

Second Amended and Restated Redevelopment Agreement

among

The City of Jacksonville,

The Downtown Investment Authority,

and

AXIS Hotels LLC, a Florida limited liability company

SECOND AMENDED AND RESTATED REDEVELOPMENT AGREEMENT

This **SECOND AMENDED AND RESTATED REDEVELOPMENT AGREEMENT** (this "Agreement") is made this ___ day of _____, 2021 (the "Effective Date"), between the **CITY OF JACKSONVILLE**, a municipal corporation and a political subdivision of the State of Florida (the "City"), the **DOWNTOWN INVESTMENT AUTHORITY**, a community redevelopment agency on behalf of the City (the "DIA") and **AXIS HOTELS, LLC**, a Florida limited liability company (the "Developer"). The City, DIA and Developer are collectively sometimes referred to herein as the "Parties" and individually as a "Party." Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them as set forth in the Original Agreement.

BACKGROUND:

A. City, DIA and Developer previously entered into that certain Redevelopment Agreement dated March 26, 2019 (the "Original Agreement"), whereby the City and DIA, as applicable, were to provide a \$1,500,000 Historic Preservation Trust Fund Grant and an up to \$4,900,000 REV Grant upon the substantial completion of the renovation of the Ambassador Hotel Building and construction of approximately 220 units of multifamily market rate housing.

B. Subsequently, Developer, City and DIA entered into that certain Amended and Restated Redevelopment Agreement dated June 25, 2020 (the "Amended Agreement") to amend the scope of the Project to: (i) exclude the construction of the approximately 220 units of multifamily market rate housing and structured parking facility; (ii) remove the obligation of the DIA to provide a \$4,900,000 REV Grant related to the same; and (iii) implement those other terms and conditions as set forth in the Amended Agreement.

C. As authorized by the Amended Agreement, at the request of the Developer the CEO of the DIA granted extensions to the Performance Schedule extending each of the Commencement of Construction Date and Building Improvements Completion Date, due in part to delays in obtaining financing for the Project, and by action of the DIA Board the Commencement of Construction Date has been extended to July 31, 2021. The DIA has no further authority to extend the Performance Schedule, however, and given the extensions to the Commencement of Construction Date, the Developer has requested and the DIA has agreed, subject to Council approval, to extend the Building Improvements Completion Date from May 2, 2022 to December 31, 2022 to provide a reasonable time frame for the Developer to Substantially Complete the Project.

D. This Agreement is only a modification and restatement of the Amended Agreement and does not serve as a termination of the Amended Agreement.

Article 1.
PRELIMINARY STATEMENTS

1.1 The Project.

The Developer and/or their principals and Affiliates have submitted a proposal to the DIA (the “Proposal”) to renovate the real property known generally as the Ambassador Hotel Building (the “Building”), which is an historic building located generally at 420 N. Julia Street in Jacksonville, Florida as further defined on Exhibit A attached hereto and incorporated herein by this reference (the “Project Parcel”), located within the Northbank Community Redevelopment Area. The Developer will oversee and manage the restoration and renovation of the Building (the “Project”). The renovation of the Building is expected to cause private Capital Investment (defined below) in the approximate amount of \$18,500,000 by or on behalf of the Developer. In consideration of Developer’s acquisition, stabilization and redevelopment of the Project, the DIA has recommended and the City and DIA agree to provide an up to \$1,500,000.00 Historic Preservation Trust Fund Grant upon Substantial Completion of the Project.

1.2 Authority.

The DIA was created by the City Council of the City of Jacksonville pursuant to Ordinance 2012-364-E. Pursuant to Chapter 163, Florida Statutes, and Section 55.104, Ordinance Code, the DIA is the sole development and community redevelopment agency for Downtown, as defined by Section 55.105, Ordinance Code and has also been designated as the public economic development agency as defined in Section 288.075, Florida Statutes, to promote the general business interests in Downtown. The DIA has approved this Agreement pursuant to its Resolutions 2018-09-03, 2019-12-03 and 2021-06-08 (collectively, the “Resolution”) and the City Council has authorized execution of this Agreement pursuant to City Ordinances 2018-872-E, 2020-230-E and 2021-___-E (collectively, the “Ordinance”).

1.3 City/DIA Determination.

- (a) The City has determined that the Project is consistent with the goals of the City in that the Project will, among other things:
 - (i) increase capital investment in Downtown Jacksonville;
 - (ii) help meet the overall community goal of residential and business development and growth in Downtown Jacksonville;
 - (iii) help preserve local historic landmarks;
 - (iv) promote and encourage private Capital Investment of approximately \$18,500,000.

- (b) The DIA has determined that the Project is consistent with the following North Bank Downtown Plan Redevelopment Goals:
 - (i) Goal 1. Reinforce downtown as the City’s unique epicenter for business,

history, culture, education, and entertainment by increasing the opportunities for employment within Downtown; and supporting the expansion of entertainment, restaurant and retail/commercial within proximity to adjacent residential redevelopment;

(ii) Goal 3. Use Planning and Economic Development activities to promote healthy living.

1.4 Jacksonville Small and Emerging Business Program.

As more fully described in City Ordinance 2004-602-E, the City has determined that it is important to the economic health of the community that whenever a company receives incentives from the City, that company provides contracting opportunities to the maximum extent possible to small and emerging businesses in Duval County as described in Section 7.1.

