a bond or other security acceptable to City in City's sole discretion in an amount representing the fair value of the work not yet completed. Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of

Developer to any Holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the improvements, or any part thereof. Such Release of Construction Covenants is not a notice of completion as referred to in the California Civil Code Section 3093.

311. Compliance With Laws. The Developer shall carry out the design, construction and operation of the Conforming Hotel in conformity with all applicable laws, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation (to the extent applicable) the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.* (“Governmental Requirements”).

312. Taxes and Assessments. From and after the Date of Agreement, the Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site. For a period of twenty (20) years from the date of the Release of Construction Covenants issued by the City for the Site and/or the Conforming Hotel, the Developer shall not appeal any assessed valuation of the Site and/or the Conforming Hotel, except that Developer may appeal the amount by which any increase in such assessed valuation is in excess of either (a) the increase, over the same period of time, in the CPI, or (b) the limitations on such increases in valuation imposed by Proposition 13 or its implementing statutes.

313. Construction Contract. A draft of the Construction Contract(s) to be executed between Developer and the Contractor for the construction of the Conforming Hotel, certified by Developer to be true and correct copies thereof, and which shall include reference to this Agreement and such Contractor’s specific obligation to carry out the construction and completion of the Conforming Hotel in conformity with the applicable federal, state, and local laws and regulations.

400. COVENANTS AND RESTRICTIONS

In consideration for the City entering into this Agreement and other consideration set forth herein, the Developer has agreed to certain covenants, conditions and restrictions applicable to the use and operation of the Site, as set forth below, and has executed and acknowledged and delivered to the City the Declaration containing these covenants, conditions and restrictions (collectively, “Covenants”) along with other provisions of this Agreement applicable to the Site. The Developer further hereby agrees and authorizes the City to record the Declaration against the Site at the Closing. Developer therefore hereby covenants and agrees for itself, its successors, assigns, and every successor in interest to the Site or any portion thereof or leasehold interest therein, which covenants shall run with the land, and shall be enforceable by the City against Developer and all successors in interest to all or any portion of the Site or leasehold interest therein with respect to the portion of the Site owned or leased by such party during such party’s period of ownership thereof or term of leasehold interest therein, as follows:

401. Uses and Operation. The Developer covenants and agrees to use and operate, and maintain the Site as the Conforming Hotel for a period of not less than thirty (30) years, in accordance with the Grant Deed, the Declaration, and this Agreement. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to all applicable Governmental Requirements and the recorded documents pertaining to and running with the Site.

402. Nondiscrimination Covenants. The Developer covenants by and for itself and any successors in interest, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site. The foregoing covenants shall run with the land.

The Developer shall refrain from restricting the rental, sale or lease of the Site on the basis of race, color, religion, sex, marital status, ancestry or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) **In deeds:** “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land.”

(b) **In leases:** “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

“That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(c) **In contracts:** “There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises.”

403. Nondiscrimination in Employment. Developer covenants, by itself and any successor in interest, that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all subcontractors, bidders and vendors, are and will be treated

equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000, *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621, *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b, *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900, *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, and all other anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended.

404. Maintenance of the Site. The Developer shall maintain the Site and all improvements thereon, including all landscaping, in compliance with all applicable provisions of the City Municipal Code and the Declaration.

405. Retail Users. The retail element of the Conforming Hotel shall contain internationally, nationally or regionally recognized tenants and the total gross leasable area of the retail component shall contain not less than seventy (70%) percent of such tenancies.

406. Conforming Hotel Operators, Conforming Hotel Operating Agreement and Conforming Hotel Franchise Agreement. City acknowledges that it has pre-approved Kam Sang Company, Inc. or any Affiliate as Hotel Operator City shall approve all other Hotel Operators, Conforming Hotel Operating Agreements, and Conforming Hotel Franchise Agreements in its reasonable discretion to insure conformity with this Agreement.

407. Compliance With Laws. The Developer shall carry out the design, construction and operation of the Conforming Hotel in conformity with all applicable laws, including all applicable state labor standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.* The Developer shall ascertain and comply with all applicable labor laws, including Prevailing Wage Statutes in the construction of the Conforming Hotel including, where applicable, prevailing wage laws. Developer shall provide documentation reasonably acceptable to the City, on a quarterly basis, to verify Developer's compliance with this provision. Developer shall defend, indemnify, and hold City harmless with respect to compliance with this Section 407.

In addition, Developer shall utilize union labor for a minimum of sixty percent (60%) of the total costs attributed to all subcontractors used in constructing the Conforming Hotel, as evidenced by the Construction Contract with its general contractor. Developer shall also provide preferences in hiring to Local Residents in the tiered order of priority described in Exhibit N.

408. Term of Covenants. As further set forth in the Grant Deed and Declaration, the Covenants set forth in this Section 400 shall remain in effect for the term set forth herein. The nondiscrimination Covenants set forth in Sections 402 and 403 shall remain in effect in perpetuity. The use and operating Covenants set forth in Sections 401, 405, and 406 and the hiring preference set forth in Section 407 shall be effective for a period beginning upon the date that the Declaration is recorded against the Conforming Hotel, and terminating upon the thirtieth (30th) anniversary thereof

or earlier termination of the Covenant Considerations Period. The Maintenance Covenant set forth in Section 404 shall remain in effect for the duration of the City's Municipal Code. The requirements of Section 407, shall remain in effect until a Release of Construction Covenants is issued.

409. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction. The Covenants established in this Agreement and the Declaration shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns except as to enforcement of the Covenants set forth in the Declaration which shall be solely the right of the City.

500. COVENANT CONSIDERATION

In order to induce the Developer to construct and operate the Conforming Hotel, and as consideration for the Developer Constructing and operating the Conforming Hotel, the City has agreed to provide to Developer the Covenant Consideration described in Section 502 upon the terms set forth herein.

501. Confirmation that the Conforming Hotel has been Constructed and is Operating in Accordance with this Agreement. Upon completion of the Conforming Hotel, the Developer shall provide to the City, at Developer's sole cost and expense, an independent third-party audit, by an auditor approved by the City confirming that the Conforming Hotel has been constructed and is operating as the Conforming Hotel (the "Third-Party Audit"). The City shall approve or reject the results of the Third-Party Audit acting in its reasonable discretion.

502. Covenant Consideration for the Conforming Hotel. Except as set forth in Section 503, upon the fulfillment of the City Disbursement Conditions described in Section 505, the City shall pay to the Developer an amount equal to sixty percent (60%) of the Transient Occupancy Tax collected and remitted to the City during the Operating Period based on the Applicable Transient Occupancy Tax Rate with respect to the Conforming Hotel ("Covenant Consideration"). Covenant Consideration shall commence within ninety (90) days after the Construction Cost Verification is received and accepted by the City and shall be made annually thereafter no later than sixty (60) days after the applicable annual period.

503. Covenant Consideration Period. Covenant Consideration shall terminate upon the earlier to occur of (i) expiration of the applicable Operating Period, (ii) receipt of a total of Ninety Three Million Dollars (\$93,000,000) in Covenant Consideration, or at such time as the Conforming Hotel ceases to operate for reasons other than Temporary Closure; provided that the Covenant Consideration shall terminate upon any closure unless the Developer notifies the City, in writing, of any Temporary Closure within ten (10) days of the initial occurrence of the onset of such condition or conditions that cause such a Temporary Closure; provided, further that the Agency Assistance Payments shall be a credit against the obligation of the City to pay Covenant Consideration. The period during which Covenant Consideration is paid, as described above, is the "Covenant Consideration Period."

504. No Pledge. The making of Covenant Considerations pursuant to this Agreement shall not be deemed to constitute a pledge of any particular funds by the City, but instead an obligation contingent upon the construction and operation of the Conforming Hotel in accordance with this Agreement.

505. City Disbursement Conditions. Notwithstanding anything in this Agreement which is or appears to be to the contrary, in no event will City pay any Covenant Consideration to Developer unless all of the following conditions precedent (collectively, the “City Disbursement Conditions”) are satisfied on the date of the applicable disbursement: (i) there shall be no Breach or Default by Developer hereunder, (ii) this Agreement shall remain in full force and effect and not have been terminated, and (iii) there shall be no default by the Developer under the Conforming Hotel Franchise Agreement and/or the Conforming Hotel Operating Agreement which remains uncured on the date such Covenant Considerations would otherwise be made to the Developer, including, without limitation, failure to Complete the Conforming Hotel prior to the time set forth in the Schedule of Performance and/or failure to operate the Conforming Hotel.

600. DEFAULTS, REMEDIES AND TERMINATION

601. Defaults. Occurrence of any of the following (a “Breach”) shall, after the giving of the notice required by Section 701, constitute a default (“**Default(s)**”) under this Agreement by the non performing Party:

(i) failure or delay in the due, timely and complete observance and performance of each and every condition, restriction, covenant or obligation applicable to the non-performing Party including, without limitation, the failure of a Party to accomplish one or more of the matters to be accepted as set forth on the Schedule of Performance by the respective times set forth therefor in the Schedule of Performance; or

(ii) failure or delay in the due, timely and complete observance and performance of each and every condition, restriction, covenant or obligation to be observed or performed by Developer under this Agreement; or

(iii) a default under any Construction Loan or any Hotel Operating Agreement which is not cured within the applicable cure period, if any, provided therein.

602. Right to Cure Following a Breach/Default. Unless a different cure period is expressly provided elsewhere in this Agreement, the Party whose acts or omissions to act give rise to a Breach as defined in Section 601 shall be entitled to cure, correct, or remedy such Breach, if (i) such defaulting Party commences curing said Breach within thirty (30) days of receipt of the Notice of Breach, as defined in Section 603, and (ii) such defaulting Party thereafter diligently and continuously pursues the curing of said Breach, and (iii) such defaulting Party fully completes such cure, correction or remedy within sixty (60) days of receipt of said Notice of Breach, or, if such Breach cannot reasonably be cured within said 60-day period, within such additional time as is reasonably necessary to cure such Breach, but in no event more than one hundred and fifty (150) days; provided, that (A) in the event the Breach is a failure to pay or discharge any monetary obligation hereunder when due (i.e., a monetary default), the defaulting Party shall fully complete such cure, correction or remedy within ten (10) days of receipt of the Notice of Breach and (B) in the event of a Breach under Section 701 (iii) above, there shall be no additional cure period under this Agreement. If a Breach is not cured within the applicable period provided above, it shall thereafter constitute a “Default”.

603. Notice of Breach. The non-breaching Party shall give written notice of default (“**Notice of Breach**”) to the non-performing Party, specifying the breach of this Agreement complained of by the non-breaching Party. Failure or delay in giving such notice shall not constitute a waiver of any breach of this Agreement.

604. Waiver of Breach or Default. Except as otherwise expressly provided in this Agreement, any failure or delay by either Party in asserting any of its rights or remedies as to any Breach or Default shall not operate as a waiver of any Breach or Default or of any rights or remedies in connection therewith or of any other rights and remedies provided by this Agreement or by law, or deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

605. Legal Actions and Remedies.

605.1 Institution of Legal Actions; Judicial Reference. Any of the Parties may institute legal action to enforce the provisions of Section 606. All actions arising under this Agreement or relating to its interpretation shall be heard by a referee of the Orange County Superior Court pursuant to Code of Civil Procedure Sections 638, *et seq.* With respect to all judicial reference proceedings under this Agreement, Developer and City shall agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy. If Developer and the City are unable to agree on a referee within ten (10) days of a written request to do so by either Party, either Party may seek to have one appointed pursuant to Code of Civil Procedure Section 640. The cost of such proceeding shall initially be borne equally by Developer and the City, but shall ultimately be borne by the Party who does not prevail. Any referee selected pursuant to this Section shall be considered a temporary judge appointed pursuant to Article 6, Section 21 of the California Constitution.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED WITHIN THE SCOPE OF THE JUDICIAL REFERENCE PROVISION ABOVE DECIDED BY A NEUTRAL REFEREE AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW, YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE JUDICIAL REFERENCE PROVISION OR THE STATUTES INCORPORATED THEREIN BY REFERENCE. IF YOU REFUSE TO SUBMIT TO JUDICIAL REFERENCE AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO SUBMIT UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS JUDICIAL REFERENCE PROVISION IS VOLUNTARY. WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF MATTERS INCLUDED IN THE JUDICIAL REFERENCE PROVISION TO A NEUTRAL REFEREE.

Developer's Initials

City's Initials

605.2 Applicable Law. The laws of the State of California applicable to agreements executed and to be performed in this state shall govern the interpretation and enforcement of this Agreement.

606. Termination by Developer. In the event that Developer is not in Default under this Agreement and prior to the Closing,

(a) in the event of any Default of City prior to the Closing, or

(b) one or more of Developer's Conditions Precedent to the Closing is not satisfied on or before the Outside Closing Date and such failure is not due to the Default of Developer; or

(c) Developer disapproves the Property Condition,

then this Agreement may, at the option of Developer, be terminated by written Notice thereof to City pursuant to Section 207.1 and Section 701. From the date of the written Notice of termination of this Agreement by Developer to City because of the failure of a condition as described in subparagraph (a), (b) and/or (c), above this Agreement shall be deemed terminated and neither party shall have any further rights or obligations between the parties. In the event of termination pursuant to subparagraph (a) above, Developer may pursue any remedies it has hereunder, including without limitation specific performance. Upon such termination of this Agreement by the Developer, all monies or documents deposited by any party into a then-unclosed escrow shall be returned to the party making such deposit. In the event that the Agreement is terminated due to an uncured Default of the City, the City shall pay all escrow cancellation costs. If the Agreement is terminated due to any other reason, the parties shall each pay one-half of the escrow termination costs.

607. Termination by City. In the event that City is not in Default under this Agreement and prior to the Closing:

(a) One or more of City's Conditions Precedent to the Closing is not satisfied on or before the time set forth in the Schedule of Performance and such failure is not caused by City; or

(b) Closing does not occur on or before December 31, 2022;

(c) Developer is otherwise in Default of this Agreement;

then this Agreement and any rights of Developer or any assignee or transferee with respect to or arising out of this Agreement or the City Property, shall, at the option of City, be terminated by City by written Notice thereof to Developer. From the date of the written Notice of termination of this Agreement by City to Developer by virtue of the application of (a) and/or (b) above this Agreement shall be deemed terminated and there shall be no further rights or obligations between the parties. In the case of termination by virtue of (c), above, if the City may pursue any remedies it has hereunder subject to any restrictions or limitations upon such remedies set forth herein. Upon such termination of this Agreement by the City, all monies or documents deposited by any party into a then-unclosed escrow shall be returned to the party making such deposit, and any other funds of the Developer held by the City shall be returned to the Developer. In the event that the Agreement is terminated due to an uncured Default of the Developer, the Developer shall pay all escrow cancellation costs. If the Agreement is terminated due to any other reason, the parties shall each pay one-half of the escrow termination costs.

608. Acceptance of Service of Process. In the event that any legal action is commenced by Developer against City, service of process on City shall be made by personal service upon the City Manager of City with a copy to the City Attorney or in such other manner as may be provided by law. In the event that any legal action is commenced by City against Developer, service of process on

Any written notice, demand or communication shall be deemed received (a) immediately if delivered by hand, (b) on the third day from the date it is postmarked if delivered by registered or certified mail, (c) on the next business day if sent by reliable overnight courier service, facsimile, or email.

702. Enforced Delay; Extension of Times of Performance. Notwithstanding anything to the contrary herein contained, performance by either party hereunder shall not be deemed to be in Default, and all performance and other dates specified in this Agreement shall be extended, where delays or Defaults are proximately caused by causes beyond the control or without the fault of the party claiming an extension of time to perform, which may include the following: war or acts of terrorism; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; unusually severe weather; acts or omissions of the other party; any litigation, administrative or adjudicative challenge by third parties to the validity, applicability, interpretation or implementation of this Agreement, or the approval of the environmental analyses with respect to the Conforming Hotel and/or this Agreement, or acts or failures to act of any public or governmental agency or entity other than the City (which acts or failures to act of City shall not excuse performance by City). Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause, or from the date of the notice thereof, if notice by the party claiming such extension is sent to the other party later than thirty (30) days after the commencement of the cause. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer. The parties agree to reasonably consider requests for such extensions in good faith. Notwithstanding any provision of this Agreement to the contrary, the lack of funding to complete the Conforming Hotel shall not constitute grounds of enforced delay pursuant to this Section 702.

703. Transfers of Interest.

703.1 Prohibition. The qualifications and identity of Developer are very important and of particular concern to City. It is because of those qualifications and identity that City has entered into this Agreement with Developer. Except as provided in Section 703.2 below, no voluntary or involuntary successor in interest of Developer shall acquire any rights or powers under this Agreement, nor shall Developer nor any successor in interest thereto (i) make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the Site or the improvements thereon, or (ii) assign this Agreement, without the prior written approval of the City, except as expressly set forth herein. Any transfer or attempted transfer by Developer or any permitted successor of its rights under this Agreement or its interest in the Site in violation of this Section shall terminate this Agreement and all of the City's obligations hereunder.

703.2 Permitted Transfers. Notwithstanding any other provision of this Agreement to the contrary, City approval of an assignment by the Developer of this Agreement or conveyance by the Developer of the Conforming Hotel or the Site or such portion thereof or interest therein, shall not be required in connection with any of the following:

(a) Any transfers to an entity or entities in which Developer retains a minimum of fifty-one percent (51%) of the ownership or beneficial interest and retains management and control of the transferee entity or entities.

(b) The conveyance or dedication of any portion of the Site to the City or other appropriate governmental or public agency, or the granting of easements or permits to facilitate construction of the Conforming Hotel.

(c) Any requested assignment for financing purposes (subject to such financing being considered and approved by City pursuant to Section 309 herein), including the grant of a deed of trust to secure the funds necessary for land acquisition, construction and permanent financing of the Conforming Hotel (and under the terms of such deed of trust, the exercise by the Holder of any rights thereunder including, without limitation, exercise of the power of sale or foreclosure of the lien created thereby, or the acceptance of a conveyance in lieu of the exercise of such rights by such lender or any affiliate of such lender, and the Transfer by such lender or any of its affiliates acquiring the Site or Project).

(d) Any retail to an entity that is on a potential tenant list submitted by Developer to City or a retail lease with any other entity for a space that is less than 5,000 square feet.

(e) Any transfer to Kam Sang and its Affiliate(s).

(f) Any transfer to a Hotel Operator that fulfills the conditions set forth in Section 406 hereof.

In the event of an assignment by Developer under subparagraph (a) above not requiring City's prior approval, Developer nevertheless agrees that at least ten (10) days prior to such assignment Developer shall give written notice to City of such assignment and satisfactory evidence that the assignee has assumed jointly with Developer the obligations of this Agreement.

703.3 City Consideration of Requested Transfer. City agrees that it will not unreasonably withhold, condition, or delay approval of a request made pursuant to this Section 703, provided Developer delivers written notice to City requesting such approval. Such notice shall be accompanied by sufficient evidence regarding the proposed assignee's or purchaser's development and/or operational qualifications and experience, its financial commitments and resources and its ability to comply with the covenants set forth herein, in sufficient detail to enable City to evaluate the proposed assignee or purchaser pursuant to the criteria set forth in this Section 703 and as reasonably determined by City. City shall evaluate each proposed transferee or assignee on the basis of its development experience and/or qualifications and experience in the operation of facilities similar to the Conforming Hotel, its financial commitments and resources and its ability to comply with those covenants set forth herein, and may reasonably disapprove any proposed transferee or assignee, during the period for which this Section 703 applies, which City determines does not possess equal or better qualifications than the transferring Developer, as applicable. An assignment and assumption agreement in form reasonably satisfactory to City's legal counsel shall also be required for all such proposed assignments. Within thirty (30) days after the receipt of Developer's written notice requesting City approval of an assignment or transfer pursuant to this Section 703, City shall either approve or disapprove such proposed assignment or shall respond in writing by stating what further information, if any, City reasonably requires in order to determine the request complete and determine whether or not to grant the requested approval. Upon receipt of such a response, Developer shall promptly furnish to City such further information as may be reasonably requested.

703.4 Successors and Assigns. All of the terms, covenants and conditions of this Agreement shall be binding upon Developer and its permitted successors and assigns. Whenever the

term “Developer” is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

703.5 Assignment by City. City may assign or transfer any of its rights or obligations under this Agreement with the approval of Developer, which approval shall not be unreasonably withheld, conditioned, or delayed; provided, however, that City may assign or transfer any of its interests hereunder to a governmental agency or authority of the City at any time without the consent of Developer; provided further that any such assignee of City shall assume all of the obligations of City hereunder.

704. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to persons and/or transactions having contacts only in the State of California.

705. Police Power. Nothing contained in this Agreement shall be deemed to limit, restrict, amend or modify, nor to constitute a waiver or release of, any ordinances, notices, orders, rules, regulations or requirements (now or hereafter enacted or adopted and/or as amended from time to time) of the City, its departments, commissions, agencies and boards and the officers thereof (for the purposes of this Section 705, collectively referred to as “City Entities”), including, without limitation, any precise or general plan or any zoning ordinances, or any duties, obligations, rights or remedies thereunder or pursuant thereto or the general police powers, rights, privileges and discretion of any City Bodies in the furtherance of the public health, welfare and safety of the inhabitants thereof, including, without limitation, the right under law to make and implement independent judgments, decisions and/or acts with respect to planning, environmental, and development (including, without limitation, approval or disapproval of plans and/or withholding of Building Permits) whether or not consistent with the provisions of this Agreement, any Exhibit attached hereto or any other documents contemplated hereby (collectively, “City Rules and Powers”). In the event of any conflict, inconsistency or contradiction between any terms, conditions or provisions of this Agreement, the Exhibits or such other documents, on the one hand, and any such City Rules and Powers providing additional or broader rights to the City, on the other hand, the latter shall prevail and govern in each case. Notwithstanding the foregoing, however, nothing in this Section 705 is intended to limit or restrict Developer’s rights set forth in this Agreement.

706. Non-Liability of Officials and Employees of City. No member, official or employee of City or the City shall be personally liable to Developer or any successor in interest, in the event of any Default or breach by City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement.

707. Relationship Between City and Developer. It is hereby acknowledged that the relationship between City and Developer is not that of a partnership or joint venture and that City and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided herein or in the Attachments hereto, City shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Conforming Hotel. Developer agrees to indemnify, hold harmless and defend City from any claim made against City arising from a claimed relationship of partnership or joint venture between City and Developer with respect to development, operation, maintenance or management of the Site or the Conforming Hotel or any portion thereof, which claim arises from or is based upon actions by Developer.

