First American
Title Insurance Company
NATIONAL COMMERCIAL SERVICES

August 29, 2022

Via Email

Greg Blodgett
Economic Development Manager

City of Garden Grove
Office of Economic Development
11222 Acacia Parkway
Garden Grove, CA 92840

RE: Title Insurance & Escrow Fees – Newage Garden Grove & Brookhurst

Dear Greg,

Thank you for the opportunity to provide you with our most current pricing for your title and escrow needs. Our pricing letter includes a breakdown for Title, Escrow and County Documentary Transfer Tax for Newage Garden Grove and Newage Brookhurst.

Newage Garden Grove **Line Item 20 Site B2 DDA - GG New Age Brookhurst DDA Dated Nov. 24, 2010**
$920,000.00
Standard Owners (CLTA) - $2,062.00 Section 204. Title Insurance. Page 16
Escrow Fee (1/2) – 1,092.50 Section 202.1. Costs of Escrow. Page 13
Documentary Transfer Tax - $1,012.00 Section 202.1. Costs of Escrow. Page 13

Newage Brookhurst **Line Item 22 Brookhurst Triangle DDA - GG New Age Brookhurst DDA Dated Nov. 24, 2010**
$24,000,000.00
Standard Owners (CLTA) - $14,400.00 Section 204. Title Insurance. Page 11
Escrow Fee (1/2) – $4,025.00 Section 202.1. Costs of Escrow. Page 8
Documentary Transfer Tax - $26,400.00 Section 202.1. Costs of Escrow. Page 8

First American Transaction Team
Michael Williams, Account Manager

Jeff Paschal, Senior National Underwriter

Maureen Collier, Senior Escrow Officer
Lani Evanoff, Senior Escrow Officer

I hope I've addressed all of your potential title insurance needs. I'm available at your convenience should you wish to discuss further any portion of this pricing letter.

Sincerely,

Michael C. Williams – Vice President

First American Title

714.504.0525

DISPOSITION AND DEVELOPMENT AGREEMENT

BY AND BETWEEN THE

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT

AND

PALM COURT LODGING, LLC

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LIST OF ATTACHMENTS

DISPOSITION AND DEVELOPMENT AGREEMENT

THIS DISPOSITION AND DEVELOPMENT AGREEMENT (this "**Agreement**") is entered into as of June 26, 2001, 2001, by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "**Agency**"), and **PALM COURT LODGING, LLC**, a Colorado limited liability company (the "**Developer**").

RECITALS

The following recitals are a substantive part of this Agreement:

A. In furtherance of the objectives of the California Community Redevelopment Law, the Agency desires to redevelop a certain approximately five and one-half (5.5) acre portion of the Garden Grove Redevelopment Project (the "**Redevelopment Project**") located on the west side of Harbor Boulevard between Chapman Avenue and Twintree Avenue, in the City of Garden Grove (the "**Site**"). The Site has previously been developed for urban use.

B. The Agency and the Developer desire by this Agreement for the Agency to agree to consider in good faith the acquisition of the Site, and if and to the extent Agency decides to and does acquire the Site, to convey the Site to the Developer, and for the Developer to agree to purchase the Site and construct, complete, and operate a 275-room Marriott Courtyard Inn Hotel and a 225-room Springhill Suites Hotel, or other Approved Products (as defined hereinbelow) containing approximately 500 rooms (in the aggregate), along with required parking and landscaping improvements (collectively, the "**Developer Improvements**"), as more particularly set forth in the Scope of Development (Attachment No. 7).

C. This Agreement and the implementation hereof is in the vital and best interest of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements under which the redevelopment of the Redevelopment Project has been undertaken.

NOW, THEREFORE, the Agency and the Developer hereby agree as follows:

100. DEFINITIONS

"Acquisition Costs" means the amount of funds necessary to allow the Agency to acquire and clear the Site, and shall include, without limitation, all of the following at Agency's discretion: appraisal costs in connection with eminent domain actions, if any, but not including appraisal costs for those portions of the Site as may be acquired other than in connection with the exercise of the power of eminent domain; relocation assistance; the cost to provide relocation advisory assistance; amounts payable by Agency for land, buildings, and other interests in property and interest paid in connection with the financing of such amounts; any Clean-Up Cost borne by the Agency as to the Site; escrow costs and premiums for title insurance as to the Site to the extent borne by the Agency.

"Actual Knowledge" is defined in Section 208.1 hereof.

"Agency" means the Garden Grove Agency for Community Development, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California, Health and Safety Code, Section 33000, *et seq.*, and any assignee of or successor to its rights, powers and responsibilities.

"Agency Director" means the Director of the Agency or his designee.

"Agency Loan" means the advance from the Developer to the Agency of fifty percent (50%) of the Acquisition Costs as set forth in Section 201.1, less the Financing Costs (as hereinafter defined), the terms of repayment of which are set forth in Section 201.3.

"Agency Repurchase Option" means the rights of the Agency to repurchase the Site, together with all improvements thereon, on the terms set forth in Section 506 of this Agreement.

"Agency's Conditions Precedent" means the conditions precedent to the Closing to the benefit of the Agency, as set forth in Section 205.1 hereof.

"Agency's Environmental Consultant" means the environmental consultant which may be employed by the Agency pursuant to Section 208.2 hereof.

"Agency's Environmental Reports" means the environmental investigation of the Site which has been or is being conducted for the Agency by Agency's Environmental Consultant, as set forth in Section 208.2 hereof.

"Agreement" means this Disposition and Development Agreement between the Agency and the Developer.

"Approved Operator" means (i) Stonebridge Hospitality Services, Inc., a Colorado corporation ("**SHS**"), and (ii) such other operators of national lodging chains as the Agency may approve so long as the operator has equal or greater experience and is of equal or greater quality than SHS, as determined by the Agency in its sole and absolute discretion.

"Approved Product" means a Marriott Courtyard Hotel and a Springhill Suites Hotel, or such other limited service hotels, business hotels, garden hotels and garden suite hotels as may be approved by the Agency in its sole and absolute but reasonable discretion.

"Basic Concept Drawings" means the plans and drawings to be submitted and approved by the Agency, as set forth in Section 302.1 hereof.

"City" means the City of Garden Grove, a California municipal corporation.

"Clean-Up Cost" is defined in Section 208.3 hereof.

"Clean-Up Plan" means the plan for the clean-up of the Site, as defined in Section 208.3 hereof.

"Clean-Up Work" is defined in Section 208.3 hereof.

"Closing" means the close of Escrow for the Conveyance of the Site from the Agency to the Developer, as set forth in Section 202 hereof.

"Closing Date" means the date of the Closing, as set forth in Section 202.4 hereof.

"Condition of Title" is defined in Section 203 hereof.

"Conforming Hotel Facility" means a limited service business hotel which conforms to all of the following: (i) the hotel shall contain not less than six (6) stories, (ii) the hotel shall have daily linen service, (iii) the hotel shall have a 24-hour-a-day staffed front desk with a pool, indoor exercise facility, central lobby area and porte cochere, (iv) the hotel is an Approved Product, and (v) the hotel is operated by an Approved Operator.

"Construction Disbursement Amount" means the total of amounts disbursed by the construction lender for the development of the Developer Improvements.

"Conveyance" means the conveyance of the Site by the Agency to the Developer on the Closing Date.

"Date of Agreement" means the effective date of this Agreement, as set forth in the first paragraph hereof.

"Default" means the failure of a party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 501 hereof.

"Developer" means Palm Court Lodging, LLC, a Colorado limited liability company.

"Developer Certificate" means a certificate in the form of Attachment No. 5.

"Developer Improvements" means the new improvements to be constructed by the Developer upon the Site or within adjacent public right of way, all more particularly described in Section 301.1 hereof and in the Scope of Development, including, without limitation, all required parking and landscaping improvements. The Developer Improvements may, subject to the City's entitlement and development approval standards and processes, including but not limited to landscaping, setback, and parking requirements, but shall not be required to contain one or two restaurant parcels suitable for the construction, use and operation of a restaurant or restaurants containing up to 20,000 square feet of floor area in the aggregate (the "Restaurant"). The Restaurant may be developed after the hotels have been completed and need not be developed concurrently with the hotels.

"Developer Payments" is defined in Section 312.

"Developer Promissory Note" means that certain promissory note in substantially the form of Attachment No. 3B.

"Developer's Conditions Precedent" means the conditions precedent to the Closing for the benefit of the Developer, as set forth in Section 205.2.

"Developer's Cost" means the total actual cost to the Developer of planning, designing, financing, constructing, and developing the Developer Improvements (in accordance with the plans and specifications to be acted upon by the City and Agency as provided in this Agreement, and including furnishings, fixtures, telephone, computer and other equipment) through the issuance of the Release of Construction Covenants, but specifically excluding the costs of inventory, equipment, and other personal property which is used on the Site, and the costs of operating and maintaining the Developer Improvements. The Developer's Cost shall include but not be limited to the following costs which are actually incurred by the Developer: reasonable closing costs; costs of grading and site preparation; the cost of construction of all of the Developer Improvements, including architectural, engineering and design fees, and development, permit, and inspection fees charged by any public agency incurred and paid by the Developer; a construction management/development fee charged to the project not to exceed a total of ten percent (10%) of the direct cost of site preparation and construction of the Developer Improvements; construction interest during the construction period; construction loan fees and points, including those paid to third parties, which loan fees and points shall not exceed an amount reasonable and customary in the industry; performance and completion bond premiums; permanent loan fees and points; consulting and professional fees paid to third parties with respect to the construction of the Developer Improvements only; property taxes imposed with respect to the Site attributable to the construction period, insurance costs during the construction period, security costs during the construction period, utility costs during the construction period, maintenance expenses during the construction period, all expenses incurred during the construction period pursuant to the Maintenance Agreement, and any other actual costs to the Developer of planning, designing, financing, constructing, and developing the Developer Improvements which have not been paid by the Agency and/or City.

"Developer's Environmental Consultant" means the environmental consultant which may be employed by the Developer pursuant to Section 208.2 hereof.

"Developer's Environmental Reports" means the environmental investigation of the Site which may be conducted for the Developer by Developer's Environmental Consultant, as set forth in Section 208.2 hereof.

"Eligible Persons" means any individual, partnership, corporation or association which qualifies as a "displaced person" pursuant to the definition provided in Government Code Section 7260(c) of the California Relocation Assistance Act of 1970, as amended, and any other applicable federal, state, or local regulations or laws.

"Environmental Reports" means the collective environmental investigations of the Site as reported in the Agency's Environmental Report and the Developer's Environmental Report which may be performed pursuant to Sections 208.1 and 208.2 hereof.

"Escrow" is defined in Section 202 hereof.

"Escrow Agent" is defined in Section 202 hereof.

"Estimated Acquisition Costs" means the Agency's estimated cost to acquire and assemble the Site, which shall, for purposes of initially establishing the principal amount of the funds to be advanced by Developer pursuant to Section 201.1 hereof, is to be deemed to be equal to the sum of Seven Million Dollars ($7,000,000.00) or, with the confirmation of both parties that the estimated

cost to acquire and assemble the Site is likely to exceed Seven Million Dollars ($7,000,000.00), a greater amount.

"Exceptions" is defined in Section 203 hereof.

"Financing Costs" means costs incurred by Agency in conjunction with, associated with, or related to Developer's procurement of financing for the acquisition of the Site and construction of the Developer Improvements, including without limitation reasonable costs incurred by the Agency for the drafting, review and approval by Agency counsel and/or staff of all financing documents pursuant to this Agreement by Agency counsel and staff, and reasonable costs incurred by Agency for the drafting, review, and negotiation by Agency counsel and/or staff of the terms of any documents proposed by Developer or its lenders for Agency or City execution in conjunction with such financing.

"Generated Revenues" means tax increment revenues received by the Agency, and transient occupancy tax and sales tax received by the City all of which are generated solely by the Site following completion of construction of the Developer Improvements in conformity with this Agreement (as evidenced by the recordation of a Release of Construction Covenants in the form of Attachment No. 7), net of the Prior Base Level.

"Governmental Requirements" means all 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 Agency, the Developer or the Site.

"Grant Deed" means the grant deed for the conveyance of the Site from the Agency to the Developer, in the form of Attachment No. 3 hereto which is incorporated herein.

"Hazardous Materials" means any substance, material, or waste which is or becomes, 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) methyl tert butyl ether, (ix) 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, (x) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (xi) 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 (xii) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 *et seq.*

"Hotel" means a Marriott Courtyard Hotel, or a Springhill Suites Hotel, any other Marriott flag hotel, or any other limited service business hotel as determined by the Agency Director, to be developed pursuant to this Agreement.

"Maintenance Agreement" means the document to be recorded with respect to the Site which contains the Developer's continuing maintenance obligations with respect to the Site, as described in Section 403 hereof and in the form of Attachment No. 9 hereof.

"Map of the Site" means Attachment No. 1.

"Minimum Project Value" means an amount to be agreed upon between the parties based on the final design of the Developer Improvements prior to the Six Month Date.

"Minimum Required Cost" means an amount to be agreed upon between the parties based on the final design of the Developer Improvements prior to the Six Month Date, exclusive of land cost.

"Mortgage" is defined in Section 311.2 hereof.

"Net Revenues" means: (i) the Generated Revenues, less (ii) Agency Note Payments or portions thereof which have not previously been deducted from Generated Revenues; less (iii) the payments to the Developer pursuant to Section 311.7 hereof.

"Notice" shall mean a notice in the form prescribed by Section 601 hereof.

"Notice of Transfer" means the Notice from Developer to the Agency which includes the terms of the proposed transfer by the Developer of its interest in the Site and/or the Developer Improvements, as set forth in Section 603.5 hereof.

"Opening Date" shall mean the date on which the Project is scheduled to open for business to the public, as set forth in the Schedule of Performance.

"Operating Covenant Period" is defined in Section 402 of this Agreement.

"Order of Prejudgment Possession" means a judicial order or orders authorizing the Agency to take possession of the Site or portions thereof prior to final judgment(s) and order(s) of condemnation, as set forth in Section 201.2 hereof.

"Outside Date" shall mean December 31, 2002.

"Permanent Closure" means that the operation of a Conforming Hotel Facility on the Site has ceased for more than one hundred eighty (180) days; however, Palm Court Lodging, LLC, or another Approved Operator shall not be deemed to have a Permanent Closure if the closure is due to events of repair, alteration, construction, remodeling, or force majeure as set out in this Agreement (an "Excused Closure"); provided that in no event shall the period of Excused Closure exceed one (1) year. Such events must be sufficient, in the exercise of reasonable business judgment of both the Agency and the Developer, to justify temporary closure of the Conforming Hotel Facility.

"Principals" means Gary Rohr, Navin Dimond, Troy C. McWhinney and Chad McWhinney.

"Prior Base Level" means Sixty Thousand Dollars ($60,000).

"Project" means the Developer Improvements, consisting of two (2) Conforming Hotel Facilities which are Approved Products.

"Promissory Note" or "Agency Promissory Note" shall mean the promissory note to be executed by the Agency in the form of Attachment No. 3 and as set forth in Section 201.3.

"REA" means a reciprocal easement and operation agreement prepared by Developer and which has been approved by the Agency Director, in his sole and absolute discretion, to be executed by and between the Developer and the Agency, and recorded against the Site, which: (i) provides reciprocal easements for ingress, egress and parking between and among the Hotels; and between the Hotels and the Crowne Plaza Hotel located to the north of the Site; (ii) provides reciprocal easements for future ingress, egress, and parking on the Site for the benefit of the real property located adjacent to the Site to the west, as depicted on the Site Map, to the extent such real property is redeveloped by the Agency or another developer under contract with the Agency as a commercial property to be accessed via the Developer's driveway access from Harbor Boulevard (the "Phase II Parcels"); (iii) provides for the owner(s) of the Site and/or the Phase II Parcels to cooperatively fund the construction of a drive aisle from Harbor Boulevard at Developer's access driveway to the Phase II Parcels, as applicable, and to replace, in such event, any parking displaced by the creation of such drive aisle; (iv) provides for the pro rata payment of costs of maintenance by the Owner of the Site and the owner(s) of the Phase II Parcels (if and to the extent the Phase II Parcels are served by ingress, egress and parking on the Site) including payment of the cost of areas on the Site to be devoted to ingress, egress, parking, landscaping, and signage (excepting signage affixed to the respective buildings to be developed on the Site the maintenance and repair of which shall be the sole responsibility of the building owner); (v) is in form and substance acceptable to the Agency and the Developer, (vi) provides the Agency with the right, but not the obligation, to enter, remedy deficiencies in maintenance, and recover its costs from the owners of the land subject to the REA; (vii) provides that the Agency and the City shall have no financial or other obligations pursuant to the REA; (viii) provides that the REA cannot be amended without the prior written approval of the Agency; (ix) provides for the prohibition of conduct of noxious uses on the Site, such as massage parlors, adult theaters, adult entertainment and paraphernalia, and liquor stores (excluding the sale of alcoholic beverages for on premises consumption as part of any Conforming Hotel Facility and/or the Restaurant; and (x) provides for the restriction of the Site to certain permitted uses, only, which shall include hotel and restaurant use and other related ancillary uses. The REA also may, but is not required to, provide reciprocal easements for future ingress, egress and parking on the Site for the benefit of the real property located adjacent to the Site to the north, as depicted on the Site Map.

"Redevelopment Plan" means the Redevelopment Plan for the Redevelopment Project, adopted by Ordinance No. 1339 of the City Council of the City of Garden Grove, as amended as of the date of this Agreement, which Redevelopment Plan, as so amended, is incorporated herein by reference.

"Redevelopment Project" means the Garden Grove Community Project, adopted by the City pursuant to the Redevelopment Plan.

"Related Entity" means an entity in which substantially all ownership interests are held by one or more of the Principals.

"Release of Construction Covenants" means the document which evidences the Developer's satisfactory completion of the Developer Improvements, as set forth in Section 310 hereof, in the form of Attachment No. 8 hereto which is incorporated herein.

"Report" means the preliminary title report, as described in Section 203 hereof.

"Repurchase Amount" means an amount equal to the sum of: (i) Construction Disbursement Amount, and (ii) the Verified Developer Contribution Amount.

"Sales and Use Tax Revenue" means that portion of taxes derived and received by the City from the imposition of the Bradley Burns Uniform Local Sales and Use Tax Law, California Revenue and Taxation Code Section 7200, *et seq.*, as amended, or any successor statute, law or regulation, arising from transactions which occur on the Site.

"Schedule of Performance" means the Schedule of Performance attached hereto as Attachment No. 6 and incorporated herein, setting out the dates and/or time periods by which certain obligations set forth in this Agreement must be accomplished. The Schedule of Performance is subject to revision from time to time as mutually agreed upon in writing between the Developer and the Agency's Director, and the Agency's Director is authorized to make such revisions as he or she deems reasonably necessary.

"Scope of Development" means the Scope of Development attached hereto as Attachment No. 7 and incorporated herein, which describes the scope, amount and quality of development of the Developer Improvements to be constructed by the Developer pursuant to the terms and conditions of this Agreement.

"Secondary Conditions Precedent" is defined in Section 313.

"Site" means that area consisting of approximately five and one-half (5.5) acres as depicted on the Map of the Site.

"Six Month Date" means the 180th day following the date the Agency approves this Agreement. Notwithstanding any provision of this Agreement to contrary effect, the Six Month Date shall not be subject to Section 602.

"Six Month Requirements" means all of the following: (i) the submittal by the Developer to the Agency of fully executed franchise agreements for the operation on the Marriott Courtyard Inn and the Springhill Suites Hotels, or two (2) other Approved Products; (ii) the submittal by the Developer to the Agency of a fully executed operating agreement with an Approved Operator; (iii) the submittal by the Developer to the Agency of Preliminary Evidence of Financing; (iv) the submittal by the Developer to the Agency of the REA, executed by the Developer; and (v) the submittal by the Developer to the City of completed applications for all land use entitlements associated with the Project.

"Studies" are defined in Section 207 hereof.

"Threshold Amount" is defined in Section 208.3 hereof.

"Title Company" is defined in Section 204 hereof.

"Title Policy" is defined in Section 204 hereof.

"Transfer" is defined in Section 603.1 hereof.

"Transient Occupancy Tax" means taxes derived and received by the City pursuant to Chapter 3.12 of the Garden Grove Municipal Code, as amended, or any successor statute, law or regulation, arising from the operation of a Conforming Hotel Facility on the Site.

"Verified Developer Contribution Amount" means moneys of the Developer, if any, expended for the development of the Developer Improvements, exclusive of funds provided by a construction or permanent lender or debt service payments in connection therewith; provided that: (i) only out-of-pocket expenditures to unrelated third parties shall be countable; (ii) the Developer shall certify, in the form of the Developer Certificate, as to such expenditures, and the construction lender shall confirm in writing such expenditures in the form of the Developer Certificate, and (iii) interest during the construction period under the construction loan shall be included as provided in the definition of "Developer's Cost".

"Year" means a period commencing on the earlier of (i) the Opening Date or (ii) the date on which the Project opens for business, and ending 365 days from such date, and each of the next six (6) 365 day periods.

200. ACQUISITION AND CONVEYANCE OF THE SITE

201. Acquisition and Disposition of the Site.

201.1 Agency Loan. The Developer shall advance to the Agency, within ten (10) days following Agency's written request therefore, immediately available funds in the amount of fifty percent (50%) of the Estimated Acquisition Cost not to exceed Three Million Five Hundred Dollars ($3,500,000.00) (the "Developer Advance"), with which Agency shall pay the Acquisition Costs, if any, incurred for the acquisition of the Site. All funds advanced by Developer pursuant to this Section 201.1, plus any loan fees and legal fees payable by Developer in conjunction with the financing of the Developer Advance, less the Financing Costs, constitute the Agency Loan, which shall be repayable to Developer pursuant to Section 201.3 hereof. The foregoing notwithstanding, Developer shall not be required to make such advance to the Agency until such time as the last of the following conditions shall have been reasonably satisfied: (i) the Agency shall have approved and executed this Agreement, (ii) the City shall have issued all necessary discretionary governmental entitlements required for Developer to develop and construct the Developer Improvements to the Site specifically including, without limitation, specific site plan approval(s), conditional use permit(s), zoning approvals, parcel map and all other subdivision approvals, (iii) the Agency shall have made a determination to acquire the Site pursuant to Section 201.2, and, if necessary, shall have adopted a resolution of necessity authorizing the condemnation of any portion of the Site which the Agency is unable to acquire voluntarily; and (iv) the City and the Agency have entered into a cooperation agreement or otherwise made arrangements providing for the City to advance to the Agency, to the extent necessary to allow the Agency to meet its financial obligations set forth herein, and subject to the availability of City revenues and the appropriation of funds for such purpose, funds to be used for repayment of the Agency Loan approved in writing by Developer and Developer's lender.

201.2 Agency Acquisition of the Site. The Agency agrees to consider in good faith, the acquisition of the parcels comprising the Site, and, to the extent Agency decides to acquire

the Site, to diligently pursue such acquisition in accordance with all applicable laws, including without limitation, and to the extent applicable, the California Eminent Domain Law (Code of Civil Procedure Section 1230.010 *et seq.*). The Agency and Developer hereby agree and acknowledge that the Agency is not by this Agreement obligated to acquire the Site, nor to commence eminent domain proceedings. Agency and Developer further acknowledge and agree that Agency shall not consider acquisition of the Site unless and until all the conditions set forth in clauses (i), (ii), and (iv) of Section 201.1 have been satisfied, and the Six Month Requirements have been satisfied.

Subject to the willingness of the Title Company to issue its title policy insuring that the Developer is fee owner of the Site upon conveyance by the Agency in conformity with the remaining portion of this Section 201.1, the Agency agrees to convey to the Developer the Site and the Developer agrees to acquire the Site from the Agency, in accordance with and subject to all of the terms, covenants, and conditions of this Agreement, including the Agency's Conditions Precedent and the Developer's Conditions Precedent as set forth in Sections 205.1 and 205.2 hereof. The conveyance of the Site from the Agency to the Developer (the "**Conveyance**") shall be accomplished through the execution and recordation in the official records of Orange County of the Grant Deed in the form of Attachment No. 3 hereto, which is incorporated herein. In the event that the Agency is unsuccessful in acquiring one or more of the parcels composing the Site by the time set forth in the Schedule of Performance, the Developer may, in its sole discretion, terminate this Agreement in the manner set forth in Section 503 hereof by providing notice to the Agency in accordance with Section 601 below.

In the event of termination pursuant to this Section 201.2, Agency hereby waives and releases the Developer, and its officers, employees, and representatives from any liability to Agency resulting from such termination excepting only Developer's indemnification obligations set forth in Section 504 hereof. In the event of termination pursuant to this paragraph, Agency shall be entitled to retain the Retention pursuant to Section 504 hereof provided no such termination shall relieve or release Agency from its continuing liability for repayment of the Promissory Note.

Notwithstanding any other provision of this Agreement to the contrary, if at any time prior to the Agency's acquisition of title to the Site in the condition for conveyance as required herein:

(a) the Agency provides to the Developer a copy of one or more effective orders of prejudgment possession as to all or any portion of the Site for a period of up to one (1) year for which fee title has not yet been acquired, and:

(b) the Agency delivers title to and exclusive possession of the portion of the Site as to which the Agency holds title, and exclusive possession of and the right to any subsequently acquired title or claim or title to the balance of the Site; and

(c) the right of possession and subsequently acquired title conveyed by the Agency to the Developer is sufficient to enable the Developer to obtain a title insurance policy, for the Agency to record a parcel map for the Site (whether or not such parcel map has actually recorded), and for the Developer to close its financing for the construction of the Developer Improvements on the Site and immediately obtain the required building permit and commence construction of the Developer Improvements; and

(d) the portions of the Site covered in Paragraphs (a) and (b) of this Section 201.2, above, comprise One Hundred percent (100%) of the Site

then, if the Agency elects to convey in whole or in part on the basis of Orders of Prejudgment Possession, and provided the Agency shall have completed the Clean-Up of the Site or shall have undertaken those actions, if any, as may be indicated by the Agency's Environmental Consultant as necessary to cause the Site to conform to applicable attainment levels as established as of the Conveyance, the Developer shall accept title to the portion of the Site the Agency owns and possession of the remaining portion of the Site, and the Developer shall proceed with the development of the Site, with the date of transfer of possession from the Agency to the Developer treated the same as the date for the close of Escrow for purposes of the Developer's obligation to proceed with and complete construction of the Developer Improvements.