1.5 Coordination by City.

The City hereby designates the Chief Executive Officer (“CEO”) of the DIA or his or her designee to be the Project Coordinator who will, on behalf of the DIA and City, coordinate with the Developer and administer this Agreement according to the terms and conditions contained herein and in the Exhibit(s) attached hereto and made a part hereof. It shall be the responsibility of the Developer to coordinate all project related activities with the designated Project Coordinator.

1.6 Maximum Indebtedness.

The maximum indebtedness of the City for all fees, grants, reimbursable items or other costs pursuant to this Agreement shall not exceed the sum of ONE MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$1,500,000.00).

1.7 Availability of Funds.

Notwithstanding anything to the contrary herein, the City’s and DIA’s financial obligations under this Agreement are subject to and contingent upon the availability of lawfully appropriated funds for the Project and this Agreement.

NOW THEREFORE, in consideration of the mutual undertakings and agreements herein of City, DIA, and Developer, and for Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are acknowledged, City, DIA and the Developer agree that the above Preliminary Statements are true and correct, and represent, warrant, covenant and agree as follows:

**Article 2.
DEFINITIONS**

As used in this Agreement, the following terms shall have the meaning set opposite each:

2.1 Affiliate.

A person or entity, directly or indirectly, controlling, controlled by or under common control with a person or entity.

2.2 Building.

That certain building known generally as the Ambassador Hotel and located at 420 N. Julia Street, Jacksonville, Florida and located on the Project Parcel (as defined below).

2.3 Building Improvements.

The interior and exterior improvements to be made to the Building, inclusive of the HPTF Scope of Work, as necessary to restore the Building to an approximately 100 unit hotel, as further detailed on **Exhibit B** attached hereto.

2.4 Capital Investment.

Money invested by a Developer to purchase items that may normally be capitalized by a Developer in the normal conduct of its business to design, construct and develop a project, including land acquisition costs.

2.5 City Council.

The body politic, as the same shall be from time to time constituted, charged with the duty of governing the City.

2.6 Commence Construction.

The terms "Commence" or "Commenced" or "Commencing" Construction as used herein when referencing the Project or any portion thereof means the date when Developer (i) has completed all pre-construction engineering and design and has obtained all necessary licenses, permits and governmental approvals, has engaged all contractors and ordered all essential equipment and supplies as, in each case, can reasonably be considered necessary so that physical construction of the eligible Project (or applicable phase thereof) may begin and proceed to completion without foreseeable interruption, and (ii) has demonstrated it has the financial commitments and resources to complete the construction of the Project, and (iii) has "broken ground" and begun physical, material renovation and construction (e.g., removal of vegetation or site preparation work or such other evidence of commencement of construction as may be approved by the DIA in its reasonable discretion) of such improvements on an ongoing basis without any Impermissible Delays.

2.7 Downtown Investment Authority.

The Downtown Investment Authority of the City of Jacksonville and any successor to its duties and authority.

2.8 HPTF Grant.

As defined in Section 5.2 hereof.

2.9 HPTF Scope of Work.

As defined in Section 5.2 hereof.

2.10 Impermissible Delay.

The term “Impermissible Delay” means, subject to the provisions of Section 11.2, failure of Developer to proceed with reasonable diligence with the construction of the Building Improvements within the timeframe for completion contemplated in this Agreement, or after commencement of the Building Improvements, abandonment of or cessation of work on any portion of the Building Improvements at any time prior to the Completion of such improvements for a period of more than forty (40) consecutive business days, except in cases of force majeure as described in Section 11.2. Notwithstanding the foregoing, any delay or cessation of any of the Building Improvements as to which Developer has been unable to secure the necessary permits and approvals after diligent efforts shall not be an Impermissible Delay, as long as Developer continues its diligent efforts to obtain such permits and approvals.

2.11 Performance Schedule.

The Performance Schedule, as defined in Article 4 hereof.

2.12 Project.

The Building Improvements located or to be located on the Project Parcel and the obligations of the Developer under this Agreement, as more specifically described herein.

2.13 Project Parcel.

That certain parcel of land located generally at 420 N. Julia Street, Jacksonville, Florida, as further described on Exhibit A attached hereto, and on which the Building is located.

2.14 Substantial Completion.

“Substantially Completed”, “Substantial Completion” or “Completion” means that all permits have been finalized, a certificate of substantial completion has been issued by the contractor and verified by the architect of record, a certificate of occupancy has been issued and the Building Improvements are available for use in accordance with their intended purpose; subject to commercially reasonable punch list items, completion of tenant improvements and similar items.

2.15 Trust Fund.

The City of Jacksonville Downtown Historic Preservation and Revitalization Trust Fund.

Other capitalized terms not defined in this Article shall have the meanings assigned to them elsewhere in this Agreement.

Article 3.
APPROVAL OF AGREEMENT

3.1 Approval of Agreement.

By the execution hereof, the parties certify as follows:

(a) Developer warrants, represents, and covenants with City and DIA that:

(i) the execution and delivery hereof has been approved by all parties whose approval is required under the terms of the governing documents creating the Developer entity;

(ii) this Agreement does not violate any of the terms or conditions of such governing documents and the Agreement is binding upon the Developer and enforceable against it in accordance with its terms;

(iii) the person or persons executing this Agreement on behalf of the Developer are duly authorized and fully empowered to execute the same for and on behalf of the Developer; and

(iv) the Developer and each entity composing the Developer is, to the extent required by applicable law, duly authorized to transact business in the State of Florida; and

(v) the Developer, its business operations, and each person or entity composing the Developer are in material compliance with all federal, state and local laws, to the extent applicable to the Project and which could have a material adverse effect on the Project and the Developer's ability to complete the Project in accordance with this Agreement.