708. City Approvals and Actions. This Agreement shall be administered by the City Manager, or his designated representative, following approval of this Agreement by the City. The City Manager (or his authorized representative) shall have the authority to issue interpretations, waive provisions and enter into amendments of this Agreement on behalf of the City, including approving Developer's fulfillment of the requirements of Section 301.1, so long as such actions do not substantially change the uses or development permitted on the Site, or substantially add to the costs of the City as specified herein as agreed to by the City Council, unless the City Manager elects at his discretion to refer such matter to the City Council and such amendments may include for purposes of this Agreement, extensions of time specified in the Schedule of Performance of up to ninety (90) days in each instance. All other interpretations, waivers, amendments or extensions of time shall require the written consent of the City Council. If there is no time specified in this Agreement for City action on plans, drawings or other documents submitted to it, the City shall approve or disapprove such documents within thirty (30) days of submission of those documents to the City. Whenever the City's approval is required under the terms of this Agreement, such approval shall not be unreasonably withheld, conditioned, or delayed, unless specified otherwise herein.

709. Counterparts. This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. This Agreement is executed in three (3) originals, each of which is deemed to be an original.

710. Integration. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material. This Agreement includes Exhibits A through L, all of which are incorporated herein as if set forth herein in full, and which together with the Agreement constitute the entire understanding and agreement of the parties, notwithstanding any previous negotiations or agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

711. Real Estate Brokerage Commission. City and Developer each represent and warrant to the other that no broker or finder is entitled to any commission or finder's fee in connection with the Conveyance of the City Property or any other aspect of this transaction, and Developer and City agree to defend and hold harmless the each other from any claim to any such commission or fee resulting from any action on its part.

712. Titles and Captions. Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of this Agreement or of any of its terms. Reference to section numbers are to sections in this Agreement, unless expressly stated otherwise.

713. Interpretation. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly by both parties.

714. No Waiver. No delay or omission by any Party in exercising any right or power accruing upon non-compliance or failure to perform by any other Party under any of the provisions of this Agreement shall impair such right or power or be construed as a waiver thereof. A waiver by any

Party of any of the covenants or conditions to be performed by any other Party shall not be effective unless in writing and shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

715. Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

716. Severability. If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law. In the event a material term or provision of this Agreement is rendered invalid, void and/or unenforceable, or due to changes in the law such term or provision would materially alter the terms of the transactions contemplated herein, the parties agree to meet and negotiate in good faith to attempt to reform this Agreement to accomplish the intent of the parties.

717. Computation of Time. The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens) and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

718. Legal Advice. Each party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

719. Time of Essence. Time is expressly made of the essence with respect to the performance by City and Developer of each and every obligation and condition of this Agreement.

720. Cooperation. Each party agrees to cooperate with the other in this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful or appropriate to carry out the purposes and intent of this Agreement including, but not limited to, releases or additional agreements. The Developer and the City shall mutually consider reasonable requests for amendments to this Agreement made by any of the parties hereto, provided such requests are consistent with this Agreement and would not substantially alter the basic business terms included herein.

721. Conflicts of Interest. No member, official or employee of City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership or association in which he is directly or indirectly interested.

722. Time for Acceptance of Agreement by City. This Agreement, when executed by Developer and delivered to City, must be authorized, executed and delivered by City on or before

forty-five (45) days after signing and delivery of this Agreement by Developer or this Agreement shall be void, except to the extent that City shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have signed this Agreement as of the date set forth above.

CITY:

CITY OF GARDEN GROVE, a municipal corporation duly organized and existing under the Constitution and laws of the State of California

By: _____
Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Stradling Yocca, Carlson & Rauth
City Special Counsel

DEVELOPER:

NEWAGE GARDEN GROVE II LLC, a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

EXHIBIT B

LEGAL DESCRIPTION

LOTS 32-37 AND THACKERY DRIVE

REAL PROPERTY IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

LOTS 32 TO 37, INCLUSIVE OF TRACT NO. 2148, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE,
STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 58, PAGES 46 THROUGH 48 INCLUSIVE OF
MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALONG WITH
THOSE PORTIONS OF THACKERY DRIVE, 50 FEET WIDE, THAT WOULD PASS WITH A LEGAL CONVEYANCE
OF THE ADJACENT LOTS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF HARBOUR BOULEVARD AND TWINTREE AVENUE,
SAID POINT BEING DISTANT THEREON SOUTH 0°13'50" EAST, 1804.85 FEET FROM THE CENTERLINE
INTERSECTION OF HARBOUR BOULEVARD AND CHAPMAN AVENUE, AS SHOWN ON SAID MAP. THENCE,
ALONG CENTERLINE OF SAID TWINTREE AVENUE, SOUTH 89°43'08" WEST, A DISTANCE OF 409.97;
THENCE NORTH 0°16'52" WEST, TO THE SOUTHWEST CORNER OF LOT 37 OF SAID MAP A DISTANCE OF
30.00 FEET, TO THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 0°16'52" WEST, ALONG THE WESTERLY LINES OF LOTS 37, 36, 35, 34, 33,
AND 32, A DISTANCE OF 479.90 FEET TO THE NORTHWEST CORNER OF SAID LOT 32; THENCE SOUTH
89°42'18" EAST, A DISTANCE OF 52.89 FEET TO THE NORTHEAST CORNER OF SAID LOT 32; THENCE
SOUTH 29°29'53" EAST A DISTANCE OF 102.50 FEET TO NORTHERLY RIGHT OF WAY OF SAID THACKERY
DRIVE, TO A NON-TANGENT CURVE CONCAVED SOUTHERLY, AND HAVING A RADIUS OF 45.00 FEET, A
RADIAL LINE TO SAID CURVE BEARS NORTH 29°29'53" WEST; THENCE EASTERLY AND SOUTHEASTERLY
ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 158°12'36" AN ARC LENGTH OF 124.26 FEET TO A
TANGENT CURVE CONCAVED EASTERLY, AND HAVING A RADIUS OF 45.00; THENCE SOUTHERLY ALONG
SAID CURVE THROUGH A CENTRAL ANGLE OF 38°56'33" AND ARC LENGTH OF 30.59 FEET TO THE
NORTHWEST CORNER OF LOT 28 OF SAID TRACT NO. 2148;

THENCE SOUTH 0°13'50" EAST ALONG THE EASTERLY RIGHT OF WAY OF SAID THACKERY DRIVE A
DISTANCE OF 294.57 FEET;

THENCE SOUTH 89°43'08" WEST A DISTANCE OF 150.00 FEET TO THE **TRUE POINT OF BEGINNING**.

EXHIBIT C
GRANT DEED

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92842
Attention: Scott C. Stiles, City Manager

This document is exempt from payment of a recording fee
pursuant to Government Code Section 27383.

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged, **CITY OF GARDEN GROVE**, a municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City"), as of _____, 20__, hereby grants to **NEWAGE GARDEN GROVE II LLC**, a California limited liability company (the "Developer"), the real property hereinafter referred to as the "Property", described in Exhibit A attached hereto and incorporated herein, subject to the existing easements, restrictions and covenants of record described there.

IN WITNESS WHEREOF, the parties hereto have executed this Grant Deed on the respective dates set forth below.

CITY:

CITY OF GARDEN GROVE,
a municipal corporation

By: _____
Its: _____

APPROVED AS TO FORM:

Stradling Yocca Carlson & Rauth PC
Special Counsel to City

ACCEPTED BY DEVELOPER:

NEWAGE GARDEN GROVE II, LLC,
a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

ATTACHMENT NO. 1

LEGAL DESCRIPTION OF CITY PROPERTY

LOTS 32-37 AND THACKERY DRIVE

REAL PROPERTY IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOTS 32 TO 37, INCLUSIVE OF TRACT NO. 2148, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 58, PAGES 46 THROUGH 48 INCLUSIVE OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALONG WITH THOSE PORTIONS OF THACKERY DRIVE, 50 FEET WIDE, THAT WOULD PASS WITH A LEGAL CONVEYANCE OF THE ADJACENT LOTS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF HARBOUR BOULEVARD AND TWINTREE AVENUE, SAID POINT BEING DISTANT THEREON SOUTH $0^{\circ}13'50''$ EAST, 1804.85 FEET FROM THE CENTERLINE INTERSECTION OF HARBOUR BOULEVARD AND CHAPMAN AVENUE, AS SHOWN ON SAID MAP. THENCE, ALONG CENTERLINE OF SAID TWINTREE AVENUE, SOUTH $89^{\circ}43'08''$ WEST, A DISTANCE OF 409.97; THENCE NORTH $0^{\circ}16'52''$ WEST, TO THE SOUTHWEST CORNER OF LOT 37 OF SAID MAP A DISTANCE OF 30.00 FEET, TO THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH $0^{\circ}16'52''$ WEST, ALONG THE WESTERLY LINES OF LOTS 37, 36, 35, 34, 33, AND 32, A DISTANCE OF 479.90 FEET TO THE NORTHWEST CORNER OF SAID LOT 32; THENCE SOUTH $89^{\circ}42'18''$ EAST, A DISTANCE OF 52.89 FEET TO THE NORTHEAST CORNER OF SAID LOT 32; THENCE SOUTH $29^{\circ}29'53''$ EAST A DISTANCE OF 102.50 FEET TO NORTHERLY RIGHT OF WAY OF SAID THACKERY DRIVE, TO A NON-TANGENT CURVE CONCAVED SOUTHERLY, AND HAVING A RADIUS OF 45.00 FEET, A RADIAL LINE TO SAID CURVE BEARS NORTH $29^{\circ}29'53''$ WEST; THENCE EASTERLY AND SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $158^{\circ}12'36''$ AN ARC LENGTH OF 124.26 FEET TO A TANGENT CURVE CONCAVED EASTERLY, AND HAVING A RADIUS OF 45.00; THENCE SOUTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $38^{\circ}56'33''$ AND ARC LENGTH OF 30.59 FEET TO THE NORTHWEST CORNER OF LOT 28 OF SAID TRACT NO. 2148;

THENCE SOUTH $0^{\circ}13'50''$ EAST ALONG THE EASTERLY RIGHT OF WAY OF SAID THACKERY DRIVE A DISTANCE OF 294.57 FEET;

THENCE SOUTH $89^{\circ}43'08''$ WEST A DISTANCE OF 150.00 FEET TO THE **TRUE POINT OF BEGINNING**.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
 COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

 Title(s)

 Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

 Number Of Pages

Signer is representing:
 Name Of Person(s) Or Entity(ies)

 Date Of Documents

 Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
 COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

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- Corporate Officer

 Title(s)

 Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

 Number Of Pages

Signer is representing:
 Name Of Person(s) Or Entity(ies)

 Date Of Documents

 Signer(s) Other Than Named Above

EXHIBIT D

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92842
Attention: Scott C. Stiles, City Manager

This document is exempt from payment of a recording fee pursuant to Government Code Section 27383.

**DECLARATION OF CONDITIONS, COVENANTS
AND RESTRICTIONS**

THIS DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS (this “Declaration”) is made this _____ day of _____, 20__ by and between the **CITY OF GARDEN GROVE**, a municipal corporation duly organized and existing under the Constitution and laws of the State of California (the “City”), and **NEWAGE GARDEN GROVE II LLC**, a California limited liability company (the “Developer”) with reference to the following:

A. Palm Court Lodging, LLC, a California limited liability company (“Palm Court”) and the Garden Grove Agency for Community Development (the “Former Agency” now succeeded by the “Successor Agency” to the Former Agency) entered into that certain Disposition and Development Agreement by and between the Garden Grove Agency for Community Development and Palm Court dated as of June 26, 2001 (the “Agency DDA”). Under the Agency DDA, Palm Court was to acquire certain real property from the Former Agency and develop two hotels. Although one hotel was built, the disposition of property for and development of a second hotel (the “Agency Property”) has not occurred. Developer is the assignee of Palm Court with regard to the acquisition of land and development of the second hotel on the Agency Property under the Agency DDA.

B. Developer has proposed an approximately 500 room Nickelodeon Hotel & Resort (including not less than _____ square feet of leasable area of high -quality restaurants and _____ square feet gross leasable area of high-quality retail), the hotel portion of which shall meet not less than the AAA Four Diamond Hotel Requirements (as defined below) and of equal or greater (i) quality of exterior construction and Furniture, Fixtures, and Equipment, (ii) quality and scope of amenities, and (iii) service level, as that found in the Nickelodeon Hotel & Resort located in Punta

Cana, Dominican Republic or, as an alternative to a Nickelodeon Hotel & Resort, another AAA Four Diamond Hotel and, in either case, construction and operating scope and quality shall be not less than the Minimum Development Standards and construction costs should be not less than the Minimum Construction Costs (the “Conforming Hotel”) to be constructed, opened and operated on the Agency Property, property owned by the City (“City Property”), and additional land owned by third parties. The Agency Property and City Property are collectively referred to herein as the “Site” as shown on the Site Map attached hereto as Exhibit A and described in the Legal Description attached hereto as Exhibit B.

C. The Parties have concurrently herewith entered into the City DDA (this “Agreement”) pursuant to which the Developer will construct and operate the Conforming Hotel on the Site through the implementation of both the Agency DDA and this Agreement. All capitalized terms not defined herein shall have the meaning set forth in the City DDA.

D. The City DDA provides for, among other things, restrictions and obligations regarding the use, maintenance and operation of the Conforming Hotel on the Site by the Developer and the Developer’s successors and assigns.

NOW, THEREFORE, the Developer hereby covenants, agrees and declares by and for itself and its successors and assigns that all of the Site shall be held, sold, conveyed, hypothecated, encumbered, used, occupied and improved, subject to the following covenants, conditions, restrictions and easements (sometimes collectively, “Covenants”) which are hereby declared to be for the benefit of the whole Site. These covenants, conditions, restrictions and easements shall run with the Site and shall be binding on all parties having or acquiring any right, title or interest in the Site or any part thereof (including each parcel thereof) and shall inure to the benefit of each owner thereof and its successors and assigns, and are imposed upon the Site and every part thereof (including each parcel thereof) as a servitude in favor of each and every parcel as the dominant tenement or tenements.

1. Use and Operation. The Developer covenants and agrees to devote, use, operate, and maintain the Site as a Conforming Hotel (as defined in the City DDA). All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to the Agreement, shall conform to all applicable Governmental Requirements (as defined in the City DDA), and the recorded documents pertaining to and running with the Site.

2. Nondiscrimination Covenants. The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site. The foregoing covenants shall run with the land.

The Developer shall refrain from restricting the rental, sale or lease of the Site on the basis of race, color, religion, sex, marital status, ancestry or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land.”

(b) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

“That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(c) In contracts: “There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises.”

3. Nondiscrimination in Employment. Developer covenants that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies, and all subcontractors, bidders and vendors, are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability, and in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000, *et seq.*, the Federal Equal Pay Act of 1963, 29 U.S.C. Section 206(d), the Age Discrimination in Employment Act of 1967, 29 U.S.C. Section 621, *et seq.*, the Immigration Reform and Control Act of 1986, 8 U.S.C. Section 1324b, *et seq.*, 42 U.S.C. Section 1981, the California Fair Employment and Housing Act, Cal. Government Code Section 12900, *et seq.*, the California Equal Pay Law, Cal. Labor Code Section 1197.5, Cal. Government Code Section 11135, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, and all other anti-discrimination laws and regulations of the United States and the State of California as they now exist or may hereafter be amended.

4. Maintenance of the Site. The Developer shall maintain the Site and the Conforming Hotel, and all improvements thereon, including all landscaping, in compliance with all applicable provisions of the Garden Grove Municipal Code.

(a) Developer shall maintain the Conforming Hotel, in a condition equal to the quality and level of services and amenities existing for the Conforming Hotel as of the date of the issuance of the Release of Construction Covenants and in accordance with the Maintenance Standards, as hereinafter defined, the improvements and landscaping on the Site. Said improvements shall include, but not be limited to, buildings, sidewalks, pedestrian lighting, landscaping, irrigation of landscaping, architectural elements identifying the Site and any and all other improvements on the Site.

(b) To accomplish the maintenance, Developer shall either staff or contract with and hire licensed and qualified personnel to perform the maintenance work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Agreement.

(c) The following standards (“Maintenance Standards”) shall be complied with by Developer and its maintenance staff, contractors or subcontractors:

(i) Landscape maintenance shall include, but not be limited to: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance and safe road conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

(ii) Clean-up maintenance shall include, but not be limited to: maintenance of all sidewalks, paths and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

(iii) All maintenance work shall conform to all applicable federal and state Occupational Safety and Health Act standards and regulations for the performance of maintenance.

(iv) Any and all chemicals, unhealthful substances, and pesticides used in and during maintenance shall be applied in strict accordance with all governing regulations. Precautionary measures shall be employed recognizing that all areas are open to public access.

(v) The Conforming Hotel (as the term is defined in the City DDA) shall be maintained in conformance and in compliance with the approved Site construction and architectural plans and design scheme, as the same may be amended from time to time with the approval of the City and reasonable commercial development maintenance standards for similar projects, including but not limited to: painting and cleaning of all exterior surfaces and other exterior facades comprising all private improvements.

(vi) The Conforming Hotel shall be maintained as required by this Section 4 in good condition and in accordance with the custom and practice generally applicable, to comparable first-class Hotel facilities located within Orange County, California. In the event Developer does not maintain the Conforming Hotel on the Site in the manner set forth herein and in

accordance with the Maintenance Standards, City shall notify Developer in writing if the condition of said improvements do not meet with the Maintenance Standards specifying the deficiencies and the actions required to be taken by Developer to cure the deficiencies. Upon notification of any maintenance deficiency, Developer shall have thirty (30) days within which to correct, remedy or cure the deficiency. If the written notification states the problem is urgent relating to the public health and safety of the City or the City, then Developer shall have forty-eight (48) hours to rectify the problem.

5. Hotel Operators. City acknowledges that it has pre-approved Kam Sang Company, Inc. or any Affiliate as Hotel Operator. City shall have the sole and absolute discretion to approve any other Hotel Operator, except in the event that the Conforming Hotel is operated by a national brand operator with at least twenty-five hundred (2,500) hotel rooms or at least five (5) hotels in the AAA Four Diamond or higher rating category, in which case no such approval shall be required.

6. Compliance with Law. Developer shall comply with all local, state and federal laws relating to the development, operation, and use of the conforming Hotel and/or the condition of the Site. Local laws for the purposes of this section shall include only those ordinances which are nondiscriminatory in nature and applicable to the public welfare, health, safety and aesthetics. If any new local laws relating to uses of or condition of the improvements create a condition or situation that constitutes a lawful nonconforming use as defined by local ordinance with respect to the Site or any portion thereof, then so long as the lawful nonconforming use status remains in effect (i.e., until such lawful status is properly terminated by amortization as provided for in the new local law or otherwise), Developer shall be entitled to enjoy the benefits of such lawful nonconforming use pursuant to the lawful nonconforming uses ordinance. The Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site. For a period of twenty (20) years from the date of the Release of Construction Covenants (as defined in the City DDA) issued by the City for the portion of the Conforming Hotel to be constructed on the Site, the Developer shall not appeal any assessed valuation of the Site, except that Developer may appeal the amount by which any increase in such assessed valuation is in excess of the increase, over the same period of time, in the CPI. For purposes of this Section, "CPI" shall mean the Consumer Price Index-Urban for the Los Angeles-Orange-Riverside County Average, Subgroup "all Items," (1982-1984 = 100) as established by the Bureau of Labor Statistics of the U.S. Department of Labor.

7. Environmental Requirements.

(a) **Developer Precautions.** From and after Date of Agreement, the Developer shall use commercially reasonable efforts to prevent the release into the environment of any Hazardous Materials which are located in, on or under the Site. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials.

(b) **Required Disclosures.** From and after Date of Agreement, the Developer shall notify the City, and provide to the City a copy or copies, of all environmental permits, disclosures, applications, entitlements or inquiries relating to the Site, including notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials and underground tanks. Upon request, the Developer shall furnish to the City a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Site including, but not limited to, all permit applications, permits and reports.

(c) **Developer Indemnity.** Except as to the representations, warranties and covenants of the City in the Agency DDA and City DDA to the contrary, Developer agrees to indemnify, defend and hold City and its respective officers, employees, agents, representatives and volunteers harmless from and against any claim, action, suit, proceeding, damage, liability, deficiency, fine, penalty, or punitive damage (including, without limitation, reasonable attorneys' fees), resulting from, arising out of, or based upon (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Site which occurs after the date hereof, or (ii) the violation, or alleged violation, of any statute, ordinance, order, rule, regulation, permit, judgment or license relating to the use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about, to or from, the Site which occurs after the date hereof. At the request of the Developer, the City shall cooperate with and assist the Developer in its defense of any such claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense; provided that the City shall not be obligated to incur any expense in connection with such cooperation or assistance.

8. Indemnification. The Developer shall defend, indemnify, assume all responsibility for, and hold the City, and its officers, employees, agents, representatives and volunteers, harmless from all claims, demands, damages, defense costs or liability of any kind or nature relating to (a) any damages to property or injuries to persons, including accidental death (including attorney's fees and costs), which may be caused by any acts or omissions of the Developer under this Declaration, whether such activities or performance thereof be by the Developer or by anyone directly or indirectly employed or contracted with by the Developer and whether such damage shall accrue or be discovered before or after termination of this Declaration, except to the extent such matters are caused by the negligence or willful misconduct of the City, or its officers, employees, agents, representatives or volunteers, its own Default under this Agreement, or the invalidity of any covenants, representations or warranties of the City in the Agency DDA and/or City DDA (except to the extent the invalidity of such covenant, representation, or warranty has been previously disclosed to and approved by Developer), as to which Developer shall not be liable, and (b) any litigation, administrative or adjudicative challenge by third parties to the validity, applicability, interpretation or implementation of the Agreement, or the approval of any environmental analysis with respect to the Conforming Hotel and the Agreement (an "Action").and (c) any Action brought with respect to the obligations set forth in Section 407 of the DDA. The Developer shall not be liable for property damage or bodily injury occasioned by the negligence of the City or its agents or employees. The Developer shall have the obligation to defend any such Action; provided, however, that this obligation to defend shall not be effective if and to the extent that Developer determines in its reasonable discretion that such Action is meritorious or that the interests of the parties justify a compromise or a settlement of such Action, in which case Developer shall compromise or settle such action in a way that fully protects City from any liability or obligation. In this regard, Developer's obligation and right to defend shall include the right to hire (subject to written approval by the City) attorneys and experts necessary to defend, the right to process and settle reasonable claims, the right to enter into reasonable settlement agreements and pay amounts as required by the terms of such settlement, and the right to pay any judgments assessed against Developer, or City. If Developer defends any such Action, as set forth above, (i) Developer shall indemnify and hold harmless City and its officers, employees, representatives, agents and volunteers from and against any claims, losses, liabilities, or damages assessed or awarded against either of them by way of judgment, settlement, or stipulation; (ii) City shall be entitled to settle any such claim only with the written consent of the Developer; and (iii) any settlement without Developer's consent shall not constitute a default by City but shall release Developer's obligations under this Section 9 with respect to such settled claim.