Developer acknowledges and agrees that Agency is not obligated to acquire the Site, notwithstanding any other provision to the contrary in this Agreement. In the event Agency is unable or elects not to acquire the Site, by the time set forth in the Schedule of Performance, the Agency may, in its sole discretion, terminate this Agreement in the manner set forth in Section 503 hereof by providing notice to the Developer in accordance with Section 601 below. In the event of termination pursuant to this Section 201.2, Developer hereby waives and releases Agency, City, and their respective officers, employees, and representatives from any liability to Developer resulting from such termination excepting only for the repayment of the Excess Retention in accordance with Section 504 hereof.

201.3 Agency Promissory Note. The Agency's obligation to repay the Agency Loan to the Developer shall be set forth in a promissory note in the form of Attachment No. 3A hereof which is incorporated herein (the "**Promissory Note**"). The Promissory Note shall be payable by the Agency pursuant to the terms contained therein. The Promissory Note shall be fully repaid over a fifteen (15) year period in equal monthly payments (15 year, fully amortized loan) and shall bear interest at a rate equal to the rate charged to Developer by Developer's approved lender plus fifty (50) basis points. The Agency shall use all reasonable efforts to enter into a cooperation agreement with the City of Garden Grove or some other arrangement pursuant to which the City shall, subject to annual appropriations and the availability of uncommitted city funds, agree to loan to Agency such amounts as may be necessary to ensure the Agency's ability to make such payments.

The principal amount of the Promissory Note shall be subject to adjustment based upon payments made by the Agency to the Developer. The Agency shall make monthly payments (or however frequently Developer must make payments on Developer's financing of the Agency Loan) on the Promissory Note (each of which, when paid, is deemed an "Agency Note Payment"), commencing on the first day of the first full calendar month following the Closing, or the first day of the first full calendar month following the termination of this Agreement for any reason, whichever occurs first, until the Agency Loan is paid in full.

201.4 Developer Promissory Note. In the event the Agency completes its acquisition of the entire Site pursuant to Section 201.1 hereof, and conveys the Site to Developer as set forth herein, the full amount of Acquisition Costs paid by the Agency shall be deemed to be a loan to the Developer. Developer agrees to execute, prior to and as a condition of closing, a promissory note in substantially the form of Attachment No. 3B evidencing the Developer's obligation to repay to the Agency the Acquisition Costs (the "Developer Note Amount") in the event the Developer does not uphold its covenant to continuously operate the Developer Improvements on

the Site pursuant to Section 301 hereof (the "**Developer Promissory Note**"). The Developer Promissory Note shall be for a term of ten (10) years, commencing upon the Closing Date, and shall bear no interest.

The principal amount of the Developer Promissory Note shall be subject to adjustment for the Credit Adjustment, as set forth below.

In calculating the amount which remains due and owing under the Developer Promissory Note, and provided that the Secondary Conditions Precedent have been satisfied, after the end of each of the first ten (10) Annual Periods, the Agency shall reduce the amount owing pursuant to the Developer Promissory Note by an amount (the "Credit Amount"), if any, equal to the Generated Revenues received and retained by the Agency and or the City from the operation of the Project in conformity with this Agreement during the preceding Annual Period, less any Developer Payments made in accordance with Section 311.7 therefrom, provided that such Credit Amounts as aggregated shall in no event exceed the Developer Note Amount. The application of a credit pursuant to this paragraph constitutes a "Credit Adjustment." No payments shall be made to the Developer by virtue of this Section 201.4; provided that Section 311.7 shall be enforceable according to its terms. For purposes of determining the amount of Generated Revenues less Developer Payments made therefrom, and the corresponding Credit Amount, all Developer Payments shall be deemed to be made from Generated Revenues earned during the Annual Period in which such payments are made.

For purposes of this Section 201.4, the first "Annual Period" shall be the period which commences on the earlier of (i) the opening for business of the first Conforming Hotel Facility, or (ii) the time established in the Schedule of Performance for the opening for business of the first Conforming Hotel Facility on the Site, and ends three hundred sixty five (365) days from such commencement. Each subsequent three hundred sixty five (365) day period shall constitute an "**Annual Period.**"

Concurrently with their filing with the applicable governmental agencies, the Developer shall provide the Agency with copies of each and every sales and use tax return that it has filed during the Annual Period with respect to the Site. Upon written request by the Agency, the Developer shall promptly take any and all actions which are reasonably deemed necessary by the Agency to assist the Agency in obtaining access to any and all records of the State Board of Equalization and the City which may be pertinent to Sales and Use Tax Revenues and/or Transient Occupancy Tax Revenues, including records pertinent to the Site, the Conforming Hotel Facilit(ies), and the Developer, in order to enable the Agency to verify the information contained in said tax returns or reports and to verify such tax revenues. In the event that the Agency reasonably requires the receipt of additional information in order to verify the information contained in such sales and use tax returns and such tax revenues, the Agency shall notify the Developer in writing that such information is required. The Developer shall promptly obtain and furnish to the Agency any and all said information as is necessary in order for the Agency to verify the information contained in such tax returns and such tax revenues. The Agency shall have a reasonable amount of time, which is anticipated to be thirty (30) days subject to the receipt of complete information, to verify the information concerning tax revenues as received from the Developer pursuant to this Section 201.4.

The Promissory Note shall be subject to acceleration as provided in Section 9 of the Promissory Note.

202. Escrow. By the time established therefor in the Schedule of Performance, the parties shall open escrow ("**Escrow**") with First American Title Insurance Company or another escrow holder mutually satisfactory to both parties (the "**Escrow Agent**").

Documentary Transfer Tax - $1,012.00.

202.1 Costs of Escrow. Agency and Developer shall pay their respective portions of the premium for the Title Policy as set forth in Section 204 hereof, the Agency shall pay for the documentary transfer taxes, if any, due with respect to the conveyance of the Site, and Developer and Agency each agree to pay one-half of all other usual fees, charges, and costs which arise from Escrow.

Escrow Fee (1/2) -$1,092.50.

202.2 Escrow Instructions. This Agreement constitutes the joint escrow instructions of Developer and Agency, 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 this Escrow in the shortest possible time. Insurance policies for fire or casualty are not to be transferred, and Agency will cancel its own policies after the Closing. All funds received in the Escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other such escrow trust account in any State or National Bank doing business in the State of California. All disbursements shall be made by check from such account.

If in the opinion of either party it is necessary or convenient in order to accomplish the Closing of this transaction, 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 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 both the Agency's Conditions Precedent and the Developer's Conditions Precedent as set forth in Section 205 have been satisfied or effectively waived by the party for whose benefit they are included. Escrow Agent is instructed to release Agency's escrow closing and Developer's escrow closing statements to the respective parties.

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

(a) Pay and charge Developer and Agency for their respective shares of the premium of the Title Policy as set forth in Section 204 and shall charge the Agency with any amounts necessary to place title in the condition necessary to satisfy Section 203 of this Agreement.

(b) Pay and charge Developer and Agency for their respective shares of any escrow fees, charges, and costs payable under Section 202.1 of this Agreement.

(c) Pay and charge Developer for any endorsements to the Title Policy or extended coverages which are requested by the Developer.

(d) Disburse funds, deliver and record the Grant Deed (if applicable), the REA and the Maintenance Agreement, then such deed of trust as may be recorded in connection with the provision of construction financing for the Developer Improvements, when both the Developer's Conditions Precedent and the Agency's Conditions Precedent have been fulfilled or waived by Developer and Agency.

(e) Do such other actions as necessary to fulfill its obligations under this Agreement.

(f) Within the discretion of Escrow Agent, direct Agency 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. Agency agrees to execute a Certificate of Non-Foreign Status by individual transferor and/or a Certification of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act as may be required by Escrow Agent, on the form to be supplied by Escrow Agent.

(g) 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, and be responsible for withholding taxes, if any such forms are provided for or required by law.

202.4 Closing. This transaction shall close ("**Closing**") within thirty (30) days of the satisfaction or waiver of all of Agency's and Developer's Conditions Precedent to Closing as set forth in Section 205 hereof, but in no event later than the Outside Date unless otherwise agreed to by the parties. The "Closing" shall mean the time and day the Grant Deed is filed for record with the Orange County Recorder. The "**Closing Date**" shall mean the day on which the Closing occurs.

202.5 Termination. If (except for deposit of funds by the parties, which shall be made at least one (1) day before the Closing) Escrow is not in condition to close by the Outside Date, then either party which has fully performed under this Agreement may, in writing, terminate this Agreement. If either party makes a written demand for return of documents or properties, this Agreement shall not terminate until five (5) days after Escrow Agent shall have delivered copies of such demand to all other parties at the respective addresses shown in this Agreement. If any objections are raised within said five (5) day period, Escrow Agent is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or by mutual written instructions of the parties. Termination of this Agreement shall be without prejudice as to whatever legal rights either party may have against the other arising from this Agreement. Upon termination, the provisions of Section 504 shall be applicable hereto provided no such termination shall relieve or release Agency from its continuing liability for repayment of the Promissory Note. If no demands are made, the Escrow Agent shall proceed with the Closing as soon as possible.

202.6 Closing Procedure. Escrow Agent shall close Escrow for the Site as follows:

(a) Record the Grant Deed, the REA, and the Maintenance Agreement with instructions for the Recorder of Orange County, California to deliver the Grant Deed and the REA to the Developer and the Maintenance Agreement to the Agency;

(b) Instruct the Title Company to deliver the Title Policy to Developer, with a copy to the Agency;

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

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

(e) Disburse the Purchase Price to Agency, in the form of the Developer Promissory Note (provided that the Agency shall inform the Escrow Agent if the Developer has prepaid any portion of the Purchase Price outside of escrow, and such amounts shall be credited); and

(f) Forward to both Developer and Agency 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.

203. Review of Title. The Agency shall cause a 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 Site, together with legible copies of the documents underlying the exceptions ("**Exceptions**") set forth in the Report, within fifteen (15) days from the date of this Agreement. The Developer shall have the right to reasonably approve or disapprove the Exceptions; provided, however, that the Developer hereby approves the following Exceptions:

(a) The Redevelopment Plan.

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

(c) The provisions of the Grant Deed and the Maintenance Agreement.

(d) Any incidental easements or other matters affecting title which do not materially impact the Developer's use of the Site as proposed on the Preliminary Site Plan including, without limitation, the unobstructed construction of the Developer Improvements.

(e) The REA.

Developer shall have thirty (30) days from the date of its receipt of the Report and all of the Exceptions to give written notice to Agency and Escrow Holder of Developer's approval or disapproval of any of such Exceptions. Developer's failure to give written disapproval of the Report within such time limit shall be deemed approval of the Report. If Developer notifies Agency of its disapproval of any Exceptions in the Report, the Agency shall have ten (10) days from the receipt of written notice of disapproval by the Developer to determine whether or not it will undertake the removal of any disapproved Exceptions. If the Agency elects to remove such Exceptions, it shall diligently proceed to effect the removal of such Exceptions. If Agency cannot or does not elect to remove any of the disapproved Exceptions within that period, Developer shall have ten (10) business days after the expiration of such ten (10) business day period to either give the Agency written notice that Developer elects to proceed with the purchase of the Site subject to the disapproved Exceptions or to give the Agency written notice that the Developer elects to terminate this Agreement. The Exceptions to title approved by Developer as provided herein shall hereinafter be referred to as the "**Condition of Title.**" Developer shall have the right to approve or disapprove any additional and previously unreported Exceptions reported by the Title Company after Developer has approved the Condition of Title for the Site (which are not created by Developer). Agency shall not voluntarily create any new exceptions to title following the Date of Agreement with out Developer's prior written approval, which approval shall not be unreasonably withheld.

204. Title Insurance. Concurrently with recordation of the Grant Deed conveying title to the Site, there shall be issued to Developer an ALTA owner's policy of title insurance (the "**Title Policy**"), together with such endorsements as are reasonably requested by the Developer, issued by the Title Company insuring that the title to the Site is vested in Developer in the condition required by Section 203 of this Agreement. If the Agency has acquired possession but not title to all or any portion of the Site, such title policy shall be in accordance with Section 201.2(b) hereof. The Title Company shall provide the Agency with a copy of the Title Policy. The Title Policy shall be in an amount equal to the lesser of the appraised value of the Site as determined by the Developer's lender's appraiser, and the compensation actually paid to the owner(s) thereof by the Agency to acquire the Site pursuant to Section 201.2. The Agency agrees to remove on or before the Closing any deeds of trust or other monetary liens against the Site. The Agency shall pay that portion of the premium for the Title Policy equal to the cost of a CLTA standard coverage title policy. Any additional costs, including the cost of an ALTA policy or any endorsements requested by the Developer, shall be borne by the Developer.

Standard Owners (CLTA) - $2,062.00

205. Conditions of Closing. The Closing is conditioned upon the satisfaction of the following terms and conditions within the times designated below:

205.1 Agency's Conditions of Closing. Agency's obligation to proceed with the Closing of the sale of the Site is subject to the fulfillment or waiver by Agency of each and all of the conditions precedent (a) through (o), inclusive, described below ("**Agency's Conditions Precedent**"), which are solely for the benefit of Agency, and which shall be fulfilled or waived by the time periods provided for herein:

(a) **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.

(b) **Execution and Delivery of Documents**. The Developer shall have executed the Grant Deed, the REA, the Developer Promissory Note and the Maintenance Agreement and executed any other documents required hereunder and shall have delivered such documents into Escrow.

(c) **Payment of Funds**. The Developer has advanced the funds required under Section 201.1 and has paid into Escrow all required costs of Closing in accordance with Section 202 hereof.

(d) **Acquisition of the Site**. The Agency shall have acquired title to or effective legal rights of possession of the entire Site, or shall be ready to acquire title to the entire Site concurrently with the Closing, in accordance with Section 201.2 hereof.

(e) **Design Approvals**. The Developer shall have obtained approval by the Agency and City of the Basic Concept Drawings, the Design Development Drawings, and the Construction Drawings as set forth in Section 302 hereof.

(f) **Land Use Approvals**. The Developer shall have received all land use approvals which are required pursuant to Section 303 hereof.

(g) **Insurance**. The Developer shall have provided proof of insurance as required by Section 306 hereof.

(h) **Financing**. The Agency shall have approved financing of the Developer Improvements as provided in Section 311.1 hereof, and such financing shall have closed and funded or be ready to close and fund upon the Closing.

(i) **Operator Approval**. The Developer or a Related Entity shall have entered into a binding agreement, in form and substance reasonably acceptable to the Agency Director, with one or more Approved Operators pursuant to which the Approved Operator or Approved Operators have committed to operate each of the Conforming Hotel Facilities on the Site, subject only to the completion of the corresponding Approved Product or Products.

(j) **Entitlements**. The Parcel Map for the Site shall have been recorded in the official records of the County of Orange, and the general plan and zoning designations of the Site shall have been amended, in accordance with Section 303 hereof in the event any such amendments are required by the City as a condition to the development or operation of the uses provided for in Section 402 of this Agreement.

(k) **Plans and Permits**. The Developer shall have obtained City approval of its final building plans for all of the Developer Improvements, and building permits shall be ready to be issued upon payment of necessary fees, and posting of required security.

(l) **General Contractor Contract**. The Developer shall have provided the Agency Director a copy of a valid and binding contract, with a guaranteed fixed-price for the completed Developer Improvements, between the Developer and one or more general contractors for the construction of the Developer Improvements, certified by the Developer to be a true and correct copy thereof, and the Agency Director shall have approved such contractor(s) and contract(s). The Agency Director shall act reasonably in connection with the review and approval of such contractor(s) and contract(s).

(m) **Completion Bond**. If required by the Agency Director, the Developer shall have provided to the Agency a completion bond guaranteeing completion of the Developer Improvements. The completion bond shall be enforceable by the Agency, and shall be in form and by a bonding company acceptable to the Agency Director in his reasonable discretion.

(n) **Franchiser Approval**. The Developer or its Approved Operator shall have entered into binding agreements in form and substance reasonably acceptable to the Agency Director, with the franchiser for the Marriott Courtyard Inn and Springhill Suites Hotels, or two (2) other Approved Products which are designated for operation of two Conforming Hotel Facilities on the Site.

(o) **Relocation**. Agency shall have approved a Relocation Plan, if required, for the Site, and such Relocation Plan shall have been approved by the City.

(p) **Developer Certificate**. The Developer shall deliver to the Agency a Developer Certificate.

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

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

(b) **Execution of Documents.** The Agency shall have executed the Grant Deed, Promissory Note, and Maintenance Agreement and any other documents required hereunder, and delivered such documents into Escrow.

(c) **Review and Approval of Title.** Developer shall have reviewed and approved the condition of title of the Site, as provided in Section 203 hereof.

(d) **Title Policy.** The Title Company shall, upon payment of Title Company's regularly scheduled premium, have agreed to issue to the Developer the Title Policy for the Site upon the Close of Escrow, in accordance with Section 204 hereof.

(e) **Environmental.** The Developer shall have approved the physical and environmental condition of the Site and shall not have elected to cancel Escrow and terminate this Agreement pursuant to Section 208 hereof.

(f) **Acquisition of Site.** The Agency shall have acquired title to or effective legal rights of possession of the entire Site, or shall be ready to acquire title to the entire Site concurrently with the Closing, in accordance with Section 201.1 hereof.

(g) **Relocation.** The Agency shall have relocated all persons from the Site in accordance with Section 309.4 hereof.

(h) **Entitlements.** The Parcel Map for the Site shall have been recorded in the official records of the County of Orange (or shall be recorded upon transfer of title to the Site to Developer), and the general plan and zoning designations of the Site shall have been amended, and specific site plan approval, design review approval, and, if applicable, conditional use permit approval shall have been obtained in accordance with Section 303 hereof.

(i) **Plans and Permits.** The Developer shall have obtained City approval of its final building plans for all of the Developer Improvements, and building permits shall be ready to be issued (upon payment of necessary fees, posting of required security, and similar items).

(j) **Site Preparation.** The Site shall have been cleared, including demolition and removal of foundations.

(k) **Clean-Up.** The Agency shall have completed the Clean-Up of the Site and obtained the applicable certifications and closure letters all as provided under Section 208.3 hereof, or shall have undertaken those actions approved in writing by Developer, if any, as may be

indicated by the Agency's Environmental Consultant as necessary to cause the Site to ultimately conform to applicable attainment levels as established as of the Conveyance.

206. Representations and Warranties.

206.1 Agency Representations. Agency represents and warrants to Developer as follows:

(a) **Authority.** Agency is a public body, corporate and politic, existing pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000), which has been authorized to transact business pursuant to action of the City. Agency has full right, power and lawful authority to acquire, grant, sell and convey the Site (or portion thereof) as provided herein, subject to the Agency's acquisition of the Site as provided herein, and the execution, performance and delivery of this Agreement by Agency has been fully authorized by all requisite actions on the part of Agency.

(b) **FIRPTA.** Agency is not a "foreign person" within the parameters of FIRPTA or any similar state statute, or is exempt from the provisions of FIRPTA or any similar state statute, or Agency has complied and will comply with all the requirements under FIRPTA or any similar state statute.

(c) **No Conflict.** To the best of Agency's knowledge, Agency'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 Agency is a party or by which it is bound.

Until the Closing, Agency shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 206.1 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 Agency hereunder, but shall constitute an exception which Developer shall have a right to approve or disapprove if such exception would have an effect on the value and/or operation of the Site. If Developer elects to close Escrow following disclosure of such information, Agency'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 this Agreement and the Escrow shall automatically terminate, and neither party shall have any further rights, obligations or liabilities hereunder except as set forth in Section 504 hereof and as set forth in any other provision of this Agreement which expressly survives the termination of this Agreement. The representations and warranties set forth in this Section 206.1 shall survive the Closing.

206.2 Developer's Representations. Developer represents and warrants to Agency as follows:

(a) **Authority.** Developer is a duly organized limited liability company established within and in good standing under the laws of the State of Colorado, and is authorized to do business in the State of California. The copies of the documents evidencing the organization of the Developer which have been delivered to the Agency are true and complete copies of the originals, as amended to the date of this Agreement. Developer has full right, power and lawful authority to purchase and accept the conveyance of the Site (or portion thereof) and undertake all obligations as

provided herein and 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) **Experience**. Developer and/or its Principals are experienced developers and operators of hotels.

(c) **No Conflict**. To the best of Developer's knowledge, 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.

(d) **No Developer Bankruptcy**. Developer is not the subject of a bankruptcy proceeding.

(e) **Developer Certificate**. All information contained in any Developer Certificate shall be true, accurate and complete.

(f) **Franchise Fee**. Upon the mutual execution of this Agreement, Developer will pay to the franchisor(s) of Marriott Courtyard Hotels and Springhill Suites Hotels a franchise fee applicable only to the Marriott Courtyard Hotel and Springhill Suites Hotel on the Site.

Until the Closing, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 206.2 not to be true as of Closing, immediately give written notice of such fact or condition to Agency. Such exception(s) to a representation shall not be deemed a breach by Developer hereunder, but shall constitute an exception which Agency shall have a right to approve or disapprove if such exception would have an effect on the value and/or operation of the Site. If Agency 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, Agency elects to not close Escrow, then this Agreement and the Escrow shall automatically terminate, and neither party shall have any further rights, obligations or liabilities hereunder except as otherwise set forth in Section 504 hereof, and any other provisions of this Agreement which expressly survives the termination of this Agreement. The representations and warranties set forth in this Section 206.2 shall survive the Closing.

207. Studies and Reports. Within thirty (30) days after the Date of Agreement, representatives of Developer shall have the right of access to all studies and reports held by the Agency regarding the Site, for the purpose of analyzing the suitability of the Site for the project contemplated herein. If and when the Agency obtains the right to enter upon the Site, representatives of the Developer shall have the right of access to all portions of the Site pursuant to such right of Agency to enter therein for the purposes of obtaining data and making surveys and tests necessary to carry out this Agreement, including without limitation the investigation of the environmental condition of the Site pursuant to Section 208 hereof.

Any preliminary work undertaken on the Site by Developer prior to the Closing pursuant to this Agreement, except as otherwise expressly provided for herein, shall be done at the sole expense of the Developer. Any preliminary work shall be undertaken only after compliance with Section 208, as required, securing any necessary permits from the appropriate governmental

agencies or any orders from the appropriate court of law and the Developer's execution of a right of entry agreement to be provided by the Agency.

208. Condition of the Site.

208.1 Disclosure. The Agency and the Developer hereby represent and warrant to the other that they have no Actual Knowledge, and have not received any notice or communication from any government agency having jurisdiction over the Site, notifying such party of, the presence of surface or subsurface zone Hazardous Materials in, on, or under the Site, 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 Agency and Developer employees and agents who have participated in the preparation of this Agreement.

208.2 Investigation of Site. If and when Agency obtains the right to enter upon the Site to conduct tests, examinations, and other investigations thereof, Agency shall, at Agency's sole cost, engage an environmental consultant reasonably acceptable to Agency and Developer ("**Agency's Environmental Consultant**") to conduct such investigations and tests as Agency deems necessary to ascertain the environmental condition of the Site, including a Phase I Environmental Assessment. Agency shall provide to Developer (and any potential tenants of the Site when requested by Developer) copies of the Phase I Environmental Assessment and any other environmental assessments and tests conducted by Agency or Agency's Environmental Consultant on the Site. At Developer's request, and so long as Developer agrees to and does pay any additional cost incurred by Agency as a result of such addressing, the Phase I Environmental Assessment shall be addressed to the Agency and Developer.

To the extent Developer deems further investigation or testing necessary to ascertain the environmental condition of the Site (the "**Investigations**"), Developer may, at Developer's sole cost and expense, engage an environmental consultant (the "**Developer's Environmental Consultant**") reasonably acceptable to Agency to make such Investigations as Developer reasonably deems necessary to ascertain the environmental condition of the Site. Prior to and as a condition precedent to conducting any such Investigations, Developer shall (a) deposit with Agency immediately available funds in an amount equal to the deposit required by the owner or owners of the Site or the court with jurisdiction over the Site to obtain permission to conduct such Investigations (the "**Testing Deposit**"); (b) secure any necessary permits from appropriate governmental agencies, and (c) execute a right of entry agreement to be provided by the Agency. The Developer shall provide or cause to be provided, within ten (10) days after Developer's receipt thereof, copies of all reports, test results, and other information obtained or produced through such Investigations to Agency.

The Developer shall reasonably approve or disapprove of the environmental condition of the Site within forty-five (45) days after Agency's acquisition of the right of entry onto the Site. The Developer's approval of the environmental condition of the Site shall be a Developer's Condition Precedent to the Closing, as set forth in Section 205 hereof. If the Developer, based upon the above environmental reports, reasonably disapproves the environmental condition of the Site, then the Developer may terminate this Agreement by written Notice to the Agency; provided, however, if the Agency, at its option, agrees to clean up the Site in accordance with the recommendations of the Developer's Environmental Reports and/or the Agency's Environmental Reports (hereafter collectively, the "**Environmental Reports**") and all Governmental Requirements

at Agency's sole cost and expense, such termination shall be ineffective. In such event, the Agency shall be required to clean up the Site prior to and as a Developer Condition to Closing.

208.3 Clean-Up of Site. If the Agency and Developer, based upon the above Environmental Reports, reasonably estimate and agree that the cost of clean-up of the Site in accordance with all Governmental Requirements (the "**Clean-Up Cost**"), exclusive of the cost to remove any asbestos from the Site (which cost shall be borne solely by the Agency), is One Hundred Thousand Dollars ($100,000.00) or less (the "**Threshold Amount**"), then Agency shall be required to fund the Clean-Up Cost, not to exceed the Threshold Amount. All costs of such clean-up in excess of the Threshold Amount shall be paid by the Developer.