(b) The DIA certifies to Developer that the execution and delivery hereof has been approved at a duly convened meeting of the DIA and the same is binding upon the DIA and enforceable against it in accordance with its terms.

(c) The City certifies to Developer that the execution and delivery hereof is binding upon the City to the extent provided herein and enforceable against the City in accordance with the terms hereof.

Article 4.
PERFORMANCE SCHEDULE

4.1 Project Performance Schedule.

The City, the DIA and the Developer have jointly established the following dates for the Developer’s obligations under this Agreement (collectively, the “Performance Schedule”):

(a) Building Improvements. Developer shall provide written notice to the DIA of the Commencement of Construction date (the “Commencement of Construction Date”) for the Building Improvements, which date shall be not later than July 31, 2021. On or before December 31, 2022, Developer shall Complete Construction of the Building Improvements (the “Building Improvements Completion Date”). Notwithstanding any other provision to the contrary in this Agreement, there shall be no Force Majeure extensions authorized in connection with either of the Commencement of Construction Date, nor the December 31, 2022 Building Improvements Completion Date related to the current COVID-19 pandemic or relating to financing for the Project.

The City, DIA and the Developer have approved this Performance Schedule. By the execution hereof, and subject to the terms of this Agreement, the Developer hereby agrees to undertake and complete the construction and development of the Project in accordance with this Agreement and the Performance Schedule, and to comply with all of the Developer’s obligations set forth herein. The DIA Board may extend the Building Improvements Completion Date for up to six (6) months in its sole discretion for good cause shown by Developer.

Article 5.
**DOWNTOWN HISTORIC PRESERVATION AND
REVITALIZATION TRUST FUND GRANT**

5.1 Downtown Historic Preservation and Revitalization Trust Fund Grant; Application.

Pursuant to Section 111.910, *Ordinance Code*, the DIA and the Historic Preservation Section of the Jacksonville Planning and Development Department (the “Historic Preservation Section”) is authorized to award applicants grants and loans from the Downtown Historic Preservation and Revitalization Trust Fund (the “Trust Fund”), subject to City Council approval. Developer may apply to the Historic Preservation Section and the DIA, a copy of which application will be placed on file with the Historic Preservation Section (the “Application”), to receive grant funding to renovate the Building, which will include preserving and redeveloping it to be used as a hotel, as well as making the building compliant with life safety codes. The Historic Preservation Section will review the Application, and if approved, it will be subject to certain conditions contained in Certificate of Appropriateness issued in connection therewith (the “COA Conditions”), and the City, as recommended by the DIA Board by its Resolution No. 2018-09-03, has agreed, subject to City Council approval of this Agreement and Historic Preservation Section approval of the Application, to make a Historic Preservation Trust Fund grant to the Developer.

5.2 Downtown Historic Preservation and Revitalization Trust Fund Grant; Amount.

After the Developer obtains all applicable approvals and after Substantial Completion of the Building Improvements in accordance with this Agreement, the City shall make a Downtown Historic Preservation and Revitalization Trust Fund Grant to the Developer, in an up to amount not to exceed \$1,500,000 (the “HPTF Grant”) to fund the on-site HPTF improvements in accordance with the Certificates of Appropriateness (the “COA”) and with the Scope of Work attached hereto as **Exhibit C** (the “HPTF Scope of Work”), subject to the program guidelines and a determination of eligible expenditures in each program category. The City’s obligation to make the HPTF Grant is subject to the terms and conditions of this Agreement. The Developer will pay the cost of the Project and Building Improvements exceeding the HPTF Grant amount. The Developer shall comply with all requirements and guidelines of Section 111.910, Ordinance Code, pertaining to building owners who are seeking assistance from the Trust Fund.

5.3 Payment of HPTF Grant.

The City’s obligation to disburse any portion of the \$1,500,000 HPTF Grant to Developer is conditioned upon the prior occurrence of the following:

(a) The Developer shall submit to the DIA a completed written disbursement request (the “Disbursement Request”) on a copy of the Disbursement Request Form attached hereto as **Exhibit D**. In the Disbursement Request, the Developer shall certify and describe in detail reasonably acceptable to the DIA (a) the cost of the labor that has been performed and the materials that have been incorporated into the Building, (b) the amount actually paid by the Developer for such labor and materials. The Developer shall attach to the Disbursement Request such invoices, receipts, cancelled checks (or evidence that payment has cleared Developer’s banking account), and other documents required by the DIA evidencing that the costs and expenses were actually incurred and paid for by the Developer and were expended on and pertain to the Project.

(b) All property taxes on the Project Parcel must be current, and the Developer must be utilizing the Building in accordance with the applicable HPTF Trust Fund Application.

(c) No Event of Default with respect to Developer’s obligations under this Agreement or an event which, with the giving of notice or the passage of time, or both, would constitute an Event of Default with respect to Developer’s obligations under this Agreement, has occurred or is continuing.