9. Effect of Violation of the Terms and Provisions of this Declaration. The covenants established in this Declaration shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns. The covenants contained in this Declaration shall remain in effect for the periods of time specified herein.

The City and its successors and assigns are deemed the sole beneficiaries of the terms and provisions of this Declaration and of the covenants running with the land, for and in the City's own right and for the purposes of protecting the interests of the community and other parties, public or private. The Declaration and the covenants shall run in favor of the City, without regard to whether the City has been, remains or is an owner of any land or interest therein in the Property. The City shall have the sole right, if the Declaration or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches.

10. No Encumbrances Except Mortgages, Deeds of Trust, or Sale and Lease-Back for Development. Mortgages, deeds of trust and sales and leases-back shall be permitted before completion of the Conforming Hotel only with the City's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed, but only for the purpose of securing loans of funds to be used for financing the construction of the Conforming Hotel (including architecture, engineering, legal, and related direct costs as well as indirect costs) on or in connection with the Site, and any other purposes necessary and appropriate in connection with development under the Agreement. In no event, however, shall the amount or amounts of indebtedness secured by mortgages or deeds of trust exceed the sum of the fair market value of the Site and the projected cost of constructing, furnishing, equipping and leasing the Conforming Hotel, as evidenced by a pro forma and a construction contract which sets forth such construction costs. The Developer shall notify the City in advance of any mortgage, deed of trust or sale and leaseback financing, if the Developer proposes to enter into the same before completion of the construction of the Conforming Hotel. The words "mortgage" and "trust deed" as used hereinafter shall include sale and lease-back.

11. Notice of Default to Mortgagee or Deed of Trust Holders; Right to Cure. With respect to any mortgage or deed of trust approved by the City pursuant to Section 11 above and granted by Developer as provided therein, whenever the City may deliver any notice or demand to Developer with respect to any breach or default by the Developer of any term or provision of this Declaration, the City shall at the same time deliver to each Holder of record of any mortgage or deed of trust authorized under this Declaration which the City has either approved or of which it has Actual Knowledge (each, a "Holder" or "Lender") a copy of such notice or demand.

City shall not commence the exercise of its remedies under this Declaration by reason of such default, if and so long as, within thirty (30) days after the receipt of the notice:

(a) Lender shall cure or remedy, or commence to cure or remedy and thereafter to pursue with due diligence the cure or remedy, of any such default and to add the cost thereof to the mortgage debt and the lien of its mortgage; or

(b) in case of a default by the Developer in the performance or observance of any term, covenant, condition or agreement on Developer's part to be performed under this Declaration, this Agency DDA and/or the City DDA, other than a term, covenant, condition or agreement requiring the payment of a sum of money, if such default is of such a nature that the same cannot practicably be cured by Lender without taking possession of the Site, or if such default is of such a nature that the

same cannot be cured by Lender within thirty (30) days of receipt of such notice, Lender shall deliver to City, a written instrument reasonably acceptable to the City wherein Lender agrees that it will seek to obtain possession of the Site and upon obtaining such possession will cure such default, and thereafter Lender commences and diligently proceeds to obtain possession of the Site as mortgagee (through the appointment of a receiver, foreclosure or otherwise), and (i) within one hundred eighty (180) days following the delivery of the aforementioned written instrument to the City, obtains possession and/or conveys the Site to a third party reasonably acceptable to the City, and , (ii) upon obtaining possession or conveying to an approved third party, Lender or such approved third party promptly commences and duly prosecutes to completion within thirty (30) days thereafter such action as may be necessary to cure such default and assumes, by execution of a form acceptable to the City, the Agreement.

(c) Nothing contained in this Declaration or the Agreement shall be deemed to permit or authorize any Holder to undertake or continue the construction or completion of the Conforming Hotel or avail itself of the benefits of the Agreement, or any portion thereof (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the City by written agreement reasonably satisfactory to the City. The Holder, in that event, must agree to complete, in the manner provided in the Agreement, the improvements to which the lien or title of such Holder relates. Any such Holder properly completing such improvement shall be entitled, upon compliance with the requirements of Section 310 of the Agreement, to a Release of Construction Covenants.

12. Failure of Holder to Complete the Conforming Hotel. In any case where, thirty (30) days after the Holder of any mortgage or deed of trust creating a lien or encumbrance upon the Site or any part thereof **receives** a notice from City of a default by the Developer in completion of construction of any portion of the Conforming Hotel under this Agreement, and such Holder has not notified the City that it has elected to cure the default or seek possession of the Site as set forth above, or if it has exercised the option but has defaulted thereunder and failed to timely cure such default, the City may purchase the mortgage or deed of trust from the Holder of the mortgage or deed of trust, by payment of any unpaid principal amount of, plus accrued and unpaid interest thereon.

13. Right of the City to Cure Mortgage or Deed of Trust Default. In the event of a mortgage or deed of trust default or breach by the Developer prior to the completion of the construction of the Conforming Hotel or any part thereof, Developer shall immediately deliver to City a copy of any mortgage holder's notice of default. If the holder of any mortgage or deed of trust has not exercised its option to construct pursuant to Section 12 above, the City shall have the right but no obligation to cure the default. In such event, the City shall be entitled to reimbursement from the Developer of all proper costs and expenses incurred by the City in curing such default. To the extent permitted by law, the City shall also be entitled to a lien upon the Site to the extent of such costs and disbursements. Any such lien shall be junior and subordinate to the mortgages or deeds of trust permitted pursuant to this Declaration.

14. Tolling of Time Periods. During such time as a Holder is seeking to obtain possession or convey the Site to an approved third party in conformity with Section 12(b), any deadlines for performance of Developer's obligations set forth in this Agreement, except as to the performance of any obligation to pay money, shall be deemed to be tolled. Immediately upon such Holder obtaining possession and/or conveying the Site to a third party reasonably acceptable to the City pursuant to (and within the time frame set forth in) Section 12 hereof, such tolling shall cease, and the deadlines for performance of such obligations shall be deemed to have been extended by a period equal to the time

between the date on which the Holder has given notice to the City pursuant to Section 12(b) and the date on which the Holder obtains possession of and/or conveys the Site to a third party reasonably acceptable to the City pursuant to Section 12.

15. Miscellaneous Provisions.

a. If any provision of this Declaration or portion thereof, or the application to any person or circumstances, shall to any extent be held invalid, inoperative or unenforceable, the remainder of this Declaration, or the application of such provision or portion thereof to any other persons or circumstances, shall not be affected thereby; it shall not be deemed that any such invalid provision affects the consideration for this Declaration; and each provision of this Declaration shall be valid and enforceable to the fullest extent permitted by law.

b. This Declaration shall be construed in accordance with the laws of the State of California.

c. This Declaration shall be binding upon and inure to the benefit of the successors and assigns of the Developer.

d. In the event action is instituted to enforce any of the provisions of this Declaration, the prevailing party in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorney's fees and costs.

16. Effect of Declaration. The covenants and agreements established in this Declaration shall, without regard to technical classification and designation, be binding on Developer and any successor in interest to the Site, or any part thereof (including each parcel thereof), for the benefit of and in favor of the City, its successors and assigns regardless of whether such benefited parties have or had any interest in or to the Site, except with regard to enforcement of the provisions of this Declaration, including all Covenants, which shall be solely the right of the City. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by the City DDA ; provided, however, that any subsequent owner of the Site shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

17. Term of Declaration. The Covenants set forth in this Declaration shall remain in effect for the term set forth herein. The nondiscrimination Covenants set forth in Section 2 shall remain in effect in perpetuity. The use and operating Covenants set forth in Sections 1, 5, and 6 shall commence upon the issuance of a Release of Construction Covenants and terminate on the thirtieth (30th) anniversary date thereof. The Covenants contained in Sections 6, 7, and 8 shall be effective for a period beginning upon the date that the Declaration is recorded against the Site and terminating on the thirtieth (30th) anniversary date of such recordation. The Maintenance Covenants set forth in Section 4 shall remain in effect for the duration of the City's Municipal Code. The Covenants set forth in Sections 10, 11, and 12 and the provisions of Sections 13 and 14 shall remain in effect until the City issues a Release of Construction Covenants.

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first hereinabove written.

CITY:

CITY OF GARDEN GROVE,
a municipal corporation duly organized and existing
under the Constitution and laws of the State of
California

By: _____
Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Stradling Yocca Carlson & Rauth,
City Special Counsel

DEVELOPER:

NEWAGE GARDEN GROVE II LLC,
a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

ATTACHMENT NO. 1 TO EXHIBIT D

LEGAL DESCRIPTION OF SITE

(Insert legal description of City Property and Agency Property at time of Recordation)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
 COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

 Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

 Title(s)

 Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

 Number Of Pages

Signer is representing:
 Name Of Person(s) Or Entity(ies)

 Date Of Documents

 Signer(s) Other Than Named Above

EXHIBIT E

PRELIMINARY CAPITAL COST BUDGET

	Rounded
Land Cost	\$3,100,000
Site Work	\$6,700,000
Building Shell	\$125,000,000
Water Experience	\$36,300,000
FF&E Costs	\$22,500,000
Parking Garage	\$13,900,000
Construction Contingency	\$10,300,000
Soft Costs	\$29,800,000
Predevelopment Costs	<u>\$29,400,000</u>
Total	\$277,000,000

EXHIBIT F

RELEASE OF CONSTRUCTION COVENANTS

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

(Space above for Recorder's Use.)

RELEASE OF CONSTRUCTION COVENANTS

THIS RELEASE OF CONSTRUCTION COVENANTS (the "Release") is made by the **CITY OF GARDEN GROVE**, a municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City"), and **NEWAGE GARDEN GROVE II, LLC**, a California limited liability company (the "Developer"), as of _____, 20__.

RECITALS

A. The City and the Developer have entered into that certain Disposition and Development Agreement (the "DDA") dated as of _____ 2022, concerning the development of certain real property situated in the City of Garden Grove, California as more fully described in Attachment No. 1 attached hereto and made a part hereof.

B. As referenced in Section 310 of the DDA, the City is required to furnish the Developer or its successors with a Release of Construction Covenants upon completion of the Conforming Hotel (as defined in the DDA), which Release is required to be in such form as to permit it to be recorded in the Orange County Clerk-Recorder's office for the County of Orange, California. This Release is conclusive determination of satisfactory completion of the construction and development required by the DDA.

C. The City has conclusively determined that such construction and development has been satisfactorily completed for the Conforming Hotel described herein.

NOW THEREFORE:

1. As provided in the DDA, the City does hereby certify that the construction of the Conforming Hotel described in the DDA has been satisfactorily performed and completed, and that such development and construction work complies in all respects with the DDA.

2. This Release does not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of a mortgage or any insurer of a mortgage securing money loaned to finance improvements and/or development of the Conforming Hotel, or any part thereof. This Release is not a notice of completion as referred to in Section 3093 of the California Civil Code.

IN WITNESS WHEREOF, the City has executed this Certificate as of the date set forth above.

CITY OF GARDEN GROVE,
a municipal corporation duly organized and existing
under the Constitution and laws of the State of
California

By: _____
Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Stradling Yocca Carlson & Rauth,
City Special Counsel

APPROVED BY DEVELOPER:

NEWAGE GARDEN GROVE II LLC,
a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

ATTACHMENT NO. 1 TO EXHIBIT F

LEGAL DESCRIPTION

(to be inserted at time of recordation)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public,
(Print Name of Notary Public)

personally appeared _____

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

DESCRIPTION OF ATTACHED DOCUMENT

- Individual
- Corporate Officer

Title(s)

Title Or Type Of Document

- Partner(s) Limited General
- Attorney-In-Fact
- Trustee(s)
- Guardian/Conservator
- Other: _____

Number Of Pages

Signer is representing:
Name Of Person(s) Or Entity(ies)

Date Of Documents

Signer(s) Other Than Named Above

EXHIBIT G

SCHEDULE OF PERFORMANCE

PERFORMANCE ITEMS	DATE
<u>Preclosing Obligations</u>	
1. City to deliver to Developer a standard preliminary title report	Prior to or concurrently with Date of Agreement
2. Execution of DDA by City and Developer	Within ten (10) business days following City approval of DDA
3. Developer obtain Land Use Approvals with exception of Parcel map.	Concurrently until approval of the DDA
4. City and Developer Open Escrow	Within thirty (30) days following the Date of Agreement
5. Develop shall enter into an agreement with a licensed architect to prepare design specifications, and licensed engineer to prepare a Map in compliance with the California Subdivision Map Act.	On or before October 14, 2022
6. Developer shall approve or disapprove title Exceptions.	Within thirty (30) days of the receipt of the preliminary title report
7. Developer shall approve or disapprove of the Property Condition.	Within (30) days of the Date of Agreement
8. Developer shall provide evidence of Predevelopment Financing	On or before November 30, 2022
9. City Shall Approve the Hotel Operator and Hotel Operating Agreement.	On or before November 30, 2022 (already approved Kam Sang. Do we need this condition?)
10. Developer submit completed application for tentative Subdivision Map, Development Agreement, and other necessary or desired Land Use Approvals.	On or before November 30, 2022

PERFORMANCE ITEMS	DATE
11. Developer has obtained insurance.	On or before close of Escrow
12. Developer to Close Escrow.	On or before December 31, 2022
<u>Post Closing Obligations</u>	
1. Developer shall provide evidence to the City that it has begun processing Final Map(s).	On or before January 30, 2023
2. Developer shall begin processing Final Map(s) with the County of Orange.	On or before April 30, 2023
3. City shall have approved the Final Site Plan and the Developer shall have cause to be prepared the Schematic Design for the Conforming Hotel.	On or before May 30, 2023
<p>4. Developer shall have submitted the Design Development Drawings (exterior Designs and Specifications only) to the City for initial review as detailed below:</p> <p>A. Developer submits on site civil and grading for Conforming Hotel for City approval.</p> <p>B. Developer submits shoring & excavation plans for Conforming Hotel for City approval.</p>	On or before September 30, 2023
5. Developer shall have provided City with evidence of Construction Financing to fund construction of the Conforming Hotel in accordance with the Capital Cost Budget.	On or before June 30, 2024
6. Developer submits foundation construction document package for Conforming Hotel for City approval.	January 1, 2024

PERFORMANCE ITEMS	DATE
7..Developer submits Construction Drawings for Parking Structure, core and shell of Hotels, and exterior of Conforming Hotel for City approval.	May 1, 2024
8. City to approve or disapprove Construction Financing.	Within thirty (30) days after receipt of submittal of construction documents.
9. Developer shall have received Building Permits and recorded and funded its Construction Financing.	On or before August 1, 2024.
10. Developer shall provide cuts with the Construction Contract.	On or before September 30, 2024.
11. Site excavation begins.	On or before November 1, 2024.
12. Developer to Commence Construction of Conforming Hotel.	On or before February 1, 2025.
13. Developer to complete Construction of the Conforming Hotel.	Twenty-four (24) Months following commencement of construction.

EXHIBIT H

RIGHT OF ENTRY AGREEMENT

(Due Diligence)

This RIGHT OF ENTRY AND LICENSE AGREEMENT (Due Diligence) (this “Agreement”), dated for purposes of identification only this _____ day of _____, 2022 (the “Date of Agreement”), is entered by and between the CITY OF GARDEN GROVE, a municipal corporation duly organized and existing under the Constitution and laws of the State of California (the “City”), and NEWAGE GARDEN GROVE II LLC, a California limited liability company (the “Developer”).

RECITALS:

A. The City is the owner of certain real property located in the City of Garden Grove, California (the “City Property”). The City Property is (i) depicted on the “Map” and (ii) legally described in the “Legal Description,” each of which is attached hereto as Attachment No. 1 and Attachment No. 2, respectively, and incorporated herein by this reference.

B. Pursuant to that certain Disposition and Development Agreement dated as of _____, 20__ by and between the City and the Developer, (the “DDA”), the City has agreed to convey (the “Conveyance”) the City Property to the Developer. Capitalized Terms not defined herein shall have the meaning set forth in the DDA.

C. Pursuant to Section 206 of the DDA, representatives of the Developer will have the right of access to all portions of the City Property at all reasonable times for the purpose of obtaining data, making surveys and conducting tests, including the investigation of the environmental and physical condition of the City Property.

D. The Developer desires to enter the City Property for those purposes set forth above, and the City desires to accommodate the Developer’s desire to commence such actions by granting a right of entry as provided herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Right of Entry. Provided that all of the terms and conditions of Section 2 of this Agreement are fully satisfied, the City hereby grants to the Developer and its agents and contractors, the exclusive right to enter upon, in and below the City Property for the purpose of inspection and investigation (the “License”) and for no other purposes without the prior written approval of the City. The License shall include, without limitation, the right to generally inspect, examine and test in, on and beneath the City Property in a manner as is generally conducted in a Phase II environmental audit or survey and/or a soils test, including the drilling of boring holes and the removal of test samples from the City Property. This Agreement shall automatically terminate and expire on the later of (i) the “Closing” or (ii) the “Outside Closing Date” (as such term is defined in the DDA); in the event of the latter, the Developer shall promptly return the City Property to

substantially the same condition as existed prior to the Date of Agreement (as hereinafter defined in Section 11.19 hereof).

Section 2. Conditions to Entry. Prior to Developer entering the City Property, the following conditions must be satisfied (the “Conditions Precedent”):

2.1 Insurance. Developer shall secure, prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

a. Workers’ Compensation Insurance as required by California statutes;

b. Comprehensive General Liability Insurance, or Commercial General Liability Insurance, including coverage for Contractual Liability, Personal Injury Liability, Products/Completed Operations Liability, Broad-Form Property Damage and Independent Contractor’s Liability, in an amount of not less than Two Million Dollars (\$2,000,000.00) per occurrence, combined single limit, written on an occurrence form; and

c. Comprehensive Automobile Liability coverage, including – as applicable – owned, non-owned and hired autos, in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, combined single limit, written on an occurrence form.

The City Manager, with the consent of the City’s Risk Manager, is hereby authorized to reduce the requirements set forth above in the event the City Manager determines that such reduction is in the City’s best interest.

Each insurance policy required by this Agreement shall contain the following clauses:

“This insurance shall not be canceled, limited in scope or coverage, or nonrenewed until after thirty (30) days’ prior written notice has been given to the City Clerk, 11222 Acacia Parkway, Garden Grove, California 92840.”

“It is agreed that any insurance maintained by the City of Garden Grove shall apply in excess of and not contribute with insurance provided by this policy.”

Each insurance policy required by this Agreement, excepting policies for workers’ compensation, shall contain the following clause:

“The City of Garden Grove, its officials, agents, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Garden Grove.”

As one of the Conditions Precedent under this Agreement, Developer shall deliver to the City (i) insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above and (ii) endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Such endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory’s company affiliation and title. Should it be deemed necessary by the City, it shall be Developer’s responsibility

to see that the City receives documentation, acceptable to the City, which sustains that the individual signing such endorsements is indeed authorized to do so by the insurance company. Also, the City has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

In addition to any other remedies the City may have if Developer fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, the City may, at its sole option:

- (a) Obtain such insurance and charge the Developer for the amount of the premium for such insurance; or
- (b) Terminate this Agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies the City may have and is not the exclusive remedy for Developer's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which Developer may be held responsible for payment of damages to persons or property resulting from Developer's or its subcontractor's performance under this Agreement.

2.2 Permits. Prior to commencing any activities under this Agreement, Developer shall secure all permits needed to carry out the actions to be performed on the Premises pursuant to this Agreement.

2.3 Security. Prior to commencing any activities under this Agreement, Developer shall deliver to the City an instrument securing Developer's performance hereunder in a form reasonably satisfactory to the City. The City shall be entitled to draw upon such instrument, in whole or in part, without prior notice or demand, in the event that this Agreement is terminated upon the termination of the DDA for any reason other than a Default of City under the DDA. In such event, the City shall be entitled to draw upon such instrument to the extent of the costs incurred by the City in returning the City Property to substantially the same condition as existed prior to the Date of Agreement.

Section 3. Liens. With regard to actions performed on the City Property under this Agreement, Developer shall not permit to be placed against the City Property, or any part thereof, any design professional's, mechanic's, materialmen's, contractor's, or subcontractor's liens (collectively, "Liens"), or shall post a bond or other security in form and amount acceptable to the City in its sole discretion to discharge the effect of any such Lien on title. Developer shall indemnify, defend and hold harmless City from all liability for any and all liens, claims and demands, together with Costs of defense and reasonable attorneys' fees, arising from any Liens. City reserves the right, at its sole cost and expense, at any time and from time to time, to post and maintain on the City Property, or any portion thereof, or on the improvements on the City Property, any notices of non-responsibility or other notice as may be desirable to protect City against liability. In addition to, and not as a limitation of City's other rights and remedies under this Agreement, should the Developer fail, within ten (10) days of written request from City, either to discharge any Lien or to bond for any Lien, or to defend, indemnify, and hold harmless City from and against any loss, damage, injury, liability or claim arising out of a Lien, then City, at its option, may elect to pay such Lien, or settle or discharge such Lien and

any action or judgment related thereto and all costs, expenses and attorneys' fees incurred in doing so shall be paid to City by the Developer upon written demand.

Section 4. Certain Definitions. For the purposes of this Agreement, the following terms shall have the meanings herein specified:

“Environmental Law” means (i) Sections 25115, 25117, 25122.7 or 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) Article 9 or Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (vi) Section 311 of the Clean Water Act (33 U.S.C. §1317), (vii) Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6903) or (viii) Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §6901 *et seq.*

“Hazardous Materials” means any substance, material or waste which is or becomes, prior to the Closing, regulated by any local governmental authority, the State of California or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste,” “extremely hazardous waste,” or “restricted hazardous waste” under Section 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law)), (ii) defined as a “hazardous substance” under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a “hazardous material,” “hazardous substance,” or “hazardous waste” under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a “hazardous substance” under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) listed under Article 9 or defined as “hazardous” or “extremely hazardous. Pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (42 U.S.C. §6903) or (xi) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive

Environmental Response, Compensation and Liability Act, 42 U.S.C.
§6901 *et seq.*

Section 5. Compliance With Laws/Permits. The Developer shall, in all activities undertaken pursuant to this Agreement, comply and cause its contractors, agents and employees to comply with all federal, state and local laws, statutes, orders, ordinances, rules, regulations, plans, policies and decrees, including, but not limited to, all Environmental Laws. Without limiting the generality of the foregoing, the Developer, at its sole cost and expense, shall obtain any and all permits which may be required by any Environmental Law or other law for any activities the Developer desires to conduct or have conducted pursuant to this Agreement. City shall provide reasonable assistance to Developer in obtaining such permits. In the event the Developer or its agents or employees discover any substance on the City Property which they suspect might be Hazardous Materials, Developer shall immediately notify or cause notice to be given to City, and the Developer and its agents and employees shall immediately stop all grading and other work upon the City Property until notified by City that work may be resumed.