If Agency, based upon the above Environmental Reports, reasonably estimates that the projected Clean-Up Cost of the Site exceeds the Threshold Amount, then Agency or Developer may terminate this Agreement by Notice to the other; provided, however, that if Developer or Agency each at its option, agrees in writing to pay the excess of the actually incurred Clean-Up Cost over the Threshold Amount, such termination shall be ineffective. In such event, Agency shall be required to fund the portion of the Clean-Up Cost up to the Threshold Amount as a Developer's Condition to Closing, and the party so electing to pay the overage shall be required to fund the portion the Clean-Up Cost which exceeds the Threshold Amount.

If the Agency is required or otherwise elects to fund all or a portion of the clean-up of the Site, the Agency may elect to perform the clean-up of the Site itself by giving Developer Notice of such election concurrently with the giving of Notice of its intent to fund all or a portion of the clean-up. Agency shall, in such event, deliver to Developer within ten (10) days following such notice, a proposed plan for such clean-up ("**Clean-Up Plan**"), which Clean-Up Plan shall be approved by an appropriate public agency asserting jurisdiction over the remedial work to be performed pursuant to the Clean-Up Plan (the "**Clean-Up Work**"). The Clean-Up Work shall be performed in accordance with applicable Governmental Requirements and Environmental Laws. The Agency shall proceed continuously and diligently with the Clean-Up Work. In the event Agency has elected to clean up the Site, the Agency's compliance with the provisions of this Section 208.3, and the issuance of closure letters without any requirement of further clean-up work by all governmental agencies which have asserted jurisdiction over the clean-up of the Site, shall each be a Developer's Condition Precedent to the Closing.

208.4 Grading of the Site. If, in the course of conducting the Investigations, Developer determines that the costs of grading and preparing the Site for development, specifically including but not limited to the costs of importing or exporting of dirt to or from the Site, if required, will exceed the normal and customary costs thereof, Developer and Agency may agree in writing that each shall pay for half the costs of such excessive grading expenses as they are incurred by Developer.

208.5 No Further Warranties As To Site; Release of Agency. Except as otherwise provided herein, and specifically subject to Sections 205.2 (g), 205.2 (j), 205.2 (k), 208.2 and 208.3, the physical condition, possession or title of the Site is and shall be delivered from Agency to Developer in an "as-is" condition, with no warranty expressed or implied by Agency, including without limitation, 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 Site for the development purposes intended hereunder. To the extent authorized by contract or law, the Agency

shall assign to the Developer all warranties and guaranties with respect to the environmental condition of the Site, if any, that the Agency has received from prior owners of the Site.

Subject to the Agency's completion of its obligations under Sections 205.2 (g), 205.2 (j), 205.2 (k), 208.2 and 208.3 hereof, Developer hereby waives, releases and discharges forever the Agency and the City, and their 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 condition of the Site, any Hazardous Materials on the Site, or the existence of Hazardous Materials Contamination due to the generation of Hazardous Materials from the Site, however they came to be placed there, except that arising out of the negligence or misconduct of the Agency or its employees, officers, agents or representatives.

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 which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

As such relates to this Section 208.5, effective as of the Closing, the Developer waives and relinquishes all rights and benefits which it may have under Section 1542 of the California Civil Code.

208.6 Developer Precautions After Closing. Upon the Closing, the Developer covenants and agrees that it shall take all necessary precautions 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. In addition, the Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

208.7 Developer Indemnity. Upon the Closing, Developer covenants and agrees to indemnify, defend and hold Agency harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage, or expense (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 first occurs after the Closing, 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 first occurs after the Closing. This indemnity shall include, without limitation, any damage, liability, fine, penalty, parallel indemnity after closing cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination, leak, spill, release or other adverse effect on the environment. At the request of the Developer, the Agency 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 Agency shall not be obligated to incur any expense in connection with such cooperation or assistance.

300. DEVELOPMENT OF THE SITE

301. Scope of Development.

301.1 Developer's Obligation to Construct Developer Improvements. The Developer shall develop or cause the development of the Developer Improvements in accordance with the Scope of Development, the City Municipal Code, and the plans, drawings and documents submitted by the Developer and approved by the Agency as set forth herein. At the request of Developer, the Agency shall enter into three (3) new Disposition and Development Agreements ("**DDA**") substantially in the form of this Agreement, one (1) such DDA for each of the Hotels and one (1) for the Restaurant. The "Developer" under such new DDAs may be affiliates of Developer under this Agreement, provided such entities are approved in advance and in writing by the Agency in its sole and absolute discretion. The Developer Improvements shall generally consist of two (2) Conforming Hotel Facilities with an aggregate of not less than five hundred (500) rooms, along with landscaping and parking improvements as described in more detail in the Scope of Development. The Developer Improvements shall also include, if and to the extent a reciprocal easement is executed providing vehicular and pedestrian access to the commercial property located immediately to the north of the Site, construction and maintenance of a drive aisle to and from the Site and additional parking spaces to replace those lost as a result of such access. The Developer acknowledges that the requirements set forth in the Scope of the Development are material considerations for the participation by the Agency in this Agreement, and that but for such requirements, particularly the number of stories of the hotel, the number of rooms, and the securing of the Approved Products, the level of Agency participation provided for pursuant to this Agreement would not be warranted and the Agency would not have entered into this Agreement.

301.2 Local Contractors. The Developer shall use reasonable efforts to ensure that its general contractor uses reasonable efforts to solicit and obtain bids from local businesses by making available all plans for the Developer Improvements to the Building and Trades Council of Orange County and all local contractors by submission to the Plan Room and local trade publications.

302. Design Review.

302.1 Basic Concept Drawings. Within the time set forth in the Schedule of Performance, the Developer shall submit conceptual drawings for the Developer Improvements, including materials, color board, elevations of all four sides of the Developer Improvements, preliminary landscape plans, a traffic and circulation plan as applicable or as may be required, and a rendered perspective (collectively, the "**Basic Concept Drawings**").

302.2 Design Development Drawings. After the Agency's approval of the Basic Concept Drawings, and within the time set forth in the Schedule of Performance, the Developer shall submit to the Agency and the City the following plans and drawings with respect to the Developer Improvements (the "**Design Development Drawings**"), which must include, among other requirements of filing, the following:

(a) A fully dimensioned Site Plan, which includes a landscape plan, with hardscape plans, sections and elevations, including lighting, equipment, furnishings and planting schedules.

(b) Floor plans.

(c) Roof plans.

(d) Elevations and project sections.

(e) Tabulation of areas/uses.

(f) Elevations of major public spaces.

(g) Graphics and signage plans, together with schedules and samples or manufacturer's literature.

(h) Lighting schedules with samples or manufacturer's literature for exterior lighting and lighting on building exteriors. Lighting locations are to be shown on landscape plans and elevations.

302.3 Construction Drawings and Related Documents. After the Agency's and City's approval of the Design Development Drawings and within the time set forth therefor in the Schedule of Performance, the Developer shall prepare and submit to the Agency and the City detailed construction plans with respect to the Developer Improvements, including without limitation a grading plan, which shall have been prepared by a registered civil engineer (the "**Construction Drawings**").

302.4 Agency Review and Approval. The Agency shall have the right to review and approve the Basic Concept Drawings in its sole and absolute discretion. The Agency shall have the right to review any and all aspects of and reasonably approve or disapprove the Design Development Drawings and the Construction Drawings. The Developer acknowledges and agrees that the Agency is entitled to approve or disapprove the Basic Concept Drawings and Design Development Drawings in order to satisfy the Agency's obligation to promote the sound development and redevelopment of land within the Project, to promote a high level of design which will impact the surrounding development, and to provide an environment for the social, economic and psychological growth and well-being of the citizens of the City and the Project. The Developer shall not be entitled to any monetary damages or compensation as a result of the Agency's or the City's disapproval or failure to approve or disapprove the Basic Concept Drawings, the Design Development Drawings, or the Construction Drawings.

302.5 Standards for Disapproval. The Agency shall have the right to disapprove the Basic Concept Drawings in its sole and absolute discretion. The Agency shall have the right to disapprove in its reasonable discretion any of the Design Development Drawings if (a) the Design Development Drawings do not conform to the approved Basic Concept Drawings, or (b) the Design Development Drawings do not conform to this Agreement, or (c) the Design Development Drawings are incomplete. The Agency shall have the right to disapprove in its reasonable discretion any of the Construction Drawings if (a) the Construction Drawings do not conform to the approved Design Development Drawings, or (b) the Construction Drawings do not conform to the Scope of

Development or this Agreement, or (c) the Construction Drawings are incomplete. The Agency shall state in writing the reasons for disapproval within fifteen (15) days of such disapproval as stated herein. The Developer, upon receipt of a disapproval based upon powers reserved by the Agency hereunder, shall revise such portions and resubmit to the Agency by the time established therefor in the Schedule of Performance. The Agency acknowledges and agrees that the various Approved Product hotel chains have certain mandatory proprietary designs and design criteria which are required to be incorporated into the construction of their new hotels. Agency shall not unreasonably disapproved any such required designs and/or design criteria in its review of the Basic Concept Drawings, Design Development Drawings or Construction Drawings

302.6 Consultation and Coordination. During the preparation of the Design Development Drawings, staff of the Agency and the Developer shall hold regular progress meetings to coordinate the preparation of, submission to, and review of the Design Development Drawings by the Agency. The staff of the Agency and the Developer shall communicate and consult informally as frequently as is necessary to ensure that the formal submittal of any documents to the Agency can receive prompt and thorough consideration. The Agency shall designate an Agency employee to serve as the project manager who is responsible for the coordination of the Agency's activities under this Agreement and for expediting the land use approval and permitting process.

302.7 Revisions. If the Developer desires to propose any exterior revisions to the Agency-approved Basic Concept Drawings or Design Development Drawings, it shall submit such proposed changes to the Agency, and shall also proceed in accordance with any and all State and local laws and regulations regarding such revisions, within the time frame set forth in the Schedule of Performance. At the sole discretion of the Agency, if any change in the basic uses of the Site is proposed in the Basic Concept Drawings or Design Development Drawings from the basic uses of the Site as provided for in this Agreement, then the Agency's approval of such proposed changes may be conditioned upon re-negotiation of any or all terms and conditions of this Agreement, including without limitation, the economic terms of the Agreement. If the Basic Concept Drawings or Design Development Drawings, as modified by the proposed change, generally and substantially conform to the requirements of this Section 302 of this Agreement, the Agency Director shall review the proposed change and notify the Developer in writing within thirty (30) days after submission to the Agency as to whether the proposed change is approved or disapproved. The Agency's Director is authorized to approve changes to the Agency-approved Basic Concept Drawings and Design Development Drawings provided such changes 1) do not significantly reduce the cost of the proposed development below the Minimum Required Cost; 2) do not reduce the quality of materials to be used; 3) do not reduce the number of stories below 6 or number of rooms of the Hotels below approximately 500 in the aggregate; and 4) do not reduce the imaginative and unique qualities of the project design. 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 applicable laws and regulations shall be included by the Developer in its Basic Concept Drawings, the Design Development Drawings, or the Construction Drawings and completed during the construction of the Developer Improvements.

302.8 Defects in Plans. The Agency shall not be responsible either to the Developer or to third parties in any way for any defects in the Basic Concept Drawings, the Design Development Drawings, or the Construction Drawings nor for any structural or other defects in any work done according to the approved Basic Concept Drawings, Design Development Drawings, or Construction Drawings, nor for any delays reasonably caused by the review and approval processes established by this Section 302. The Developer shall hold harmless, indemnify and defend the

Agency, the City and their officers, employees, agents and representatives from an against any claims, suits for damages to property or injuries to persons arising out of or in any way relating to defects in the Basic Concept Drawings, the Design Development Drawings, or the Construction Drawings, including without limitation the violation of any laws, and for defects in any work done according to the approved Basic Concept Drawings, Design Development Drawings or Construction Drawings.

302.9 Use of Architectural Plans. The Agency shall not have the right to use any Basic Concept Drawings or Design Development Drawings which are submitted to the Agency by the Developer pursuant to this Section 302, nor shall the Agency confer any rights to use such architectural plans to any person or entity.

303. Land Use Approvals. Before commencement of construction of the Developer Improvements or other works of improvement upon the Site, the Developer shall, at its own expense, pay to the City an amount customarily imposed by City as its development impact fee in connection with development agreements entered into by City, and shall secure or cause to be secured any and all land use and other entitlements, permits and approvals which may be required for the Developer Improvements by the City or any other governmental agency affected by such construction or work. The Developer shall, without limitation, apply for and secure, and pay all costs, charges and fees associated therewith, all permits and fees required by the City, County of Orange, and other governmental agencies with jurisdiction over the Developer Improvements. The Agency shall use reasonable efforts to assist the Developer in obtaining all such entitlements, permits and approvals; provided that the Agency shall not incur any expenses or costs in connection therewith. The Agency shall have no responsibility concerning any conditional use permit(s) in connection with activities or uses of the Site.

304. Schedule of Performance. The Developer shall submit all Basic Concept Drawings, Design Development Drawings, and Construction Drawings, and shall commence and use reasonable efforts and diligence to complete all construction of the Developer Improvements, and satisfy all other obligations and conditions of this Agreement, within the times established therefor in the Schedule of Performance.

305. Cost of Construction. Except to the extent otherwise expressly set forth in this Agreement, all of the cost of planning, designing, developing and constructing all of the Developer Improvements, site preparation and grading shall be borne solely by the Developer.

306. Insurance Requirements. Prior to the Closing, The Developer shall secure from a good and responsible company or companies doing insurance business in the State of California, pay for, and maintain in full force and effect for the duration of this Agreement a policy of comprehensive liability insurance issued by an "A:VI" or better rated insurance carrier as rated by A.M. Best Company, and on an occurrence basis, in which the Agency, the City and their respective officers, employees, agents, representatives and attorneys are named as additional insureds with the Developer and shall furnish an endorsement of liability insurance to the Agency. Notwithstanding any inconsistent statement in the policy or any subsequent endorsement attached hereto, the protection offered by the policy shall:

(a) Include an endorsement naming the Agency and the City, their officers, employees, agents, representatives and attorneys as an additional insured;

(b) Insure the Agency and its officers, employees, agents, representatives and attorneys while acting within the scope of their duties under this Agreement against all claims arising out of, or in connection with this Agreement;

(c) Provide a combined single limit policy for both personal injury and property damage in the amount of $5,000,000, which will be considered equivalent to the required minimum limits.

(d) Bear an endorsement or shall have attached a rider providing that, in the event of expiration or proposed cancellation of such policy for any reason whatsoever, the Agency shall be notified not less than thirty (30) days before such expiration or cancellation is effective or ten (10) days in the event of nonpayment of premium.

The Developer shall also file with the Agency the following signed certification:

> "I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Developer shall comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the Agency before the Commencement Date. The Agency, its officers, employees, agents, representatives and attorneys shall not be responsible for any claims in law or equity occasioned by the failure of Developer to comply with this section. Every compensation insurance policy shall bear an endorsement or shall have attached a rider providing that, in the event of expiration or proposed cancellation of such policy for any reason whatsoever, the Agency shall be notified, giving the Developer a sufficient time to comply with applicable law, but in no event less than thirty (30) days before expiration or cancellation is effective or ten (10) days in the event of nonpayment of premium.

307. Developer's Indemnity. The Developer shall defend, indemnify, assume all responsibility for, and hold the Agency and the City, and their representatives, volunteers, officers, employees and agents, harmless from all claims, demands, damages, defense costs or liability for any damages to property or injuries to persons, including accidental death (including reasonable attorneys fees and costs), which may be caused by any acts or omissions of the Developer under this Agreement and/or the development, ownership and operation of the Site following the Closing, 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. The Developer shall not be liable for property damage or bodily injury occasioned by the sole negligence of the Agency or the City or any or their respective 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 not 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 Agency and 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 Agency and 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, Agency, or City. If Developer defends any such action, as set forth above, it shall indemnify and hold harmless Agency and City and their officers, employees, representatives and agents from and against any claims, losses, liabilities, or damages assessed or awarded against either of them by way of judgment, settlement, or stipulation.

308. Rights of Access. Prior to the issuance of a Release of Construction Covenants (as specified in Section 310 of this Agreement), for purposes of assuring compliance with this Agreement, representatives of the Agency 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 Developer Improvements so long as Agency representatives comply with all safety rules established by Developer or its contractor. The Agency (or its representatives) shall, except in emergency situations, notify the Developer at least forty-eight (48) hours prior to exercising its rights pursuant to this Section 308.

309. Compliance With Laws. The Developer shall carry out the design, construction and operation of the Developer Improvements 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 Agency makes no representation or warranty, express or implied, concerning whether prevailing wage requirements apply to all or any part of the construction of the Developer Improvements. The Developer shall ascertain and comply with all applicable labor laws in the construction of the Developer Improvements, including, if applicable, prevailing wage laws. In addition, Developer shall utilize union labor, including without limitation carpenter's union labor, for a minimum of forty percent (40%) of the total costs of subcontractors used in constructing the Developer Improvements, as evidenced by the Developer's Construction Contract with its general contractor. Developer shall provide documentation reasonably acceptable to the Agency to verify Developer's compliance with this provision.

309.1 Nondiscrimination in Employment. Developer certifies and agrees 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.

309.2 Taxes and Assessments. Following the Closing, the Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments levied on the Site. Taxes and assessments shall be prorated to the Closing Date. The Developer shall remove or have removed any levy or attachment made on any of the Site or any part thereof, or assure the satisfaction thereof within a reasonable time. The Developer shall not apply for or receive any exemption from the payment of property taxes or assessments on any interest in or to the Site or the Developer Improvements.

309.3 Liens and Stop Notices. The Developer shall not allow to be placed on the Site or any part thereof any lien or stop notice. If a claim of a lien or stop notice is given or recorded affecting the Site or the Developer Improvements, the Developer shall within thirty (30) days of such recording or service or within five (5) days of the Agency's demand whichever last occurs:

(a) pay and discharge the same; or

(b) affect the release thereof by recording and delivering to the Agency a surety bond in sufficient form and amount, or otherwise; or

(c) provide the Agency with other assurance which the Agency deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of Agency from the effect of such lien or bonded stop notice.

309.4 Relocation; Obligations. In the event the Agency acquires the Site, the Agency shall be responsible for complying and/or causing compliance with all applicable federal, state and local laws and regulations concerning the displacement and/or relocation of, all Eligible Persons and/or businesses from the Site, if any, including without limitation, compliance with the California Relocation Assistance Law, California Government Code Section 7260, *et seq.*, all state and local regulations implementing such laws, and all other applicable federal, state, and local laws and regulation relating to relocation of Eligible Persons (the "**Relocation Laws**"). Developer hereby covenants and agrees that it shall not commence any pre-development, development, or construction activities on the Site which would result in the displacement of any Eligible Persons and/or businesses from the Site until any and all Eligible Persons have been relocated in accordance with all applicable Relocation Laws.

310. Release of Construction Covenants. Promptly after completion of the Developer Improvements in conformity with this Agreement, the Agency shall furnish the Developer with a "Release of Construction Covenants," substantially in the form of Attachment No. 8 hereto which is incorporated herein by reference. The Agency shall not unreasonably withhold such Release of Construction Covenants. The Release of Construction Covenants shall be a conclusive determination of satisfactory completion of the Developer Improvements and the Release of Construction Covenants shall so state. Any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement except for those continuing covenants as described in Section 405 of this Agreement.

If the Agency refuses or fails to furnish the Release of Construction Covenants, after written request from the Developer, the Agency shall, within fifteen (15) days of written request therefor, provide the Developer with a written statement of the reasons the Agency refused or failed to furnish the Release of Construction Covenants. The statement shall also contain the Agency's opinion of the actions the Developer must take to obtain the Release of Construction Covenants. Even if the Agency shall have failed to provide such written statement within such fifteen (15) day period, the Developer shall not be deemed entitled to the Release of Construction Covenants. The Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of the Developer to any holder of any mortgage, or any insurer of a mortgage securing money loaned to finance the Developer Improvements, or any part thereof. The Release of Construction Covenants is not a notice of completion as referred to in Section 3093 of the California Civil Code.

311. Financing of the Developer Improvements.

311.1 Approval of Financing. As required herein and as an Agency Condition Precedent to the Closing, Developer shall submit to Agency evidence that Developer has obtained sufficient equity capital or has arranged for financing for the construction financing necessary to undertake the development of the Site and the construction of the Developer Improvements in accordance with this Agreement.

Evidence that the Developer has obtained financing shall be submitted in two phases: first, preliminary evidence of financing ("**Preliminary Evidence of Financing**"), which need not include evidence of binding commitments, which shall be submitted to the Agency on or before the Six Month Date; and second, evidence of firm and binding commitments ("**Proof of Financing Commitments**") for the acquisition of the Site and the development of the Developer Improvements.

The Agency shall reasonably approve or disapprove such evidence of financing within thirty (30) days of receipt of each of the respective submittals, provided that such submittal is complete. Approval shall not be unreasonably withheld so long as the terms of the financing are consistent with this Agreement, including without limitation the provisions of the Promissory Note and recognition in the loan documents that the financing is subject to the Agency Repurchase Option, and are otherwise reasonable and customary. If Agency shall disapprove any such evidence of financing, Agency shall do so by Notice to Developer stating the reasons for such disapproval and Developer shall promptly obtain and submit to Agency new evidence of financing. Agency shall approve or disapprove such new evidence of financing in the same manner and within the same times established in this Section 311.1 for the approval or disapproval of the evidence of financing as initially submitted to Agency. Developer shall close the approved financing prior to or concurrently with the Closing.

The Proof of Financing Commitment shall include the following: (a) a copy of a legally binding, firm and enforceable loan commitment(s) obtained by Developer from one or more financial institutions for the mortgage loan or loans for financing to fund the construction, completion of the Developer Improvements, subject to the specific requirements described above and otherwise subject to such lenders' customary and normal conditions and terms, and/or (b) a certification from the chief financial officer of Developer that Developer has sufficient funds for such construction, and that such funds have been committed to such construction, and/or other documentation satisfactory to the Agency 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 of the Developer Improvements, less financing authorized by those loans set forth in subparagraph (a) above but including required debt service payments.

311.2 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 the completion of the Developer Improvements only with the Agency's prior written approval, which shall not be unreasonably withheld or delayed as more fully described in Section 311.1, but only for the purpose of securing loans of funds to be used for financing the construction of the Developer Improvements (including architecture, engineering, legal, and related direct costs as well as indirect costs) on or in connection with the Site, permanent financing, 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 on the Site exceed the projected "Developer's Cost" of constructing the Developer Improvements, as evidenced by a pro forma and a construction contract which have been delivered to the Agency Director prior to the Date of Agreement and which set forth such construction costs, unless the written approval of the Agency Director is first obtained. The Developer shall notify the Agency in advance of any mortgage, deed of trust or sale and lease-back financing, if the Developer proposes to enter into the same before completion of the construction of the Developer Improvements. The words "mortgage" and "trust deed" as used hereinafter shall include sale and lease-back. Equipment leases for trade fixtures for the Hotels are/or the Restaurant are expressly exempted from the foregoing prohibition.

311.3 Holder Not Obligated to Construct Developer Improvements. The holder of any mortgage or deed of trust authorized by this Agreement shall not be obligated by the provisions of this Agreement to construct or complete the Developer Improvements 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.

311.4 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 provided herein, whenever the Agency may deliver any notice or demand to Developer with respect to any breach or default by the Developer in completion of construction of the Developer Improvements, the Agency shall at the same time deliver to each holder of record of any mortgage or deed of trust authorized by this Agreement a copy of such notice or demand. Each such holder shall (insofar as the rights granted by the Agency are concerned) have the right, at its option, within thirty (30) days after the receipt of the notice, to 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. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Developer Improvements, 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 Agency by written agreement reasonably satisfactory to the Agency. 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. It is understood that a holder shall be deemed to have satisfied the thirty (30) day time limit set forth above for commencing to cure or remedy a Developer default which requires title and/or possession of the Site (or portion thereof) if and to the extent any such holder has within such thirty (30) day period commenced proceedings to obtain title and/or possession and thereafter the holder diligently pursues such proceedings to completion and cures or remedies the default.

311.5 Failure of Holder to Complete Developer Improvements. 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 Agency of a default by the Developer in completion of construction of any of the Developer Improvements under this Agreement, and such holder has not exercised the option to construct as set forth in Section 311, or if it has exercised the option but has defaulted hereunder and failed to timely cure such default, the Agency may purchase the mortgage or deed of trust by payment to the holder of the amount of the unpaid mortgage or deed of trust debt, including principal and interest and all other sums secured by the mortgage or deed of trust. If the ownership of the Site or any part thereof has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following:

(a) The unpaid mortgage or deed of trust debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

(b) All expenses with respect to foreclosure including reasonable attorneys' fees;

(c) The net expense, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site or part thereof;

(d) The costs of any improvements made by such holder; and

(e) Any customary prepayment charges imposed by the lender pursuant to its loan documents and agreed to by the Developer.

311.6 Right of the Agency 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 any of the Developer Improvements or any part thereof, Developer shall immediately deliver to Agency 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 Agency shall have the right but no obligation to cure the default. In such event, the Agency shall be entitled to reimbursement from the Developer of all actual, itemized costs and expenses incurred by the Agency in curing such default. The Agency 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 311.

311.7 Agency Assistance Payments. In consideration for Developer's performance of the covenants set forth hereinbelow, and in the event that the Developer has complied with each of the Secondary Conditions Precedent on a substantially continuous basis during the preceding Year (as defined in Section 201.3), and the Secondary Conditions Precedent remain

satisfied, the Agency shall with respect to each of the first seven (7) Years disburse a "**Developer Payment**" to the Developer (or such nominee as the Developer shall designate in writing; provided that not more than one nominee shall be designated as to a given Annual Period), an amount equal to the lesser of an amount equal to the Generated Revenues for such Annual Period, less any Agency Note Payments paid during such Annual Period, or the amount set forth below for each of the seven Years:

Year 1	$1,100,000
Year 2	$1,000,000
Year 3	$900,000
Year 4	$900,000
Year 5	$900,000
Year 6	$400,000
Year 7	$300,000

The total of the Developer Payments to be paid to the Developer shall not exceed Five Million Five Hundred Thousand Dollars ($5,500,000).