(d) The Developer shall furnish to the DIA a certificate of occupancy or its equivalent and such other permits and/or certificates (including a certificate of substantial completion issued by the contractor and certified by the architect of record) as shall be required to establish to the DIA's satisfaction that the Building and HPTF Scope of Work have been properly completed and are not subject to any material violations or uncorrected conditions noted or filed in any City department;

(e) The Developer shall submit to the DIA a proper contractor's final affidavit and full and complete releases of liens from each contractor, subcontractor and supplier, or other proof satisfactory to the DIA, confirming that final payment has been made for all materials supplied and labor furnished in connection with the Building or that, in the event of a dispute in any amount owed, such amount is properly bonded off pursuant to Florida law so that it will not become a lien on the Project Parcel;

(f) The Building shall have been Substantially Completed in all respects in accordance with **Exhibit B** attached hereto, as verified by a final inspection report satisfactory to the DIA, certifying that the Building renovations and improvements have been constructed in a good and workmanlike manner and are in satisfactory condition. In the event the DIA determines that there is a deficiency with the Building and related improvements the DIA reserves the right to require that an escrow be established in an amount satisfactory to the DIA to remedy such deficiency.

(g) The Developer must submit to a “post-work” inspection by the Historic Preservation Section of the Planning and Development Department or consultant to examine the Developer’s compliance with previously approved building permits, the COA, and all Historic Preservation Section interpretations of the Trust Fund Application submitted by the Developer. Once the Historic Preservation Section has completed this “post-work” inspection and is satisfied that the Developer has met the obligations of this Agreement in accordance with the following criteria: (a) United States Department of Interior Standards for Historic Preservation; (b) the COA from the Jacksonville Historic Preservation Commission; and (c) the HPTF Scope of Work, then the Historic Preservation Section will send correspondence to the DIA informing them that the Developer is eligible for reimbursement from the Trust Fund and whether any particular improvements are ineligible to be included in the calculation of total costs in each of the program areas identified in the guidelines. Upon receipt of this letter from the Historic Preservations Section as well as paid invoices matching the HPTF Scope of Work, a contractor’s affidavit, mechanics’ lien releases and other evidence (including without limitation site inspections and inspection reports) that may be required in the discretion of the City or DIA, the HPTF Grant will be disbursed by the City.

(h) Developer shall take all action necessary to have any mechanic’s and materialmen’s liens, judgment liens or other liens or encumbrances filed against the Project Parcel (other than any consensual mortgage) released or transferred to bond within ten days of the date Developer receives notice of the filing of such liens or encumbrances. If any such lien or encumbrance is filed, the City shall not be required to make any disbursement of the HPTF Grant funds until such lien or encumbrance is bonded over or removed and the City receives a copy of the recorded release. The City shall not be obligated to disburse any of the HPTF Grant funds to Developer if, in the reasonable opinion of the City, any such disbursement or the Project or Project Parcel would be subject to a mechanic’s or materialmen’s lien or any other lien or encumbrance other than inchoate construction liens. Developer shall be fully and solely responsible for compliance in all respects whatsoever with the applicable mechanic’s and materialmen’s lien laws.

(i) The Developer shall deliver to the DIA an as-built survey within thirty (30) days after the Completion of the Building renovation and related improvements. Any

change in the state of facts shown in any such updated survey shall be subject to reasonable approval by the DIA. Developer shall also deliver to the DIA an as/-built survey within thirty (30) days of the Completion of the Project.

(j) The Developer shall have provided to the DIA, in form and substance reasonably satisfactory to the DIA, any such other document, instrument, information, agreement or certificate the DIA may reasonably require related to the construction or completion of the Building Improvements;

5.4 No Warranty by City or DIA

Nothing contained in this Agreement or any other document attached hereto or contemplated hereby shall constitute or create any duty on or warranty by City or the DIA regarding: (a) the accuracy or reasonableness of the project budgets; (b) the feasibility or quality of the construction documents for the Project; (c) the proper application by the Developer of the HPTF Grant Funds; (d) the quality or condition of the work; or (e) the competence or qualifications of any third party furnishing services, labor or materials in connection with the construction of the Project. Developer acknowledges that it has not relied and will not rely upon any experience, awareness or expertise of the City or DIA, or any City or DIA inspector, regarding the aforesaid matters.

5.5 Further Disclaimer.

The HPTF Grant shall not be deemed to constitute a debt, liability, or obligation of the City or of the State of Florida or any political subdivision thereof within the meaning of any constitutional or statutory limitation, or a pledge of the faith and credit or taxing power of the City or of the State of Florida or any political subdivision thereof, but shall be payable solely from the funds provided therefor in this Article 5. The City shall not be obligated to pay the HPTF Grant or any installment thereof except from the non-ad valorem revenues or other legally available funds provided for that purpose, and neither the faith and credit nor the taxing power of the City or of the State of Florida or any political subdivision thereof is pledged to the payment of the HPTF Grant or any installment thereof. The Developer, and any person, firm or entity claiming by, through or under the Developer, or any other person whomsoever, shall never have any right, directly or indirectly, to compel the exercise of the ad valorem taxing power of the City or of the State of Florida or any political subdivision thereof for the payment of the HPTF Grant or any installment thereof.