Section 6. Indemnification. The Developer hereby agrees to indemnify, defend, assume all liability for and hold harmless City and its officers, employees, agents and representatives from all actions, claims, suits, penalties, obligations, liabilities, damages to property, environmental claims or injuries to persons (collectively "Claims") arising out of or in connection with Developer's activities pursuant to this Agreement. Developer's indemnity given under this Section 6 shall apply whether such activities are by the Developer or anyone directly or indirectly employed or under contract with Developer, and whether such Claims shall accrue or be discovered before or after the termination of this Agreement. The indemnity and other rights afforded City by this Section 6 shall survive after the revocation or termination of this Agreement. Notwithstanding the foregoing, Developer's indemnity shall not apply to the extent claims are caused by, arise out of, or in connection with, any breach of City's representations or covenants in Section 14 hereof, or the negligence or willful misconduct of the City, or to the extent City has indemnified Developer pursuant to the terms of this Agreement.

Section 7. Inspection. City and its representatives, employees, agents or independent contractors may enter and inspect the City Property or any portion thereof or any improvements thereon at any time and from time to time at reasonable times to verify the Developer's compliance with the terms and conditions of this Agreement, and to conduct environmental testing and remediation upon receipt of the notice required pursuant to Section 5 hereof.

Section 8. No Real Property Interest. It is expressly understood that this Agreement does not in any way whatsoever grant or convey any permanent easement, lease, fee or other interest in the City Property to Developer.

Section 9. Notices. Any notices, requests or approvals given under this Agreement from one party to another shall be in writing and shall be personally delivered or deposited with the United States Postal Service for mailing, postage prepaid, by certified mail, return receipt requested, to the addresses of the other party as stated in this Section, and shall be deemed to have been received at the time of personal delivery or three (3) days after the date of deposit for mailing. Notices shall be sent to:

To City: City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attention: Scott C. Stiles
Phone No.: (714) 741-5100
Email: ssiles@ggcity.org
Cc: City Manager
Office of Economic Development
City Attorney

To Developer: Newage Garden Grove II, LLC
c/o Kam Sang Company, Inc.
411 E. Huntington Drive, #305
Arcadia, CA 91006
Attention: Ronnie Lam
Phone No.: (626)446-2988 (ext. 15)
Email: rlam@kamsangco.com

Section 10. Governing Law. This Agreement shall be governed by the laws of the State of California. Any legal action brought under this Agreement must be instituted in the Superior Court of Orange County, State of California, in an appropriate court in that county, or in the Federal District Court in the Central District of California.

Section 11. Interpretation. This Agreement shall be interpreted as a whole and in accordance with its fair meaning and as if each party participated in its drafting. Captions are for reference only and are not to be used in construing meaning.

Section 12. Amendment of Agreement. No modification, rescission, waiver, release or amendment of any provision of this Agreement shall be made except by a written agreement executed by City and the Developer.

Section 13. Attorneys' Fees. In the event of a dispute between the parties with respect to the terms or conditions of this Agreement, the prevailing party shall be entitled to collect from the other its reasonable attorneys' fees as established by the judge or arbitrator presiding over such dispute.

Section 14. City Representations, Indemnities and Covenants. City hereby represents and warrants to the Developer that Garden Grove has not received any written notice or communication from any government agency having jurisdiction over the City Property, notifying Garden Grove or any third party of, and Garden Grove has no actual knowledge of, the presence of surface or subsurface zone Hazardous Materials in, on, or under the City Property, or any portion thereof. "Actual knowledge," as used herein, shall not impose a duty of investigation, and shall be limited to the actual knowledge of the Executive Director of the Convention, Sports and Entertainment Department of the City. City represents and warrants that it has no further information regarding the presence of Hazardous Materials on City Property, the location of underground tanks, pipelines, utilities or other lines or facilities which may have been installed at, in, on, under or over the City Property. City shall, if necessary, assist Developer in obtaining the assistance of the applicable public utility companies in locating underground lines. City agrees to indemnify, protect, defend and hold Developer, its officers, employees and agents harmless from any claims that arise directly or indirectly from or in connection

with the presence of Hazardous Material in the air, soil, surface, water, groundwater, or soil vapor at, on, about, under, within from or with respect to the City Property and existing on the City Property as of the date Developer first enters the City Property; provided, however, this indemnity shall not apply to the extent a release of such Hazardous Material is caused by the negligence or willful misconduct of Developer or its agents or contractors.

Section 15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates set forth below.

DEVELOPER:

NEWAGE GARDEN GROVE II LLC,
a California limited liability company

Dated: _____

By: _____

Its: _____

Dated: _____

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY:

CITY OF GARDEN GROVE,
a municipal corporation duly organized and existing
under the Constitution and laws of the State of
California

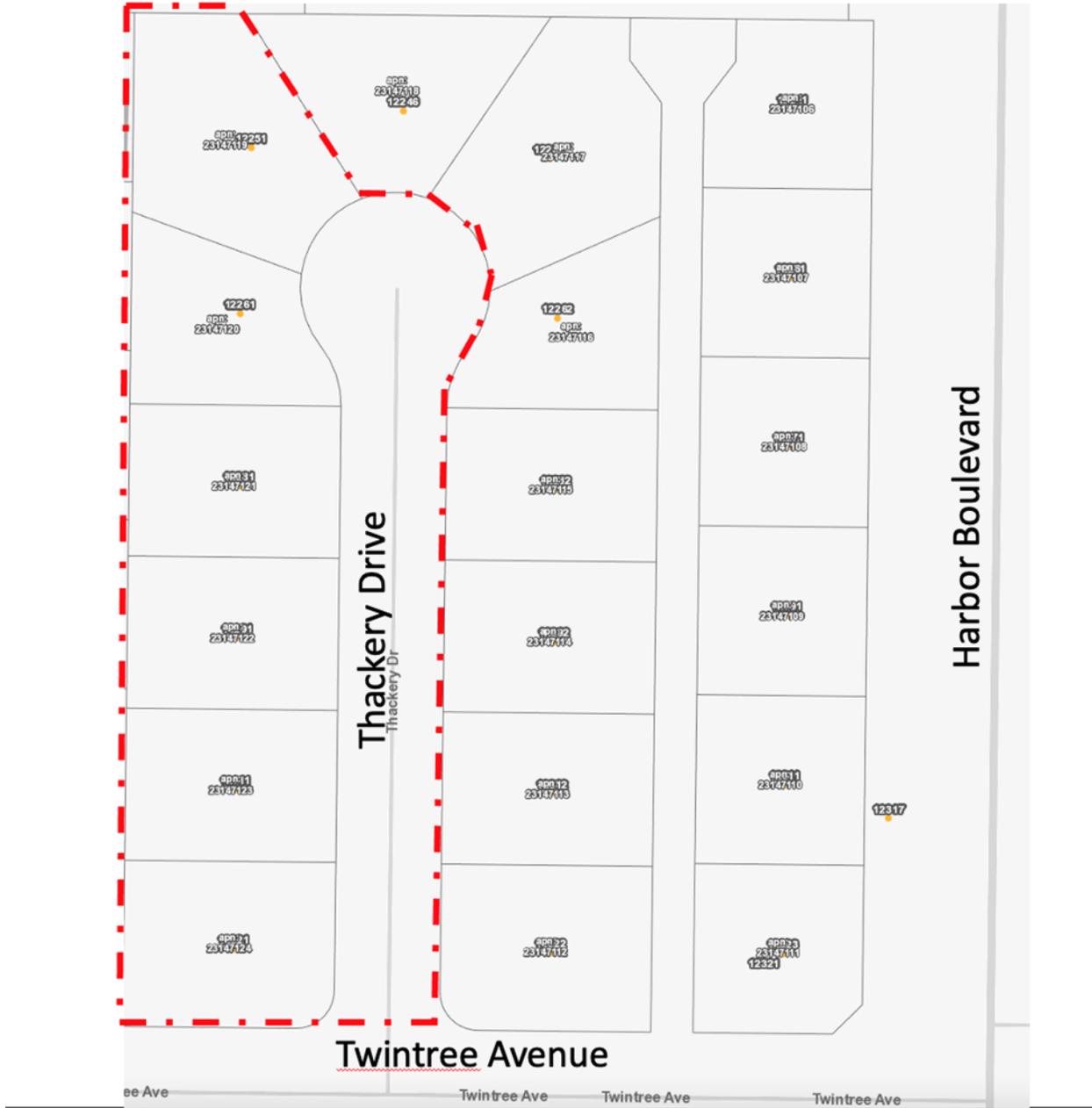
Dated: _____

By: _____

Its: _____

ATTACHMENT NO. 1
TO
EXHIBIT H

MAP OF CITY PROPERTY



**ATTACHMENT NO. 2
TO
EXHIBIT H

LEGAL DESCRIPTION OF CITY PROPERTY**

LOTS 32-37 AND THACKERY DRIVE

REAL PROPERTY IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

LOTS 32 TO 37, INCLUSIVE OF TRACT NO. 2148, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE,
STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 58, PAGES 46 THROUGH 48 INCLUSIVE OF
MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, ALONG WITH
THOSE PORTIONS OF THACKERY DRIVE, 50 FEET WIDE, THAT WOULD PASS WITH A LEGAL CONVEYANCE
OF THE ADJACENT LOTS. BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTERLINE INTERSECTION OF HARBOUR BOULEVARD AND TWINTREE AVENUE,
SAID POINT BEING DISTANT THEREON SOUTH 0°13'50" EAST, 1804.85 FEET FROM THE CENTERLINE
INTERSECTION OF HARBOUR BOULEVARD AND CHAPMAN AVENUE, AS SHOWN ON SAID MAP. THENCE,
ALONG CENTERLINE OF SAID TWINTREE AVENUE, SOUTH 89°43'08" WEST, A DISTANCE OF 409.97;
THENCE NORTH 0°16'52" WEST, TO THE SOUTHWEST CORNER OF LOT 37 OF SAID MAP A DISTANCE OF
30.00 FEET, TO THE **TRUE POINT OF BEGINNING**;

THENCE CONTINUING NORTH 0°16'52" WEST, ALONG THE WESTERLY LINES OF LOTS 37, 36, 35, 34, 33,
AND 32, A DISTANCE OF 479.90 FEET TO THE NORTHWEST CORNER OF SAID LOT 32; THENCE SOUTH
89°42'18" EAST, A DISTANCE OF 52.89 FEET TO THE NORTHEAST CORNER OF SAID LOT 32; THENCE
SOUTH 29°29'53" EAST A DISTANCE OF 102.50 FEET TO NORTHERLY RIGHT OF WAY OF SAID THACKERY
DRIVE, TO A NON-TANGENT CURVE CONCAVED SOUTHERLY, AND HAVING A RADIUS OF 45.00 FEET, A
RADIAL LINE TO SAID CURVE BEARS NORTH 29°29'53" WEST; THENCE EASTERLY AND SOUTHEASTERLY
ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 158°12'36" AN ARC LENGTH OF 124.26 FEET TO A
TANGENT CURVE CONCAVED EASTERLY, AND HAVING A RADIUS OF 45.00; THENCE SOUTHERLY ALONG
SAID CURVE THROUGH A CENTRAL ANGLE OF 38°56'33" AND ARC LENGTH OF 30.59 FEET TO THE
NORTHWEST CORNER OF LOT 28 OF SAID TRACT NO. 2148;

THENCE SOUTH 0°13'50" EAST ALONG THE EASTERLY RIGHT OF WAY OF SAID THACKERY DRIVE A
DISTANCE OF 294.57 FEET;

THENCE SOUTH 89°43'08" WEST A DISTANCE OF 150.00 FEET TO THE **TRUE POINT OF BEGINNING**.

EXHIBIT I

SCOPE OF DEVELOPMENT

Developer shall construct and operate the Conforming Hotel in accordance with the Land Use Approvals.

EXHIBIT J
MINIMUM DEVELOPMENT STANDARDS

EXHIBIT J-1



APPROVAL REQUIREMENTS & DIAMOND RATING GUIDELINES L O D G I N G



PROFESSIONAL ON-SITE INSPECTIONS SINCE 1937



Inspected
& Approved

Introduction

Dear Hospitality Professional,

We genuinely value your interest in our unique AAA Inspected & Approved program. Only AAA solicits and combines travel preferences of over 59 million members with hospitality trends and opinion to create an inspection and approval process that is world renowned. Our program is designed to use professional travel experts and member-driven criteria to quantify and recommend only the finest accommodations in the most desired travel destinations. To that end, we proudly present the latest edition of the AAA Approval Requirements & Diamond Rating Guidelines for lodgings.

These guidelines are provided with two objectives in mind:

- ◆ To ensure our ratings program is accurate and relevant to the travel information needs of over 59 million AAA/CAA members.
- ◆ To provide a valuable reference to help property managers and owners achieve your goal of being AAA Inspected & Approved and Diamond Rated.

AAA values opportunities to partner with the hospitality industry by gathering your input, discussing our ratings and openly sharing with you how the Diamond Rating System applies to your property. We urge you to take full advantage of the information provided by AAA inspectors during evaluations, as our experts collectively visit more than 28,000 lodgings every year — gathering insight on a wide range of lodging styles and experiences across the United States, Canada, Mexico and the Caribbean.

We appreciate your continued service to members and participation in AAA programs.

Sincerely,

Michael Petrone

Michael Petrone, CEC
Director, AAA Content Development



A brief note about AAA and property inspections: Since its inception in 1902 as a federation of independent motor clubs, AAA has existed to help make road travel safer and more enjoyable for its now more than 59 million members. AAA is a leading provider of roadside assistance, travel services and trip planning products, and an influential voice in automotive and travel safety legislation and funding. AAA offers member discounts, insurance and financial services.

More than 80 years ago, in 1937, AAA hired its first field representatives to inspect and report on lodgings and restaurants. In 1963, AAA introduced a rating system for lodgings, adding the diamond symbol in 1977 in honor of the association's 75-year anniversary. A decade later, the Diamond Rating system was expanded to include inspector ratings for restaurants, prompting AAA to seek industry input for its first comprehensive AAA Approval & Diamond Rating Guidelines for restaurants, published in 1989. Prior to this, only minimum Approval Requirements were printed and distributed on request.

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SECTION ONE



MEET THE INSPECTORS!

While we can't reveal their identities, we can offer you a closer look at the qualities and experiences that make AAA's seasoned industry professionals so fascinating.

Meet the Experts

Scroll through creatively angled portraits that tell a story and captivating biographies on topics from previous jobs to food and travel tips.



Inspector 511. This former hotel general manager joined AAA's team of experts in 2008. He's traveled all over the U.S., as well as to Canada, Mexico and the Caribbean. A photography buff, he enjoys visiting national parks to view and photograph the natural landscapes. His favorite hotels are resort and casino hotels where there's always something going on and fun things to do. When it's time for R&R, he prefers the island vibe of Antigua, St. Lucia, St. Vincent and the Grenadines, Jamaica or the Bahamas. Favorite cuisine: French. Favorite Part of Job: Seeing fun places and meeting interesting people.

Inspector Shadows

Tag along as reporters and bloggers follow AAA inspectors on actual lodging and restaurant evaluations, watching and listening as they look under bedspreads and sample the menus.



Hotel Ratings Help Vacationers Separate Good From Bad

CBS Pittsburgh/KDKA, Jon Deiano, May 2, 2017, Length: 2:27

KDKA editor went out on the street to ask folks how they make sure hotels they book are exactly what they want and followed AAA Inspector 593 as she rated a new Hotel Indigo in East Liberty. ...Read More

Twitter

Follow your favorite #AAAInspector @AAA_Travel for a smorgasbord of entertaining observations and discoveries from the road.

 **AAATravel** @AAA_Travel · Oct 4
Look what I stumbled upon today! The longitudinal center of #Canada. It's amazing the things you find along the road. - #AAAInspector 503



 **AAATravel** @AAA_Travel · Sep 26
The championship croquet lawn at @OceanHouseFl will beckon you away from the beach - #AAAInspector 46 bit.ly/2fOLp9s



Inspection Videos

Enjoy a behind-the-scenes look at how AAA inspections are conducted. Follow along on an actual evaluation to see what inspectors expect and look for on the job.



Visit AAA.com/Diamonds for more!

AAA Inspectors: THE Travel Experts

When AAA inspectors enter properties across North America – unscheduled and requesting prompt access to guest rooms – good things follow. That's because, for more than 80 years, AAA has represented the gold standard for lodging and restaurant inspections.

Long before there were websites, social networks and consumer reviews to help travelers find a clean lodging and a good meal, AAA inspectors were looking under beds and tasting the meatloaf all along North America's roadways. Since 1937, AAA has been conducting on-site evaluations and publishing the results to help members make informed travel decisions. AAA attributes this longevity to a system so reliable it benefits industry as much as travelers – plus a team of highly trained, full-time inspectors with extensive industry experience.

ONE APPROVAL, FIVE DIAMONDS

Unlike many rating providers, AAA excludes substandard properties. "Only good options are AAA Inspected & Approved, so members can focus on the fit," said AAA Director of Content Development Michael Petrone. "That's where the Diamonds come in. After properties pass inspection they receive a rating of one to five AAA Diamonds."



The number of Diamonds lets travelers know what to expect. Sometimes a good night's sleep or a simple meal is all that's needed. Other times the facilities, ambience and services are essential to the experience. "Each additional Diamond indicates more elaborate surroundings and attention from service staff," said Petrone.

The guidelines inspectors apply follow a progression based on what's typical across the industry, with increased expectations at each level. The attributes are weighted based on member priorities. "The collective result is a highly reliable way of categorizing," said Petrone. "Travelers can use the quick-glance AAA Inspector Ratings or take in the full picture with the wealth of descriptive details also provided."

CONNECTING TO 59 MILLION MEMBERS

How do properties benefit from such scrutiny? They have the assurance of published, regularly calibrated Approval Requirements and Diamond Rating Guidelines – and an opportunity for immediate face time with inspectors to discuss the results, market trends and potential property changes.

Once ratings are confirmed, lodgings and restaurants are added to AAA's database for listing in travel information and trip planning tools. This means exposure to 59 million AAA/CAA members in the resources they use to make travel planning and buying decisions – and eligibility for logo licensing and advertising programs for increased visibility and reach.



SECTION TWO

THE INSPECTION PROCESS

The inspection process includes three parts:

1. **Apply for an inspection** using the form available at AAA.biz/Diamonds.
2. **Fulfill AAA's Approval Requirements** and receive the AAA Inspected & Approved designation.
3. **Achieve your AAA Diamond Rating** calculated from objective rating scores recorded during the inspection and subjective elements based on the inspector's professional experience and training.

PART 1: Apply for an inspection

By applying for – and/or consenting to – an inspection, you agree to allow AAA to publish your property information and the respective Diamond Rating in our digital and printed travel information. Currently listed establishments need not reapply, as our inspectors routinely reassess Approved properties.

To expedite the application process, we suggest the following approach:

- Verify your property's eligibility by reviewing the [AAA Approval Requirements](#). Properties must meet all Approval Requirements to be valid applicants.
- Complete and submit the [Lodging Inspection Application](#) (pdf).
- Complete and submit the [Lodging Application Processing Fee Form](#) (pdf). The nonrefundable \$500 application processing fee helps offset the costs of validating property information; it does not guarantee an inspection or influence the outcome.

Important notes:

- If our records indicate past disqualifying issues, you may be asked to provide written documentation and receipts of the corrective action taken since then.
- AAA does not guarantee an immediate inspection of all properties that apply, and we reserve the right to apply priority consideration to those demonstrating the highest degree of AAA member value according to the following criteria:
 - PREFERRED LOCATION
 - NEWLY BUILT / RENOVATED
 - REPUTATION
 - HIGH DEGREE OF CLEANLINESS AND COMFORT
 - APPROPRIATELY MAINTAINED CONDITIONS
- We will provide written notice of your application status as soon as possible after completing our review.
- If your property is selected for inspection, the unannounced visit will occur within one year of the application date as we have an inspector available in your area.
- Basic listings in AAA travel products are provided without charge to AAA Inspected & Approved properties and those designated as FYIs.

For more information, review our [Applications FAQ](#).

What to Expect During the AAA On-Site Inspection

Introduction, Interview

On arrival (unannounced), the AAA inspector will speak with a property representative for a brief, but extremely important, interview to:

- Collect factual information for potential use in AAA travel products.
- Be advised by you of any recent changes and/or plans for improvement.
- Answer your questions.



Property Assessment

Following the interview, the inspector will request a tour of all public areas and a cross section of guest rooms.

We strongly encourage owner/management and key personnel to participate during the inspection as our inspector will point out strengths and weaknesses of your property as appropriate*.

**This valuable, no-cost dialogue is unique to the AAA inspection process.*

PROPERTIES MUST MEET ALL AAA APPROVAL REQUIREMENTS BEFORE RATING FACTORS ARE ASSESSED.

Assessment Summary

If a property meets all rating requirements and is Approved, the inspector will recommend a Diamond Rating based on the points assigned to public areas, guest rooms and bathrooms as noted at the time of the inspection. Each approved property will receive a AAA Inspected & Approved decal at the conclusion of the evaluation to affix in a visible property location. Additionally, we will provide you a AAA Inspection Summary by email which includes your property's Approval status and the Diamond Rating (if applicable)*.

**This valuable information is unique to the AAA inspection process.*

For more information, review our [Inspections FAQ](#).



PART 2: Fulfill AAA Approval Requirements

AAA APPROVAL REQUIREMENTS REFLECT THE MINIMUM ACCEPTABLE STANDARDS AS ESTABLISHED THROUGH MEMBER FEEDBACK*.

**This research is unique to the AAA inspection process.*

To be designated as AAA Inspected & Approved, an establishment must pass inspection by meeting the following requirements:

Cleanliness and Condition

1. All facilities associated with a property are clean and well maintained throughout.
2. At a minimum, each guest unit is thoroughly cleaned, with complete bed and bath linens changed between guest stays.
3. Basic housekeeping services and supplies are available on request.
4. All indoor areas are properly heated, air-conditioned and/or ventilated to ensure guest comfort.

Management and Style of Operation

Businesses will:

5. Provide AAA/CAA members value in all aspects of operation.
6. Cater primarily to transient rather than residential guests, with four or more private units available for AAA/CAA members.
7. Maintain compliance with all local, state and federal codes.