The Secondary Conditions Precedent shall be deemed to be satisfied unless: (i) the Agency has delivered written notice to the Developer that the Developer has not satisfied one or more of the Secondary Conditions Precedent and the Developer has not completed the cure of such failure, or (ii) the Developer has materially failed to satisfy one or more of the Secondary Conditions Precedent and such failure is known to the Developer and has not been disclosed by the Developer in writing to the Agency. During such time as a cure is being diligently prosecuted to completion, the Agency shall retain the corresponding amount enumerated below; the corresponding amount shall be promptly disbursed upon completion of the cure.

Such payments shall be made annually not later than thirty (30) days after the end of each Year. The Agency shall have the right of setoff based upon any amounts due and payable by the Developer to the Agency pursuant to the terms of this Agreement. Developer may request that the Agency subordinate the foregoing right of setoff as necessary for Developer to secure financing in accordance with Section 311.1 hereof. Agency shall consider any such request in good faith and shall not unreasonably withhold its consent thereto. Following the disbursement of the Developer Payment, if any, for the seventh (7th) Year, no further Developer Payments shall be made.

Developer is of the belief that the Developer Payments constitute contributions to the capital of the Developer which are not direct payments for any specific, quantifiable service provided by the Developer to the Agency or the City, and that such payments are made to induce the Developer to construct the Developer Improvements in the City.

The Developer will use the Developer Payments to pay the operating expenses of the Conforming Hotel Facilities. No portion of the Developer Payments shall be used to encourage or discourage union formation activities within the Project or any component thereof.

312. Secondary Conditions Precedent.

The Agency shall not be obligated to make the initial disbursement of the Developer Payments or any subsequent disbursement thereof, or to pay the Development Impact Fees set forth above unless all of the following conditions precedent have been and remain satisfied:

(a) the Developer provides proof reasonably satisfactory to the Agency that the Developer has satisfied the Agency's Conditions Precedent (as set forth in Section 205.1);

(b) the Developer provides proof satisfactory to the Agency that all real property taxes and assessments levied with respect to the Site have been paid, and that no such taxes or assessments are delinquent, and that the Developer has filed no assessment appeal in respect to the Site seeking to reduce the assessed value of the Site, as improved, to a value not equal to or greater than the Minimum Project Value, plus inflationary increases calculated in conformity with Section 110.1(f) of the California Revenue and Taxation Code;

(c) the Developer has caused to be executed and caused to be recorded and delivered to the Agency the Maintenance Agreement and the Grant Deed;

(d) the Developer delivers to the Agency Director or his designee a Developer Certificate;

(e) a Certificate of Completion for all of the Developer Improvements has been issued pursuant to Section 310 of this Agreement (the "**Completion Condition**");

(f) The two hotels have been operated on the Site substantially throughout the preceding Year each as a Conforming Hotel Facility;

(g) there exists no Default by Developer, as defined in Section 501 of this Agreement, or event, omission or failure of condition which would constitute a Default by Developer after notice or lapse of time, or both;

(h) the Developer has delivered to Agency all documents, instruments, policies, and forms of evidence or other materials to be provided to Agency and as may be reasonably requested by Agency under the terms of this Agreement; and

(i) Developer provides Agency within thirty (30) days after end of each Annual Period substantiation as to satisfaction of all conditions, including a Certificate executed by the Managing Member of the Developer, and the following proof as to taxes generated: (a) evidence that all property taxes and assessments on the Site have been paid and are current; (b) sales and use tax returns for the year; (c) tenant occupancy tax filings for the year.

The foregoing conditions lettered (a) to (i), inclusive, shall collectively constitute the "**Secondary Conditions Precedent.**"

400. COVENANTS AND RESTRICTIONS

401. Use in Accordance with Redevelopment Plan. The Developer covenants and agrees for itself, its successors, assigns, and every successor in interest to the Site or any part thereof, that upon the Closing and during construction, operation, and thereafter, the Developer shall devote

the Site to the uses specified in the Redevelopment Plan and this Agreement for the periods of time specified therein. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall conform to the Redevelopment Plan and all applicable provisions of the City Municipal Code. The foregoing covenants shall run with the land.

402. Use Covenants. For a term (the "**Operating Covenant Period**") commencing upon the Conveyance and ending as of (i) the tenth (10^{th}) anniversary of the opening of the Project pursuant to this Agreement, or (ii) the satisfaction of the Developer Promissory Note, which ever occurs first, the Developer hereby covenants and agrees to devote the Site on a continuous basis to the operation of the Hotels as Conforming Hotel Facilities as the principal activity conducted on the Site. The foregoing covenants shall run with the land. Except with the prior written consent of the Agency for each instance, which consent may be granted or withheld in the Agency's sole reasonable discretion, the failure of the Developer to operate any Hotel as a Conforming Hotel Facility after the time established in the Schedule of Performance for the completion of the Developer Improvements or, if earlier, the actual completion of the Developer Improvements, on the Site for one hundred eighty (180) or more consecutive days (and without limitation as to the Developer's obligation to timely complete the Developer Improvements) shall, at the Agency's option, constitute a Default hereunder; provided, however, that the Developer shall for purposes of this Section 402 be deemed to be operating a Conforming Hotel Facility during any period that the Developer is prevented from operating such a use due to (i) required or necessary rehabilitation of the Developer Improvements on the Site (provided that the period during which a Conforming Hotel Facility is not operated as a result of the rehabilitation shall in no event exceed one year (365) days), or (ii) floods, earthquakes, fires, or other acts of God which are not in any way due to or contributed to by the acts or omissions of the Developer.

403. Maintenance Covenants. The Developer shall maintain the Site and all improvements thereon, including all landscaping, in compliance with the terms of the Redevelopment Plan and with all applicable provisions of the City Municipal Code. To ensure Developer's continued maintenance of the Developer Improvements, Developer agrees to execute, acknowledge and record in the official records of Orange County a Maintenance Agreement in the form attached hereto as Attachment No. 9.

404. 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, subleases or vends 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."

404.1 Minimum Project Value Covenant. The Developer covenants and agrees by and for itself, its successors, assigns and every successor in interest to the Site or any part thereof that commencing upon the earlier to occur of: (i) the completion of the Developer Improvements or (ii) the time established in the Schedule of Performance for the completion of the Developer Improvements, the Developer shall not take action to decrease the assessed value (including the value of the improvements thereon) of the Site for property tax purposes below the Minimum Project Value. The provisions of this paragraph shall remain in effect until the tenth (10^{th}) anniversary of the Opening Date, or the satisfaction of the Developer Promissory Note, which ever occurs first.

405. Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction. Agency is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided, without regard to whether the Agency has been, remains or is an owner of any land or interest therein in the Site or in the Project. The Agency shall have the right, if the Agreement 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 and to avail itself of the rights granted herein to which it or any other beneficiaries of this Agreement and covenants may be entitled. The covenants contained in this Agreement shall remain in effect for the periods described herein, including the following:

(a) The environmental covenants and releases set forth in Sections 208.5, 208.6 and 208.7 shall remain in effect in perpetuity.

(b) The covenants in Section 309 with respect to compliance with laws shall remain in effect for the term of the Redevelopment Plan.

(c) The covenants pertaining to use and operation of the Site as Conforming Hotel Facilities which are set forth in Section 402 shall remain in effect for a term commencing upon the Conveyance and ending ten (10) years from the date that the Project lawfully opens for business to the public on the Site, or the date the Developer Promissory Note is satisfied, which ever occurs first. The use covenants relating to compliance with the Redevelopment Plan and Municipal Code which are set forth in Section 401 shall remain in effect for the term of the Redevelopment Plan.

(d) The covenants pertaining to maintenance of the Site and all improvements thereon, as set forth in Section 403, shall remain in effect for the term of the Redevelopment Plan.

(e) The covenants against discrimination, as set forth in Section 404, shall remain in effect in perpetuity.

(f) The covenant set forth in Section 404.1 regarding the Minimum Project Value shall remain in effect in accordance with its terms.

The City shall be deemed to be a third party beneficiary of this Agreement. Except for the City, there shall be no third party beneficiaries of this Agreement.

500. DEFAULTS AND REMEDIES

501. Default Remedies. Subject to the extensions of time set forth in Section 602 of this Agreement, failure by either party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and failure to cure as described hereafter, constitutes a "**Default**" under this Agreement. A party claiming a Default shall give written notice of Default to the other party specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against any other party, and the other party shall not be in Default if such party within thirty (30) days from receipt of such notice immediately, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with diligence.

502. Institution of Legal Actions. In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, either party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of Orange, State of California, in an appropriate municipal court in that county, or in the District of the United States District Court in which such county is located. In addition to the legal actions hereinafter described and without limitation as to such remedies that may be available at law or equity, upon a Default by the Developer under this Agreement after the Conveyance, the Agency may exercise those rights defined and described in Section 505.

503. Termination.

503.1 Termination by Developer Prior to Six Month Date. In the event the Developer fails to satisfy the Six month requirements prior to the Six Month Date despite its diligent efforts, the Developer may, at its election but within sixty (60) days after the Six Month Date, terminate this Agreement. In the event of termination pursuant to this Section 503.1, neither the Agency nor the Developer shall have any further rights with respect to the Site by virtue of or with respect to this Agreement provided no such termination shall relieve or release Agency from its continuing liability for repayment of the Promissory Note.

503.2 Termination by Agency as of the Six Month Date. In the event the Developer fails to satisfy the Six month requirements prior to the Six Month Date, the Agency may, at its election, at any time but within sixty (60) days after the Six Month Date (or such greater period as may be mutually approved by the parties), terminate this Agreement. In the event of termination pursuant to this Section 503.2, neither the Agency nor the Developer shall have any further rights with respect to the Site by virtue of or with respect to this Agreement, provided no such termination shall relieve or release Agency form its continuing liability for repayment of the Promissory Note.

503.3 Termination by Developer Prior to Conveyance Not Based Upon Default of Agency. In the event that after the Six Month Date, but as of the time established for the Conveyance in the Schedule of Performance, the Developer is not in Default of this Agreement but (i) the Agency fails through no default of its own, to timely acquire the Site and convey the Site to the Developer pursuant to this Agreement by the time established therefor in the Schedule of Performance, or (ii) this Agreement or any of the actions or determinations required to be taken or made by either party hereunder which are a prerequisite to development of the Project are successfully challenged or invalidated by a court of competent jurisdiction, or (iii) if the Developer and the Agency have acted as required under this Agreement, including the Developer exercising reasonable diligence within the times required hereunder to submit applications, plans, drawings and other related documents necessary to obtain building permits, and the City willfully and arbitrarily fails or refuses to issue building permits for the Developer Improvements (which failures are expressly understood not to be defaults of the Agency), then this Agreement may, at the option of the Developer, be terminated by written notice thereof to the Agency. In the event of such termination due to the occurrence of one of (i), (ii), or (iii), above, by the respective times established therefore in the Schedule of Performance (as such times may be extended), neither the Agency nor the Developer shall have any further rights with respect to the Site by virtue of or with respect to this Agreement, except as set forth in Section 504 hereof and as set forth in any other provision of this Agreement which expressly survives the termination of this Agreement, provided no such termination shall relieve or release Agency from its continuing liability for payment of the Promissory Note.

503.4 Termination by Developer Prior to Conveyance Based Upon Default of Agency. In the event that after the Six Month Date but prior to the Conveyance the Developer elects to terminate this Agreement based upon the Agency's Default, then this Agreement may, at the option of the Developer, be terminated by written notice thereof to the Agency, in which event neither the Agency nor the Developer shall have any further rights with respect to the Site by virtue of or pursuant to this Agreement, except as set forth in Section 504 hereof and as set forth in any provision hereof which expressly survives such termination, provided no such termination shall relieve or release Agency from its continuing liability for repayment of the Promissory Note.

503.5 Termination by the Agency Prior to the Conveyance and After the Six Month Date. In the event that after the Six Month Date, but prior to the Conveyance:

(a) The Developer (or any successor in interest) assigns this Agreement or any rights thereon or in the Site in violation of this Agreement and such failure or Default is not cured in accordance with Section 501; or

(b) There is a change in the ownership of the Developer contrary to the provisions of Section 603.1 hereof and such failure or Default is not cured in accordance with Section 501; or

(c) The Developer does not submit certificates of insurance, construction plans, drawings and related documents as required by this Agreement, in the manner and by the dates respectively provided in this Agreement therefor and such failure or default is not cured in accordance with Section 501; or

(d) The Developer fails to comply with the Agency's Conditions Precedent by the times established therefor in the Schedule of Performance and such failure or default is not cured in accordance with Section 501; or

(e) The Developer is otherwise in Default under this Agreement and such Default is not cured in accordance with Section 501;

then this Agreement and any rights of the Developer or any assignee or transferee of the Agreement, shall, at the option of the Agency, be terminated by the Agency by written notice thereof to the Developer. In the event of termination under this Section 503.5, neither party shall have any rights against the other under this Agreement except as set forth in Section 504, and any other provision hereof which expressly survives such termination, provided no such termination shall relieve or release Agency from its continuing liability for repayment of the Promissory Note.

504. Indemnification Against Precondemnation and Associated Damages. Developer shall save, protect, pay for, defend, indemnify and hold harmless the Agency, the City, and their respective officers, employees, representatives, and agents, from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including without limitation, penalties, fines, and monetary sanctions), losses, costs or expenses (including, without limitation, consultants' fees, investigation and laboratory fees, attorneys' fees and remedial and response costs) (the foregoing are hereinafter collectively referred to as "**Liabilities**") which may now or in the future be incurred or suffered by the Agency, the City, or their respective officers, employees, representatives or agents, by reason of, resulting from, in connection with, or arising in any manner from the rescission, abandonment or dismissal, or an attempted abandonment, due to any reason other than Agency's Default under this Agreement, of any resolution of necessity and/or any action taken in the prosecution of a case or cases in eminent domain on the Site or any portion thereof pursuant to the California Eminent Domain Law, which resolution of necessity or eminent domain case was initiated after the Date of Agreement (an "**Abandonment**").

For the purpose of fulfilling the indemnification obligations of Developer set forth in this Section 504, upon termination until such time as any claims covered by this Section have been finally and completely adjudicated or settled, and discharged in full, or Agency has otherwise been fully and finally released from all such Liabilities, and the statute of limitation for claims covered by this

Section has expired, Agency may retain that portion of funds advanced by the Developer pursuant to Section 201.1, if any, reasonably estimated by the Agency as necessary to discharge or setoff the Agency's costs of discharging potential Liabilities for claims covered under this Section 504 (the "**Retention**"). Notwithstanding anything to the contrary contained herein, interest shall continue to accrue on any amounts retained by Agency in excess of the amount actually expended by Agency to discharge Liabilities at the rate set forth in the Agency Promissory Note (the "**Excess Retention**"), except that, to the extent the Abandonment is the result of a Default by Developer, the interest rate on such Excess Retention shall be zero. The Agency's right to the Retention pursuant to this Section, and to setoff against such Retention, shall not in any way limit Developer's indemnification obligations under this Section 504, and Developer shall remain responsible for all Liabilities in excess of the Retention. To the extent the Retention exceeds the Liabilities incurred by Agency under this Section 504, such excess portion of the Retention shall, following implementation of this Section, be paid over to the Developer as soon as is reasonably practicable following the expiration of the statute of limitations applicable to any claims covered hereby with interest as set forth hereinabove. This Section 504 shall survive the termination, expiration, or invalidation of this Agreement or any portion hereof. Under no circumstances shall the provisions of this Section 504 relieve or release Agency from its continuing liability for repayment of the Promissory Note.

505. Reentry and Revesting of Title in the Agency After the Closing and Prior to Completion of Construction. Agency has the right, at its election, to reenter and take possession of the Site, with all improvements thereon, and terminate and revest in the Agency the estate conveyed to the Developer if after the Closing and prior to the issuance of the Release of Construction Covenants, the Developer (or its successors in interest) shall:

(a) fail to start the construction of the Developer Improvements as required by this Agreement for a period of thirty (30) days after written notice thereof from the Agency; or

(b) abandon or substantially suspend construction of the Developer Improvements required by this Agreement for a period of thirty (30) days after written notice thereof from the Agency; or

(c) contrary to the provisions of Section 603 Transfer or suffer any involuntary Transfer in violation of this Agreement.

Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit:

1. Any mortgage or deed of trust permitted by this Agreement;

2. Any rights or interests provided in this Agreement for the protection of the holders of such mortgages or deeds of trust; and

3. Repayment to Developer of the Agency Loan pursuant to Section 201.3 hereof and the terms of the Promissory Note.

The Grant Deed shall contain appropriate reference and provision to give effect to the Agency's right as set forth in this Section 505, under specified circumstances prior to recordation of the Release of Construction Covenants, to reenter and take possession of the Site, with all

improvements thereon, and to terminate and revest in the Agency the estate conveyed to the Developer, provided no such termination shall relieve or release Agency from its continuing liability for repayment of the Promissory Note. Upon the revesting in the Agency of title to the Site as provided in this Section 505, the Agency shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Site as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan, as it exists or may be amended, to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Developer Improvements, or such improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for such Site or part thereof in the Redevelopment Plan. The Developer acknowledges that there may be substantial delays experienced by the Agency if the Agency must remarket the Site for operation of a Conforming Hotel Facility following the revesting of the Site in the Agency. Upon such resale of the Site, the net proceeds thereof after repayment of any mortgage or deed of trust encumbering the Site which is permitted by this Agreement, shall be applied:

(i) First, to reimburse the Agency, on its own behalf or on behalf of the City, all costs and expenses incurred by the Agency, excluding City and Agency staff costs, but specifically, including, but not limited to, any expenditures by the Agency or the City in connection with the recapture, management and resale of the Site or part thereof (but less any income derived by the Agency from the Site or part thereof in connection with such management); all taxes, assessments and water or sewer charges with respect to the Site or part thereof which the Developer has not paid, any payments made or necessary to be made to discharge any encumbrances or liens existing on the Site or part thereof at the time or revesting of title thereto in the Agency, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Site, or part thereof; and any amounts otherwise owing the Agency, and in the event additional proceeds are thereafter available, then

(ii) Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the costs incurred for the acquisition and development of the Site and for the improvements existing on the Site at the time of the reentry and possession.

Any balance remaining after such reimbursements shall be retained by the Agency as its property. The rights established in this Section 505 are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein or now or hereafter existing at law or in equity. These rights are to be interpreted in light of the fact that the Agency will have conveyed the Site to the Developer for redevelopment purposes, particularly for development and operation of the Project thereon, and not for speculation in undeveloped land.

506. Agency Repurchase Option. The Agency shall, throughout the Operating Covenant Period, and without limitation as to the effects of Section 505 of this Agreement or other rights and remedies of the Agency, retain the option (the "**Agency Repurchase Option**") to repurchase, upon the occurrence of the events hereinafter described, from the Developer the Site (including improvements thereon) for an amount equal to the Repurchase Amount. No interest shall be deemed to accrue as to the Repurchase Amount. The Agency shall have the right, by giving Notice to the Developer in accordance with Section 601, to exercise its option to purchase during the Operating Covenant Period in the event of a Permanent Closure or if, for such period, the Project is not

operated on the Site in conformity with this Agreement, provided no such purchase shall relieve or release Agency from its continuing liability for repayment of the Promissory Note. The Agency Repurchase Option shall run with the land, and shall be referenced in the Agency Deed.

In the event the Agency exercises the Agency Repurchase Option, the Developer covenants and agrees by and for itself, its successors, assigns and every successor in interest to the Site or any part thereof, that the Developer and such successors shall, upon receipt of request therefor by the Agency, execute deeds and such other documents as shall be deemed necessary or convenient to effectuate the conveyance to the Agency, including without limitation a grant deed. The parties shall evenly share the escrow charges in the event of such transfer. The condition of title for such transfer shall be the same as that of the Conveyance; provided that the reacquired portion may be subject to covenants in favor of the Agency contained in the Grant Deed, the REA, and the Maintenance Agreement, and any other documents recorded for the Agency's benefit hereunder. In the event that it is necessary to clear encumbrances, such as deeds or trusts or mortgages, to cause the condition of title to confirm to the condition hereinabove described, the Developer consents that all or any portion of the Repurchase Amount shall, at the option of the Agency, be applied to clear such encumbrances.

Without limitation as to the availability of other remedies, this Section 506 shall be enforceable by specific enforcement.

This Section 506 shall remain in effect until the end of the Operating Covenant Period.

507. Acceptance of Service of Process. In the event that any legal action is commenced by the Developer against the Agency, service of process on the Agency shall be made by personal service upon the Director of the Agency or in such other manner as may be provided by law. In the event that any legal action is commenced by the Agency against the Developer, service of process on the Developer shall be made by personal service upon the President of the Developer, whether made within or outside the State of California, or in such other manner as may be provided by law.

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

509. Inaction Not a Waiver of Default. Any failures or delays by either party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either 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.

510. Applicable Law. The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

600. GENERAL PROVISIONS

601. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("Notice") which either party may desire to give to

the other party under this Agreement must be in writing and may be given by any commercially acceptable means to the party to whom the Notice is directed at the address of the party as set forth below, or at any other address as that party may later designate by Notice.

To Agency:	Garden Grove Agency for Community Development 11222 Acacia Parkway Garden Grove, California 92842 Attention: Director
with a copy to:	Stradling, Yocca, Carlson & Rauth 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660 Attention: Thomas P. Clark, Jr.
To Developer:	Palm Court Lodging, LLC 9100 East Panorama Drive, Suite 300 Englewood, Colorado 80112 Attention: Navin Dimond
with a copy to:	McWhinney Management Company, LLC 5200 Hahns Peak Drive, Suite 130 Loveland, Colorado 80538 Attention: Chad McWhinney
with a copy to:	Buckner, Alani, Khouri, Chavos & Mirkovich 3146 Red Hill Avenue, Suite 200 Costa Mesa, California 92626 Attention: William D. Buckner

Any written notice, demand or communication shall be deemed received immediately if delivered by hand and shall be deemed received on the third day from the date it is postmarked if delivered by registered or certified mail.

602. Enforced Delay; Extension of Times of Performance. In addition to specific provisions of this Agreement, 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 due to: war; 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; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts or omissions of the other party; or acts or failures to act of the City or any other public or governmental agency or entity (other than the acts or failures to act of the Agency which shall not excuse performance by the Agency). 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. Times of performance under this Agreement may also be extended in writing by the mutual agreement of Agency and Developer. Notwithstanding any provision of this Agreement to the

contrary, the lack of funding to complete the Developer Improvements shall not constitute grounds of enforced delay pursuant to this Section 602.

603. Transfers of Interest in Site or Agreement.

603.1 Prohibition. The qualifications and identity of the Developer or its Principals as the operator of Palm Court Lodging, LLC, are of particular concern to the Agency. Furthermore, the parties acknowledge that the Agency has negotiated the terms of this Agreement in contemplation of the development and operation of the Hotels and the property tax increment, Transient Occupancy Tax, and sales tax revenues to be generated by the Developer Improvements and the operation of the Project on the Site. Accordingly, for the period commencing upon the date of this Agreement and until the expiration of the use and operations covenants which are set forth in Section 402 hereof, no voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, subdivision, further encumbrance, refinancing or lease of the whole or any part of the Site or the Developer Improvements thereon, nor shall any uses other than the Project be operated thereon, either in addition to or in replacement of the Project on the Site, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the Project or any portion thereof being operated upon the Site (collectively referred to herein as a "Transfer"), without the prior written approval of the Agency, except as expressly set forth herein.

603.2 Permitted Transfers. Notwithstanding any other provision of this Agreement to the contrary, Agency approval of a Transfer shall not be required in connection with any of the following:

(a) Any Transfer to an entity or entities in which the Developer and/or the Principals 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, and Palm Court Lodging, LLC (or another Agency authorized Approved Operator) is operating an Approved Product on the Site.

(b) The conveyance or dedication of any portion of the Site to the City or other appropriate governmental agency, or the granting of easements or permits to facilitate construction of the Developer Improvements (as defined herein).

(c) Any requested assignment for financing purposes (subject to such financing being considered and approved by the Agency pursuant to Section 311 herein), including the grant of a deed of trust to secure the funds necessary for land acquisition, construction and permanent financing of the Developer Improvements.

(d) Leases or licenses of retail, commercial or restaurant space in the ordinary course of business, and the letting of hotel guest spaces.

In the event of a Transfer by Developer under subparagraph (a) above not requiring the Agency's prior approval, Developer nevertheless agrees that at least thirty (30) days prior to such Transfer it shall give written notice to Agency of such assignment and satisfactory evidence that the assignee has assumed in writing through an assignment and assumption agreement of all of the

obligations of this Agreement. Such assignment shall not, however, release the assigning Developer from any obligations to the Agency hereunder.

(e) **Agency Consideration of Requested Transfer.** The Agency agrees that it will not unreasonably withhold approval of a request for approval of a Transfer made pursuant to this Section 603, provided the Developer delivers written notice to the Agency requesting such approval. Such notice shall be accompanied by sufficient evidence demonstrating that the proposed assignee or purchaser has received all necessary approvals for such transfer from the operator (which shall be an Approved Operator), and evidence regarding the proposed transferee's operational qualifications and experience, and its financial commitments and resources, in sufficient detail to enable the Agency to evaluate the proposed assignee or purchaser pursuant to the criteria set forth in this Section 603 and as reasonably determined by the Agency. In addition, the Agency may, in considering any such request, take into consideration such factors as (i) the transferee's past performance as an operator of hotels, (ii) the current financial condition of the transferee, and similar factors. The Agency agrees not to unreasonably withhold its approval of any such requested Transfer, taking into consideration the foregoing factors.