Article 6. THE DEVELOPMENT

6.1 Scope of Development.

The Developer shall construct and develop or cause to be constructed and developed, in substantial compliance with the times set forth in the Performance Schedule (subject in all cases to authorized extensions of the applicable Performance Schedule contemplated by this Agreement), the Building Improvements, which the Developer is obligated to construct and develop under the Performance Schedule and this Agreement.

6.2 Cost of Development.

Except as otherwise set forth in this Agreement, the Developer shall pay any cost of constructing and developing the Building Improvements incurred by Developer at no cost to the DIA or the City. For purposes of clarity, the City's and DIA's only financial obligations in connection with this Agreement are to disburse the HPTF Grant in accordance with the terms and conditions of this Agreement.

6.3 Approval by Other Governmental Agencies.

All of the parties' respective rights and obligations under this Agreement are subject to and conditioned upon approval of the Project and all project documents by such other governmental agencies, whether state, local or federal, as have jurisdiction and may be required or entitled to approve them. Notwithstanding any provision of this Agreement to the contrary, neither the City nor the DIA guarantee approval of this Agreement or any aspect of the Project by any government authorities and agencies that are independent of the City.

6.4 Authority of DIA to Monitor Compliance.

During all periods of design and construction, the CEO of the DIA and the City's Director of Planning and Development shall have the authority to monitor compliance by the Developer with the provisions of this Agreement. Insofar as practicable, the DIA shall coordinate such monitoring and supervising activity with those undertaken by the City so as to minimize duplicate activity. To that end, during the period of construction and with prior notice to the Developer, representatives of the DIA and the City shall have the right of access to the Project Parcel and to every structure on the Project Parcel during normal construction hours.

6.5 Timing of Completion.

The Building Improvements shall be completed substantially in accordance with the terms of this Agreement and the Performance Schedule subject to extension of such timelines pursuant the terms of this Agreement.

6.6 Construction and Operation Management.

Except as otherwise expressly provided herein, the Developer shall have discretion and control, free from interference, interruption or disturbance, in all matters relating to the management, development, redevelopment, construction and operation of the Project (as their respective obligations are set forth in this Agreement), provided that the same shall, in any event, conform to and comply with the terms and conditions of this Agreement, and all applicable state and local laws, ordinances and regulations (including, without limitation, applicable zoning, subdivision, building and fire codes). The Developer's discretion, control and authority with respect thereto shall include, without limitation, the following matters:

- (a) the construction and design of the Project, subject to the express terms and conditions of this Agreement;

(b) the selection, approval, hiring and discharge of engineers, architects, contractors, subcontractors, professionals and other third parties (collectively the “Vendors”) on such terms and conditions as the Developer deems appropriate;

(c) the negotiation and execution of contracts, agreements, easements and other documents with third parties, in form and substance satisfactory to Developer; and

(d) the preparation of such budgets, cost estimates, financial projections, statements, information, and reports as the Developer deems appropriate.

Article 7. JSEB PROGRAM

7.1 Jacksonville Small and Emerging Businesses (JSEB) Program.

The Developer, in further recognition of and consideration for the public funds provided to assist the Developer pursuant to this Agreement, hereby acknowledge the importance of affording to small and emerging vendors and contractors the full and reasonable opportunity to provide materials and services. Therefore, the Developer hereby agree as follows:

The Developer shall obtain from the City’s Procurement Division the list of certified Jacksonville Small and Emerging Businesses (“JSEB”), and shall exercise good faith, in accordance with Municipal Ordinance Code Sections 126.608 et seq., to enter into contracts with City certified JSEBs to provide materials or services in an aggregate amount of not less than \$300,000, which amount represents 20% of the City’s and DIA’s maximum contribution to the Project with respect to the development activities or operations of the Project over the term of this Agreement.

The Developer shall submit JSEB report(s) regarding their respective actual use of City certified JSEBs on the Project (i) on the date of any request for City/DIA funds which are payable prior to the Substantial Completion of the Building Improvements, and (ii) upon Substantial Completion of the Project and Building Improvements. The form of the report to be used for the purposes of this section is attached hereto as Exhibit E (the “JSEB REPORTING FORM”). Documentation of the Developer’s good faith efforts to enter into contracts with City certified JSEB’s is a precondition to disbursement of the HPTF Grant.

Article 8. REPORTING; SITE VISITS

8.1 Reporting.

On an annual basis on or before July 1 of each year this Agreement is in effect, the Developer shall submit reports to the DIA regarding the status of construction of the Project, and all other activities affecting the implementation of this Agreement, including a narrative summary of progress on the Project. Samples of the general forms of these reports are attached hereto as Exhibit F (the “Annual Survey”); however, the specific data requested may vary from the forms attached. In addition, each Developer shall submit monthly construction reports in

form and content reasonably acceptable to the City regarding the status of construction of the Project.

The Developer' obligation to submit such reports shall continue until Developer has complied with all of the terms of this Agreement concerning the Project, Building Improvements, and the HPTF Grant and end upon Substantial Completion of the Project.

Within thirty (30) days following a request of the DIA or the City, the Developer (as applicable) shall provide the DIA or the City with additional information as reasonably requested by the DIA or the City.

8.2 Site Visits.

For so long as City or DIA has any payment obligations to Developer pursuant to this Agreement, Developer shall permit representatives from the City and DIA and other designated City/DIA personnel, to monitor compliance by Developer with the provisions of this Agreement. With prior notice to Developer, representatives of City and DIA shall have the right to tour the Project and access Developer's records and employees related to the Project and this Agreement, during normal business hours, provided, however, that Developer shall have the right to have a representative of Developer present during any such inspection.