Owners/Operators will:

8. Assist AAA in the resolution of AAA/CAA member complaints.
9. Accommodate unannounced AAA property inspections within 20 minutes of notice.
10. Conduct business in a professional and ethical manner — providing attentive, conscientious service to guests.
11. Place AAA/CAA members in AAA Inspected & Approved guest units only. Overflow buildings or guest units associated with the property, but not approved by AAA, are not acceptable accommodations.
12. Provide a responsible representative readily accessible at all times to address guest needs or requests.
13. Provide guests 24-hour access to communications for emergency or critical information.

Owners/Operators will not:

14. Use AAA branding (logo, Diamond Ratings) without AAA's explicit permission.

Exterior and Public Areas

Businesses will have:

15. Accurate, legible signage in appropriate areas (e.g., entry, corridors, walkways, stairways, landings, parking areas).
16. Good illumination in all public areas (e.g., entry, corridors, walkways, stairways, landings, parking areas).
17. Procedures in place to ensure all facilities associated with a property and provided for guest use (e.g., restaurant, health club, gift shop, recreational facilities) meet all appropriate AAA Approval Requirements.

Guest Rooms

Each guest unit will have:

18. A clean and comfortable bed with a mattress pad, two sheets, two pillows with pillowcases, and an appropriate bed covering.
19. A nightstand or equivalent by each bed, a chair, a writing surface, a waste container, drawers/shelving and clothes-hanging facilities.
20. Adequate shades, drapes, blinds or treatments to cover all windows or other transparent areas to provide guest privacy.
21. An adequate level of soundproofing to muffle exterior sounds.
22. An active light switch at the main entry.
23. Good overall illumination to include direct lighting at a writing surface and at each bed.

24. Exterior/hallway facing door(s) equipped with a functional *primary* lock **and** a *secondary* deadbolt lock.

Primary lock is a keyed mechanism that allows the door to be locked from the outside. Passkeys are strictly controlled and available only to recognized guests and essential associates for routine room access (e.g., management, housekeeping/maintenance staff, security).

Secondary lock is a mortised, deadbolt-locking mechanism with a one-inch throw extending from the edge of the door into the door frame. This extra device affords guests a certain level of privacy. Unlike the primary lock passkeys, master keys for secondary locks are available only to essential associates and only for emergency purposes (e.g., management or security).

Secondary Lock Variances

In certain instances, the requirement for secondary locks may be modified to allow exceptions or provide increased guest security. The most common are noted below. AAA claims the right of final arbitrator in all decisions related to locks.

Sliding Glass Doors – Each sliding door must be equipped with an effective locking device. An effective secondary security lock is required on all ground-floor doors and those accessible from common walkways and adjoining balconies.

French Doors – In addition to the deadbolt lock, surface-mounted slide bolts must be installed at the top and bottom to secure the stationary/auxiliary door. These bolts must extend into the upper doorframe and the lower doorframe or floor and must be strong and sturdy mechanisms.

25. Working deadbolt lock(s) on each door to connecting guest units or maintenance corridors.
 26. A viewport or window (convenient to the door) for each entry door.
 27. A working lock for each window in a ground floor unit.
 28. A working smoke detector.

Guest Bathrooms

Each guest unit will have:

29. A private bathroom solely dedicated for use by the guest(s).
 30. A toilet, sink with adequate shelf space, mirror, convenient electrical outlet and a tub/shower with a non-slip surface.
 31. Good overall illumination to include direct lighting at the mirror(s).
 32. Two bath towels, two hand towels, two face cloths and two cups/glasses.
 33. Toilet tissue, a cloth bath mat, and two bars of soap or equivalent.
 34. Non-porous surfaces (e.g., floors, walls, baseboards) in all toilet areas.

Approval Requirements and Diamond Rating Guidelines – what’s the difference?

AAA’s Diamond Rating System comprises two distinct components. The *Approval Requirements* are uncompromising, mandatory standards that result in one of two outcomes: pass or fail. The *Diamond Rating Guidelines*, applied only to properties that meet the Approval Requirements, are somewhat flexible. The overall rating is based on a prevalence of expected attributes and the inspector’s professional judgment in the context of thousands of property inspections.

Properties must meet all AAA Approval Requirements to be designated AAA Inspected & Approved.

[Approval Requirements](#) are common-sense qualifications AAA/CAA members say are essential to their satisfaction and professional operators routinely seek to achieve.

Properties must meet most AAA Diamond Rating Guidelines for a particular level to be assigned that rating.

The [Diamond Rating Guidelines](#) reflect attributes *typically* — but not universally — observed throughout a lodging industry segment. Therefore, the lack of some components listed for a designated rating level does not necessarily preclude the achievement of that rating. During evaluations, inspectors assess each attribute of the property and assign the most appropriate rating that will provide the best match in meeting AAA member expectations.

Not all guidelines apply to all property types. For example, meeting rooms are not expected at a bed and breakfast, but are essential at a convention-oriented hotel. Additionally, downtown hotels may lack extensive landscaping

features in comparison to what is typical in more rural locations. AAA inspectors apply only those Diamond Rating Guidelines applicable for the property classification.

PART 3: Achieve Your AAA Diamond Rating

The AAA Diamond Rating Guidelines

AAA DIAMOND RATINGS FOR LODGINGS REPRESENT A COMBINATION OF THE OVERALL QUALITY, RANGE OF FACILITIES, AND LEVEL OF HOSPITALITY OFFERED BY A PROPERTY. The widely recognized and trusted AAA Diamonds help members choose lodgings that will meet their needs and expectations.

AAA's Diamond Rating Guidelines indicate what is typically found at each rating level — from simple economy to highly personalized luxury. The Diamond Rating is determined based on a compilation of all property characteristics, with a focus on the overall guest experience rather than on individual elements. While properties at the same rating level may have variations in the attributes offered, a predominance of characteristics from a particular rating level drives the rating.

The inspector's Diamond Rating recommendation is based on both the Diamond Rating Guidelines and professional judgment — an essential component of the rating assessment. Our inspectors are North America's travel experts, immersed in the hospitality industry on a daily basis as they conduct more than 29,000 lodging inspections per year.

What the Diamonds Mean

One Diamond



Budget-oriented, offering basic comfort and hospitality.

Two Diamond



Affordable, with modestly enhanced facilities, décor and amenities.

Three Diamond



Distinguished, multifaceted with enhanced physical attributes, amenities and guest comforts.

Four Diamond



Refined, stylish with upscale physical attributes, extensive amenities and a high degree of hospitality, service and attention to detail.

Five Diamond



Ultimate luxury, sophistication and comfort with extraordinary physical attributes, meticulous personalized service, extensive amenities and impeccable standard of excellence.

Glossary

When you see the following terms used in the following Diamond Rating Guidelines pages, please refer back to this page for more information.

- **Basic** – Of, relating to, or forming the base or essence; simplest form; minimal amounts.
- **Connective Technology/Connectivity** – The integration of technology and information systems that allow guests and lodging operators to interact on an increasingly personalized and technologically connected basis.
- **Decorative** – Obvious ornamental embellishment with attractive results.
- **e.g.** – For example. Items following are only examples of what is typical and should not be interpreted as a required appointment.
- **Leading Edge** – Most advanced in their profession; luxuriant, luxury materials, highly fashionable/grand design and functionality working in sync to provide a sumptuous level of comfort.
- **Luxurious** – Characterized by opulence, sumptuousness, or rich abundance; extremely comfortable, elegant or enjoyable.
- **Modest/Modestly Enhanced** – More than basic; slight enhancement; limited in size or scope.
- **Upscale** – Obviously high grade; upmarket, luxurious feel; cohesive designs; not just the latest trend.

KEY NOTES:

- **Additional Impressions** – All areas may be subject to point additions/subtractions related to the subjective impressions of the inspector pertaining to comfort, design and layout, or other unique features.
Note: AAA/CAA members express significant dissatisfaction with additional *non-use fees* (e.g., “resort fees”, safes, microwaves, refrigerators, etc.). Free and effective internet bandwidth within the guest room is also a typical guest expectation.
- **Additional Features** – Some features and amenities (recreation facilities, microwaves, coffeemakers, iron, etc.) are not rated on a 1-5 Diamond scale, but are factored into the overall property rating based on availability and/or general quality according to AAA member expectations for the rating level.
- **Exceptions** – Not all of the Diamond Rating Guidelines will apply to all property types. AAA inspectors will only use the sections of the Diamond Rating Guidelines that are appropriate for the property classification in assessing the overall Diamond Rating. *If an attribute exists at the property, it will be rated accordingly.*



EXTERIOR

	 1 BUDGET-ORIENTED	 2 ENHANCED	 3 DISTINGUISHED	 4 REFINED	 5 ULTIMATE LUXURY
General Curb Appeal	Minimal quantity, variety and/or coordination of basic materials Basic design and effect	Increased quantity, variety and/or coordination of materials Modest design and effect	Decorative materials Well-coordinated and distinctive design Significantly enhanced effect	Upscale materials Substantial, cohesive and impressive design Upscale effect	Luxurious materials Leading-edge design and effect
Building Structure & Design	Basic materials, design and/or function	Modest enhancements to materials, design and/or function <i>e.g., roof mansard, gable, cupola, window shutters/sashes, siding, columns, railings</i>	Significant decorative enhancements to materials, design and/or function in the most prominent structural areas, such as the façade Obvious distinctive effect <i>e.g., enhanced roofs, window treatments/moldings, stone/veneer accents or balconies</i>	Upscale enhancements Substantial, cohesive and impressive design and effect throughout the property footprint	Grand architectural features Leading-edge design and effect throughout the property footprint
Landscaping	Minimal quantity, variety of plants and/or landscape materials Basic surroundings and visual interest	Modest enhancements to quantity, variety of plants and/or landscape materials Some surroundings reflect a coordinated design of moderate visual interest	Significant, decorative enhancements to quantity, variety of plants and/or landscape materials Overall decorative design Creates an obvious visual interest in most areas	The entire grounds are professionally planned and manicured with an extensive use of appropriate, mature plants and landscape materials Cohesive, upscale design that withstands seasonal weather conditions At least one upscale accent feature <i>e.g., statuary, water feature, serenity garden</i>	Luxuriant landscape materials Leading-edge design and effect that withstands seasonal weather conditions Multiple upscale accent features are meticulously integrated by design <i>e.g., statuary, water feature, serenity garden</i>

EXTERIOR

	1 BUDGET-ORIENTED	2 ENHANCED	3 DISTINGUISHED	4 REFINED	5 ULTIMATE LUXURY
Main Entrance	Basic materials, design and/or function Covered entry door If covered entry has drive-through capability, capacity is limited to one-car width	Modest enhancements to materials, design and/or function Covered entry door If covered entry has drive-through capability, capacity is limited to one-car width One additional feature e.g., bench seating, double entry doors, automatic entry doors, revolving doors, entry vestibule, enhanced façade or driving surface	Significant decorative enhancements to materials, design and function Covered drive-through entry capacity is appropriate for the size of the lodging (minimum two-car width or depth) At least three additional features e.g., bench seating, double entry doors, automatic entry doors, revolving doors, entry vestibule, enhanced façade or driving surface	Upscale materials, design Covered drive-through entry with capacity greater than two-car width and depth At least three additional features e.g., bench seating, double entry doors, automatic entry doors, revolving doors, entry vestibule, enhanced façade or driving surface	Luxurious materials Leading-edge design and effect Covered drive-through entry with capacity greater than two-car width and depth Expanded drive or courtyard

Additional Guest Impressions and Features

The following items are not assigned a Diamond Rating, but are factored into the overall rating of the exterior/public areas.

Location – The impression made by the location of the property, proximity to attractions or natural features.

Parking – The availability of free on-site parking for guest vehicles.





PUBLIC AREAS

	 1 BUDGET-ORIENTED	 2 ENHANCED	 3 DISTINGUISHED	 4 REFINED	 5 ULTIMATE LUXURY
General Décor Style	Predominantly basic materials, design Minimal function and/or coordination Adequate level of comfort	Modest enhancements to materials, design Increased function and/or coordination Enhanced level of comfort	Distinctive style Significant enhancements to materials, design Well-coordinated, with increased functionality; open-concept designs that facilitate social interaction Obvious degree of comfort	Upscale materials, design and/or function Well-coordinated, with increased functionality; open-concept designs that facilitate social interaction Exceptional degree of comfort	Luxurious materials Leading-edge design and effect Exceptional degree of comfort
Floor Coverings	Basic materials, design <i>e.g., basic linoleum/sheet vinyl, plain ceramic tile, painted concrete, low density pile carpet (with limited/no padding—floor feels hard)</i>	Modestly enhanced materials <i>e.g., floating wood laminates, patterned linoleum/vinyl, polished/stamped concrete, carpet tiles, medium density pile carpet of simple design/pattern (with padding that provides average comfort underfoot)</i>	Decorative materials and distinctive design with patterns, textures or inlays <i>e.g., enhanced wood laminates, engineered wood flooring, carpet, ceramic/stone/glass tile, terra cotta, luxury vinyl tile/plank</i> Hard-surfaced floors have decorative area rugs in seating areas and other locations as appropriate	Highest grade materials and upscale design with patterns, textures or inlays <i>e.g., wood, marble or other upscale stone floors, high density pile carpet (with padding that provides exceptional comfort underfoot)</i> Hard-surfaced floors have upscale area rugs in seating areas and other locations as appropriate	Highest grade materials with custom inlays or textured enhancements <i>e.g., wood, marble or other upscale stone floors, high density pile carpet (with padding that provides exceptional comfort underfoot)</i> Leading-edge design and effect Area rugs are luxurious
Free Floor Space	Obviously restricted by size and/or placement of appointments	Modest restrictions due to size and/or placement of appointments	No restrictions, as placement of appointments is well-proportioned to area size and traffic flow	Area size and placement of appointments provide an obvious degree of spaciousness allowing increased ease of movement for guests	Area size and placement of appointments provide an abundance of space that contributes to the ultimate level of comfort and relaxation

PUBLIC AREAS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Furniture Quality & Design	<p>Basic materials, design</p> <p>Minimal function and/or coordination</p> <p>Provides an adequate level of comfort</p>	<p>Modest enhancements to materials, design</p> <p>Increased function and/or coordination</p> <p>Provides an enhanced level of comfort</p>	<p>Significant distinctive enhancements to materials, design</p> <p>Well-coordinated with increased functionality</p> <p>Provides an obvious degree of comfort</p>	<p>Upscale materials <i>e.g., granite/stone, solid wood, polished metals, high-gloss lacquers, veneer finishes with solid wood accents, high-grade laminate insets</i></p> <p>Upscale design and/or function <i>e.g., antiques, leather, plush padding, designer fabric, sculptured shape, crisp line</i></p> <p>Exceptional degree of comfort</p>	<p>Luxurious materials</p> <p>Custom workmanship</p> <p>Leading-edge design and effect</p> <p>Exceptional degree of comfort</p>
Guest Service Area(s)	<p>Basic, small counter registration</p>	<p>Enhanced front desk <i>e.g., size or design</i></p> <p>Multiple guest service capability</p>	<p>Enhanced front desk/pods/alternative check-in methods</p> <p>Multiple guest service capability</p> <p>Part of a spacious common area</p> <p>Uniformed staff</p>	<p>Enhanced front desk/pods/alternative check-in methods</p> <p>Multiple guest service areas <i>e.g., front desk, bell stand, concierge, video kiosk</i></p> <p>Part of a spacious common area</p> <p>Uniformed staff</p>	<p>Enhanced front desk/pods/alternative check-in methods</p> <p>Multiple guest service areas <i>e.g., front desk, bell stand, concierge, video kiosk</i></p> <p>Part of a spacious common area</p> <p>Uniformed staff</p> <p>Staffed concierge area (minimum 16 hrs./day)</p>
Illumination	<p>Basic fixtures</p> <p>Good level of overall illumination</p>	<p>Modestly enhanced design, materials, positioning and/or function</p> <p>Good level of overall illumination</p>	<p>Decorative and well-coordinated design, materials and/or function</p> <p>Well-positioned</p> <p>Good level of overall illumination</p>	<p>Fixtures reflect upscale design</p> <p>Well-positioned</p> <p>Excellent level of overall illumination enhances the intended use of the space</p>	<p>Custom fixtures of outstanding quality</p> <p>Well-positioned</p> <p>Excellent level of overall illumination enhances the intended use of the space</p> <p>Leading-edge illumination effect that provides day/night transition</p>

PUBLIC AREAS

	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Seating Layout	Minimal or no capacity	Expanded overall capacity Multipurpose hard and soft seating	Expanded overall capacity Expanded capacity for each function (soft seating, dining, workspaces)	Expanded overall capacity Expanded capacity for each function (soft seating, dining, workspaces) Multiple conversational groupings One semi-private area (away from traffic flow)	Expanded overall capacity Expanded capacity for each function (soft seating, dining, workspaces) Multiple conversational groupings Multiple semi-private areas (away from traffic flow)
Wall Coverings	Basic materials, design e.g., drywall with basic paint finish or plain vinyl coverings Rubber or vinyl baseboards	Modest enhancements e.g., knockdown, orange peel, comb, slap brush Carpeted baseboards	Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s) Wood, ceramic tile or enhanced composite baseboards	Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s) One upscale design enhancement e.g., furniture-finish wood planking, soft wall coverings, crown/cove molding, wainscot, architectural feature Oversize (>4") wood/stone baseboards	Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s) Multiple design enhancements throughout e.g., furniture-finish wood planking, soft wall coverings, crown/cove molding, wainscot, architectural feature Oversize (>4") wood/stone baseboards Leading-edge effect
Decorative Enhancements	Poster(s) or common artwork with unframed/thin, un-enhanced wood, metal, or plastic frame(s) Common knickknacks	Common artwork with enhanced frame(s)-Or-other modest appointments e.g., live plants, floral displays, prints, assorted pieces, sculptures, accent wall, water features, fireplace	Well-coordinated, decorative framed artwork or appointments that provide distinctive appeal e.g., live plants, floral displays, prints, assorted pieces, sculptures, accent wall, water features, fireplace	Well-coordinated, decorative framed artwork or appointments Varied assortment that provides a thematic upscale appeal e.g., live plants, floral displays, prints, assorted pieces, sculptures, accent wall, water features, fireplace	Well-coordinated, decorative framed artwork or appointments Varied assortment that provides a thematic upscale appeal e.g., custom artwork, limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces, sculptures

PUBLIC AREAS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Connective Technology	Basic level of connectivity to include wireless internet access	Wireless internet access available throughout the property <i>e.g., multiple routers, consistent signal strength</i> Convenient electrical outlets Workspaces with printing capability	Wireless internet access available throughout the property <i>e.g., multiple routers, consistent signal strength</i> Convenient electrical outlets Workspaces with USB or other alternative charging capability Remote access printing capability Additional connectivity options <i>e.g., interactive electronic reader board with local information, boarding pass kiosk, device available for electronic check-in/check-out, RFID keys, mobile device check in</i>	Superior internet speed and capacity available throughout the property <i>e.g., multiple routers, consistent signal strength</i> Remote guest service access through mobile device Remote access printing capability One additional technology feature <i>e.g., mobile device room key access, wireless charging systems, advanced business computing equipment</i>	Superior internet speed and capacity available throughout the property <i>e.g., multiple routers, consistent signal strength</i> Advanced guest connectivity capability across all guest interactions (front desk, bell service, concierge, maintenance, food and beverage, housekeeping, recreation) One additional technology feature <i>e.g., mobile device room key access, wireless charging systems, advanced business computing equipment</i> Leading-edge technology
Elevator	Elevator is available for guest use in all multi-story buildings Basic elevator with no enhancement	Elevator is available for guest use in all multi-story buildings Landing includes at least one accent feature <i>e.g., chair/sofa, table, lamps/wall sconce, phone, artwork, mirror, flowers/plants</i>	Elevator is available for guest use in all multi-story buildings Elevator includes decorative appointments Landing includes multiple accent features <i>e.g., chair/sofa, table, lamps/wall sconce, phone, artwork, mirror, flowers/plants</i>	Multiple elevators Upscale appointments Landings are recessed and include multiple accent features <i>e.g., chair/sofa, table, lamps/wall sconce, phone, artwork, mirror, flowers/plants</i> Additional service elevator is available for staff use	Multiple elevators Elevator cabs have additional features <i>e.g., high speed, destination dispatch, dual call button panels, television, music, card key access, voice indicators</i> Landings are recessed and include multiple accent features <i>e.g., chair/sofa, table, lamps/wall sconce, phone, artwork, mirror, flowers/plants</i> Additional service elevator is available for staff use Leading-edge effect

PUBLIC AREAS

	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Exercise Facility	Not available	<p>Designated room on site</p> <p>Three pieces of cardio/strength equipment</p> <p>Mirrors Television Water cooler Towels Clock Sanitizer</p>	<p>Designated room on site</p> <p>Four or more pieces of professional grade equipment</p> <p>Mirrors Television Water cooler Towels Clock Sanitizer</p> <p>Additional personal training options <i>e.g., free weights, benches, floor mats, physio balls, toning bars/rollers</i></p> <p>Specialized, high-impact flooring</p> <p>Multiple televisions or individual televisions for each piece of cardio equipment</p> <p>One additional amenity <i>e.g., infused water, bottled water, chilled towels, aromatherapy scents, ear buds, fresh fruit</i></p>	<p>Upscale facility</p> <p>Full array of state-of-the-art fitness equipment appropriate with room count</p> <p>Provides an obvious degree of spaciousness</p> <p>Additional personal training options <i>e.g., free weights, benches, floor mats, physio balls, toning bars/rollers</i></p> <p>Specialized, high-impact flooring</p> <p>Multiple televisions or individual televisions for each piece of cardio equipment</p> <p>Three or more additional amenities <i>e.g., infused water, bottled water, chilled towels, aromatherapy scents, ear buds, fresh fruit</i></p>	<p>Leading-edge facility</p> <p>Full array of state-of-the-art fitness equipment appropriate with room count</p> <p>Provides an obvious degree of spaciousness</p> <p>Luxurious health club environment with attendants</p> <p>Personal training options / guided programs</p> <p>In-room exercise programs available</p> <p>Specialized, high-impact flooring</p> <p>Multiple televisions or individual televisions for each piece of cardio equipment</p> <p>Comprehensive array of amenities</p> <p>Dressing area includes lockers, showers and restrooms</p> <p>Athletic gear available</p>



PUBLIC AREAS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Restrooms	Not available	Restroom available	Decorative appointments Multiple restrooms in a convenient location (if property has expanded meeting facilities, then additional restrooms are available in proportion)	Upscale appointments Multiple restrooms in a convenient location (if property has expanded meeting facilities, then additional restrooms are available in proportion) Multiple locations	First-class with luxurious appointments Multiple restrooms in a convenient location (if property has expanded meeting facilities, then additional restrooms are available in proportion) Multiple locations
Signage Throughout Property	Basic materials, design Limited locations	Modestly enhanced materials, design Limited locations	Decorative materials, design enhancements Ample locations	Intuitive, upscale materials, design and location Ample locations	Custom materials, Intuitive design Creatively placed for a leading-edge effect Ample locations
Sundries & Shops	Not available	Modest selection of amenities available at the front desk OR In vending machine e.g., toothbrush/paste, razors, mouthwash, shower caps, combs	Dedicated sundry area OR Conventional gift shop offering a moderate variety of merchandise e.g., health and beauty items, food, beverage, basic technology accessories and reading materials	Upscale gift shop providing a wide variety of merchandise OR Property is conveniently connected to shopping area	Variety of first-class shops OR Property is conveniently connected to shopping area

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PUBLIC AREAS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Swimming Pool	Not available	Pool area reflects the use of modest materials and design Limited amount of furniture in simple or mixed styles	Well-appointed with decorative features and enhanced design Good variety of comfortable, coordinated pool furniture	Well-appointed with upscale materials and design Good variety of comfortable, coordinated pool furniture Includes at least one additional feature <i>e.g., hot tub, whirlpool spa, steam room, sauna, fountain, waterfall, zero-entry, infinity edge, children's splash pad, kiddie pool, water slide</i> Food and beverage service is available poolside	Luxurious materials Leading-edge appointments <i>e.g., in-pool seating, sculptures, water feature, exotic plants and gardens, stone/tile surfaces with designer inlays</i> Good variety of upscale pool furniture Includes at least one additional feature <i>e.g., hot tub, whirlpool spa, steam room, sauna, fountain, waterfall, zero-entry, infinity edge, children's splash pad, kiddie pool</i> Additional poolside amenities <i>e.g., cabanas, Bali beds, umbrellas, lotions, food and beverage outlet</i> Attendants on duty Food and beverage service is available poolside

Additional Guest Impressions and Features

The following items are not assigned a Diamond Rating, but are factored into the overall rating of the exterior/public areas.