If, following completion of the Developer Improvements, the Developer proposes to transfer only the ownership of the Site and the improvements thereon, the Agency shall not unreasonably withhold its approval of such an assignment or transfer so long as there are no outstanding defaults pursuant to this Agreement, the Hotel is being operated in conformity with this Agreement and in conformity with a management contract, which management contract shall be subject to Agency approval (which approval shall not be unreasonably withheld so long as the management contract is [i] with an Approved Operator and [ii] is for a duration continuing until not earlier than the tenth [10th] anniversary of the opening of the Hotel), and the transferee agrees in writing in form and substance acceptable to the Agency to be bound by and comply with all requirements of the Developer pursuant to this Agreement. With respect to a Transfer made pursuant to this paragraph, the Agency shall reasonably consider the release of the transferor from any executory requirements of this Agreement.

An assignment and assumption agreement in form satisfactory to the Agency's legal counsel shall also be required for all proposed Transfers. Within thirty (30) days after the receipt of the Developer's written notice requesting Agency approval of a Transfer pursuant to this Section 603, the Agency shall either approve or disapprove such proposed assignment or shall respond in writing by stating what further information, if any, the Agency 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, the Developer shall promptly furnish to the Agency such further information as may be reasonably requested.

603.3 Successors and Assigns. All of the terms, covenants and conditions of this Agreement shall be binding upon the 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.

603.4 Assignment by Agency. The Agency may assign or transfer any of its rights or obligations under this Agreement with the approval of the Developer, which approval shall not be unreasonably withheld; provided, however, that the Agency may assign or transfer any of its interests hereunder to the City at any time without the consent of the Developer. No such transfer shall relieve

or release Agency from its continuing primary liability for repayment of the Promissory Note, except in the case of an assignment to, and assumption by, the City.

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

605. Relationship Between Agency and Developer. It is hereby acknowledged that the relationship between the Agency and the Developer is not that of a partnership or joint venture and that the Agency and the 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, the Agency shall have no rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Developer Improvements. The Developer agrees to indemnify, hold harmless and defend the Agency from any claim made against the Agency arising from a claimed relationship of partnership or joint venture between the Agency and the Developer with respect to the development, operation, maintenance or management of the Site or the Developer Improvements.

606. Agency Approvals and Actions. The Agency shall maintain authority of this Agreement and the authority to implement this Agreement through the Agency Director (or his duly authorized representative). The Agency Director shall have the authority to issue interpretations, waive provisions, and/or enter into certain amendments of this Agreement on behalf of the Agency so long as such actions do not materially or substantially change the uses or development permitted on the Site, or add to the costs incurred or to be incurred by the Agency as specified herein, and such interpretations, waivers and/or amendments may include extensions of time to perform as specified in the Schedule of Performance. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the Agency Board.

607. 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.

608. Integration. This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement, 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. 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 Attachment Nos. 1 through 9, each of which are incorporated herein.

609. Real Estate Brokerage Commission. The Agency and the 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 Developer's acquisition of the Site from the Agency. The parties agree to defend and hold harmless the other party from any claim to any such commission or fee from any broker, agent or finder with respect to this Agreement which is payable by such party.

610. Attorneys' Fees. In any action between the parties to interpret, enforce, reform, modify, rescind, or otherwise in connection with any of the terms or provisions of this Agreement, the prevailing party in the action shall be entitled, in addition to damages, injunctive relief, or any other relief to which it might be entitled, reasonable costs and expenses including, without limitation, litigation costs and reasonable attorneys' fees.

611. 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.

612. 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.

613. No Waiver. A waiver by either party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement.

614. 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.

615. 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.

616. 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.

617. 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. The Developer has obtained tax counsel of its choosing and in entering into this Agreement has not received nor is the Developer relying upon any statements, representations, or characterizations concerning potential income tax ramifications of or relating to this Agreement from the Agency.

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

619. 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.

620. Conflicts of Interest. No member, official or employee of the Agency 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.

621. Time for Acceptance of Agreement by Agency. This Agreement, when executed by the Developer and delivered to the Agency, must be authorized, executed and delivered by the Agency on or before forty-five (45) days after signing and delivery of this Agreement by the Developer or this Agreement shall be void, except to the extent that the Developer shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement.

IN WITNESS WHEREOF, the Agency and the Developer have signed this Disposition and Development Agreement as of the date first set forth above.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

By: _____
Chairman

ATTEST:

_____
Agency Secretary

APPROVED AS TO FORM:
_____
Stradling, Yocca, Carlson & Rauth,
Agency Special Counsel

DEVELOPER:

PALM COURT LODGING, LLC, a Colorado limited liability company

By: **QUAD HOLDINGS, LLC**, a Colorado limited liability company

By: _____

Its: Member

By: **McWHINNEY MANAGEMENT COMPANY, LLC**, a Colorado limited liability company

By: _____

Its: Managing Member

APPROVED AS TO FORM:
_____
Buckner, Alani, Khouri, Chavos & Mirkovich
Developer Counsel

ATTACHMENT NO. 1

MAP OF THE SITE

[To Be Inserted]

ATTACHMENT NO. 2
GRANT DEED

RECORDING REQUESTED BY,)
MAIL TAX STATEMENTS TO)
AND WHEN RECORDED MAIL TO:)
)
Palm Court Lodging,, LLC)
9100 East Panorama, Suite 300)
Denver, Colorado 80112)
Attention: Navin Dimond)
)

This document is exempt from payment of a recording fee pursuant to Gov't Code Section 6103.

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged,

The **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), acting to carry out the Redevelopment Plan ("Redevelopment Plan") for the Garden Grove Redevelopment Project (the "Project"), under the Community Redevelopment Law of California, as of _____, 200_, hereby grants to **PALM COURT LODGING, LLC**, a Colorado limited liability company ("Developer"), the real property hereinafter referred to as the "Site," described in Exhibit A attached hereto and incorporated herein, subject to existing easements, restrictions and covenants of record and further subject to the provisions of this Grant Deed as set forth below.

1. **Reservation of Mineral Rights.** Agency excepts and reserves from the conveyance herein described all interest of the Agency in oil, gas, hydrocarbon substances and minerals of every kind and character lying more than five hundred (500) feet below the surface, together with the right to drill into, through, and to use and occupy all parts of the Site lying more than five hundred (500) feet below the surface thereof for any and all purposes incidental to the exploration for and production of oil, gas, hydrocarbon substances or minerals from said Site or other lands, but without, however, any right to use either the surface of the Site or any portion thereof within five hundred (500) feet of the surface for any purpose or purposes whatsoever, or to use the Site in such a manner as to create a disturbance to the use or enjoyment of the Site.

2. **Conveyance in Accordance With Redevelopment Plan, Disposition and Development Agreement.** The Site is conveyed in accordance with and subject to the Redevelopment Plan which was approved and adopted by the City Council of the City of Garden Grove by Ordinance No. 1339, as amended as of the date hereof, and a Disposition and Development Agreement entered into between Agency and Developer dated _____, 2001 (the "DDA"), a copy of which is on file with the Agency at its offices as a public record and which is incorporated herein by reference. The DDA generally requires the Developer to construct and operate two limited service hotels as more particularly described in the DDA (the "Project"), and other requirements as set forth therein. All terms used herein shall have the same meaning as those used in the DDA.

3. **Permitted Uses.** The Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof, that upon the date of this Grant Deed and during construction through completion of development and thereafter, the Developer shall:

(a) Devote the Site to the uses specified in the Redevelopment Plan and this Grant Deed for the periods of time specified therein. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to the DDA, shall conform to the DDA, the Redevelopment Plan and all applicable provisions of the City Municipal Code. The foregoing covenants shall run with the land.

(b) For a term commencing on the date of this Grant Deed and ending as of the tenth (10^{th}) anniversary of the opening of the Project on the Site, or the satisfaction of the Developer Promissory Note, which ever occurs first (the "Operating Covenant Period"), as more particularly set forth in Section 402 of the DDA, the Developer hereby covenants and agrees on a continuous basis to devote the Site to the operation of the Project. The foregoing covenants shall run with the land. Except with the prior written consent of the Agency for each instance, which consent may be granted or withheld in the Agency's reasonable discretion, the failure of the Developer to operate the Project after the time established in the Schedule of Performance for the completion of the Developer Improvements or, if earlier, the actual completion of the Developer Improvements, on the Site for one hundred eighty (180) or more consecutive days shall, at the Agency's option, constitute a Default hereunder; provided, however, that the Developer shall for purposes of this Grant Deed be deemed to be operating the Project during any period that the Developer is prevented from operating the Project due to (i) required or necessary rehabilitation of the Developer Improvements on the Site (provided that the period during which the Project is not operated as a result of the rehabilitation shall in no event exceed 365 days), or (ii) floods, earthquakes, fires, or other acts of God which are not in any way due to the acts or omissions of the Developer.

4. **Restrictions on Transfer.** The Developer further agrees as follows:

(a) For the period commencing upon the date of this Grant Deed and until the expiration of the use and operations covenants which are set forth in Section 3(b) hereof, no voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under the DDA or this Grant Deed, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the Site or the Developer Improvements thereon, nor shall any activities other than the Project be operated thereon, either in addition to or in replacement of the Project on the Site, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, subdivision of the Developer Improvements on the Site or the Project without the prior written approval of the Agency pursuant to Section 603 of the DDA; the Developer further agrees that any right to transfer is subject to the provisions of this Grant Deed, including without limitation Sections 6, 7 and 8 hereof.

(b) The Developer shall not place or suffer to be placed on the Site any lien or encumbrance other than mortgages, deeds of trust, or any other form of conveyance required for financing of the construction of the Developer Improvements on the Site, and any other expenditures necessary and appropriate to develop the Site pursuant to the DDA, except as provided in Section 311 of the DDA.

(c) All of the terms, covenants and conditions of this Grant Deed shall be binding upon the Developer and the permitted successors and assigns of the Developer. Whenever the term "Developer" is used in this Grant Deed, such term shall include any other permitted successors and assigns as herein provided.

5. **Nondiscrimination.** The Developer herein covenants by and for itself, its 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 Developer itself or any person claiming under or through Developer, 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 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."

The foregoing covenants shall run with the land and remain in effect in perpetuity.

6. Agency Right of Reentry. The Agency has the right, at its election, to reenter and take possession of the Site, with all improvements thereon, and terminate and revest in the Agency the estate conveyed to the Developer if after the Closing and prior to the recordation of the Release of Construction Covenants as to the Site, the Developer (or its successors in interest) shall:

a. fail to start the construction of the Developer Improvements as required by the DDA for a period of thirty (30) days after written notice thereof from the Agency; or

b. abandon or substantially suspend construction of the Developer Improvements required by the DDA for a period of thirty (30) days after written notice thereof from the Agency; or

c. contrary to the provisions of Section 603 of the DDA transfer or suffer any involuntary Transfer in violation of the DDA.

Such right to reenter, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid or limit:

1. Any mortgage or deed of trust permitted by the DDA; or

2. Any rights or interests provided in the DDA for the protection of the holders of such mortgages or deeds of trust; or

3. The obligation of the Agency and City for repayment in full to Developer of the Developer Advance and/or the Agency Promissory Note.

Upon the revesting in the Agency of title to the Site as provided in this Section 6, the Agency shall, pursuant to its responsibilities under state law, use its reasonable efforts to resell the Site as soon and in such manner as the Agency shall find feasible and consistent with the objectives of such law and of the Redevelopment Plan, as it exists or may be amended, to a qualified and responsible party or parties (as determined by the Agency) who will assume the obligation of making or completing the Developer Improvements, or such improvements in their stead as shall be satisfactory to the Agency and in accordance with the uses specified for such Site or part thereof in the Redevelopment Plan. The Developer acknowledges that there may be substantial delays experienced by the Agency if the Agency must remarket the Site for operation of a Conforming Hotel Facility following the revesting of the Site in the Agency. Upon such resale of the Site, the net proceeds thereof after repayment of any mortgage or deed of trust encumbering the Site which is permitted by this Agreement, shall be applied:

i. First, to reimburse the Agency, on its own behalf or on behalf of the City, all costs and expenses incurred by the Agency, excluding City and Agency staff costs, but specifically, including, but not limited to, any expenditures by the Agency or the City in connection with the recapture, management and resale of the Site or part thereof (but less any income derived by the Agency from the Site or part thereof in connection with such management); all taxes, assessments and water or sewer charges with respect to the Site or part thereof which the Developer has not paid;

any payments made or necessary to be made to discharge any encumbrances or liens existing on the Site or part thereof at the time or revesting of title thereto in the Agency, or to discharge or prevent from attaching or being made any subsequent encumbrances or liens due to obligations, defaults or acts of the Developer, its successors or transferees; any expenditures made or obligations incurred with respect to the making or completion of the improvements or any part thereof on the Site, or part thereof; and any amounts otherwise owing the Agency, and in the event additional proceeds are thereafter available, then

ii. Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the costs incurred for the acquisition and development of the Site and for the improvements existing on the Site at the time of the reentry and possession.

Any balance remaining after such reimbursements shall be retained by the Agency as its property. The rights established in this Section 6 are not intended to be exclusive of any other right, power or remedy, but each and every such right, power, and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy authorized herein or now or hereafter existing at law or in equity. These rights are to be interpreted in light of the fact that the Agency will have conveyed the Site to the Developer for redevelopment purposes, particularly for development and operation of a Project and not for speculation in undeveloped land.

7. **Agency Repurchase Option.** The Agency shall, throughout the Operating Covenant Period (which is a period commencing upon the conveyance of the Site by this deed and ending as of the tenth [10th] anniversary of the opening of the Project pursuant to the DDA) and without limitation as to the effects of Section 6 of this Grant Deed or other rights and remedies of the Agency, retain the option (the "Agency Repurchase Option") to repurchase, upon the occurrence of the events hereinafter described, from the Developer the Site (including improvements thereon) for an amount equal to the Repurchase Amount. No interest shall be deemed to accrue as to the Repurchase Amount. The Agency shall have the right to exercise its option to purchase during the Operating Covenant Period in the event of a "Permanent Closure" (as defined in the DDA) or if, for such period, the Project is not operated on the Site in conformity with this Agreement. The Agency Repurchase Option shall run with the land.

The Developer covenants and agrees by and for itself, its successors, assigns and every successor in interest to the Site or any part thereof, that the Developer and such successors shall, upon receipt of request therefor by the Agency, execute deeds and such other documents as shall be deemed necessary or convenient to effectuate the conveyance to the Agency, including without limitation a grant deed. The parties shall evenly share the escrow charges in the event of such transfer. The condition of title for such transfer shall be the same as that of the Conveyance; provided that the reacquired portion may be subject to covenants in favor of the Agency contained in this Grant Deed. In the event that it is necessary to clear encumbrances, such as deeds of trusts or mortgages, to cause the condition of title to conform to the condition hereinabove described, the Developer consents that all or any portion of the Repurchase Amount shall, at the option of the Agency, be applied to clear such encumbrances.

This Section 7 shall remain in effect until the end of the Operating Covenant Period.

8. **Minimum Project Value Covenant.** The Developer covenants and agrees by and for itself, its successors, assigns and every successor in interest to the Site or any part thereof that commencing upon the earlier to occur of: (i) the completion of the Developer Improvements or

(ii) the time established in the Schedule of Performance for the completion of the Developer Improvements, the Developer shall not take action to decrease the assessed value (including the value of the improvements thereon) of the Site for property tax purposes amount below the Minimum Project Value. The provisions of this paragraph shall remain in effect until the fifteenth (15th) anniversary of the Opening Date, or the satisfaction of the Developer Promissory Note, which ever occurs first.

9. **Violations Do Not Impair Liens.** 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 paragraph 4 of this Grant Deed; provided, however, that any subsequent owner of the Site shall be bound by such remaining 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.

10. **Covenants Run With Land.** All covenants contained in this Grant Deed shall be covenants running with the land. All of Developer's obligations hereunder except as provided hereunder shall terminate and shall become null and void upon the expiration of the Redevelopment Plan.

11. **Covenants For Benefit of Agency.** All covenants without regard to technical classification or designation shall be binding for the benefit of the Agency, and such covenants shall run in favor of the Agency for the entire period during which such covenants shall be in force and effect, without regard to whether the Agency is or remains an owner of any land or interest therein to which such covenants relate. The Agency, in the event of any breach of any such covenants, shall have the right to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

12. **Revisions to Grant Deed.** Both Agency, its successors and assigns, and Developer and the successors and assigns of Developer in and to all or any part of the fee title to the Site shall have the right with the mutual consent of the Agency to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements or restrictions contained in this Grant Deed without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Site. However, Developer and Agency are obligated to give written notice to and obtain the consent of any first mortgagee prior to consent or agreement between the parties concerning such changes to this Grant Deed. The covenants contained in this Grant Deed, without regard to technical

classification, shall not benefit or be enforceable by any owner of any other real property within or outside the Project Area, or any person or entity having any interest in any other such realty. No amendment to the Redevelopment Plan shall require the consent of the Developer.

AGENCY:

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

By:_____
Chairman

ATTEST:

_____
Secretary of the Agency

APPROVED AS TO FORM:

_____
Stradling, Yocca, Carlson & Rauth
Agency Counsel

DEVELOPER:
PALM COURT LODGING, LLC, a Colorado limited liability company

By: **QUAD HOLDINGS, LLC**, a Colorado limited liability company

By:_____

Its:_____

By: **McWHINNEY MANAGEMENT COMPANY, LLC**, a Colorado limited liability company

By:_____

Its:_____

EXHIBIT "A" TO ATTACHMENT NO. 2

LEGAL DESCRIPTION OF SITE

PARCEL 1

PARCEL 2, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 18, PAGE 26, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDED OF SAID COUNTY

PARCEL 2

PARCEL 1 OF, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 18, PAGE 26, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3 A

THE NORTH 75.00 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF SAID NORTHEAST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46,47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY; EXCEPT THE WEST 330.00 FEET THEREOF.

PARCEL 3 B

AND UNDIVIDED 1/70th IN THE SOUTH 30.00 FEET OF THE WEST 80.00 FEET OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF SAID NORTHEAST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46,47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY

PARCEL 4

THE NORTH 3 ACRES OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF THE NORTHWEST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46, 47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY CALIFORNIA.

EXCEPT THERE FROM THE WEST 330.00 FEET THEREOF.

ALSO EXCEPTING THERE FROM THE EAST 330.00 FEET OF THE NORTH 75.00 FEET THEREOF.

PARCEL 5 A

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, S. B. B & M

EXCEPTING THE NORTH 3 ACRES THEREOF.

PARCEL 5 B

AN UNDIVIDED 1/85th INTEREST IN AND TO THE FOLLOWING:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, S. B. B. & M.; THENCE NORTH ALONG THE WEST LINE OF SAID NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, 30.00 FEET; THENCE EAST AT RIGHT ANGLES 80.00 FEET; THENCE SOUTH 30.00 FEET; THENCE WEST 80.00 FEET TO THE POINT OF BEGINNING.

PARCEL 6

LOTS 19 TO 31, INCLUSIVE, AND LOT A 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, 47 AND 48 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF THAT CERTAIN ALLEY ADJOINING SAID LOTS 19 TO 24, INCLUSIVE, ON THE WES, WHICH WOULD PASS WITH THE CONVEYANCE OF SAID LOTS.

ATTACHMENT NO. 3A

AGENCY PROMISSORY NOTE

$_____ _____, 2001
Garden Grove, California

FOR VALUE RECEIVED, the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT,** a public body corporate and politic (the "Agency"), promises to pay to **PALM COURT LODGING, LLC**, a Colorado limited liability company ("Developer"), promises to pay to or order at the Developer's office at 9100 East Panorama Drive, Suite 300, Denver, Colorado 80112, or such other place as the Developer may designate in writing, the sum of _____ _____($_____) (the "Note Amount") in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. **Agreement.** This Promissory Note (the "Note") is given in accordance with that certain Disposition and Development Agreement executed by the Agency and Developer, dated as of _____, 2001 (the "Agreement"). The rights and obligations of the Developer and the Agency under this Note shall be governed by the Agreement and by the additional terms set forth in this Note. In the event of any inconsistencies between the terms of this Note and the terms of the Agreement or any other document related to the Note Amount, the terms of this Note shall prevail. Except as may be otherwise expressly set forth to contrary effect in this Note, all capitalized terms used herein shall have the same meaning as set forth in the Agreement.

2. **Interest.** The Note Amount shall bear interest at the rate of _____ percent (__%) per annum, until paid in full.

3. **Repayment of Note Amount.** The outstanding principal balance and any accrued but unpaid interest of this Not shall be due and payable on the fifteenth (15th) anniversary hereof.

The principal amount of this Note shall be subject to adjustment based upon payments made by the Agency and other adjustments as set forth below.

The Agency shall make monthly payments of $_____ on this Note, commencing on the first of (i) the first full month after the Closing, or (ii) the first full month after the termination of the DDA for any reason, whichever occurs first, and payable on each of the next 179 months for a total of 180 monthly payments.

4. **[Intentionally Omitted].**

5. **Attorneys' Fees and Costs.** Agency agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

6. **Joint and Several Obligation.** This Note is the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their heirs, successors and assigns.

7. **Amendments and Modifications.** This Note may not be changed orally, but only by an amendment in writing signed by Developer and by the Agency.

8. **Intentionally Omitted**

9. **Intentionally Omitted**

10. **Terms.** Any terms not separately defined herein shall have the same meanings as set forth in the Agreement.

11. **Successors and Assigns.** Whenever "Developer" is referred to in this Note, such reference shall be deemed to include the Palm Court Lodging, LLC and its successors and assigns. All covenants, provisions and agreements by or on behalf of the Agency, and on behalf of any makers, endorsers, guarantors and sureties hereof which are contained herein shall inure to the benefit of the Developer and Developer's successors and assigns.

12. **Usury.** It is the intention of Developer and Agency to conform strictly to the Interest Law, as defined below, applicable to this loan transaction. Accordingly, it is agreed that notwithstanding any provision to the contrary in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, the aggregate of all interest and any other charges or consideration constituting interest under the applicable Interest Law that is taken, reserved, contracted for, charged or received under this Note, or under any of the other aforesaid agreements or otherwise in connection with this loan transaction, shall under no circumstances exceed the maximum amount of interest allowed by the Interest Law applicable to this loan transaction. If any excess of interest in such respect is provided for in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, then, in such event:

(a) the provisions of this paragraph shall govern and control;

(b) neither Agency nor Agency's heirs, legal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest allowed by the Interest Law applicable to this loan transaction;

(c) any excess shall be deemed canceled automatically and, if theretofore paid, shall be credited on this Note by Developer or, if this Note shall have been paid in full, refunded to Agency; and

(d) the effective rate of interest shall be automatically subject to reduction to the Maximum Legal Rate of Interest (as defined below), allowed under such Interest Law, as now or hereafter construed by courts of appropriate jurisdiction. To the extent permitted by the Interest Law applicable to this loan transaction, all sums paid or agreed to be paid to Developer for the use, forbearance or detention of the indebtedness evidenced hereby shall be amortized, prorated, allocated and spread throughout the full term of this Note. For purposes of this Note, "Interest Law" shall mean any present or future law of the State of California, the United States of America, or any other jurisdiction which has application to the interest and other charges under this Note. The "Maximum Legal Rate of Interest" shall mean the maximum rate of interest that Developer may from time to time charge Agency, and under which Agency would have no claim or defense of usury under the Interest Law.

16. Miscellaneous. Time is of the essence hereof. This Note shall be governed by and construed under the laws of the State of California except to the extent Federal laws preempt the laws of the State of California. Agency irrevocably and unconditionally submits to the jurisdiction of the Superior Court of the State of California for the County of Orange or the United States District Court of the Central District of California, as Agency hereof may deem appropriate, in connection with any legal action or proceeding arising out of or relating to this Note. Agency also waives any objection regarding personal or in rem jurisdiction or venue.

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body corporate and politic

By:_____

Its:_____

ATTACHMENT NO. 3B

DEVELOPER
PROMISSORY NOTE

$_____ _____, 2001
Garden Grove, California

FOR VALUE RECEIVED, PALM COURT LODGING, LLC, a Colorado limited liability company ("Developer"), promises to pay to **the GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body corporate and politic (the "Agency"), at the Agency's office at Garden Grove City Hall, 11222 Acacia Parkway, Garden Grove, California 92642, or such other place as the Agency may designate in writing, the sum of _____ _____ and 00/100 Dollars ($_____) (the "Note Amount")in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. **Agreement.** This Promissory Note (the "Note") is given in accordance with that certain Disposition and Development Agreement executed by the Agency and Developer, dated as of _____, 2001 (the "Agreement"). The rights and obligations of the Developer and the Agency under this Note shall be governed by the Agreement and by the additional terms set forth in this Note. In the event of any inconsistencies between the terms of this Note and the terms of the Agreement or any other document related to the Note Amount, the terms of this Note shall prevail. Except as may be otherwise expressly set forth to contrary effect in this Note, all capitalized terms used herein shall have the same meaning as set forth in the Agreement.

2. **Interest.** The Note Amount shall bear no interest. Notwithstanding the foregoing, if any amount is not paid when due hereunder, then interest at the prime lending rate charged to its most favored business customers by the Bank of America N.T.&S.A. or its successor shall accrue upon any unpaid amount from and after the due date for such amount.

3. **Repayment of Note Amount.** The full amount of the Note Amount shall be due and payable on the tenth (10th) anniversary hereof.

The Note Amount shall be subject to adjustment for the Credit Adjustment, as set forth below.

In calculating the amount which remains due and owing under this Note, and provided that the Secondary Conditions Precedent set forth in Section 312 of the Agreement have been satisfied, after the end of each of the first ten (10) Annual Periods, the Agency shall reduce the Note Amount by an amount (the "Credit Amount"), if any, equal to the Generated Revenues received and retained by the Agency and/or the City from the operation of the Project in conformity with this Agreement during the preceding Annual Period, less any Developer Payments made in accordance with Section 311.7 of the Agreement therefrom, provided that such Credit Amounts as aggregated shall in no event exceed the Developer Note Amount. The application of a credit pursuant to this paragraph constitutes a "Credit Adjustment." No payments shall be made to the Developer by virtue of this Section 3. For purposes of determining the amount of Generated Revenues less Developer Payments made therefrom, and the corresponding Credit Amount, all Developer Payments pursuant

to Section 311.7 of the Agreement shall be deemed to be made from Generated Revenues earned during the Annual Period in which such payments are made.