Article 9. DEFAULTS AND REMEDIES

9.1 General.

An "Event of Default" under this Agreement with respect to the Project shall consist of the breach of any covenant, agreement, representation, provision, or warranty (that has not been cured prior to the expiration of any applicable grace period or notice and cure period contained in this Agreement or such other documents, as applicable) contained in: (i) this Agreement; (ii) the documents executed in connection with the Agreement; (iii) any document provided by either of the Developer to the City or DIA relating to the Project; or (iv) any default beyond the applicable cure periods under any and all financing agreements between or among either of the Developer relating to any portion of the Project (collectively, the "Project Documents"), and the failure to cure any such breach within the cure periods set forth below.

If any such Event of Default occurs under this Agreement, with respect to the Project the City may refuse to pay any portion of the HPTF Grant, and additionally may at any time or from time to time proceed to protect and enforce all rights available to the City and DIA under this Agreement with respect to the Project by suit in equity, action at law or by any other appropriate proceeding whether for specific performance of any covenant or agreement contained in this Agreement, or damages, or other relief, or proceed to take any action authorized or permitted under applicable laws or regulations. No occurrence shall constitute an Event of Default until the City has given the Developer written notice of the default and thirty (30) calendar days within which to cure the default; provided, however, that the City/DIA may withhold any portion the HPTF Grant immediately upon the occurrence of a default and throughout any notice or cure period until such default is cured. If any default cannot reasonably be cured within the initial

thirty (30) calendar days, no Event of Default shall be deemed to occur so long as the defaulting party has commenced and is diligently implementing a cure within such thirty (30) day period and diligently pursues such cure to a conclusion. Notwithstanding the foregoing, the Developer shall immediately and automatically be in default with respect to the Project, and the City shall not be required to give the Developer any notice or opportunity to cure such default (and thus the City/DIA shall immediately be entitled to act upon such default), upon the occurrence of any of the following:

Should the Developer make any assignment for the benefit of creditors; or should a receiver, liquidator, or trustee of the Developer of any of the Developer's property be appointed; or should any petition for the adjudication of bankruptcy, reorganization, composition, arrangement or similar relief as to the Developer, pursuant to the Federal Bankruptcy Act or any other law relating to insolvency or relief for debtors, be filed by Developer; or should the Developer be adjudicated as bankrupt or insolvent; or should the Developer be liquidated or dissolved; or should an involuntary petition seeking to adjudicate the Developer as a bankrupt or to reorganize the Developer be filed against the Developer and remain undismissed for a period of ninety (90) days after the filing date thereof.

9.2 Breach by City.

No occurrence shall constitute an Event of Default until the Developer has given the City written notice of the default and thirty (30) calendar days within which to cure the default. If any default cannot reasonably be cured within the initial thirty (30) calendar days, no Event of Default shall be deemed to occur so long as the defaulting party has commenced and is diligently implementing a cure within such thirty (30) day period and diligently pursues such cure to a conclusion. If the City commits an Event of Default under this Agreement, Developer shall have, in addition to the remedies expressly provided herein, all remedies allowed by law or equity; provided, however, that in no event shall the City be liable to Developer for any punitive, speculative, or consequential damages of any kind, and notwithstanding anything herein, in no event shall the City be liable for any costs or damages exceeding the maximum indebtedness amount described in Section 1.6 for any and all City obligations at issue.

9.3 Specific Defaults.

Additionally, for any of the specific Events of Default described in this Section 9.3 below, the parties agree that the City's and DIA's damages recoverable from the Developer shall include, but not be limited to, the following:

(a) in the event reporting requirements are not met in the time period specified in Article 8 of this Agreement and such default is not cured within the time period provided in Section 8.1 after written notice from the City, the DIA will be entitled to withhold any undisbursed amount of the HPTF Grant;

9.4 Performance Schedule Default.

In the event the Developer fails to meet the Commencement of Construction Date or Substantially Complete the Project in accordance with the Performance Schedule set forth in

Article 4 and any cure period(s), the City and DIA shall not be obligated to pay any portion of the HPTF Grant to Developer.

Article 10.
ANTI-SPECULATION AND ASSIGNMENT PROVISIONS

10.1 Purpose.

The Developer represents and agrees that its undertakings pursuant to this Agreement are for the purpose of developing the Project Parcel pursuant to this Agreement and not for speculation in land holding. The Developer further recognizes, in view of the importance of the development of the Project Parcel to the general health and welfare of the City, that the qualifications, financial strength and identity of the principal shareholders and executive officers of the Developer are of particular concern to the City and the DIA.