Ceilings – The impression made by the quality of ceiling finishes in the public areas.

Additional Recreational Facilities/Programs – The availability of substantial on-site recreational facilities.

Spa – The availability of on-site spa facilities.

Resort / Non-use Fee(s) – A deduction for the automatic collection of separate fees for facilities, amenities or services regardless of guest use.

Overall Impression – The overall subjective impression of the exterior and public spaces.

Other – The general impression made by the design, layout or other standout features.



GUEST ROOMS

	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
General Décor Style	<p>Predominantly basic materials, design</p> <p>Minimal function and/or coordination</p> <p>Adequate level of comfort</p>	<p>Modest enhancements to materials, design</p> <p>Increased function and/or coordination</p> <p>Enhanced level of comfort</p>	<p>Significant enhancements to materials, design</p> <p>Well-coordinated, with increased functionality</p> <p>Obvious degree of comfort</p> <p>Comprehensive design reflecting streamlined, trendy, contemporary or traditional styles</p>	<p>Upscale materials, design and/or function</p> <p>Well-coordinated, with increased functionality</p> <p>Exceptional degree of comfort</p>	<p>Luxurious materials</p> <p>Leading-edge design and effect</p> <p>Exceptional degree of comfort</p>
Bed / Bedding	<p>Basic materials, design (headboard, bed base, mattress and bed covering)</p> <p>Bed linens are of common blends, thread counts (sheer, coarse to touch, quilted spreads)</p> <p>Pillows are of a standard grade (thin polyester batting)</p>	<p>Modestly enhanced materials, design (headboard, bed base, mattress and bed covering) <i>e.g., quilted or soft top mattress, duvet</i></p> <p>Bed linens are smooth to touch</p> <p>Pillows are of an enhanced grade (thick cluster fiber)</p>	<p>Decorative headboard <i>e.g., upholstered, multiple textures, shelving, reading lights, oversize mural</i></p> <p>Mattress includes comfort enhancement <i>e.g., pillow top, foam padding</i></p> <p>Bed linens are smooth to touch</p> <p>Pillows are of an enhanced grade (thick cluster fiber)</p> <p>Three accent features to bed linens <i>e.g., triple sheeting, overstuffed duvet, skirting, wrapped box spring, bed throw/scarf, multiple pillows, embroidered pillow cases/shams</i></p>	<p>Upscale materials</p> <p>Oversize or custom made headboard, bed base, mattress</p> <p>Bed linens are very soft to the touch and tightly woven</p> <p>Pillows are of an upscale grade <i>e.g., down, natural memory fibers, hypo-allergenic, gel</i></p> <p>Three accent features to bed linens <i>e.g., triple sheeting, overstuffed duvet, skirting, wrapped box spring, bed throw/scarf, multiple pillows, embroidered pillow cases/shams</i></p>	<p>Luxurious materials</p> <p>Leading-edge effect</p> <p>Bed linens have a luxuriously soft, silk-like feel</p> <p>Pillows are of an upscale grade <i>e.g., down, natural memory fibers, hypo-allergenic, gel</i></p> <p>Three accent features to bed linens <i>e.g., triple sheeting, overstuffed duvet, skirting, wrapped box spring, bed throw/scarf, multiple pillows, embroidered pillow cases/shams</i></p>

GUEST ROOMS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Floor Coverings	Basic materials, design e.g., basic linoleum/sheet vinyl, plain ceramic tile, painted concrete, low density pile carpet (with limited/no padding—floor feels hard)	Modestly enhanced materials e.g., floating wood laminates, patterned linoleum/vinyl, polished/stamped concrete, carpet tiles, medium density pile carpet of simple design/pattern (with padding that provides average comfort underfoot)	Decorative materials and distinctive design with patterns, textures or inlays e.g., enhanced wood laminates, engineered wood flooring, carpet, ceramic/stone/glass tile, terra cotta, luxury vinyl tile/plank Hard-surfaced floors have decorative area rugs in seating areas and other locations as appropriate	Highest grade materials and upscale design with patterns, textures or inlays e.g., wood, marble or other upscale stone floors, high density pile carpet (with padding that provides exceptional comfort underfoot) Hard-surfaced floors have upscale area rugs in seating areas and other locations as appropriate	Highest grade materials with custom inlays or textured enhancements e.g., wood, marble or other upscale stone floors, high density pile carpet (with padding that provides exceptional comfort underfoot) Leading-edge design and effect Hardwood or fine quality tile/stone surface at entry Area rugs are luxurious
Free Floor Space	Obviously restricted by size and/or placement of appointments	Modest restrictions due to size and/or placement of appointments	No restrictions, as placement of appointments is well-proportioned to room size and traffic flow	Room size and placement of appointments provide an obvious degree of spaciousness allowing increased ease of movement for multiple guests	Room size and placement of appointments provide an abundance of space that contributes to the ultimate level of comfort, privacy and relaxation for multiple guests
Furniture Quality & Design	Basic materials, design Minimal function and/or coordination Adequate level of comfort	Modest enhancements to materials, design Increased function and/or coordination Enhanced level of comfort	Significant distinctive enhancements to materials, design Well-coordinated, with increased functionality Obvious degree of comfort	Upscale materials e.g., granite/stone, solid wood, polished metals, high-gloss lacquers, veneer finishes with solid wood accents, high-grade laminate insets Upscale design and/or function e.g., antiques, leather, plush padding, designer fabric, sculptured shape, crisp line Exceptional degree of comfort	Luxurious materials Custom workmanship Leading-edge design and effect Exceptional degree of comfort

GUEST ROOMS

	 1 BUDGET-ORIENTED	 2 ENHANCED	 3 DISTINGUISHED	 4 REFINED	 5 ULTIMATE LUXURY
Illumination	≥ Three lighting fixtures reflect basic materials, design and/or functionality Good level of overall illumination	≥ Three lighting fixtures reflect modest enhancements to materials, design, functionality and/or placement Good level of overall illumination	≥ Four lighting fixtures reflect decorative materials, design Well-positioned from multiple sources Good level of overall illumination at each key task area	≥ Four lighting fixtures reflect upscale materials, design Well-positioned from multiple sources Superior functionality provides for ambience options <i>e.g., dimmers, point lighting, multiple switches, remote control and/or natural light sources</i> Excellent level of overall illumination	≥ Four custom lighting fixtures of outstanding quality Well-positioned from multiple sources Superior functionality provides for ambience options <i>e.g., dimmers, point lighting, multiple switches, remote control and/or natural light sources</i> Excellent level of overall illumination Leading-edge illumination effect
Mirror	Less than full length	Full-length mirror Unframed/beveled OR Simple metal/wood frame	Full-length mirror Decorative frame/design enhancement	Full-length mirror Upscale frame/design enhancement Multiple locations	Full-length mirror Custom frame/design enhancement <i>e.g., luxurious materials, artistic design, oversized, multiple viewing angles</i> Multiple locations
Seating Layout	One chair Adequate level of comfort	Seating for two guests Enhanced level of comfort	Seating for two guests Enhanced desk chair (ergonomic or coordinated with décor) Chair positioned for television viewing Additional multifunctional seating option Obvious degree of comfort	Seating for three guests <i>e.g., loveseat, sofa or two chairs (in addition to desk chair)</i> Enhanced desk chair (ergonomic or coordinated with décor) Chair positioned for television viewing Additional multifunctional seating option One additional furniture piece Exceptional degree of comfort	Seating for three guests <i>e.g., loveseat, sofa or two chairs (in addition to desk chair)</i> Enhanced desk chair (ergonomic or coordinated with décor) Furniture layout clearly designed for small grouping Two additional furniture pieces Exceptional degree of comfort

GUEST ROOMS

	 1 BUDGET-ORIENTED	 2 ENHANCED	 3 DISTINGUISHED	 4 REFINED	 5 ULTIMATE LUXURY
Hang Space for Clothing	Open wall-mounted clothes rack Basic wire, plastic/non-detachable hangers Drawers/shelving available	Recessed area or modestly enhanced, freestanding armoire Detachable wood or heavy metal/plastic hangers Drawers/shelving available	Fully enclosed area or enhanced quality freestanding armoire Closet can enclose full-length apparel Matching, open-hook, wood/sculptured plastic hangers (heavy gauge with metal hook) Some with skirt or pant hanging attachments Ample supply (for two guests)	Upscale quality enclosure Closet can enclose full-length apparel Matching, open-hook, wood/sculptured plastic hangers (heavy gauge with metal hook) Some with skirt or pant hanging attachments Ample supply (for two guests) Two or more additional features e.g., illumination, drawers, shoe rack, walk-in capability, two or more shelves, upgraded luggage racks/designer style benches	Upscale quality enclosure Closet can enclose full-length apparel Comprehensive selection of hangers for > three guests At least two satin hangers Closet is illuminated Three or more additional features e.g., illumination, drawers, shoe rack, walk-in capability, two or more shelves, upgraded luggage racks/designer style benches
Television Type & Placement	≤ 32-inch screen	> 32-inch flat-panel Channel directory Two additional features e.g., all-in-one multimedia hub, high-definition channels, free/pay movie channels, digital art/property information, mood effects, multiple viewing angles, acoustic board, smart TV functionality, streaming capability, surround sound	≥ 40-inch flat-panel Channel directory Cables and cords are hidden from view Three additional features e.g., all-in-one multimedia hub, high-definition channels, free/pay movie channels, digital art/property information, mood effects, multiple viewing angles, acoustic board, smart TV functionality, streaming capability, surround sound	≥ 43-inch flat-panel Channel directory Cables and cords are hidden from view Four additional features e.g., all-in-one multimedia hub, high-definition channels, free/pay movie channels, digital art/property information, mood effects, multiple viewing angles, acoustic board, smart TV functionality, streaming capability, surround sound	> 43-inch flat-panel Seamlessly integrated with room design Channel directory Cables and cords are hidden from view Five additional features e.g., all-in-one multimedia hub, high-definition channels, free/pay movie channels, digital art/property information, mood effects, multiple viewing angles, acoustic board, smart TV functionality, streaming capability, surround sound

GUEST ROOMS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
<p>Work Space / Writing Surface</p> <p><i>(A work space / writing surface is judged on the basis of available space)</i></p>	<p>Minimal area e.g., small wall-mounted writing surface or small task table</p>	<p>Medium-size desk or task table</p>	<p>Large-size desk, task table or alternative work/writing surface</p> <p>Electrical outlet and USB port at desktop (for guest use)</p>	<p>Large-size desk, task table or alternative work/writing surface</p> <p>Multiple electrical outlets and USB ports at desktop</p>	<p>Large-size desk, task table or alternative work/writing surface</p> <p>Multiple electrical outlets and USB ports at desktop</p> <p>Work space is appropriately enhanced by unique style/design</p> <p>Uncluttered, with efficient functionality</p>
<p>Ventilation</p>	<p>Window style air-conditioning units</p> <p>Heat and/or air conditioning available on a seasonal basis as needed</p>	<p>Heat and air conditioning available on demand</p> <p>Conveniently located through-wall HVAC units</p> <p>Easily accessible controls</p>	<p>Conveniently located through-wall HVAC units</p> <p>Modern and quiet</p> <p>Digital thermostat control on wall</p>	<p>Central system</p> <p>Digital thermostat control on wall</p>	<p>Central system</p> <p>Quiet and inconspicuous form and function</p> <p>Digital thermostat control on wall</p>
<p>Wall Coverings</p>	<p>Basic materials, design e.g., drywall with basic paint finish or plain vinyl coverings</p> <p>Rubber or vinyl baseboards</p>	<p>Modest enhancements e.g., knockdown, orange peel, comb, slap brush</p> <p>Carpeted baseboards</p>	<p>Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s)</p> <p>Wood, ceramic tile or enhanced composite baseboards</p>	<p>Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s)</p> <p>One upscale design enhancement e.g., furniture-finish wood planking, soft wall coverings, crown/cove molding, wainscot, architectural feature</p> <p>Oversize (>4") wood/stone baseboards</p>	<p>Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s)</p> <p>Multiple design enhancements e.g., furniture-finish wood planking, soft wall coverings, crown/cove molding, wainscot, architectural feature</p> <p>Leading-edge effect</p> <p>Oversize (>4") wood/stone baseboards</p>

GUEST ROOMS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Decorative Enhancements	Poster(s) or common artwork with unframed/thin, un-enhanced wood, metal, or plastic frame(s) Common knickknacks	Common artwork with enhanced frame(s) -Or- other modest appointments <i>e.g., live plants, floral displays, prints, assorted pieces, sculptures, accent wall, water features, fireplace</i>	Well-coordinated, decorative framed artwork or appointments that provide distinctive appeal	Well-coordinated, upscale framed artwork or appointments Varied assortment of styles and accent pieces that provide a thematic upscale appeal	Well-coordinated, luxurious framed artwork or appointments Varied assortment of styles and accent pieces that provide a leading edge or luxurious appeal <i>e.g., custom artwork, limited edition prints, canvas art, tapestries, or lithographs with enhanced matting and preservation frames, assorted artisan pieces, sculptures</i>
Window Coverings	Basic window covering provides for guest privacy	Modestly enhanced materials, design or function <i>e.g., blackout effect, blinds, full-length drapes, shutters, sheers, fabric side panels, rods with finials, valance, glass treatment, cornice</i>	Decorative enhancements to design <i>e.g., blackout effect, blinds, full-length drapes, shutters, sheers, fabric side panels, rods with finials, valance, glass treatment, cornice</i>	The overall treatments are upscale and provide a significant visual interest	Custom design, luxurious materials Leading-edge effect <i>e.g., power operation, special tinting or effect</i>

Additional Guest Impressions and Features

The following items are not assigned a Diamond Rating, but are factored into the overall rating of the guest room.

- Ceilings** – The impression made by the quality of ceiling finishes in the guest room.
- Technology** – The impression made by the technology features in the guest room.
- Coffee/Tea** – The quality, presentation and selection of coffee/tea, equipment, cups and condiments.
- Microwave** – A microwave oven is present in each guest room.
- Refrigerator** – A refrigerator is present in each guest room.
- Guest Information** – The availability and presentation of information on the property and guest services.
- Iron & Board** – A full-size iron and board are present in each guest room, or quick pressing service is offered.
- Robes** – A robe is present in each guest room (two in doubles).
- Slippers** – A set of slippers is present in each guest room (two sets in doubles).
- Safe** – A safe is present in each guest room.
- Internet** – Wireless internet access in guest rooms is offered free, or at an additional cost.
- Overall Impression** – The overall subjective impression of the guest rooms.
- Other** – The general impression made by the design, layout, or other standout features.



BATHROOMS

	 1 BUDGET-ORIENTED	 2 ENHANCED	 3 DISTINGUISHED	 4 REFINED	 5 ULTIMATE LUXURY
General Décor Style	Predominantly basic materials, design Minimal function and/or coordination Adequate level of comfort	Modest enhancements to materials, design Increased function and/or coordination Enhanced level of comfort	Significant enhancements to materials, design Well-coordinated, with increased functionality Obvious degree of comfort Comprehensive design reflecting streamlined, trendy, contemporary or traditional styles	Upscale materials, design and/or function Well-coordinated, with increased functionality Exceptional degree of comfort	Luxurious materials Well-coordinated, with increased functionality to provide leading-edge design and effect Exceptional degree of comfort
Counter/ Shelf Space; Available	Basic materials, design e.g., glass shelving, metal, or sheet laminate	Modestly-enhanced materials, design e.g., poured acrylic, cultured marble/granite, ceramic tile ≥ 3 sq. ft.	Decorative materials, design e.g., quartz, granite ≥ 6 sq. ft.	Upscale materials, design e.g., marble or other solid stone ≥ 8 sq. ft. Multiple counters and/or shelves	Upscale materials, design e.g., marble or other solid stone ≥ 8 sq. ft. Multiple counters and/or shelves Leading-edge effect
Floor Coverings	Basic materials, design e.g., basic linoleum/sheet vinyl, painted concrete	Modestly enhanced materials, design e.g., ceramic tile, patterned linoleum/vinyl	Decorative materials and design with patterns, textures or inlays e.g., enhanced wood laminates, engineered wood flooring, ceramic/stone/glass tile, polished/stamped concrete, terra cotta, luxury vinyl tile/plank	Highest grade materials and upscale design e.g., solid wood, antique reclaimed tiles, pebble mosaics, marble, granite/other upscale stone floors Area rug(s) as appropriate	Highest grade materials e.g., solid wood, antique reclaimed tiles, pebble mosaics, marble, granite/other upscale stone floors Luxurious area rug(s) as appropriate Custom inlays or textured enhancements Leading-edge design and effect

BATHROOMS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Free Floor Space	Obviously restricted by size and/or placement of appointments	Modest restrictions due to size and/or placement of appointments <i>(If vanity area is separate from the toilet area, it is positioned in plain view of the guest room)</i>	No restrictions, as placement of appointments is well-proportioned to room size and traffic flow <i>(If vanity area is separate from the toilet area, it is positioned in restricted view from the rest of the guest room)</i>	Room size and placement of appointments provide an obvious degree of spaciousness, allowing increased ease of movement	Room size and placement of appointments provide an abundance of space that contributes to the ultimate level of comfort and relaxation for multiple guests
Illumination	Basic lighting fixtures <i>e.g., box/egg crate style, Hollywood bulbs</i>	Modestly enhanced lighting fixtures <i>e.g., enhanced plastic cover, tube lighting</i>	Decorative lighting fixtures Multiple locations	Upscale design and materials Multiple locations Illuminated shower Excellent level of overall illumination at each location	Upscale design and materials Multiple locations Illuminated shower Custom function(s) provides for ambience options <i>e.g., dimmers, point lighting, multiple switches, and/or natural light sources</i> Leading-edge illumination effect
Mirror	Basic materials, design	Modest design/size enhancement <i>e.g., framed, beveled, etched</i> Proportionately sized	Decoratively framed/designed <i>e.g., floating, illuminated</i> Proportionately sized	Upscale materials, design Makeup mirror	Upscale materials, design Leading-edge effect <i>e.g., television, defogger</i> Illuminated makeup mirror
Personal Care <i>(If eco-friendly options exist, dispensers must coordinate with General Décor Style as described previously)</i>	Two small-size bars of soap (or equivalent) One packet or bottled item	Two medium-size bars of soap (or equivalent) Two bottled items	Multi-piece personal care package includes: • Two large-size bars of soap • Three bottled items Decorative presentation	Multi-piece personal care package includes: • Two large-size bars of soap • Four bottled items • Two additional items Enhanced by fragrance, natural supplement, packaging, etc. Upscale presentation	Comprehensive and luxurious selection of fashionable bath products Ample-size bars of soap and bottled items Leading-edge effect Scale

BATHROOMS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Shower Curtain/Door	Basic materials, design e.g., plastic or vinyl curtain	Modest materials, design enhancement Lightweight curtain e.g., vinyl/polyester Or- lightweight glass door with aluminum frame	Decorative materials, design Double curtain -Or- glass door with aluminum frame -Or- door-less design	Upscale materials, design e.g., linen texture, hemp, cotton/cotton-poly blend Double curtain -Or- heavyweight glass door with/without metal frame -Or- door-less design	Leading-edge effect Double curtain -Or- heavyweight glass door with/without metal frame Additional luxury enhancement (etched, frosted, embossed, tinted, upscale custom hardware, etc.)
Shower Fixtures	Metal or plastic Basic design, single function	Metal or plastic Adjustable settings	Decorative materials, design and enhanced function e.g., rain showerhead, oversize wall-mounted showerhead, massage feature	Upscale materials, design One custom water feature e.g., body jets, hand-held sprayers, multiple showerheads, oversize ceiling rain shower, panel systems, steam shower	Upscale materials, design Multiple custom water features e.g., body jets, hand-held sprayers, multiple showerheads, oversize ceiling rain shower, panel systems, steam shower
Sink	Basic materials, design Wall-mounted (no base)	Modest enhancement to materials, design Wall-mounted, vanity style Self-rimming porcelain/porcelain on steel -Or- seamless poured acrylic or cultured marble/granite	Decorative materials, design e.g., under-mounted, pedestal, vessel	Upscale materials and/or functionality e.g., glass, stainless steel, colored vitreous china, brass, nickel, copper, marble, real/synthetic stone	Upscale materials and/or functionality e.g., glass, stainless steel, colored vitreous china, brass, nickel, copper, marble, real/synthetic stone Multiple sinks
Toilet	Basic design Two-piece, round (with/without lid)	Two-piece, elongated (with lid)	Two-piece, elongated (with lid) Decorative design enhancement	Upscale design -Or- increased functionality Recessed area	Upscale design -Or- increased functionality Enclosed toilet-only area