For purposes of this Section, the first "Annual Period" shall be the period which commences on the earlier of (i) the opening for business of the first Conforming Hotel Facility, or (ii) the time established in the Schedule of Performance for the opening for business of the first Conforming Hotel Facility on the Site, and ends at the end of the calendar year next occurring. Each subsequent three hundred sixty five (365) day period shall constitute an "Annual Period."

Concurrently with their filing with the applicable governmental agencies, the Developer shall provide the Agency with copies of each and every sales and use tax return that it has filed during a Annual Period with respect to the Project on the Site. Upon written request by the Agency, the Developer shall promptly take any and all actions which are reasonably deemed necessary by the Agency to assist the Agency in obtaining access to any and all records of the State Board of Equalization and the City which may be pertinent to Sales and Use Tax Revenues and/or Transient Occupancy Tax Revenues, including records pertinent to the Site, the Project, and the Developer, in order to enable the Agency to verify the information contained in said tax returns or reports and to verify such tax revenues. In the event that the Agency requires the receipt of additional information in order to verify the information contained in such sales and use tax returns and such tax revenues, the Agency shall notify the Developer in writing that such information is required. The Developer shall promptly obtain and furnish to the Agency any and all said information as is necessary in order for the Agency to verify the information contained in such tax returns and such tax revenues. The Agency shall have a reasonable amount of time, which is anticipated to be thirty (30) days subject to the receipt of complete information, to verify the information concerning tax revenues as received from the Developer pursuant to Section 201.3 of the Agreement.

4. Waivers.

(a) Developer expressly agrees that this Note or any payment hereunder may be extended from time to time at the Agency's sole discretion and that the Agency may accept security in consideration for any such extension or release any security for this Note at its sole discretion all without in any way affecting the liability of Developer.

(b) No extension of time for payment of this Note made by agreement by the Agency with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of Developer under this Note, either in whole or in part unless such terms are in writing and executed by Developer and the Agency.

(c) The obligations of Developer under this Note shall be absolute and Developer waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever.

(d) Developer waives presentment, demand, notice of protest and nonpayment, notice of default or delinquency, notice of acceleration, notice of costs, expenses or leases or interest thereon, notice of dishonor, diligence in collection or in proceeding against any of the rights of interests in or to properties securing of this Note, and the benefit of any exemption under any homestead exemption laws, if applicable.

(e) No previous waiver and no failure or delay by Agency in acting with respect to the terms of this Note shall constitute a waiver of any breach, default, or failure or condition under this Note or the obligations described thereby. A waiver of any term of this Note or of any of the obligations described thereby must be made in writing and shall be limited to the express written terms of such waiver.

5. **Attorneys' Fees and Costs.** Developer agrees that if any amounts due under this Note are not paid when due, to pay in addition, all costs and expenses of collection and reasonable attorneys' fees paid or incurred in connection with the collection or enforcement of this Note, whether or not suit is filed.

6. **Joint and Several Obligation.** This Note is the joint and several obligation of all makers, sureties, guarantors and endorsers, and shall be binding upon them and their heirs, successors and assigns.

7. **Amendments and Modifications.** This Note may not be changed orally, but only by an amendment in writing signed by Developer and by the Agency.

8. **Terms.** Any terms not separately defined herein shall have the same meanings as set forth in the Agreement.

9. **Acceleration and Other Remedies.** Upon: (a) a Default in the performance of the covenants set forth in Section 402 of the Agreement requiring the continuous operation of the Project on the Site; or (b) Developer selling, contracting to sell, giving an option to purchase, conveying, leasing, further encumbering, mortgaging, assigning or alienating, whether directly or indirectly, whether voluntarily or involuntarily or by operation of law, any interest in the Site, or suffering its title, or any interest in the Site to be divested, whether voluntarily or involuntarily, in violation of Section 603 of the Agreement, Agency may, at Agency's option, upon notice and an opportunity to cure as set forth in Section 501 of the Agreement, declare the outstanding principal amount of this Note, together with the then accrued and unpaid interest thereon and other charges hereunder, to be due and payable immediately, and upon such declaration, such principal and interest and other sums shall immediately become and be due and payable without demand or notice. All costs of collection, including, but not limited to, reasonable attorneys' fees and all expenses incurred in connection with protection of, or realization on, the security for this Note, may be added to the principal hereunder, and shall accrue interest as provided herein. Agency shall at all times have the right to proceed against any portion of the security for this Note, if any, in such order and in such manner as such Agency may consider appropriate, without waiving any rights with respect to any of the security. Any delay or omission on the part of the Agency in exercising any right hereunder, or under the Agreement shall not operate as a waiver of such right, or of any other right. No single or partial exercise of any right or remedy hereunder or under the Agreement or any other document or agreement shall preclude other or further exercises thereof, or the exercise of any other right or remedy. The acceptance of payment of any sum payable hereunder, or part thereof, after the due date of such payment shall not be a waiver of Agency's right to either require prompt payment when due of all other sums payable hereunder or to declare an Event of Default for failure to make prompt or complete payment.

10. **Consents.** Developer hereby consents to: (a) any renewal, extension or modification (whether one or more) of the terms of the Agreement or the terms or time of payment under this Note, (b) the release or surrender or exchange or substitution of all or any part of the security,

whether real or personal, or direct or indirect, for the payment hereof, (c) the granting of any other indulgences to Developer, and (d) the taking or releasing of other or additional parties primarily or contingently liable hereunder. Any such renewal, extension, modification, release, surrender, exchange or substitution may be made without notice to Developer or to any endorser, guarantor or surety hereof, and without affecting the liability of said parties hereunder.

11. Successors and Assigns. Whenever "Agency" is referred to in this Note, such reference shall be deemed to include the Garden Grove Agency for Community Development and its successors and assigns, including, without limitation, any subsequent assignee or holder of this Note. All covenants, provisions and agreements by or on behalf of Developer, and on behalf of any makers, endorsers, guarantors and sureties hereof which are contained herein shall inure to the benefit of the Agency and Agency's successors and assigns.

12. Usury. It is the intention of Developer and Agency to conform strictly to the Interest Law, as defined below, applicable to this loan transaction. Accordingly, it is agreed that notwithstanding any provision to the contrary in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, the aggregate of all interest and any other charges or consideration constituting interest under the applicable Interest Law that is taken, reserved, contracted for, charged or received under this Note, or under any of the other aforesaid agreements or otherwise in connection with this loan transaction, shall under no circumstances exceed the maximum amount of interest allowed by the Interest Law applicable to this loan transaction. If any excess of interest in such respect is provided for in this Note, or in any of the documents securing payment hereof or otherwise relating hereto, then, in such event:

(a) the provisions of this paragraph shall govern and control;

(b) neither Developer nor Developer's heirs, legal representatives, successors or assigns shall be obligated to pay the amount of such interest to the extent that it is in excess of the maximum amount of interest allowed by the Interest Law applicable to this loan transaction;

(c) any excess shall be deemed canceled automatically and, if theretofore paid, shall be credited on this Note by Agency or, if this Note shall have been paid in full, refunded to Developer; and

(d) the effective rate of interest shall be automatically subject to reduction to the Maximum Legal Rate of Interest (as defined below), allowed under such Interest Law, as now or hereafter construed by courts of appropriate jurisdiction. To the extent permitted by the Interest Law applicable to this loan transaction, all sums paid or agreed to be paid to Agency for the use, forbearance or detention of the indebtedness evidenced hereby shall be amortized, prorated, allocated and spread throughout the full term of this Note. For purposes of this Note, "Interest Law" shall mean any present or future law of the State of California, the United States of America, or any other jurisdiction which has application to the interest and other charges under this Note. The "Maximum Legal Rate of Interest" shall mean the maximum rate of interest that Agency may from time to time charge Developer, and under which Developer would have no claim or defense of usury under the Interest Law.

13. Miscellaneous. Time is of the essence hereof. This Note shall be governed by and construed under the laws of the State of California except to the extent Federal laws preempt the laws of the State of California. Developer irrevocably and unconditionally submits to the jurisdiction of

the Superior Court of the State of California for the County of Orange or the United States District Court of the Central District of California, as Agency hereof may deem appropriate in connection with any legal action or proceeding arising out of or relating to this Note. Developer also waives any objection regarding personal or in rem jurisdiction or venue.

PALM COURT LODGING, LLC, a Colorado limited liability company

By: **QUAD HOLDINGS, LLC,** a Colorado limited liability company

By:_____

Its:_____

By: **McWHINNEY MANAGEMENT COMPANY, LLC,** a Colorado limited liability company

By:_____

Its:_____

ATTACHMENT NO. 4

DEVELOPER CERTIFICATE

(Developer Letterhead)

Garden Grove Agency for Community Development
11222 Acacia Parkway
Garden Grove, California 92642
Attention: Director

With respect to that certain Disposition and Development Agreement (the "Agreement") by and between Palm Court Lodging, LLC, a Colorado limited liability company (the "Developer") and the Garden Grove Agency for Community Development (the "Agency") dated as of _____, 2001, the Developer hereby certifies and warrants to the Agency that, as of _____, which is the date of this Developer Certificate:

1. The Construction Disbursement Amount is _____ [insert amount]; this statement is based upon the fact that [as of the time for the satisfaction of the Agency's Conditions Precedent, the construction lender has approved a final loan commitment for such amount] [as of the first time for the satisfaction of the Secondary Conditions Precedent, the construction lender made disbursements to or on behalf of the Developer for the development of the Developer Improvements in such amount].

2. The Verified Developer Amount is _____ [zero, as of the time for the satisfaction of the Agency's Conditions Precedent] [_____ (insert amount) as of the first time for the satisfaction of the Secondary Conditions Precedent].

3. The Developer understands that the Agency will rely upon this Certificate.

4. All capitalized terms shall have the same meanings as set forth in the Agreement.

PALM COURT LODGING, LLC, a Colorado limited liability company

By: **QUAD HOLDINGS, LLC**, a Colorado limited liability company

By:_____

Its:_____

By: **McWHINNEY MANAGEMENT COMPANY, LLC**, a Colorado limited liability company

By:_____

Its:_____

CONFIRMATION BY LENDER

_____ [construction lender] confirms that the foregoing is true and correct, and accurately sets forth the Construction Disbursement Amount and the Verified Developer Amount.

Date: _____

[CONSTRUCTION LENDER]

By:_____

Its:_____

Print Name: _____

ATTACHMENT NO. 5

SCHEDULE OF PERFORMANCE

I. GENERAL PROVISIONS

1.	**Execution of Agreement by the Agency.** The Agency shall execute this Agreement, and if approved, shall deliver two (2) executed copies thereof to the Developer.	Within forty-five (45) days after delivery to the Agency of four (4) executed copies of this Agreement along with Basic Concept Drawings.
2.	**Submission of Basic Concept Drawings.** Developer submits Basic Concept Drawings to Agency.	Within sixty (60) days after Agency's consideration of Agreement.
3.	**Agency Approval or Disapproval of Basic Concept Drawings.** Agency shall review the Basic Concept Drawings and approve or disapprove same.	Within ninety (90) days after Agency's consideration of Agreement.
4.	**Submission of Design Development Drawings for the Project.** The Developer shall prepare and submit to the City and Agency, complete Design Development Drawings.	Within sixty (60) days of the Agency's approval of the Basic Concept Drawings, or the Execution of the Agreement by the Agency, whichever occurs later.
5.	**Review of Design Development Drawings and Approval or Disapproval Thereof.** The Planning Commission shall consider and approve or disapprove the Design Development Drawings.	Within forty-five (45) days of submission of Design Development Drawings.
6.	**Agency/City Council Review of Design Development Drawings and Approval or Disapproval Thereof.** The Agency and/or City Council shall consider and approve or disapprove the Design Development Drawings.	Within forty-five (45) days of the Planning Commission's approval of the Design Development Drawings.

II. CONSTRUCTION DRAWINGS

7.	**Submission of Complete Construction Drawings.** Developer shall submit to the Building/Engineering Department complete Construction Drawings.	Within one hundred twenty (120) days after approval of the Design Development Drawings by the City Council and/or Agency.
8.	**Building/Engineering Review of Complete Construction Drawings.** The Building/Engineering Department shall approve or disapprove the complete Construction Drawings.	Within forty-five (45) days after submittal.
9.	**Revisions of Drawings By the Developer.** Developer shall prepare revised Construction Drawings as necessary, and resubmit them to the Building/Engineering Department for review.	Within thirty (30) days after receipt of Building/Engineering's comments.
10.	**Final Review of Complete Drawings.** The Building/Engineering Department shall approve or disapprove the revisions submitted by Developer provided that the revisions necessary to accommodate the Department's comments have been made.	Within fifteen (15) days after submittal by the Developer.
11.	**Revisions of Construction Drawings by the Developer.** Developer shall prepare revised, Construction Drawings as necessary, and resubmit them to the Building/Engineering Department for review.	Within thirty (30) days after Building/Engineering's comments.
12.	**Final Review of Complete Construction Drawings.** The Building/Engineering Department shall approve or disapprove the revisions submitted by the Developer, and Developer shall be ready to obtain building permits, provided that the revisions necessary to accommodate the Department's comments have been made.	Within ten (10) days after submittal by the Developer.

III. CONVEYANCE

13.	**Opening of Escrow**. The Agency shall open an Escrow with an Escrow Agent.	Within five (5) days after the Agency acquires possession or title to any of the parcels within the Site.
14.	**Conditions Precedent**. Developer and Agency satisfy all of their respective pre-closing conditions.	No later than the Outside Date.
15.	**Close of Escrow for Conveyance**. Agency conveys the Site to the Developer.	Ten (10) days after the satisfaction of all Conditions Precedent to the Closing have occurred but no later than the Outside Date.

IV. CONSTRUCTION

16.	**Commencement of Construction**. Developer shall commence construction of the first one (1) of the two Hotels within the Developer Improvements.	Within sixty (60) days following the Closing, but in no event before the first day after all relocation of eligible persons has occurred, and all entitlements and permits have been obtained by Developer.
17.	**Completion of Construction**. Developer shall complete construction of the first Hotel within the Developer Improvements (except the Restaurant) within 12 months following the commencement of construction. Developer shall complete the construction of the second Hotel within 36 months following the Closing or 12 months following the commencement of construction of same, whichever occurs first.	As to the first Hotel, within twelve months after commencement. As to the second Hotel within twelve months after commencement or 36 months after close whichever occurs first.
18.	**Opening Date**. The Project shall open for business upon the Site.	Each Conforming Hotel Facility shall open for business to the public within ninety (90) days after the earlier of completion of construction thereof or the deadline for completion thereof pursuant to Section 17. Opening Date for the Project shall be 36 months following the Closing.

ATTACHMENT NO. 6

SCOPE OF DEVELOPMENT

I. SUMMARY

This document presents general requirements for construction of the Developer Improvements by the Developer on the Site and within the adjacent public rights-of-way. Detailed requirements will be addressed with the submittal and approval of the Basic Concept Drawings, the Design Development Drawings, and Construction Plans and Documents. The construction of the Developer Improvements shall comply with all such approvals. In the event of any inconsistency between this Scope of Development and the approved Basic Concept Drawings, Design Development Drawings and the Construction Plans and Drawings (the "Approved Plans"), the Approved Plans shall govern.

The Developer Improvements shall include two hotels consisting of (i) a 6+-story, approximately 275-room hotel with daily linen service and a 24-hour-a-day staffed front desk with a pool, indoor exercise facility, central lobby area and porte cochere, and required parking and landscaping improvements, along with a 20,000-square foot restaurant pad at Developer's option, subject to the City's entitlement process; and (ii) a 6+-story, approximately 225-room all-suites hotel with daily linen service and a 24-hour-a-day staffed front desk, with a pool, indoor exercise facility, central lobby area and porte cochere, and required parking and landscaping improvements. The Developer Improvements shall also consist of surface parking on the Site in a number and in accordance with a design recommended in the Traffic Analysis and Parking Management Plan prepared for the construction of the Developer Improvements. The Developer Improvements shall also consist of the setback and parking area landscaping, lighting and signage, including without limitation the Project's frontage on Harbor Boulevard.

II. DEVELOPER IMPROVEMENTS

A. Site Description

The Site is an approximately five and one-half (5.5) acre parcel of real property located on the west side of Harbor Boulevard between Chapman Avenue and Twintree Avenue. The Site is to be conveyed to the Developer, contingent upon Agency's acquisition thereof, in accordance with the terms and conditions of the Disposition and Development Agreement between the parties.

B. Developer Improvements

The following shall be the sole financial responsibility of the Developer, unless specifically noted otherwise:

1. All of the Developer Improvements of the Site in accordance with the Agreement, the Basic Concept and Design Development Drawings, approved Site Plan and the approved Construction Plans and Drawings. The Developer Improvements shall include two hotels consisting of (i) an 6+-story, approximately 275-room hotel with daily linen service and a 24-hour-a-day staffed front desk with a pool, indoor exercise facility, central lobby area and porte cochere, and required parking and landscaping improvements ("Hotel No. 1"); and (ii) a 6+-story, approximately 224-room all-suites hotel with daily linen service and a 24-hour-a-day staffed front desk, with a pool,

indoor exercise facility, central lobby area and porte cochere, and required parking and landscaping improvements ("Hotel No. 2). The cost of the above shall be not less than the Minimum Required Cost. The Developer Improvements shall also consist of surface parking on the Site in a number and in accordance with a design recommended in the Traffic Analysis and Parking Management Plan prepared for the construction of the Developer Improvements. The Developer Improvements shall also consist of the setback and parking area landscaping, lighting and signage.

2. All public improvements from the back of the curb face, including sidewalks, driveways, street lights, signs, parkway landscape. All such improvements shall be constructed in accordance with the Harbor Boulevard Streetscape Improvement Plan which is currently being implemented by the Agency on Hotel Sites "A" and "B".

3. All off-site improvements which are desired to be constructed by the Developer which are not a condition of the Approved Plans, this Agreement, or the Traffic Analysis and Parking Management Plan prepared for the construction of the Developer Improvements.

4. The connection to all public utilities serving the Site, regardless of whether the point of connection is at the property line of the Site or within the public right-of-way adjacent to the Site.

C. General Requirements

The Developer shall comply with the following general requirements:

A. The Developer shall devote the property to the uses, and comply with all restrictions, covenants, and conditions, specified in the Agreement.

B. The Developer shall be required to enter into a Reciprocal Easement Agreement for the Combined Site in accordance with Section 100 of the Agreement.

C. The Fixtures/Furnishings and Equipment (FF&E) installed and constructed shall be not less than Ten Thousand Five Hundred Dollars ($10,500) per each room with sleeping quarters with regard to Hotel No. 1, and Ten Thousand Dollars ($10,000) per each room with sleeping quarters with regard to Hotel No. 2, consistent with the Developer's proforma dated May 13, 2001, as on file with the Agency, and shall be of equal or greater quality as the FF&E installed and constructed by the Approved Operator or Operators in Approved Products at a majority of all of the facilities in their chain at the time of construction of the Developer Improvements.

4. The average size of all the rooms with sleeping quarters in Hotel No. 1 (or alternative Approved Product) shall be not less than 400 square feet, and the average size of all the rooms with sleeping quarters in Hotel No. 2 (or alternative Approved Product) shall be not less than 400 square feet.

6. All of the Developer Improvements shall be constructed in one phase in accordance with the Schedule of Performance in the Agreement.

D. Architecture and Design of Developer Improvements

Building: The design and architecture of the Hotels shall follow the City's General Plan, the Redevelopment Plan, Harbor Corridor Specific Plan and the concepts set forth in the

Regional/Urban Design Assistance Team Study. The architecture shall be consistent with the cost estimates for construction provided in the Developer's Pro Forma, the Basic Concept and Design Development Drawings and the Construction Plans and Drawings. Particular attention shall be paid to massing, scale, color and materials. The architecture is expected to create a distinct and unique identity with a cohesive, integrated architectural style that complements the surrounding developments.

Each Conforming Hotel Facility shall be designed with interesting and attractive architectural features, such as articulated building elevations which include variation in materials (stone) and colors. The elevations shall, to extent possible, avoid flat or one dimensional elevations. Treatments such as stucco reveals shall be used around the windows to add to the architectural interest of the building. Particular attention shall be given to the main entrance/lobby of the building, which shall include a porte-cochere that completes the main building.

The building shall be placed on Site in a location that allows for the efficient and maximum utilization of the Site and facilitates ingress and egress to and from the Site, and is sensitive to surrounding uses.

Roof material for each Conforming Hotel Facility shall consist of clay or concrete tile. No air conditioning units shall be visible on the exterior building elevations.

Landscape/Hardscape Design: Landscaping for the Site shall be consistent with the planting theme proposed for other hotels in the vicinity, including without limitation, the hotels located at the southwest corner of Chapman Avenue and Harbor Boulevard. The same quality of design shall be maintained in the design and development of the parking area.

The Developer shall incorporate landscape and hardscape treatments throughout the parking area. Street furniture and lighting shall be incorporated into the landscape design and all such features shall be consistent with the Harbor Boulevard Streetscape Improvement Plan.

Project Signage: Project signage shall consist of individual channel letters on the building. All project signage, in terms of color selection, letter style and placement, shall be complementary to the overall architectural theme. Neon light tubing shall surround the exterior of the building at the roof line.

General Conditions: All mechanical equipment and other equipment on the building shall be screened from view from adjacent public streets, and private properties. Loading and trash areas shall be screened from view from the adjacent streets and properties.

All on-site vehicular and pedestrian routes shall be coordinated with Agency and City public improvements and circulation plans and the approved Traffic Analysis and Parking Management Plan.

All on-site utilities shall be installed underground. Utility and related mechanical equipment shall be installed underground or screened from public view.

The Developer shall apply to and receive approvals from the City and the Agency for the project's site design and elevations as required by any and all applicable City codes and regulations and the Agreement.

II. AGENCY IMPROVEMENTS

The following shall be the sole financial responsibility of the Agency, unless specifically noted otherwise:

A. The Agency shall pay for all off-site public improvements, to the back of the curb face, required by the City and as described in the Traffic Analysis and Parking Management Plan, including:

1. A left turn lane into the project for north bound traffic on Harbor Boulevard; and

2. A right turn deceleration lane into the main driveway entrance to the Project on Harbor Boulevard.

B. The Agency must vacate, abandon or relocate all existing utilities on the Site that would conflict with the Project.

ATTACHMENT NO. 7

RELEASE OF CONSTRUCTION COVENANTS

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
Palm Court Lodging, LLC)
9100 East Panorama Dr., Suite 300)
Denver, Colorado 80210)
Attention: Navin Dimond)
)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 6103.

RELEASE OF CONSTRUCTION COVENANTS

THIS RELEASE OF CONSTRUCTION COVENANTS (the "Release") is made as of _____, 2001, by the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), in favor of **PALM COURT LODGING, LLC**, a Colorado limited liability company (the "Developer"), as of the date set forth below.

RECITALS

A. The Agency and the Developer have entered into that certain Disposition and Development Agreement (the "DDA") dated _____, 1998 concerning the redevelopment of certain real property situated in the City of Garden Grove, California as more fully described in Exhibit "A" attached hereto and made a part hereof.

B. As referenced in Section 310 of the DDA, the Agency is required to furnish the Developer or its successors with a Release of Construction Covenants upon completion of construction of the Developer Improvements (as defined in Section 100 of the DDA), which Release is required to be in such form as to permit it to be recorded in the Recorder's office of Orange County. This Release is conclusive determination of satisfactory completion of the construction and development required by the DDA.

C. The Agency has conclusively determined that such construction and development has been satisfactorily completed.

NOW, THEREFORE, the Agency hereby certifies as follows:

1. The Developer Improvements to be constructed by the Developer have been fully and satisfactorily completed in conformance with the DDA. Any operating requirements and all use, maintenance or nondiscrimination covenants contained in the DDA shall remain in effect and enforceable according to their terms.

2. Nothing contained in this instrument shall modify in any other way any other provisions of the DDA.

IN WITNESS WHEREOF, the Agency has executed this Release this _____ day of _____, 2001.

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

By:_____

Its:_____

ATTEST:

_____

Agency Secretary

APPROVED AS TO FORM:

_____

Stradling, Yocca, Carlson & Rauth
Agency Special Counsel

EXHIBIT "A" TO ATTACHMENT NO. 7

LEGAL DESCRIPTION

PARCEL 1

PARCEL 2, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 18, PAGE 26, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDED OF SAID COUNTY

PARCEL 2

PARCEL 1 OF, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 18, PAGE 26, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3 A

THE NORTH 75.00 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF SAID NORTHEAST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46,47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY; EXCEPT THE WEST 330.00 FEET THEREOF.

PARCEL 3 B

AND UNDIVIDED 1/70th IN THE SOUTH 30.00 FEET OF THE WEST 80.00 FEET OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF SAID NORTHEAST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46,47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY

PARCEL 4

THE NORTH 3 ACRES OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF THE NORTHWEST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46, 47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY CALIFORNIA.

EXCEPT THERE FROM THE WEST 330.00 FEET THEREOF.

ALSO EXCEPTING THERE FROM THE EAST 330.00 FEET OF THE NORTH 75.00 FEET THEREOF.

PARCEL 5 A

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, S. B. B & M

EXCEPTING THE NORTH 3 ACRES THEREOF.

PARCEL 5 B

AN UNDIVIDED 1/85th INTEREST IN AND TO THE FOLLOWING:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, S. B. B. & M.; THENCE NORTH ALONG THE WEST LINE OF SAID NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, 30.00 FEET; THENCE EAST AT RIGHT ANGLES 80.00 FEET; THENCE SOUTH 30.00 FEET; THENCE WEST 80.00 FEET TO THE POINT OF BEGINNING.