10.2 Assignment; Limitation on Conveyance.

Developer agrees that, with respect to the Project, until the (a) Substantial Completion of the Building Improvements applicable to the Project, it shall not, without the prior written consent of the DIA (which consent shall not be unreasonably withheld), assign, transfer or convey (i) the Project or any portion thereof, (ii) the Project Parcel or any portion thereof, (iii) this Agreement or any provision hereof as it relates to the Project, or (iv) a controlling interest in the Developer. If any such prohibited assignment, transfer or conveyance is made, the obligation of the City to pay any further amounts of the HPTF Grant to the Project with respect any of the foregoing as related to the Project, shall immediately terminate. Notwithstanding the foregoing, Developer may assign, transfer or convey items (i)-(iv) above to an entity in which the principals of Developer have a substantial interest without the prior written consent of the City and DIA; provided, however, that no such assignment, transfer or conveyance shall release Developer from any liability or obligation hereunder, and provided any assignee of such assignment enters into an assignment and assumption agreement in form and content as acceptable to the DIA in its reasonable discretion. In addition, (a) interests in the Developer may be assigned, transferred or conveyed to tax credit investors without limitation, (b) Developer may collaterally assign its rights and obligations pursuant to this Agreement to any lender providing financing for the Project and any foreclosure or similar action and subsequent assignment by such lender or its assignees shall constitute a permitted assignment pursuant to this Agreement. In connection with any such collateral assignment and transfers by the lender contemplated herein, DIA and City agree to execute a consent reasonably acceptable to such lender, and such lender or assignee shall enter into an assignment and assumption agreement in form and content as reasonably acceptable to City and DIA.

If any Event of Default under the terms of the Agreement shall occur, then and in any such event, the City shall, give written notice of such default(s) ("Notice of Default") to Lender at its address as noticed to City pursuant to Section 11.3 hereof, specifying the event of default and the methods of cure, or declaring that an event of default is incurable. During the period of 120 days commencing upon the date the Notice of Default was given to Lender, Lender may cure any event of default. If the Lender reasonably undertakes to cure any event of default

during the applicable cure period and diligently pursues such cure, the City shall grant such further reasonable time as is necessary to complete such cure.

Article 11.
GENERAL PROVISIONS

11.1 Non-liability of DIA and City Officials.

No member, official, officer, employee or agent of the DIA or the City shall be personally liable to the Developer or to any person or entity with whom the Developer shall have entered into any contract, or to any other person or entity, in the event of any default or breach by the DIA or the City, or for any amount which may become due to the Developer or any other person or entity under the terms of this Agreement.

11.2 Force Majeure.

No party to this Agreement shall be deemed in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualty, acts of God, acts of public enemy, epidemic, quarantine restrictions, freight embargo, shortage of labor or materials, interruption of utilities service, lack of transportation, severe weather and other acts or failures beyond the control or without the control of any party (collectively, a "Force Majeure Event"); provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay and shall be proximately caused by such Force Majeure Event.

In the event of any delay or nonperformance resulting from such causes, the party affected shall notify the other in writing within ten (10) calendar days after beginning to incur delays that are the result of a Force Majeure Event, but in no event later than thirty (30) days after the date of the Force Majeure Event. Such written notice shall describe the nature, cause, date of commencement, and the anticipated impact of such delay or nonperformance, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected, and shall describe the actions reasonably taken to minimize the impact thereof.

11.3 Notices.

All notices to be given hereunder shall be in writing and personally delivered or sent by registered or certified mail, return receipt requested, or delivered by an air courier service utilizing return receipts to the parties at the following addresses (or to such other or further addresses as the parties may designate by like notice similarly sent), and such notices shall be deemed given and received for all purposes under this Agreement three (3) business days after the date same are deposited in the United States mail, if sent by registered or certified mail, or the date actually received if sent by personal delivery or air courier service, except that notice of a change in address shall be effective only upon receipt.

the DIA and City:

Downtown Investment Authority

117 W. Duval Street, Suite 310
Jacksonville, Florida 32202
Attn: Chief Executive Officer

With a copy to:

City of Jacksonville
Office of General Counsel
117 W. Duval Street, Suite 480
Jacksonville, Florida 32202
Attn: Corporation Secretary

The Developer

AXIS Hotels LLC
215 Anastasia Boulevard
St. Augustine, Florida 32080
Attn: George Bochis and Bryan Greiner

With a copy to:

Driver, McAfee, Hawthorne & Diebenow
One Independent Drive, Suite 1200
Jacksonville, FL 32202
Attn: Steve Diebenow

11.4 Time.

Time is of the essence in the performance by any party of its obligations hereunder.

11.5 Entire Agreement.

This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

11.6 Amendment.

This Agreement may be amended by the parties hereto only upon the execution of a written amendment or modification signed by the parties. Notwithstanding the foregoing, the CEO of the DIA is authorized on behalf of the DIA and the City to approve, in his or her sole discretion, any “technical” changes to this Agreement. Such “technical” changes include, without limitation, non-material modifications to legal descriptions and surveys, ingress and egress, easements and rights of way, Performance Schedule (for up to six months) and design standards, as long as such modifications do not involve any increased financial obligation or liability to the City or the DIA.

11.7 Waivers.

Except as otherwise provided herein, all waivers, amendments or modifications of this Agreement must be in writing and signed by all parties. Any failures or delays by any party in insisting upon strict performance of the provisions hereof, or asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by any 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 any other party.