BATHROOMS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Towels	<p>Basic, lightweight</p> <p>Rough to touch</p> <p>Low absorbency</p> <p>Displayed on caddies</p>	<p>Modest enhancements in design, lightweight</p> <p>Rough to touch</p> <p>Low absorbency</p> <p>Displayed on bars and/or shelves</p>	<p>Modest enhancements in design, medium weight</p> <p>Soft to touch</p> <p>Medium absorbency</p> <p>Displayed on bars and/or shelves</p>	<p>Upscale design, heavyweight</p> <p>Plush to touch</p> <p>Firm, self-supporting feel</p> <p>Premium cotton with high absorbency</p>	<p>Luxurious appearance, with intricate and detailed enhancements to design</p> <p>Heavyweight</p> <p>Plush to touch</p> <p>Firm, self-supporting feel</p> <p>Premium cotton with high absorbency</p> <p>Generous-size towels or bath sheets</p>
Tub (If available)	<p>Basic materials e.g., fiberglass, acrylic, porcelain on steel</p> <p>Straight sided rectangular design</p> <p>< 5 ft. length</p> <p>-Or- one-piece fiberglass tub and shower surround combination</p>	<p>Basic materials e.g., fiberglass, acrylic, porcelain on steel</p> <p>Standard size (5 ft. length x 2.5 ft. width)</p>	<p>Decoratively enhanced materials, design</p> <p>Standard size (5 ft. length x 2.5 ft. width)</p>	<p>Upscale materials, design e.g., oversize (> 5ft. length x 2.5 ft. width), oval, round/free form</p> <p>And/or enhanced functionality e.g., water jets, handheld sprayer</p>	<p>Upscale materials, design e.g., oversize (> 5ft. length x 2.5 ft. width), oval, round/free form</p> <p>And/or enhanced functionality e.g., water jets, handheld sprayer</p> <p>Leading-edge effect e.g., two-person capability, European soaking style, contoured back, built-in lumbar back support</p>
Tub / Shower Surround	<p>Basic materials, design e.g., fiberglass, metal</p>	<p>Modest enhancement to materials, design e.g., acrylic, ceramic tile, cultured marble/granite</p>	<p>Decorative materials, design</p> <p>Ceramic tile/solid surface</p> <p>Tub and shower height soap dishes</p>	<p>Upscale materials, design</p> <p>Solid surface e.g., marble, granite, stone or glass/porcelain tiles</p> <p>Tub and shower height soap dishes</p>	<p>Upscale materials, design</p> <p>Solid surface e.g., marble, granite, stone or glass/porcelain tiles</p> <p>Leading-edge effect</p> <p>Custom treatment Integrated seating/shelving</p>

BATHROOMS					
	 BUDGET-ORIENTED	 ENHANCED	 DISTINGUISHED	 REFINED	 ULTIMATE LUXURY
Wall Coverings	Basic materials, design e.g., drywall with basic paint finish or plain vinyl coverings Rubber or vinyl baseboards	Modest enhancements e.g., knockdown, orange peel, comb, slap brush Tiled baseboards	Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s) Wood/ceramic tile or enhanced composite baseboards	Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s) One upscale design enhancement e.g., furniture-finish wood planking, crown/cove molding, wainscot, architectural feature Oversize (> 4") wood/stone baseboards	Decorative enhancements e.g., expert-smooth painted drywall, plaster/Venetian plaster, vinyl coverings/wood planks/veneers/stone, accent wall(s) Multiple design enhancements e.g., furniture-finish wood planking, crown/cove molding, wainscot, architectural feature Oversize (> 4") wood/stone baseboards Leading-edge effect
Decorative Enhancements		One modest appointment	One piece of decorative artwork -Or- other decorative appointment	Upscale artwork -Or- other appointments that provide a distinctive or thematic upscale appeal	Upscale artwork -Or- other appointments that provide a distinctive or thematic upscale appeal Variety of styles and accent pieces e.g., framed art, assorted artisan pieces/sculptures, floral displays or plants

Additional Guest Impressions and Features

The following items are not assigned a Diamond Rating, but are factored into the overall rating of the bathroom.

Ceilings – The impression made by the quality of ceiling finishes in the bathroom.

Hair Dryer – The quality, presentation and features of the hair dryer provided in the bathroom.

Night-light – A night-light is present in the bathroom.

Television – A television is present in the bathroom.

Vanity Seating – A seat with counter space and mirror are available in, or adjacent to, the bathroom.

Overall Impression – The overall subjective impression of the bathrooms.

Other – The general impression made by the design, layout, or other standout features.

The AAA Four and Five Diamond Ratings

These prestigious ratings are achieved by a small percentage of all Approved properties — typically the most luxurious and pampering properties throughout North America. Less than one-half of one percent of AAA Inspected & Approved lodgings receive the Five Diamond Rating, while only six percent receive the Four Diamond Rating. Establishments at these rating levels must consistently reflect upscale and extraordinary characteristics in their physical attributes and guest services.



Four and Five Diamond Service Expectations

AAA Four Diamond Properties

Properties identified by AAA as potential candidates for the Four Diamond Rating must employ competent, full-time personnel and systems to provide guests with a comprehensive level of hospitality. Key guest service interaction points are:

- PHONE OPERATIONS
- ARRIVAL AND DEPARTURE
- CHECK IN/OUT
- LUGGAGE ASSISTANCE
- ROOM DELIVERY
- HOUSEKEEPING
- GENERAL / CONCIERGE SERVICES

AAA Five Diamond Properties

Properties identified by AAA as potential candidates for the Five Diamond Rating undergo multiple unannounced evaluations by a AAA inspector and a final decision by a panel of experts. Properties that receive the Five Diamond Rating are subject to rigorous on-site assessments of all guest service areas. Each section is assigned a point value based on the overall levels of competency, refinement and hospitality.



AAA Hospitality Standards**1. Reservation Services**

- Initial call to property is properly received
- Reservationist thanks caller for contacting the property or reservations office
- Reservationist provides an appropriate introduction to guest
- Reservationist addresses caller by name as appropriate for the manner of the guest
- Reservationist anticipates caller's needs or offers a personalized recommendation
- Reservationist provides rate structure and room availability
- Reservationist provides an overview of facilities and services
- Reservationist exhibits competent/accurate knowledge of all associated facilities and hours of operation
- Reservationist reviews reservation request
- Reservationist exhibits a sincere desire to meet and comply with all guest requests
- Reservationist is efficient and sensitive to the manner of the guest
- Reservationist extends an appropriate closing
- Property provides follow-up reservation confirmation in advance of arrival

2. Arrival Services

- Cars in queue are acknowledged and appropriately handled on arrival
- Attendant promptly opens the car door
- Attendant extends an appropriate welcome
- Attendant provides an appropriate introduction
- Attendant confirms guest's name
- Attendant uses guest's name as appropriate for the manner of the guest
- Attendant explains parking procedures
- Valet parking is offered
- Attendant promptly offers to unload luggage
- Attendant explains luggage handling procedures
- Attendant provides unsolicited direction to registration area
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant is efficient and sensitive to the manner of the guest
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant or lobby greeter escorts guest to the appropriate area
- Attendant extends an appropriate closing

3. Check In Services

- Attendant extends an appropriate welcome
- Attendant provides an appropriate introduction
- Attendant confirms guest's name
- Attendant addresses guest by name during initial greeting
- Attendant discreetly uses guest's name as appropriate for the manner of the guest
- Attendant gathers and provides information in a discreet manner to protect guest security and privacy
- Preregistered guests are not solicited for additional information
- Attendant confirms rate and type of room
- Attendant discreetly provides room number
- Attendant provides all registration materials to the guest in a manner that is convenient for the guest
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant is efficient and sensitive to the manner of the guest
- Guest is escorted to room
- Attendant extends an appropriate closing

4. Bell Services (Check In)

- Luggage delivered before guest, with guest escort or within five minutes of guest's initial arrival to room
- Attendant extends an appropriate greeting
- Attendant uses guest's name as appropriate for the manner of the guest
- Attendant takes the initiative in providing property information
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant places luggage on luggage stand or in appropriate area
- Attendant explains features and functions of room, including technology and connectivity features
- Attendant offers to fill ice bucket
- Attendant is efficient and sensitive to the manner of the guest
- Attendant extends an appropriate closing

5. Evening Housekeeping Services

- Attendant folds back or removes bedding as appropriate
- Attendant straightens bathroom
- Attendant refolds toilet tissue point
- Attendant cleans soiled surfaces
- Attendant replaces or straightens (if reuse elected by guest) used towels
- Attendant replenishes depleted amenities as appropriate
- Attendant empties wastebasket
- Attendant adjusts drapes as appropriate
- Attendant adjusts room lighting
- Attendant delivers complimentary amenity
- Attendant refreshes ice
- Attendant replaces used glasses
- Attendant displays evening services available to the guest, such as: laundry, room service or shoeshine information
- Attendant leaves printed nighttime sentiment for guest
- There is additional evidence of personalized services

**6. Guest Requests**

- Service phone extension is answered within three rings
- Operator extends an appropriate greeting
- Operator uses guest's name as appropriate for the manner of the guest
- Operator anticipates guest's needs or offers a personalized recommendation
- Operator is efficient and sensitive to the manner of the guest
- Guest service is available by alternate means (digital application, texting, in-room device)
- Requests are acknowledged and expected fulfillment time is given
- Requests are handled with sense of urgency
- Item or service is received promptly, or at requested time
- Delivery interaction includes the use of guest's name as appropriate for the manner of the guest
- Staff anticipates guest's needs or offers a personalized recommendation
- Staff follows up appropriately to ensure guest satisfaction

7A. In-Room Dining (Order Services)

- Service is available 24/7
- Menu includes ingredients and dishes in keeping with other upscale dining option(s) offered at the property
- Service number is answered within three rings, or instant access is available through other device/system
- Operator extends an appropriate greeting
- Operator uses guest's name as appropriate for the manner of the guest
- Operator exhibits a sincere desire to meet and comply with all guest requests
- Operator anticipates guest's needs or offers a personalized recommendation
- Operator repeats order to guest for confirmation
- Operator is efficient and sensitive to the manner of the guest
- Operator provides time estimate for delivery (within 30 minutes)
- Operator extends an appropriate closing

7B. In-Room Dining (Delivery Services)

- Delivered within five minutes of operator's commitment (guest is notified in advance if more than five minutes early)
- Attendant extends an appropriate greeting
- Attendant uses guest's name as appropriate for the manner of the guest
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant confirms tray/table placement
- Attendant is appropriately conversant during set-up and delivery
- Attendant reviews guest order
- Attendant asks guest's permission to prepare table, pour beverage and remove food cover(s); acts accordingly
- Food presentation and quality of ingredients reflect an upscale experience
- All appropriate dishware and linens are of an upscale quality
- All food is served at the proper temperature
- All food is prepared as ordered
- Attendant provides written or spoken instructions for table/tray removal
- Attendant is efficient and sensitive to the manner of the guest
- Attendant extends an appropriate closing
- Trays/tables are removed within 15 minutes, on request

**8. Concierge Services**

- Concierge is on duty or a "special services" number is available for guest use 24/7
- Attendant extends an appropriate greeting
- Attendant uses guest's name as appropriate for the manner of the guest
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant demonstrates an extensive knowledge of area attractions and services
- Attendant demonstrates first-hand knowledge beyond common internet search capability
- Attendant fulfills guest's special request(s)
- Attendant is efficient and sensitive to the manner of the guest
- Attendant extends an appropriate closing

9. Bell Services (Check Out)

- Service number is answered within three rings, or alternative electronic request is acknowledged
- Operator extends an appropriate greeting
- Operator uses guest's name as appropriate for the manner of the guest
- Operator exhibits a sincere desire to meet and comply with all guest requests
- Operator offers to retrieve car or arrange other transportation
- Operator is efficient and sensitive to the manner of the guest
- Operator extends an appropriate closing
- Attendant arrives within ten minutes of request
- Attendant extends an appropriate greeting
- Attendant uses guest's name as appropriate to the manner of the guest
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant is appropriately conversant with guest while providing assistance
- Attendant inquires about, or checks for, guest belongings possibly left behind
- Attendant is efficient and sensitive to the manner of the guest
- Attendant extends an appropriate closing

10. Check Out Services

- Alternative check out methods are available (mobile/online/in-room device)
- Attendant recognizes waiting guests appropriately
- Attendant extends an appropriate greeting
- Attendant confirms guest's name
- Attendant uses guest's name as appropriate for the manner of the guest
- Attendant inquires about guest stay / engages in conversation with guest
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant offers a copy of the folio for review
- Attendant confirms payment method
- Attendant presents guest folio options as appropriate
- Attendant expresses a sincere thank you for staying at the property
- Attendant sincerely encourages guest to return
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant is efficient and sensitive to the manner of the guest
- Attendant extends an appropriate closing

11. Departure Services

- Given adequate notice, the guest's vehicle is waiting or alternate transportation is readily available
- Attendant extends an appropriate greeting
- Attendant uses guest's name as appropriate for the manner of the guest
- Attendant anticipates guest's needs or offers a personalized recommendation
- Attendant is appropriately conversant with guest
- Attendant reviews all of guest's belongings and their placement in vehicle
- Attendant opens and closes door for guest(s)
- Attendant is efficient and sensitive to the manner of the guest
- Attendant exhibits a sincere desire to meet and comply with all guest requests
- Attendant extends an appropriate closing

12. Miscellaneous Staff Services

- Guests are graciously provided directions or offered assistance via escort on request
- All associates display a high level of engagement
- There is evidence that all associates are empowered by management to resolve guest issues immediately
- All associates fulfill guest's special requests
- All associates are appropriately attired; name tags are clearly visible, or proper introduction is provided
- All associates demonstrate appropriate behavior
- All associates demonstrate appropriate hygiene
- Short-notice pressing is available
- Shoeshine service is available
- At least one food and beverage outlet is comparable to a Four or Five Diamond Rating



SECTION THREE

The Listing

Once a property is Approved, we use factual property information and descriptive details to create lodging listings in AAA travel information products. Basic listings do not contain advertising or promotional verbiage, and are published at no cost to the establishment.

While you provide the objective information contained in lodging listings, the descriptive narrative is composed by AAA experts to convey key property components to guide AAA/CAA members. All listing information is updated annually, and establishments are contacted accordingly. Failure to provide information in a timely manner may result in the removal of your property from our products.

AAA Lodging Listings: Rich in Inspection Details

Lodging listings in AAA’s digital travel information products include the AAA Inspector Rating, AAA Inspector Notes and up-to-date property details. In 2017, four more elements were added based on member interest. (View actual listing on AAA.com.)

Hokulani Waikiki by Hilton Grand Vacations Club

AAA Inspector Rating: 3.9 (Wonderful) 38 Guest Ratings

2181 Kalakaua Ave
Honolulu, HI 96815 - Map It

Weekend Sale - Members save up to 15% on weekends through September 5 and earn Honors™ points when booking AAA/CAA rates!

AAA Inspector Rating Details (Scale 1-5)

Room	4.1
Bath	4.2
Overall	3.9
Public Areas	3.5

BEST OF 3 DIAMOND **A RATED**

Best Of
Top 20% of hotels within each Diamond Rating level, based on overall inspection scores.

A Rated
Top 25% of all hotels, based on cleanliness and condition.

AAA Inspector Notes

Inspector Pick (View): Aside from the attractive condos, I enjoy the view from the upscale rooftop pool and bar area which overlooks the ocean, the city and the mountains.

In the heart of Waikiki, this property is surrounded by many restaurants and shops. The upscale one-bedroom suites feature modern décor and deep soaking tubs. It's just one block to the beach. Take the outside escalators up to the second floor to check in. The rooftop pool offers spectacular views of the city, the ocean and Diamond Head, not to mention complimentary cabanas. A manager's reception is held each Monday from 5 p.m. to 6 p.m. and includes refreshments. Smoke-free premises. 143 condominiums. 15 stories, interior corridors. Accessibility (CAA).

More about Honolulu, HI | More Hotels in Honolulu, HI

AAA Inspector Rating Details are the actual overall, room, bath and public area inspection scores.

A Rated lodgings scored in the top 25% for cleanliness and condition across all rating levels.

Best Of [1-5] Diamond have inspection scores in the top 20% for their rating level, no member complaints in the past 12 months and are A Rated.

Inspector Pick marks notable offerings in categories of interest to members (e.g., family friendly).

AAA Inspected & Approved and Diamond Rated lodgings are eligible to participate in AAA’s optional, fee-based logo licensing program. Licensees may promote the highly recognized AAA Inspected & Approved logos and Diamond Ratings in media announcements, advertising materials and

on signage. Licensees also receive enhanced listings in AAA products and are eligible to participate in optional promotions. Visit AAA.biz/multimedia for more information.

Eligibility Criteria for Separate Lodging Listing (Dual-branded development)

AAA only provides separate listings for areas or sections of a property that provide clearly differentiated member experiences. The distinct sections may be located at the same property, in the surrounding complex or at a contiguous structure. The following criteria are applied to determine if a lodging is eligible for separate listing consideration. If applicable, qualified entities are each assigned their own Diamond Rating based on the guidelines outlined on pages 13-38.

ELIGIBILITY CRITERIA FOR SEPARATE LODGING LISTING	Diamond Rating		
	1, 2, 3	4	5
Property is open to the public on a full-time basis	✓	✓	✓
Property name/brand is distinctly different	✓	✓	✓
Property contact phone number is exclusive	✓	✓	✓
Concept/Theme is distinctly different	✓	✓	✓
Marketing program is distinctly different and exclusive to the property	✓	✓	✓
Booking capability is exclusive to the property	✓	✓	✓
All consumer media channels position the property as a separate entity	✓	✓	✓
Property is clearly distinct by virtue of a separate wing, tower or series of contiguous floors	✓	✓	✓
Primarily, property access is restricted to registered guests for the brand	N/A	✓	✓
Staff is clearly identifiable with the brand (uniform, manner) and solely dedicated to the property		✓	✓
Exterior entrances are exclusive to the property		✓	✓
Reception area is solely dedicated to the property		✓	✓
Common areas/facilities are separate and exclusively dedicated to the property		✓	✓
Arrival process is solely dedicated to the property		✓	✓
In-room services are solely dedicated to the property		✓	✓
Concierge services are solely dedicated to the property		✓	✓

A property must clearly qualify as a distinct and separate entity. The following examples are NOT eligible for separate listings:

- Concierge levels that offer upgraded amenities and sometimes a higher level of service.
- Property sections or buildings that are separate but not clearly differentiated.
- Exclusive sections of a property that require additional guest membership qualifications and, therefore, are not readily available for use by all AAA/CAA members.

FYI Designation



For lodgings, this designation identifies properties that are notable and offer potential member value but have not been inspected or Diamond Rated due to one of the following reasons:

- Too new to rate.
- Under construction.
- Undergoing extensive renovations.
- Has not been inspected.
- Does not meet all Approval Requirements but provides members a highly distinct and valuable experience.

Lodging Classifications

ALL DIAMOND RATED LODGINGS ARE CLASSIFIED BASED ON THE STYLE OF OPERATION. CLASSIFICATIONS MAY BE PRECEDED BY ONE OR MORE SUBCLASSIFICATIONS IF APPLICABLE:

Bed and Breakfast: Typically owner-operated with extensive personal touches. Guests are encouraged to interact during evening and breakfast hours. A continental or full, hot breakfast is included in the room rate.

Cabin: Often located in wooded, rural or waterfront locations. Freestanding units are typically rustic and of basic design. Essential cleaning supplies, kitchen utensils and complete bed and bath linens are supplied.

Condominium: Apartment-style accommodations of varying design or décor. Units often contain one or more bedrooms, a living room, a full kitchen and an eating area. Essential cleaning supplies, kitchen utensils and complete bed and bath linens are supplied.

Cottage: Often located in wooded, rural or waterfront locations. Freestanding units are typically home-style in design and décor. Essential cleaning supplies, kitchen utensils and complete bed and bath linens are supplied.

Country Inn: Although similar in definition to a bed and breakfast, country inns are usually larger in scale with spacious public areas and offer a dining facility that serves breakfast and dinner.

Hotel: Typically a multistory property with interior room entrances and a variety of guest unit styles. The magnitude of the public areas is determined by the overall theme, location and service level, but may include a variety of facilities such as a restaurant, shops, a fitness center, a spa, a business center and meeting rooms.

House: Freestanding units of varying home-style design. Often containing two or more bedrooms, a living room, a full kitchen, a dining room and multiple bathrooms. Essential cleaning supplies, kitchen utensils and complete bed and bath linens are supplied.

Motel: A one- or two-story establishment with exterior room entrances and drive up parking. Public areas and facilities are often limited in size and/or availability.

Ranch: Typically a working ranch featuring an obvious rustic, Western theme, equestrian-related activities and a variety of guest unit styles.

SUBCLASSIFICATIONS (IF APPLICABLE):

Boutique: Often thematic, typically informal yet highly personalized; may have a luxurious or quirky style that is fashionable or unique.

Casino: Offers extensive gambling activities, such as blackjack, craps, keno and slot machines.

Classic: Renowned and landmark properties, older than 50 years, well known for their unique style and ambience.

Contemporary: Overall theme reflects characteristics of present mainstream trends.

Extended Stay: Offers a predominance of long-term accommodations with a designated full-service kitchen area in each unit.

Historic: Over 75 years old with one of the following documented historical features:

- *Maintains the integrity of its historical nature*
- *Listed on the National Register of Historic Places*
- *Designated a National Historic Landmark or located in a National Register Historic District*

Resort: Extensive recreational facilities and programs may include golf, tennis, skiing, fishing, water sports, spa treatments or professionally guided activities.

Retro: Overall theme reflects a contemporary design that reinterprets styles from a past era.

Vacation Rental: Typically houses, condominiums, cottages or cabins; these properties are “home away from home” self-catering accommodations.

Vintage: Overall theme reflects upon and maintains the authentic traits and experience of a past era.

Accessibility



Accessible Features Icon

Denotes a property that has some accessible features. It may be fully accessible, semi-accessible, or meet some of the needs of hearing-impaired individuals.

Accessibility is not a AAA Approval Requirement and will not affect your Diamond Rating. However, we strongly encourage you to make every effort to meet the needs of all your guests – including mature travelers and those with disabilities.

Member Comment Procedures

AAA MEMBER RELATIONS CLOSELY MONITORS THE NUMBER AND TYPE OF COMMENTS SUBMITTED ABOUT AAA INSPECTED & APPROVED PROPERTIES. All comments are carefully reviewed for validity and included as part of the property record.

If complaints are received, AAA will notify you and provide an opportunity to resolve the matter in a reasonable period of time. If a member complaint is determined to be of an extreme nature, AAA may act to disapprove your property immediately.