PARCEL 6

LOTS 19 TO 31, INCLUSIVE, AND LOT A 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, 47 AND 48 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF THAT CERTAIN ALLEY ADJOINING SAID LOTS 19 TO 24, INCLUSIVE, ON THE WES, WHICH WOULD PASS WITH THE CONVEYANCE OF SAID LOTS.

ATTACHMENT NO. 8

MAINTENANCE AGREEMENT

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
Garden Grove Agency for Community)
Development)
11222 Acacia Parkway)
Garden Grove, California 92642)
)
)

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

MAINTENANCE AGREEMENT

THIS MAINTENANCE AGREEMENT (the "Agreement") is hereby entered into by and between the **GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT**, a public body, corporate and politic (the "Agency"), and **PALM COURT LODGING, LLC**, a Colorado limited liability company (the "Developer"), as of the _____ day of _____, 2001.

RECITALS

A. The Agency and the Developer have entered into a Disposition and Development Agreement ("DDA") on _____, 2001, for the development of two limited service hotels and associated improvements, as more particularly defined in the DDA (the "Project") located on certain real property located in the Garden Grove Redevelopment Project, which is more particularly and legally described on Exhibit "A" attached hereto and made a part hereof (the "Site"). The DDA requires that Developer shall execute this Maintenance Agreement, and shall maintain the improvements and the landscaping on the Site in accordance herewith.

B. The Agency and the Developer desire to set forth herein their respective rights and obligations and the maintenance standards (including without limitation the definition of "Maintenance Standards") concerning the maintenance of all the improvements on-site and off-site in the public right-of-way to the back of the curbline(s) abutting the boundary of the Site (herein "improvements to the curbline"). The City is an intended third party beneficiary of this Agreement, and shall have the enforcement rights provided herein.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Purpose of This Agreement. The purpose of this Agreement is to set forth general maintenance standards and obligations of Developer in its maintenance of the private and public improvements on and within the Site to the back of the curbline.

2. Parties to the Agreement. The Garden Grove Agency for Community Development is a public body corporate and politic of the State of California. The "Agency" as used in this Agreement includes the Garden Grove Agency for Community Development and any assignee of or successor to its rights, powers, and responsibilities.

Palm Court Lodging, LLC, is a Colorado limited liability company. The "Developer" as used in this Agreement includes Chapman Suites, LLC, a Colorado limited liability company and any assignee of or successor to its rights, powers and responsibilities.

The City of Garden Grove ("City") is a California municipal corporation. The City is a third party beneficiary of this Agreement.

3. Representatives of the Parties and Services of Notices. The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands and communications shall be given are as follows:

Agency:	Garden Grove Agency for Community Development 11222 Acacia Parkway Garden Grove, California 92842 Attention: Agency Director
Developer:	Palm Court Lodging, LLC 9100 East Panorama Drive, Suite 300 Denver, Colorado 80112 Attention: Navin Dimond

Formal notices, demands and communications to be given hereunder by any party shall be made in writing and may be effected by personal delivery, telecopy, overnight delivery service or by registered or certified mail, postage prepaid, return receipt requested. Notices which are properly mailed shall be deemed communicated not earlier than forty-eight (48) hours after the date of mailing.

If the name of the person designated to receive the notices, demands or communications or the address is changed, written notice shall be given, in accord with this section, within five (5) working days of said change.

4. Performance of Maintenance.

a. Developer shall maintain in accordance with the Maintenance Standards, as hereinafter defined, the private improvements and public improvements and landscaping to the curbline(s) on and abutting 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 and in the public right-of-way to the nearest curbline(s) abutting 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:

1. 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.

2. 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.

3. All maintenance work shall conform to all applicable federal and state Occupation Safety and Health Act standards and regulations for the performance of maintenance.

4. 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.

5. The Developer Improvements (as the term is defined in the 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 Agency, if such approval is required) 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 and public improvements to the curbline.

6. The Developer Improvements (as defined in the DDA) shall be maintained as required by this Section 4(c) in good condition and in accordance with the custom and practice generally applicable to comparable first-class limited service business hotel facilities located within Orange County, California. The public right-of-way improvements to the curbline(s) shall be maintained as required by this Section 4(c) in good condition and in accordance with the custom and practice generally applicable to public rights-of-way within the City of Garden Grove, California.

5. Failure to Maintain Developer Improvements. In the event Developer does not maintain the private improvements and the public improvements or the Site to the curbline(s) in the manner set forth herein and in accordance with the Maintenance Standards, Agency and/or City shall have the right to maintain such private and/or public improvements, or to contract for the correction of such deficiencies, after written notice to Developer. However, prior to taking any such action, Agency agrees to notify Developer in writing if the condition of said improvements do not meet with the Maintenance Standards and to specify 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 Agency, then Developer shall have forty-eight (48) hours to rectify the problem.

In the event Developer fails to correct, remedy, or cure or has not commenced correcting, remedying or curing such maintenance deficiency after notification and after the period of

correction has lapsed, then City and/or Agency shall have the right to maintain such improvements. Developer agrees to pay Agency such charges and costs. Until so paid, the Agency shall have a lien on the Site for the amount of such charges or costs, which lien shall be perfected by the recordation of a "Notice of Claim of Lien" against the Site. Upon recordation of a Notice of a Claim of Lien against the Site, such lien shall constitute a lien on the fee estate in and to the Site prior and superior to all other monetary liens except: (i) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto; (ii) the lien or charge of any mortgage, deed of trust, or other security interest then of record made in good faith and for value, it being understood that the priority of any such lien for costs incurred to comply with this Agreement shall date from the date of the recordation of the Notice of Claim of Lien. Any such lien shall be subject and subordinate to any lease or sublease of the interest of Developer in the Site or any portion thereof and to any easement affecting the Site or any portion thereof entered into at any time (either before or after) the date of recordation of such a Notice. Any lien in favor of the Agency created or claimed hereunder is expressly made subject and subordinate to any mortgage or deed of trust made in good faith and for value, recorded as of the date of the recordation of the Notice of Claim of Lien describing such lien as aforesaid, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of any such mortgage or deed of trust, unless the mortgage or beneficiary thereunder expressly subordinates his interest, of record, to such lien. No lien in favor of the Agency created or claimed hereunder shall in any way defeat, invalidate, or impair the obligation or priority of any lease, sublease or easement unless such instrument is expressly subordinated to such lien. Upon foreclosure of any mortgage or deed of trust made in good faith and for value and recorded prior to the recordation of any unsatisfied Notice of Claim of Lien, the foreclosure-purchaser shall take title to the Site free of any lien imposed by the Agency that has accrued up to the time of the foreclosure sale, and upon taking title to the Site, such foreclosure-purchaser shall only be obligated to pay costs associated with this Agreement accruing after the foreclosure-purchaser acquires title to the Site. If the Site is ever legally divided with the written approval of the Agency and fee title to various portions of the Site is held under separate ownerships, then the burdens of the maintenance obligations set forth herein and in this Agreement and the charges levied by the Agency to reimburse the Agency for the cost of undertaking such maintenance obligations of Developer and its successors and the lien for such charges shall be apportioned among the fee owners of the various portions of the Site under different ownerships according to the square footage of the land contained in the respective portions of the Site owned by them. Upon apportionment, no separate owner of a portion of the Site shall have any liability for the apportioned liabilities of any other separate owner of another portion of the Site, and the lien shall be similarly apportioned and shall only constitute a lien against the portion of the Site owned in fee by the owner who is liable for the apportioned charges levied by the Agency and secured by the apportioned lien and against no other portion of the Site. Developer acknowledges and agrees City and Agency may also pursue any and all other remedies available in law or equity. Developer shall be liable for reasonable attorneys' fees, and other legal costs or fees incurred in collecting said maintenance costs.

6. **Compliance with Law**. Developer shall comply with all local, state and federal laws relating to the uses of or condition of the Site private improvements and public improvements to the curbline(s). 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.

7. **Covenants Run with the Land**. The Developer Improvements to the curbline(s) and the maintenance thereof touch and concern the Site and inure to the benefit of any and all present or successive owners of the Site. Therefore, whenever the word "Developer" is used herein, it shall include the owner as of date of execution of this Agreement, and any and all successive owners or assigns of the Site, and the provisions hereof are expressly binding upon all such successive owners or assigns, and the parties agree all such provisions shall run with the land. Agency or City shall cause a fully executed copy of this Agreement to be recorded in the Office of the Orange County Recorder. Notwithstanding the foregoing, in the event Developer or its successors or assigns, shall convey its fee interest in all or any portion of the Site, the conveying owner shall be free from and after the date of recording such conveyance of all liabilities, respecting the performance of the restrictions, covenants or conditions contained in this Agreement thereafter to be performed with respect to the Site, or any part thereof, it being intended that the restrictions, covenants and conditions shall be binding upon the record owners of the Site only during such time as they own the same, provided that the conveying owner shall remain liable for any actions prior to the date of the conveyance.

8. **Indemnification**. Developer agrees to protect, defend, indemnify and hold harmless City and Agency and their elective and appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including reasonable attorney fees, (a) for injury to, or death of, any person, and for injury to any property, including consequential damages of any nature resulting therefrom, arising out of or in any way connected with the performance of this Agreement by Developer or its agents, servants, employees or contractors, but not from (i) the negligence or intentional acts of the City or Agency, or their agents, servants, employees or contractors in connection with supervision or direction of the work, or (ii) third parties unrelated to Developer or its agents, servants, employees or contractors, but not by the City or Agency or their respective agents, servants, employees or contractors and (b) from violation of any statute, law regulation or other legal requirement concerning a safe place for employment of workers by Developer or its agents, servants, employees or contractors, but not by (i) the City or the Agency or their respective agents, servants, employees or contractors or (ii) third parties unrelated to Developer or its agents, servants, employees or contractors.

Developer shall comply with all of the provisions of the Workers' Compensation Insurance and Safety in Employment laws of the State of California, including the applicable provisions of Divisions 4 and 5 of the California Labor Code and all amendments thereto, and all similar state, federal or local laws applicable; and shall indemnify and hold harmless City and Agency from and against all claims, liabilities, expenses, damages, suits, actions, proceedings and judgments of every nature and description, including reasonable attorneys' fees, presented, brought or recovered against City or Agency, for or on account of any liability under any of said laws which may be incurred by reason of work performed under this Agreement by Developer or its agents, servants, employees, contractors, but not by the sole acts of City and/or the Agency or if available, their respective agents, servants, employees or contractors.

City and Agency do not, and shall not, waive any rights against Developer which it may have by reason of the aforesaid hold harmless agreements because of the acceptance by City or the deposit with the City by Developer of any insurance policies or certificate of insurance purporting to indemnify for the aforesaid losses. The aforesaid hold harmless agreements by Developer shall

apply to all liabilities, claims, expenses and damages of every kind, including but not limited to reasonable attorney fees, suffered or alleged to have been suffered, by reason of the aforesaid operations by Developer or any of its agents, servants, employees or contractors, regardless of whether or not such insurance policies are applicable.

Similarly, the City and the Agency shall protect, defend, indemnify, and hold harmless Developer, its successors and assigns, and/or if available, their respective boards, officers, agents and employees from any and all claims, liabilities, expenses or damages of any nature, including reasonable attorney's fees, (a) for injury to, or death of, any person, and for injury to any property, including consequential damages of any nature resulting therefrom, arising out of or in any way connected with the acts or inactions taken by the City and/or the Agency pursuant to the terms of this Agreement, but not the negligence or intentional acts of Developer, or its agents, servants, employees or contractors; and (b) from violation of any statute, law, regulation, or other legal requirement concerning a safe place for employment of workers by the City and/or the Agency, or their respective agents, servants, employees or contractors or by (i) Developer or its agents, servants, employees or contractors or (ii) third parties unrelated to the City or Agency or their respective agents, servants, employees or Contractors.

The City and/or the Agency shall comply with all the provisions of the Workers' Compensation Insurance and Safety and Employment Laws of the State of California, including the applicable provisions of Divisions 4 and 5 of the California Labor Code an all amendments thereto, and all similar state, federal or local laws applicable; and shall indemnify and hold harmless Developer and its successors and assigns, from and against any and all claims, liabilities, expenses, damages, suits, actions, proceedings and judgments of every nature and description, including reasonable attorneys' fees, presented, brought or recovered against Developer or its successors and assigns, for or on account of any liability under any of said laws which may be incurred by reason of any work performed under this Agreement by the City and/or Agency, or their respective agents, servants, employees or contractors, but not by (i) Developer or its agents, servants, employees or contractors or (ii) third parties unrelated to the City or Agency or their respective agents, servants, employees or contractors.

Developer or its successors or assigns do not, and shall not, waive any rights against the City and/or the Agency which it (they) may have by reason of the aforesaid hold harmless agreement because of any insurance policies or certificates of insurance purporting to indemnify for the aforesaid losses. The aforesaid hold harmless agreement by the City and/or the Agency shall apply to all liabilities, claims, expenses and damages of every kind, including, but not limited to, reasonable attorney's fees, suffered or alleged to have been suffered, by reason of the aforesaid operations by the City and/or the Agency, or their respective agents, servants, employees or contractors, regardless of whether or not such insurance policies are applicable.

9. **Workers Compensation Insurance Requirements**. Developer shall obtain and maintain during the life of this Agreement workers' compensation insurance and if any work is subcontracted by Developer, then Developer shall require the subcontractor similarly to provide workers' compensation insurance. Developer agrees to indemnify City and Agency for any damages resulting to it from failure of either Developer or any subcontractor to obtain or maintain such insurance.

10. **Bodily Injury and Damage Insurance Requirements**. The Developer shall defend, assume all responsibility for and hold the Agency and the City and their officers, employees, and

agents, harmless from, all claims or suits for, and damages to, property and injuries to persons, including accidental death (including attorneys fees and costs), which may be caused by any of the Developer's activities under this Agreement, whether such activities or performance thereof be by the Developer or 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.

11. Waiver. Failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement. The aggrieved party shall give written notice of the default to the party in default as set forth in Section 3 hereof. The defaulting party must within a reasonable time commence to cure, correct, or remedy such default, and shall complete such cure, correction or remedy with reasonable and due diligence, and during such period or curing shall not be in default. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Agreement nor shall it be considered a waiver by such party of any other covenant, condition or promise hereunder. The exercise of any remedy shall not preclude the exercise of other remedies City, Agency, or Developer may have at law or at equity.

12. Modification. This Agreement may be modified only by subsequent mutual written agreement executed by Developer and the Agency.

13. Attorney's Fees. In the event of litigation arising out of any breach of this Agreement, the prevailing party shall be entitled to recover reasonable costs and attorney's fees.

IN WITNESS WHEREOF, the parties hereto have executed this Maintenance Agreement as of the dates set forth below.

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

By:_____
Chairman

"AGENCY"

ATTEST:

_____
Secretary of the Agency

APPROVED AS TO FORM:

_____
Stradling, Yocca, Carlson & Rauth,
Agency Counsel

PALM COURT LODGING, LLC, a Colorado limited liability company

By: **QUAD HOLDINGS, LLC**, a Colorado limited liability company

By:_____

Its:_____

By: **McWHINNEY MANAGEMENT COMPANY, LLC**, a Colorado limited liability company

By:_____

Its:_____

"DEVELOPER"

EXHIBIT "A" TO ATTACHMENT NO. 8

LEGAL DESCRIPTION OF THE SITE

PARCEL 1

PARCEL 2, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 18, PAGE 26, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDED OF SAID COUNTY

PARCEL 2

PARCEL 1 OF, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS SHOWN ON A MAP FILED IN BOOK 18, PAGE 26, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3 A

THE NORTH 75.00 FEET OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF SAID NORTHEAST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46,47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY; EXCEPT THE WEST 330.00 FEET THEREOF.

PARCEL 3 B

AND UNDIVIDED 1/70th IN THE SOUTH 30.00 FEET OF THE WEST 80.00 FEET OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF SAID NORTHEAST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46,47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY

PARCEL 4

THE NORTH 3 ACRES OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN RANCHO LAS BOLSAS, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS THE EAST HALF OF THE NORTHWEST QUARTER IS INDICATED ON A MAP OF TRACT NO. 2148, RECORDED IN BOOK 58, PAGES 46, 47 AND 48 OF MISCELLANEOUS MAPS, RECORDS OF SAID ORANGE COUNTY CALIFORNIA.

EXCEPT THERE FROM THE WEST 330.00 FEET THEREOF.

ALSO EXCEPTING THERE FROM THE EAST 330.00 FEET OF THE NORTH 75.00 FEET THEREOF.

PARCEL 5 A

THE SOUTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA, S. B. B & M

EXCEPTING THE NORTH 3 ACRES THEREOF.

PARCEL 5 B

AN UNDIVIDED 1/85th INTEREST IN AND TO THE FOLLOWING:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 4 SOUTH, RANGE 10 WEST, S. B. B. & M.; THENCE NORTH ALONG THE WEST LINE OF SAID NORTH HALF OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, 30.00 FEET; THENCE EAST AT RIGHT ANGLES 80.00 FEET; THENCE SOUTH 30.00 FEET; THENCE WEST 80.00 FEET TO THE POINT OF BEGINNING.

PARCEL 6

LOTS 19 TO 31, INCLUSIVE, AND LOT A 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, 47 AND 48 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THAT PORTION OF THAT CERTAIN ALLEY ADJOINING SAID LOTS 19 TO 24, INCLUSIVE, ON THE WES, WHICH WOULD PASS WITH THE CONVEYANCE OF SAID LOTS.

STATE OF CALIFORNIA)
) ss.
COUNTY OF ORANGE)

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

personally appeared _____

☐ personally known to me
-or-
☐ 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.

WITNESS my hand and official seal.

_____
Signature Of Notary

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

☐ Individual
☐ Corporate Officer

_____
Title(s)

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

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

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

_____
Title Or Type Of Document

_____
Number Of Pages

_____
Date Of Documents

_____
Signer(s) Other Than Named Above

ASSIGNMENT AND ASSUMPTION AGREEMENT

This **ASSIGNMENT AND ASSUMPTION AGREEMENT** ("Assignment Agreement") is entered into this 27th day of April, 2004, by and between **PALM COURT LODGING, LLC**, a California limited liability company (herein "Assignor") and **KAM SANG COMPANY, INC.**, a California corporation, and/or a new and separate LLC to be formed or an LLC to be formed, of which Kam Sang or Ronnie Lam is the sole or majority member and manager" (herein "Assignee"), and consented to by the Garden Grove Agency for Community Development, a public body, corporate and politic ("Agency").

RECITALS

A. Assignor entered into a Disposition and Development Agreement (herein "DDA") dated June 4, 2001 with the Agency pursuant to which Assignor agreed to acquire from the Agency certain property in the City of Garden Grove, County of Orange, State of California subject to certain conditions and obligations set forth in the DDA, all as more particularly described in the DDA (herein the "Property" or the "Site"). Assignee is interested in assuming the obligations of the Developer under said DDA from Assignor, including certain additional proposed terms outlined below.

B. Assignor is hereby assigning all of its rights, obligations, and interests under the DDA to Assignee upon the date of execution of this Assignment Agreement.

C. Assignee is hereby assuming all of Assignor's rights and obligations and all other terms and conditions under the DDA except, any and all liability resulting in a claim, cost, or cause of action, that are known or unknown, contingent or fixed, that occur prior to the execution of this Assignment Agreement.

AGREEMENT

NOW, THEREFORE, Assignor and Assignee hereby agree as follows:

Section 1. Assignor hereby assigns, transfers, and conveys to Assignee, and Assignee hereby accepts such assignment and fully assumes, all of the rights, benefits, burdens, and obligations of Assignor under the DDA, and Assignee agrees to observe and fully perform all of the duties and obligations of Assignor under the DDA, and to be subject to all of the terms and conditions thereof, except as expressly set forth herein. It is the express intention of both Assignor and Assignee that, upon the execution of this Assignment Agreement, Assignee shall become substituted for Assignor as the "Developer" under the DDA, and Assignor shall be released by the Agency from further liability under the DDA arising from any cause occurring on or after the effective date of this Assignment Agreement.

Section 2. Assignee understands and agrees that this Assignment Agreement is subject to Section 603 of the DDA. By its execution of the consent block following Assignor's and Assignee's signatures, the Agency (i) accepts and approves the assignment of the Assignor's interest under the DDA, (ii) accepts and approves the assumption of the Assignor's obligations under the DDA by Assignee, and (iii) releases Assignor, its employees, agents, managers, members, attorneys, affiliates, and successors, from any and all liability under the DDA arising from any cause occurring on or after the effective date of this Assignment Agreement.

Section 3. Assignee agrees to indemnify, defend and hold Assignor harmless from and against any and all actions, claims, damages, liens, liability, costs and expenses including, without limitation, reasonable attorneys' fees, arising under and/or concerning the DDA after the effective date of this Agreement. In addition, Assignor agrees to indemnify, defend and hold Assignee harmless from and against any and all actions, claims, damages, liens, liability, costs and expenses including, without limitation, reasonable attorneys' fees, arising under and/or concerning the DDA prior to the effective date of this Agreement. Notwithstanding the foregoing, nothing in this section or this Assignment Agreement is intended to release Assignee of any liability for its own acts or negligence or arising out of its violation of this Assignment Agreement.

Section 4. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and to their respective heirs, successors and assigns.

Section 5. This Assignment Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed to be one and the same instrument.

Section 6. Assignee agrees that it has read, and has sought and received all required legal and other expert consultation with regard to the DDA, and fully understands all of its terms and conditions. Assignee further agrees that it has voluntarily, freely and knowingly assumed and agreed to perform all of the obligations and requirements, and be bound by all of the provisions of such documents and materials, except as otherwise expressly set forth herein. Assignee agrees to be a general partner of any limited liability company or similar structure that may be formed as a part of this Agreement and any subsequent agreement or agreements. Assignee also accepts additional terms and conditions and modifications of the DDA as follows:

(a) Section 201.1 of the DDA, which outlines the terms of the "Agency Loan" for the acquisition of properties within the development project area is hereby deleted;

(b) Assignee agrees to advance the sum of one million, five hundred fifty-four thousand, five hundred ninety dollars ($1,554,590) to the Agency for the purpose of payment of the US Bank Certificates of Participation, 2002 Series A bond payments of $572,295.00 due August 1, 2004, and $982,295.00 due March 1, 2005 (the "Advances"). Such Advances will be repaid to the Assignee in two installments: The first installment of $750,000.00, will be repaid to Assignee at the start of construction of Hotel No. 1 (defined as commencement of pouring foundations), and the second installment of $804,590.00, will be paid at the issuance of a final certificate of occupancy for Hotel No. 1; and

(c) Add the provision that such advances are contingent upon Agency's approval to include the following properties in the Project: 12241, 12151, 12291 and 12311 Harbor Boulevard (AP Nos. 231-471-02,06,09 & 10), and 12552, 12292, and 12322 Thackery Drive (AP Nos. 231-471-13, 14 & 17), as well as three additional properties on Thackery Drive that are not part of the original development site; Those properties are 12251, 12261 and 12281 Thackery Drive (AP Nos. 231-471-19,20 & 21). The Agency will notify Assignee by letter of its intent on or before July 15, 2004, as to whether or not Agency will include such properties in the Project.

(d) The Schedule of Performance and Scope of Development, as attached to this Assignment Agreement as Exhibits A and B respectively, shall be inserted into the DDA in substitution for Attachment No. 5 and Attachment No. 6 of the DDA, respectively.

(e) In the event the Project becomes lifeless after the Developer has advanced the $1,554,590.00 bond payments described in Paragraph 6(b) above, the Agency shall reimburse the $1,554,590.00 advanced payments to Developer with accrued interest at 10% within the 12 months from the date that the DDA is terminated or the date on which the Developer's interest in the DDA is assigned to a new developer, whichever occurs sooner.

(f) Paragraphs 1 and 2 of Section 311.7 of the DDA are amended to read as follows:

311.7 Agency Assistance Payments. In consideration for Developer's performance of the covenants set forth hereinbelow, and in the event that the Developer has complied with each of the Secondary Conditions Precedent on a substantially continuous basis during the preceding Year (as defined in Section 201.3), and the Secondary Conditions Precedent remain satisfied, the Agency shall with respect to each of the first seven (7) Years disburse a "Developer Payment" to the Developer (or such nominee as the Developer shall designate in writing; provided that not more than one nominee shall be designated as to a given Annual Period), an amount equal to that as set forth below for each of the seven (7) Years:

	Hotel 1	Hotel 2
Year 1	$550,000	$550,000
Year 2	$500,000	$500,000
Year 3	$450,000	$450,000
Year 4	$450,000	$450,000
Year 5	$450,000	$450,000
Year 6	$200,000	$200,000
Year 7	$150,000	$150,000

The total of the Developer Payments to be paid to the Developer shall not exceed Five Million Five Hundred Thousand Dollars ($5,500,000).

The Agency and Developer shall together undertake an effort to finance at least one half of the aforesaid $5.5 Million Agency Assistance Payments promptly at the time of construction start. In the event Developer shall bring forth a third party lender for the loan, Agency shall assist Developer to secure the financing in that by the Developer's request, Agency shall consider any such

proposed lender in good faith and shall not unreasonably withhold its consent thereto.

Section 7. In the event either party shall bring legal action to enforce or interpret the terms of this Assignment Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and court costs as part of its judgment.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment Agreement as of the date and year first above written.

ASSIGNOR

PALM COURT LODGING, LLC:
a Colorado limited liability company

By:

By:_____
~~Chad McWhinney~~ Navin Dimond
Its: Manager

ASSIGNEE

KAM SANG COMPANY, INC.,
a California corporation

By:_____
Ronnie Lam
Its President

CONSENT OF AGENCY TO ASSIGNMENT

The Garden Grove Agency for Community Development hereby acknowledges that the above Assignment is permitted pursuant to the DDA, and releases Assignor from any further liability under the DDA arising after the date of the Assignment.

GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT, a public body, corporate and politic

By: _____

ATTEST:

_____
Agency Secretary

EXHIBIT A
Schedule of Performance

EXHIBIT A

SCHEDULE OF PERFORMANCE

I. GENERAL PROVISIONS

1.	**Execution of Assignment Agreement by the Agency**. The Agency shall execute this Agreement, and shall deliver two (2) executed copies thereof to the Developer.	Within fifteen (15) days after delivery to the Agency of four (4) executed copies of the Assignment Agreement.
2.	**Submission of Basic Concept Drawings.** Developer submits Basic Concept Drawings to Agency	Within sixty (60) days after Agency's consideration of Agreement. Assuming if start on May 1, 2004
3.	**Agency Approval or Disapproval of Basic Concept Drawings**. Agency shall review the Basic Concept Drawings and approve or disapprove same.	Within ninety (90) days after Agency's consideration of Agreement. July 1, 2004
4.	**Submission of Design Development Drawings for the Project**. The Developer shall prepare and submit to the City and Agency, complete Design Development Drawings.	Within sixty (60) days of the Agency's approval of the Basic Concept Drawings, or the Execution of the Agreement by the Agency, whichever occurs later. September 1, 2004
5.	**Review of any revisions to Design Development Drawings and Approval or Disapproval Thereof.** The Planning Commission shall consider and approve or disapprove the Design Development Drawings.	Within forty-five (45) days of submission of Design Development Drawings. October 15, 2004

II. CONSTRUCTION DRAWINGS

7.	**Submission of Complete Construction Drawings.** Developer shall submit to the Building/Engineering Department complete Construction Drawings.	Within one hundred twenty (150) days after approval of the Design Development Drawings by the City Council and/or Agency. March 15, 2005
8.	**Building/Engineering Review of Complete Construction Drawings.** The Building/Engineering Department shall approve or disapprove the complete Construction Drawings.	Within forty-five (45) days after submittal. May 1, 2005
9.	**Revisions of Drawings By the Developer.** Developer shall prepare revised Construction Drawings as necessary, and resubmit them to the Building/Engineering Department for review.	Within thirty (30) days after receipt of Building/Engineering's comments. June 1, 2005
10.	**Final Review of Complete Drawings.** The Building/Engineering Department shall approve or disapprove the revisions submitted by Developer provided that the revisions necessary to accommodate the Department's comments have been made.	Within fifteen (15) days after submittal by the Developer. June 15, 2005
11.	**Revisions of Construction Drawings by the Developer.** Developer shall prepare revised, Construction Drawings as necessary, and resubmit them to the Building/Engineering Department for review.	Within thirty (30) days after Building/Engineering's comments. July 15, 2005
12.	**Final Review of Complete Construction Drawings.** The Building/Engineering Department shall approve or disapprove the revisions submitted by the Developer, and Developer shall be ready to obtain building permits, provided that the revisions necessary to accommodate the Department's comments have been made.	Within fifteen (15) days after submittal by the Developer. August 1, 2005

III. CONVEYANCE

13.	**Opening of Escrow.** The Agency shall open an Escrow with an Escrow Agent.	Within five (5) days after the Agency acquires possession or title to any of the parcels within the Site.
14.	**Conditions Precedent.** Developer and Agency satisfy all of their respective pre-closing conditions per the DDA and Assignment Agreement and related documents.	No later than the Outside Date. October 31, 2004
15.	**Close of Escrow for Conveyance.** Agency conveys the Site to the Developer.	Ten (10) days after the satisfaction of all Conditions Precedent to the Closing have occurred but no later than the Outside Date. August 15, 2005

IV. CONSTRUCTION

16.	**Commencement of Construction.** Developer shall commence construction of the first one (1) of the two Hotels within the Developer Improvements.	Within sixty (60) days following the Closing, but in no event before the first day after all relocation of eligible persons has occurred, and all entitlements and permits have been obtained by Developer. October 15, 2005
17.	**Completion of Construction.** Developer shall complete construction of the first Hotel within the Developer Improvements (except the Restaurant) within 18 months following the commencement of construction. Developer shall commence the construction of the second Hotel within 12 months following the opening of the first Hotel.	As to the first Hotel, within 18 months after commencement. As to the second Hotel within twelve months after the opening of the first Hotel. Hotel No. 1 – May 2007 Hotel No. 2 – May 2009 (tentatively)
18.	**Opening Date.** The Project shall open for business upon the Site.	Each Conforming Hotel Facility shall open for business to the public within ninety (90) days after the earlier of completion of construction thereof or the deadline for completion thereof pursuant to Section 17. Opening Date for the Project shall be 36 months following the Closing.

Garden Grove Long Range Property Management Plan

No.	Property Type	HSC 34191.5(c)(2) Permissible Use	Permissible Use Detail	HSC 34191.5(c)(1)(A) Acquisition Date	Value At Purchase	Estimated Current Value	Value Basis	Date of Estimated Current Value	Sale of Property Proposed Sale Value	Proposed Sale Date	HSC 34191.5(c)(1)(B) Purpose for Which Property Was Acquired	HSC 34191.5(c)(1)(C) Address	APN	Lot Size	Current Zoning	HSC 34191.5(c)(1)(D) Estimate of Current Value	HSC 34191.5(c)(1)(E) Est. of Income/Revenue (Annual)	Contractual Req. for Use of Inc/Revenue	HSC 34191.5(c)(1)(F) Environmental History	HSC 34191.5(c)(1)(G) TOD Potential	HSC 34191.5(c)(1)(H) History of Previous Development Proposals & Activity
PROPERTIES SUBJECT TO AN ENFORCEABLE OBLIGATION																					
	WATERPARK HOTEL DDA (ROPS ITEM NO.19)																				
1	Vacant Lot	Properties subject to an enforceable obligation	For redevelopment purposes per a DDA dated May 7, 2010 and approved by the DOF via a final and conclusive determination dated February 6, 2013. Additionally, an easement pertaining to these properties was approved by the Oversight Board on June 26, 2013, and approved by the DOF on August 9, 2013. Refer to 5/29/13 cover letter additional information about these properties and this project.	4/4/03	$ 5,506,400	$ 15,300,000	Based on an appraisal for comparable Harbor Blvd properties	7/9/12	$0 [1]	12/1/13	Properties are located in a redevelopment project area and Harbor Blvd. Corridor Specific Plan, which identifies resort and tourist oriented development as the development goal for the Harbor coorridor and is consistent with the Agency Five Year Implementation Plan.*	12625 Harbor Blvd	231-431-02	186,416	Commercial PUD/Tourist Oriented Development	$ 15,300,000	$0.00	N/A	No known or significant environmental issues. Arsenic on Ton properties remediated. See attached report from Phase I, Inc. dated 6/27/2012.	Properties located on Harbor Blvd, which is a major north-south arterial and a major public bus transit line with heavy ridership.	Resort hotel, retail and entertainment projects: -Riverwalk Resort (1998) PUD-121-98 -Great Wolf Resort (2009) CUP-303-10
2	Vacant Lot			4/4/03	$ 4,014,980	$ 15,300,000						12721 Harbor Blvd	231-431-03	186,416		$ 15,300,000	$0.00				
3	Vacant Lot			3/24/09	$ 2,438,306	$ 2,177,000						12591 Harbor Blvd	231-441-40	26,545		$ 2,177,000	$0.00				
4	Vacant Lot			5/11/10	$ 1,494,000	$ 1,550,000						12581 Harbor Blvd	231-441-39	18,900		$ 1,550,000	$0.00				
5	Vacant Lot			7/14/09	$ 722,025	$ 1,890,000						12601 Leda Lane	231-441-27	23,100		$ 1,890,000	$0.00				
6	Vacant Lot			3/16/11	$ 758,183	$ 1,860,000						12602 Leda Lane	231-441-29	22,680		$ 1,860,000	$0.00				
7	Vacant Lot			3/10/12	$ 25,000	$ 32,800						Well Parcel	231-441-28	400		$ 32,800	$0.00				
7a	Easement																				
	BROOKHURST TRIANGLE DDA (ROPS ITEM NO.22)																				
8	Parking lot	Properties subject to an enforceable obligation	Properties are to be transferred to the Developer per a DDA dated 11/23/10 and approved by DOF on previous ROPS. Refer to 5/29/13 cover letter. Proceeds are to be distributed based on approved ROPS 13-14B. Net proceeds to be remitted to County for distribution to the taxing entities.	7/31/06	$ 1,414,482	$ 1,389,000	Based on an appraisal	3/7/06	$0 [2]	Phase I-1/30/14 $6 million Phase II-1/30/16 $18 million	Properties are located in a redevelopment project area where mixed-use and housing development are indentified as the development goal and is consistent with the Agency Five Year Implementation Plan.	10111 G.G. Blvd	089-071-11	21,700	Mixed Use PUD/High Density Residential Development	$ 1,389,000		N/A	Some environmental issues have been identified in various reports: 10151 Garden Grove Blvd: Contamination levels for PCE, gas, oil, and hydrocarbons exceed maximum concentration levels based on phase two report dated May 18, 2007. Remediation will be needed. (Dal Lee) 10081 Garden Grove Blvd: Phase two report dated April 20, 2007 indicated no contamination at the site.	The proposed development will be located on the north west corner of Brookhurst Street and Garden Grove Blvd., which are both major arterial streets carrying 50,000 vehicles per day and a major public bus transit line with heavy ridership.	Residential housing, hotel, and retail projects: -Urban Pacific Builders, LLC ENA Approved 02/28/06 -JPI Calif. Dev. Services LLC. NA Approved 03/25/08 -Kam Sang Mixed Use PUD-123-09
9	Commercial/Retail			10/9/07								10151 G.G. Blvd.	089-071-25	84,981			$81,000.00				
10	Retail Automotive			10/9/07	$ 12,965,026	$ 10,733,000						10115 G.G. Blvd.	089-071-12	72,745		$ 10,733,000					
11	" "			10/9/07								12861-65 Brookhurst St.	089-071-08	34,080			$43,200.00				
12	Commercial/Retail			3/27/07																	
13	Commercial/Retail			3/27/07								10081 G.G. Blvd.	089-071-13	31,640							
14	Parking Lot			3/27/07	$ 13,067,010	$ 16,103,552						10081 G.G. Blvd.	089-071-07	147,233							
15	Parking Lot			3/27/07								10081 G.G. Blvd.	089-071-14	72,745		$ 16,103,552	$36,000.00				
16	Parking Lot			3/27/07								No Address	089-071-05	14,780							
												No Address	089-071-06	72,745							
17	Vacant Lot			8/20/02																	
18	Vacant Lot			8/20/02								No Address	089-661-03	34,000			$0.00				
19	Vacant Lot			8/20/02	$ 5,312,196	$ 19,656,000						No Address	089-661-04	72,745			$0.00				
20	Vacant Lot			8/20/02								No Address	089-661-05	88,862		$ 19,656,000	$0.00				
												12882 Brookhurst Way	089-071-24	111,514			$0.00				
	SITE 52 DDA (ROPS ITEM NO.20)																				
21	Vacant Lot	Properties subject to an enforceable obligation	Properties are to be transferred to the developer per a Disposition and Development Agreement dated June 2001. Funding approved by the Department of Finance on Sept. 17, 2012. Refer to 5/29/13 cover letter.	5/11/04	$ 1,155,815	$ 525,000	Based on an appraisal for comparable Harbor Blvd properties. *Please note that Items 21 and 26 were purchased together.*	7/9/12	$0 [3]	6/15/14	Properties are located in a redevelopment project area and Harbor Blvd. Corridor Specific Plan, which identifies resort and tourist oriented development as the development goal for the Harbor coorridor and is consistent with the Agency Five Year Implementation Plan.	12241 Harbor Blvd	231-471-06	6,400	Commercial PUD/Tourist Oriented Development	$ 525,000	$0.00	N/A	No known environmental issues.No environmental investigations have been conducted due to former residential uses.	Properties located on Harbor Blvd, which is a major north-south arterial and a major public bus transit line with heavy ridership.	Resort hotel and retail project: -Palm Court Lodging, LLC PUD-141-01 -Newage Garden Grove, LLC Assignment Agreement approved 04/27/2004
22	Vacant Lot			9/10/02	$ 319,765	$ 525,000						12261 Harbor Blvd	231-471-07	6,400		$ 525,000	$0.00				
23	Vacant Lot			8/13/02	$ 302,660	$ 488,000						12271 Harbor Blvd	231-471-08	5,954		$ 488,000	$0.00				
24	Vacant Lot			11/12/02	$ 416,592	$ 525,000						12321 Harbor Blvd	231-471-11	6,400		$ 525,000	$0.00				
25	Vacant Lot			4/2/02	$ 241,822	$ 640,000						12322 Thackery Dr.	231-471-12	7,800		$ 640,000	$0.00				
26	Vacant Lot			4/9/02	$ 265,074	$ 517,000						12282 Thackery Dr.	231-471-15	6,300		$ 517,000	$0.00				
27	Vacant Lot			8/20/02	$ 282,937	$ 492,000						12262 Thackery Dr.	231-471-16	6,000		$ 492,000	$0.00				
28	Vacant Lot			5/11/04	See Item No. 21	$ 492,000						12252 Thackery Dr.	231-471-17	6,000		$ 492,000	$0.00				
29	Vacant Lot			4/23/02	$ 310,793	$ 492,000						12246 Thackery Dr.	231-471-18	6,000		$ 492,000	$0.00				
												12311 Thackery Dr.	231-471-23	6,530		$ -	$0.00				
PROPERTIES RETAINED FOR GOVERNMENTAL PURPOSE																					
	GARDEN GROVE HIGHER EDUCATION CENTER PARKING LOT																				
30 31	Parking Lot	Retained for Governmental purpose	These parcels, which provide parking for education/school uses, including California State University, Fullerton and Coastline Community College, has been placed in this category for Transfer per HSC 34181(a).	Unknown	Unknown	Encumbered by 99 yr. lease. 2002 Non-encumbered est. value - $3.267M	Leasehold Analysis	N/A	N/A	N/A	Project met goals and objecives of redevelopment project area plan by providing parking for the Higher Education Center.	Parking lot @ Education Center	090-163-43 & 090-163-44	139,392	Community Center Specific Plan	Encumbered by 99 yr. lease. 2002 Non-encumbered est. value - $3.267M	$0.00	N/A	No known environmental issues	N/A	Office Development (1989)
	JORDAN MANOR GREENBELT/PARK																				
32	Park and associated Parking Lot	Retained for Governmental purpose	This property, primarily a green belt/park, has been placed in this category for Transfer per HSC 34181(a).	8/1/83	$45,391	Unknown	Undetermined	N/A	N/A	N/A	Property was acquired to primarily provide open space, in the form of a small greenbelt, adjacent to the Jordan Manor Senior Housing project	11441 Acacia Pkwy	090-153-27	6,795	Community Center Specific Plan				No known environmental issues	N/A	N/A
33	Former Retail/Restaurant	Retained for Governmental purpose	Ttransfer per HSC 34181(a)	7/14/09	$ 2,908,252	$ 2,525,000	Based on an appraisal for nearby properties	4/21/10	N/A	N/A	Intended for future Fire Department Headquarters	12900 Euclid St.	090-164-37	81,457	Community Center Specific Plan	$ 2,525,000	$0.00	N/A	No known environmental issues	Properties located in Civic Center, near bus line.	N/A
34	Parking Lot	Retained for Governmental purpose	Transfer per HSC 34181(a)	4/8/78	$ 37,000	$ 37,000	Acquisition Value	Unknown	N/A	N/A	To provide parking for the Village Green Park and the Gem Theater	12852 Main St.	090-141-06	7,600	Community Center Specific Plan	$ 37,000	$0.00	N/A	No known environmental issues	N/A	N/A
35	Vacant Lot	Retained for Governmental purpose	Transfer per HSC 34181(a)	8/17/00	$ 166,516	$ 238,440	Appraisal	4/21/10	N/A	N/A	Intended for future Fire Station No. 6 in conjunction with City purchased properties.	12421 Harbor Blvd[4]	231-451-36	5,961	Harbor Cooridor Specific Plan	$ 238,440	$0.00	N/A	No known environmental issues	N/A	N/A
36	Vacant Lot			8/17/00	$ 171,516	$ 238,440	Appraisal					12411 Harbor Blvd[4]	231-451-37	5,961		$ 238,440	$0.00				
37	Family Resource Center	Retained for Governmental purpose	Transfer per HSC 34181(a)	2/10/86	$ 72,900	$ 72,900	Land value only	N/A	N/A	N/A	Neighborhood Improvement	12661 Sunswept Avenue	198-121-12	9,720	R-3	$ 72,900	$0.00	N/A	No known environmental issues	N/A	Jamboree Housing-Affordable housing
38	Remnant Property (fmly described as a Pedestrian Bridge)	Retained for Governmental purpose	Transfer per HSC 34181(a)	6/28/95	$ 17,028	$0.00	N/A	N/A	N/A	N/A	It was part of a larger purchase for the development of 2 Single Family Homes. This piece is unusuable.	No Address	101-351-51	5,996	N/A	$0.00	$0.00	N/A	No known environmental issues	N/A	N/A
39	Nonprofit Institutional Building	Retained for Governmental purpose	Transfer per HSC 34181(a)	10/9/91	$ 1,200,000.00	$ 1,200,000.00	Carrying Value	N/A	N/A	N/A	The former city hall site, this was intended to provide community benefit of Senior Day Care	11391 Acacia Pkwy	090-154-57	72,390	Community Center Specific Plan	$ 1,200,000	$0.00	N/A	No known environmental issues	N/A Property is developed as a non-profit adult day care center	N/A
PROPERTIES RETAINED FOR FUTURE DEVELOPMENT																					
40	Restaurant-Vacant	Retained for future development	To be transferred to the city for future development pursuant to HSC 34191.5(c)(2)(A) and HSC 34191.5(c)(2)(B).	7/13/10	$ 2,400,000	$ 2,100,000	Based on purchase offers		$2,100,000	12/1/13	Acquisition met goals and objecives of redevelopment project area plan in that it addressed a physical blight as a vacant structure in the heart of the resort district.	12361 Chapman Ave	233-171-23	20,908	PUD-113-96	$ 2,100,000	$0.00	N/A	No Known environmental issues	Not conducive to TOD	N/A
	SITE C																				
41	Vacant Lot	Retained for future development	DDA covering these properties was not approved by the DOF. Properties to be transferred to City for future development pursuant to HSC 34191.5(c)(2)(A) and HSC 34191.5(c)(2)(B). The City has entered into a development agreement with the Developer to construct the project. Refer to 5/29/13 cover letter.	10/4/08	$ 2,158,270	$ 4,438,000	Based on appraisal for neighboring properties under development.	7/9/12	$0 [5]	6/1/14	Project met goals and objecives of redevelopment project area plan. Refer to attached cover letter.	12222 Harbor Blvd	231-491-20	34,948	Commercial PUD/Tourist Oriented Development	$ 4,438,000	$0.00	N/A	Some environmental issues have been identified in various reports: 12222 Harbor Blvd: See phase two report dated March 10,2009. 12252 Harbor Blvd: See phase one report dated August 26, 2009.12262, 12272, 12292 Harbor Blvd: See phase one report dated June 18, 2010.	Properties located on Harbor Blvd, which is a major north-south arterial and a major public bus transit line with heavy ridership.	Entitled for a resort hotel, retail and entertainment project: -DDA approved 6/14/2011 -Land and Design, LLC PUD-128-12
42	Vacant Lot			3/10/09	$ 5,158,445	$ 426,710						12252 Harbor Blvd	231-521-01	3,360		$ 426,710	$0.00	N/A			
				3/10/09		$ 5,097,000						12252 Harbor Blvd	231-531-02	40,137		$ 5,097,000	$0.00	N/A			
43	Vacant Lot			11/27/12		$ 1,950,000						12262 Harbor Blvd	231-531-03	15,300		$ 1,950,000	$0.00	N/A			
				11/27/12	$ 5,175,000	$ 3,065,000						12272 Harbor Blvd	231-531-04	24,140		$ 3,065,000	$0.00	N/A			
				11/27/12		$ 3,625,000						12292 Harbor Blvd	231-531-05	28,560		$ 3,625,000	$0.00	N/A			
44	Single Family Homes	Retained for future development		4/10/12	$ 393,636	$ 470,000						12551 Twintree	231-521-09	7,183		$ 470,000	$0.00	N/A			
				4/10/12	$ 393,377	$ 470,000						12571 Twintree	231-521-10	7,183		$ 470,000	$0.00	N/A			
45	Single Family Homes	Retained for future development		11/1/12	$ 444,955	$ 725,000						12237 Choisser Rd.	231-491-13, 18	11,000		$ 725,000	$0.00	N/A			
				2/28/12	$ 443,993	$ 725,000						12239 Choisser Rd.	231-491-12, 19	11,459		$ 725,000	$0.00	N/A			

Garden Grove Long Range Property Management Plan

No.	Property Type	HSC 34191.5(c)(2) Permissible Use	Permissible Use Detail	HSC 34191.5(c)(1)(A) Acquisition Date	Value At Purchase	Estimated Current Value	Value Basis	Date of Estimated Current Value	Sale of Property Proposed Sale Value	Proposed Sale Date	HSC 34191.5(c)(1)(B) Purpose for Which Property Was Acquired	HSC 34191.5(c)(1)(C) Address	APN	Lot Size	Current Zoning	HSC 34191.5(c)(1)(D) Estimate of Current Value	HSC 34191.5(c)(1)(E) Est. of Income/Revenue (Annual)	Contractual Req. for Use of Inc/Revenue	HSC 34191.5(c)(1)(F) Environmental History	HSC 34191.5(c)(1)(C) TOD Potential	HSC 34191.5(c)(1)(H) History of Previous Development Proposals & Activity
PROPERTIES TO BE SOLD																					
46	Vacant Remnant	To be sold for the benefit of the taxing entities	The Agency will obtain valuation analyses/appraisals for these properties. The proceeds from the sales will be remitted to the Orange County Auditor Controller for distribution to the taxing entities. Refer to 5/29/13 cover letter for more information.	12/20/06	$ 160,000	$ 156,000	Based on appraisal comparables	11/29/12	$ 156,000	See Note [5]	Project met goals and objectives of redevelopment project area plan - Infrastructure improvements	13502 Lanning	100-381-01	7,800	R-1	$ 156,000	$0.00	N/A	No know environmental issues	N/A	Remnant parcels from street widening
47	Vacant Remnant			12/20/06	$ 160,000	$ 149,500			$ 149,500			13501 Barnett	100-385-01	7,475		$ 149,500	$0.00	N/A			
48	Vacant Remnant			12/20/06	$ 165,000	$ 154,000			$ 154,000			13502 Barnett	100-382-02	7,700		$ 154,000	$0.00	N/A			
49	Improved Remnant	To be sold for the benefit of the taxing entities		Unknown	Unknown	De Minimis	Undetermined	Undetermined	Undetermined		Project met goals and objectives of redevelopment project area plan - Housing	Landscaping	100-504-74	1,482	PUD (R-2)	De Minimis	$0.00	N/A	No known environmental issues	N/A	PUD-113-86
50	Former Rail Road Right-of-Way	To be sold for the benefit of the taxing entities		Sep-91	$ 393,328	$ 522,720	Best estimate based on detrimental encumbrances		$ 522,720	See Note [5]	Project met goals and objectives of redevelopment project area plan - Commercial/Economic Development	No Address (Chapman Ave)	133-091-45	69,696	Mixed-Use	$ 522,720			No known environmental issues	Properties are a transit corridor via covenant	N/A
51				Sep-91	$ 790,614	$ 1,078,000			$ 1,078,000			No Address (Bixby)	133-111-43	143,748		$ 1,078,000	$2,400.00	N/A			
52				Sep-91	$ 87,445	$ 119,242			$ 119,242			No Address (Brookhurst St.)	133-123-02	15,898		$ 119,242					
53	Commercial Building/Smog Test	To be sold for the benefit of the taxing entities		7/3/01	$ 416,000	$ 381,000	Based on appraisal for neighboring properties under development.	4/21/10	$ 381,000		Project met goals and objectives of redevelopment project area plan. Century Triangle Project.	13052 Century Blvd	099-091-15	10,880	Mixed Use (GGMU1)	$ 381,000	$13,800.00	N/A	No known environmental issues	Parcel is located near Garden Grove Blvd, which is a major arterial street	Various residential and retail projects
54	Remnant/ Widening	To be sold for the benefit of the taxing entities		Unknown	Unknown	$0.00	Undetermined	Undetermined	Undetermined		Project met goals and objectives of redevelopment project area plan - Infrastructure improvements	Acacia Pkwy	089-291-32	677	Community Center Specific Plan	$0.00	$0.00	N/A	No known environmental issues per OCTA disclosure.	N/A	N/A
55	Vacant Lot (formerly Item 30)	To be sold for the benefit of the taxing entities		11/8/10	$ 434,639	$ 524,000	Based on an appraisal for comparable Harbor Blvd. properties.	7/9/12	TBD based on an appraisal	6/15/14	Property, adjacent to the Site B2 Hotel Project became available and was purchased for additional parking for the project as well as to provide an additional buffer between the project and the adjacent residential area.	12311 Thackery Dr.	231-471-23	6,630	R-1	$ 524,000	$0.00	N/A	No known environmental issues	N/A	N/A

1. Residual land value based on approved zoning and entitlements for a 600-room resort waterpark hotel. See 5/29/13 LRPMP cover letter.
2. Residual land value based on mixed-use zoning and entitlements for up to 700 residential units and 100,000 square feet of retail space. See 5/29/13 LRPMP cover letter.
3. Funding source for these acquisitions came from City-issued 2002 Certificates of Participation. No tax increment funds were used. See 5/29/13 LRPMP cover letter.
4. Federal Community Development Block Grant (CDBG) funds were used by the Agency to acquire these properties. No tax increment funds were used.
5. Residual land value based on zoning and entitlements for 700 full service hotel rooms. See 5/29/13 LRPMP cover letter.
6. An RFP process will commence upon approval of the RPMP by the State Department of Finance.

* See Agency 2010-2014 Five-Year Implementation Plan included in the 5/29/13 LRPMP submittal.