If your property is disapproved because of member complaints, you may submit a written request for re-inspection one year from the date of disapproval. The request should include an explanation of actions taken to limit future complaints and be addressed to:

AAA Inspections & Diamond Ratings

1000 AAA Drive, Mailstop 51
Heathrow, FL 32746-5063

The AAA Appeals Process

THE APPEALS PROCESS IS A RESOURCE FOR ALL INSPECTED PROPERTIES.

What can I appeal?

You may appeal your property's Approval status or Diamond Rating. Each situation is handled on an individual basis.

What is the process to file an appeal?

Before you file an appeal, please contact AAA Customer Service to discuss your questions or concerns. An analyst may be able to answer your questions immediately or, if additional information or discussion is needed, will direct you to the AAA Regional Manager of Inspections for your area.

AAA Customer Service
407-444-8370, Option 2
AAAListings@national.aaa.com
M-F, 8:30 a.m.-5:15 p.m. (ET)

If an issue remains unresolved after the above steps, you may choose to present relevant information to the AAA Appeals Committee for objective review. All appeals must be submitted by property owners/operators in writing to the address below. You may include pictures, documents or other pertinent materials to support the appeal. To expedite review, please outline the specific concerns in a succinct manner. Each appeal is thoroughly researched and given thoughtful consideration and a substantive reply by the committee. The committee's decision on your appeal is considered as AAA's final response. You will be notified as to the status of your appeal within 45 days of receipt of your written statement.

AAA Appeals Committee
1000 AAA Drive, Mailstop 51
Heathrow, FL 32746-5063

Green Programs

AAA supports environmental management and sustainability throughout the lodging industry to the extent that truly effective programs maintain quality standards of guest comfort. We strongly encourage continued use of programs that offer guests choices without negative consequences for noncompliance. Effective green programs are intended to reduce waste without reducing guest comfort.

In AAA travel information products, lodgings certified by approved green programs are identified with an  icon in their listing.

AAA is not involved in the evaluation or certification of a property's environmental practices but does regularly review requirements and best practices related to the most reputable sustainable programs.

Questions?

Establishments in all areas of the U.S. (excluding Southern California; see below), Canada, Mexico and the Caribbean should contact AAA at:

AAA Listings/Customer Service

AAAListings@national.aaa.com

407-444-8370, Option 2

AAA Inspections & Diamond Ratings

1000 AAA Drive, Mailstop 51

Heathrow, FL 32746-5063

Official Appointments and Advertising

407-444-8280

Establishments in Southern California should contact the following AAA club:

Automobile Club of Southern California

P.O. Box 25001

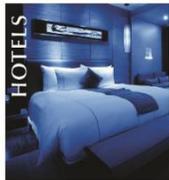
Santa Ana, CA 92799-5001

Inspections and Official Appointments

714-885-2247

Advertising

714-885-2394



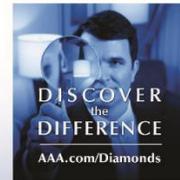
Inspected
& Approved

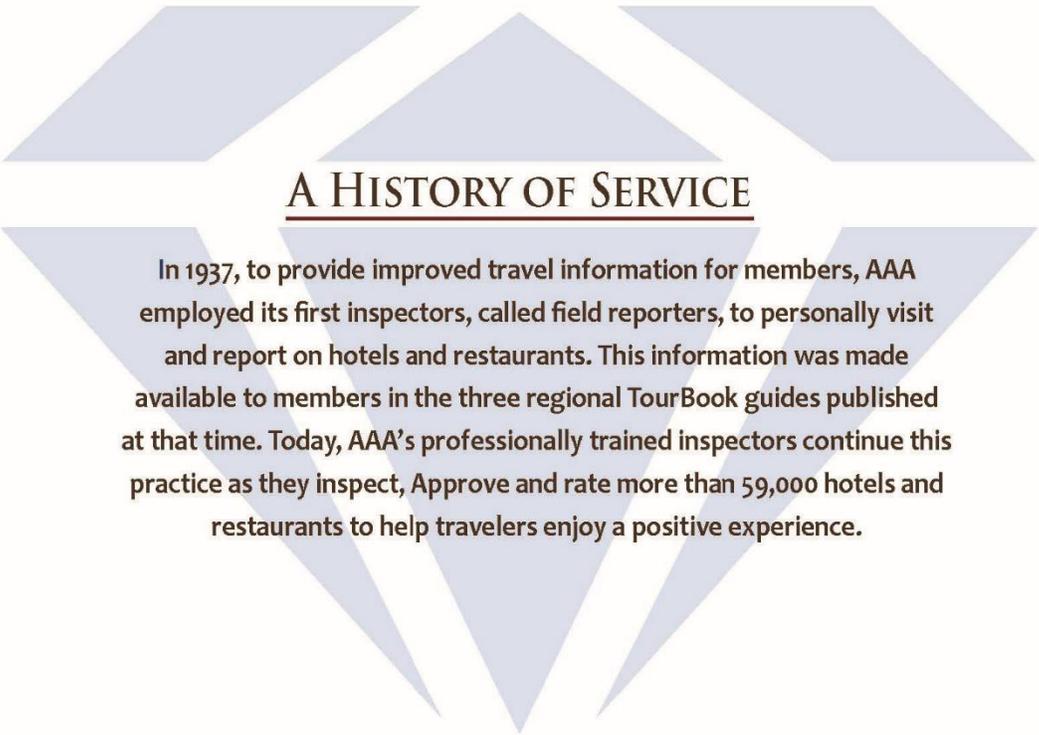


AAA
DIAMOND RATINGS



Expert Insight Members Trust





A HISTORY OF SERVICE

In 1937, to provide improved travel information for members, AAA employed its first inspectors, called field reporters, to personally visit and report on hotels and restaurants. This information was made available to members in the three regional TourBook guides published at that time. Today, AAA's professionally trained inspectors continue this practice as they inspect, Approve and rate more than 59,000 hotels and restaurants to help travelers enjoy a positive experience.



Inspected & Approved

AAA Travel Information & Content
Inspections & Diamond Ratings • 1000 AAA Drive • Heathrow, FL 32746-5063

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EXHIBIT K

GUARANTY AGREEMENT

Dated as of _____, 20__

In order to induce the CITY OF GARDEN GROVE, a Municipal corporation (“**City**”), to enter into the Disposition and Development Agreement with NEWAGE GARDEN GROVE II LLC, a California limited liability company (“**Developer**”) dated _____, 2022 (the “**DDA**”), and in consideration thereof Kam Sang Company, Inc a California Corporation (hereinafter referred to as the “**Guarantor**”) executed this Guaranty (“**Guaranty**”) in favor of the City. This Guaranty is made, in part, with reference to the following relevant facts:

RECITALS

A. Pursuant to the terms of the DDA, Developer acquired certain real property as defined in the DDA. All capitalized terms not defined herein shall have the meaning set forth in the DDA unless the context dictates otherwise.

B. Pursuant to the terms of the DDA, Developer has agreed to be bound by the terms of Section 208.1 of the DDA.

The obligations of Developer under Section 208.1 of the DDA are hereafter referred to as the “**Guaranty Obligations.**” In the event of any conflict between the terms of the DDA and the description thereof in this Recital B, the terms of the DDA shall prevail.

NOW, THEREFORE, in consideration of the covenants exchanged herein, and as part of the consideration for the City to enter into the DDA with Developer, and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the parties agree as follows:

Guarantor, jointly and severally, absolutely, unconditionally, and irrevocably guarantee and promise to fully, completely and punctually satisfy the Guaranty Obligations in accordance with the terms of this Guaranty.

Notwithstanding any contrary provision in this Guaranty, the City shall not have the right to enforce this Guaranty against Guarantor, unless Developer is in Default of its obligations under Section 208.1 of the DDA.

This Guaranty is an absolute guaranty of performance and not of collection and shall survive termination of the DDA. Guarantor expressly agrees that until the Guaranty Obligations are performed in full, Guarantor shall not be released by or because of any waiver, extension, modification, forbearance, delay, or other act or omission of the City, or City’s failure to proceed promptly against Developer or Guarantor.

Guarantor agrees that (i) it is directly and primarily liable to the City, (ii) the Guaranty Obligations are independent of the obligations of Developer, (iii) the obligations of the Guarantor are joint and several; and (iv) a separate action or actions may be brought and prosecuted against Guarantor whether or not Developer is joined in any such action or actions. Guarantor agrees that the liability of

Guarantor under this Guaranty shall in no way be limited by (a) the release or discharge of Developer in any creditor proceeding, receivership, bankruptcy or other similar proceeding, (b) the impairment, limitations or modification of the liability of Developer or of any remedy for the enforcement of Developer's liability, resulting from the operation of any present or future provision of Title 11 of the United States Code, as amended, or any other statute or proceeding affecting creditors' rights generally, (c) the rejection or disaffirmance of the any Guaranty Obligations or any portion thereof in any such proceeding, or (d) the cessation, from any cause whatsoever, whether consensual or by operation of law, of the liability of Developer to the City. In the event that bankruptcy, insolvency, receivership or similar creditors rights proceedings are instituted against Developer, Guarantor hereby waives any rights of indemnification and/or subrogation it may have against Developer, except in regard to a filing required to be made by Guarantor in any Developer's bankruptcy, as set forth below.

In the event of a breach by Developer in the performance of the Guaranty Obligations, City shall give written notice of such breach to Guarantor and Guarantor shall commence to cure such breach within five (5) business days of the receipt of the notice of breach. If Guarantor fails to satisfactorily commence to cure the breach with such five (5) business day business day period, Guarantor shall be in default.

In the event of such default, and if Developer has not conveyed the City Property and the Agency Property to City under Section 208.1 of the DDA, Guarantor shall cure such default by the payment of Twenty Million Dollars (\$20,000,000), in full accord and satisfaction of this Guaranty provided that, in the event the parties mutually agree to allow the Developer to retain the Agency Property for development pursuant to the Agency DDA, then the amount to be paid to the City in full accord and satisfaction of the Guaranty shall be \$_____.

Guarantor hereby waives any right to assert against the City as a defense, counterclaim, set-off or cross-claim any defense (legal or equitable), set-off, counterclaim, and/or claim which Guarantor may now or at any time hereafter have against Developer.

Guarantor hereby waives all presentments, demands for payment and/or performance, notices of non-performance, protests, notices of protest, notices of dishonor, notices of default, notice of acceptance of this Guaranty, diligence in connection with, and all other notices or formalities to which Guarantor may be entitled or notices which may be required in order to charge Guarantor with liability hereunder.

Without the generality of any of the foregoing waivers or any other provisions of this Guaranty, Guarantor further waives any waiver by City of any of City's rights under California Civil Code Section 2822. Guarantor further waives any rights, defenses and benefits which might otherwise be available to Guarantor under California Civil Code Sections 2787 to 2855, inclusive, (including, without limitation, California Civil Code Sections 2809, 2810, 2819, 2839, 2845, 2848, 2849 and 2850) 2899 and 3433, and any successor sections. Guarantor acknowledges and agrees that all waivers of defenses arising from any impairment of Guarantor's rights of subrogation, reimbursement, contribution and indemnification and waivers of any other rights, privileges, defenses or protections available to Guarantor by reason of Sections 2787 to 2855, inclusive, of the California Civil Code are intended by Guarantor to be effective to the maximum extent permitted by applicable law.

Guarantor agrees that it shall file all claims against Developer in any bankruptcy or other similar proceeding in which the filing of claims is required by law on any indebtedness of Developer to Guarantor, and will assign to the City, all rights of Guarantor, if the City has not been

paid hereunder. If Guarantor does not file such claim, and the City has not been paid hereunder, the City, as attorney-in-fact for Guarantor, is authorized to do so in the name of Guarantor to the extent of amounts guaranteed hereunder or, in the City's discretion, to assign the claim to a third party and to file a proof of claim in the name of the City or the City's nominee. In all such cases, whether in bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to the City the full amount of any such claim, and, to the full extent necessary for that purpose, Guarantor assigns to the City all of Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled.

Guarantor is presently informed of the financial condition of Developer and of all other circumstances which a diligent inquiry would reveal and which bear upon the risk of nonpayment or nonperformance of the Guaranty Obligations. Guarantor hereby covenants that it will continue to keep itself informed of Developer's financial condition and of all other circumstances which bear upon the risk of nonpayment or nonperformance of the Indemnity Obligation. Guarantor hereby waives its rights, if any, to require, and the City is relieved of any obligation or duty to disclose to Guarantor any information which the City may now or hereafter acquire concerning such condition or circumstances.

This Guaranty shall continue in full force and effect until the Guaranty Obligations are fully paid, performed, and discharged.

This Guaranty shall be binding upon the successors and assigns of Guarantor and shall inure to the benefit of the City's successors and assigns.

No modification of this Guaranty shall be effective for any purpose unless it is in writing and executed by an officer of the City authorized to do so.

If (a) this Guaranty is placed in the hands of an attorney for collection or its collected through any legal proceeding; (b) an attorney is retained to represent City in any bankruptcy, reorganization, receivership, or other proceedings affecting creditors' rights and involving a claim under this Guaranty; (c) an attorney is retained to provide advice or other representation with respect to this Guaranty; or (d) an attorney is retained to represent City in any proceedings whatsoever in connection with this Guaranty, then Guarantor shall pay to City upon demand all reasonable attorney's fees, costs and expenses incurred in connection therewith (all of which are referred to herein as "Enforcement Costs"), in addition to all other reasonable amounts due hereunder, regardless of whether all or a portion of such Enforcement Costs are incurred in a single proceeding or multiple proceedings brought to enforce this Guaranty.

The parties hereto intend and believe that each provision in this Guaranty comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions in this Guaranty is found by a court of law to be in violation of any applicable local, state or federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such portion, provision or provisions of this Guaranty to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that the remainder of this Guaranty shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligations and interest of City under the remainder of this Guaranty shall continue in full force and effect.

TO THE GREATEST EXTENT PERMITTED BY LAW, GUARANTOR HEREBY WAIVES ANY AND ALL RIGHTS TO REQUIRE MARSHALLING OF ASSETS BY CITY, WITH RESPECT TO ANY SUIT, ACTION OR PROCEEDINGS RELATING TO THIS GUARANTY (EACH, A "PROCEEDING"), CITY AND GUARANTOR IRREVOCABLY (A) SUBMIT TO THE NON-EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS HAVING JURISDICTION IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE AND STATE OF CALIFORNIA, AND (B) WAIVE ANY OBJECTION WHICH EACH MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY PROCEEDING BROUGHT IN ANY SUCH COURT, WAIVE ANY CLAIM THAT ANY PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVE THE RIGHT TO OBJECT, WITH RESPECT TO SUCH PROCEEDING, THAT SUCH COURT DOES NOT HAVE JURISDICTION OVER SUCH PARTY. CITY AND GUARANTOR FURTHER AGREE AND CONSENT THAT, IN ADDITION TO ANY METHODS OF SERVICE OF PROCESS PROVIDED FOR UNDER APPLICABLE LAW, ALL SERVICE OF PROCESS IN ANY PROCEEDING IN ANY CALIFORNIA STATE OR UNITED STATES COURT SITTING IN THE CITY OF GARDEN GROVE OR COUNTY OF ORANGE AND MAY BE MADE BY CERTIFIED OR REGISTERED MAIL, RETURN RECEIPT REQUESTED, DIRECTED TO THE APPLICABLE PARTY AT THE ADDRESS INDICATED BELOW, AND SERVICE SO MADE SHALL BE COMPLETE UPON RECEIPT; EXCEPT THAT IF SUCH PARTY SHALL REFUSE TO ACCEPT DELIVERY, SERVICE SHALL BE DEEMED COMPLETE FIVE (5) DAYS AFTER THE SAME SHALL HAVE BEEN SO MAILED.

All acts and transactions hereunder and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California. Guarantor consent to the jurisdiction of the State of California and consents to service of process by any means authorized by California law, including, without limitation, service of process by mail.

Guarantor herein warrants and represents that (i) as of the date hereof, it has combined net assets of at least Fifty Million Dollars (\$50,000,000) and not less than Fifteen Million Dollars (\$15,000,000) shall be cash and/or marketable securities exclusive of any other contingent obligations, and (ii) will maintain such financial condition until Completion of the Project. Guarantor further warrants and represents that the Guarantor will not intentionally cause a material change in its financial condition during the term of the Guaranty and shall provide City with updated financial statements on each anniversary date of this Guaranty.

Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be in writing and shall be deemed to have been properly given (a) if hand delivered, when delivered; (b) if mailed by United States Certified Mail (postage prepaid, return receipt requested), three Business Days after mailing; (c) if by Federal Express or other reliable overnight courier service on the next Business Day after delivered to such courier service or (d) if by telecopier on the day of transmission so long as copy is sent on the same day by overnight courier as set forth below:

Guarantor: Kam Sang Company, Inc
411 E. Huntington Drive, #305
Arcadia, CA 91006
Attention: Ronnie Lam
Phone No.: (626)446-2988 (ext. 15)
Facsimile:
Email: rlam@kamsangco.com

Developer: Newage Garden Grove II, LLC
c/o Kam Sang Company, Inc.
411 E. Huntington Drive, #305
Arcadia, CA 91006
Attention: Ronnie Lam
Phone No.: (626)446-2988 (ext. 15)
Facsimile:
Email: rlam@kamsangco.com

To City: City of Garden Grove
11222 Acacia Parkway
Garden Grove, California 92840
Attention: Scott C. Stiles
Phone No.: (714) 741-5100
Facsimile:
Email: sstiles@ggcity.org
Cc: City Manager
Official Economic Development
City Attorney

With a copy to:

Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
Attn: Thomas P. Clark, Jr.
Telephone: (949) 725-4140
Facsimile: (949) 823-5140

or at such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

(SIGNATURE PAGE CONTINUES ON FOLLOWING PAGE)

IN WITNESS WHEREOF, Guarantor has duly executed this Guaranty as of the date first above written.

GUARANTOR

KAM SANG COMPANY, INC, Inc a California Corporation

Dated: _____

By: _____

Its: _____

DEVELOPER:

NEWAGE GARDEN GROVE II LLC,
a California limited liability company

Dated: _____

By: _____

Its: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

CITY:

CITY OF GARDEN GROVE,

a municipal corporation duly organized and existing
under the Constitution and laws of the State of
California

Dated: _____

By: _____

Its: _____

APPROVED AS TO FORM:

Developer's Legal Counsel

EXHIBIT L
CONCEPTUAL SITE PLAN

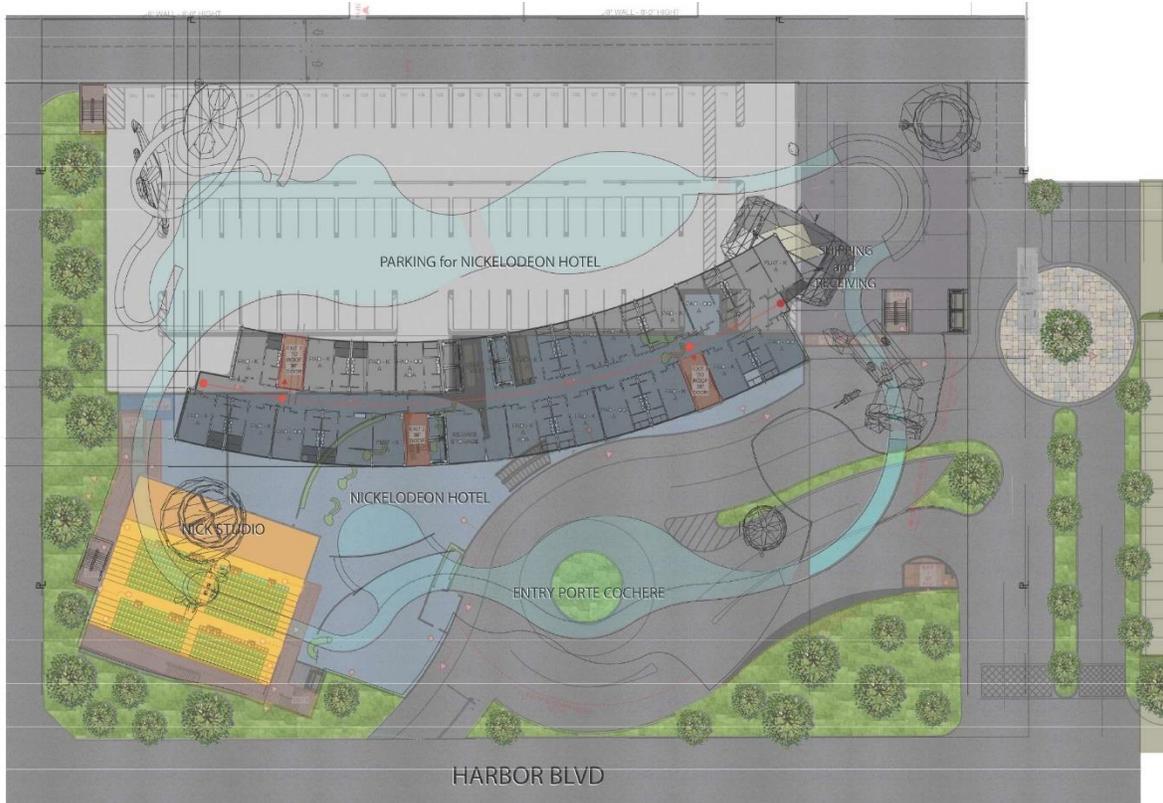


EXHIBIT L-1

EXHIBIT M

LIST OF AAA FOUR DIAMOND HOTELS

Qualifying AAA Four Diamond Hotels

Conrad Hilton Hotels
Curio Hilton Hotels
Fairmont Hotels & Resorts
Hyatt Regency Hotels
InterContinental Hotels
JW Marriott
Kimpton Hotels
Le Meridien Hotels
Luxury Collection Hotels
Leading Hotels
Loews Hotels & Resorts
Oberoi Hotel & Resorts
Omni Hotels & Resorts
Pendry Hotels
Preferred Hotels
SLS Hotels
Sofitel
Tribute Hotels
W Hotels
Westin Hotels & Resorts

EXHIBIT N

“Local Residents” is defined as those residents qualified in the respective trades, residing in the following zip codes. Priority in hiring preference shall be given in order of the Tiers below.

(TIER 1 – City of Garden Grove)

92840	92843	92846
92841	92844	
92842	92845	

(TIER 2 – Cities adjacent to the City of Garden Grove)

90680	92728	92816
90721	92735	92817
92683	92799	92825
92684	92801	92850
92685	92802	92856
92701	92803	92857
92702	92804	92859
92703	92805	92863
92704	92806	92864
92705	92807	92865
92706	92809	92866
92707	92812	92867
92708	92814	92868
92711	92815	92869
92712		

(TIER 3 - The Remaining Zip Codes in Orange County, California)

(TIER 4 - All other zip codes outside Orange County, California)