11.8 Indemnification.

Developer shall indemnify, hold harmless and defend the City of Jacksonville, DIA and their respective members, officials, officers, employees and agents from and against, without limitation, any loss, claim, suit, action, damage, injury, liability, fine, penalty, cost, and expense of whatsoever kind or nature (including without limitation court, investigation and defense costs and reasonable expert and attorneys' fees and costs) related to any suits and actions of any kind brought against the City, DIA and their respective members, officials, officers, employees and agents or other damages or losses incurred or sustained, or claimed to have been incurred or sustained, by any person or persons arising out of or in connection with: (i) any breach of any representation or warranty of Developer, contained or provided in connection with this Agreement; (ii) any breach or violation of any covenant or other obligation or duty of Developer under this Agreement or under applicable law; (iii) any negligent act, error or omission, or intentionally wrongful conduct on the part of Developer or those under its control that causes injury (whether mental or corporeal) to persons (including death) or damage to property, whether arising out of or incidental to Developer's performance under this Agreement or relating to the Project, except to the extent cause by the negligence of the City or DIA. Nothing contained in this paragraph shall be construed as a waiver, expansion or alteration of the City's sovereign immunity beyond the limitations stated in Section 768.28, Florida Statutes.

This indemnification shall survive the expiration or termination (for any reason) of this Agreement and remain in full force and effect. The scope and terms of the indemnity obligations herein described are separate and apart from, and shall not be limited by any insurance provided pursuant to this Agreement or otherwise. The terms "City" and "DIA" as used in this Section 11.8 shall include all officers, board members, City Council members, employees, representatives, agents, successors and assigns of the City and the DIA, as applicable.

11.9 Severability.

The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect any other provisions of this Agreement, but this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

11.10 Compliance with State and Other Laws.

In the performance of this Agreement, the Developer must comply with any and all applicable federal, state and local laws, rules and regulations, as the same exist and may be amended from time to time. Such laws, rules and regulations include, but are not limited to, Chapter 119, Florida Statutes, (the Public Records Act) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this Section shall be incorporated into and become a part of the subcontract.

11.11 Non-Discrimination Provisions.

In conformity with the requirements of Section 126.404, *Ordinance Code*, the Developer represents that it has adopted and will maintain a policy of non-discrimination against employees or applicants for employment on account of race, religion, sex, color, national origin, age or handicap, in all areas of employment relations, throughout the term of this Agreement. The Developer agrees that, on written request, it will permit reasonable access to its records of employment, employment advertisement, application forms and other pertinent data and records, by the Executive Director of the Human Rights Commission, or successor agency or commission, for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement; *provided however*, that the Developer shall not be required to produce for inspection records covering periods of time more than one (1) year prior to the day and year first above written. The Developer agree that, if any of its obligations to be provided pursuant to this Agreement are to be performed by a subcontractor, the provisions of this Section 11.11 shall be incorporated into and become a part of the subcontract.

11.12 Contingent Fees Prohibited.

In conformity with Section 126.306, *Ordinance Code*, Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Developer, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Developer, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, the City and DIA shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

11.13 Ethics.

The Developer represents that it has reviewed the provisions of the Jacksonville Ethics Code, as codified in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, as codified in Chapter 126, *Ordinance Code*.

11.14 Conflict of Interest.

The parties will follow the provisions of Section 126.110, *Ordinance Code*, with respect to required disclosures by public officials who have or acquire a financial interest in a bid or contract with the City, to the extent the parties are aware of the same.

11.15 Public Entity Crimes Notice.

The parties are aware and understand that a person or affiliate who has been placed on the State of Florida Convicted Vendor List, following a conviction for a public entity crime, may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and, may not transact business in excess of \$35,000.00 with any public entity for a period of thirty-six (36) months from the date of being placed on the Convicted Vendor List.

11.16 Survival.

Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and remain in effect. Without limiting the foregoing, all obligations for the payment of fees or other sums accruing up to the expiration or termination of this Agreement and all provisions relating to the City's right to conduct an audit shall survive the expiration or termination of this Agreement.

11.17 Incorporation by Reference.

All exhibits and other attachments to this Agreement that are referenced in this Agreement are by this reference made a part hereof and are incorporated herein.

11.18 Order of Precedence.

In the event of any conflict between or among the provisions of this Agreement and those of any exhibit attached hereto or of any amendment, the priority, in decreasing order of precedence shall be: 1) any fully executed amendment; 2) provisions in this Agreement; and 3) exhibits to this Agreement.

11.19 Counterparts.

This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

11.20 Independent Contractor.

In the performance of this Agreement, the Developer will be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer or association of the City or the DIA. The Developer and their respective employees or agents shall be solely responsible for the means, method, technique, sequences and procedures utilized by the Developer in the performance of this Agreement.

11.21 Retention of Records/Audit

The Developer agrees:

(a) To establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of funds provided by the City under this Agreement.

(b) To retain, with respect to each Project, all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of six (6) years after completion of the date of final payment by the City under this Agreement with respect to such Project. If an audit has been initiated and audit findings have not been resolved at the end of six (6) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement, at no additional cost to the City.

(c) Upon demand, at no additional cost to the City, to facilitate the duplication and transfer of any records or documents during the required retention period.

(d) To assure that these records shall be subject at all reasonable times to inspection, review, copying, or audit by personnel duly authorized by the DIA and City, including but not limited to the City Council Auditors.

(e) At all reasonable times for as long as records are maintained, to allow persons duly authorized by the DIA and City, including but not limited to the City Council Auditors, full access to and the right to examine any of the Developer' contracts and related records and documents, regardless of the form in which kept.

- (f) To ensure that all related party transactions are disclosed to the City.
- (g) To include the aforementioned audit, inspections, investigations and record keeping requirements in all subcontracts and assignments of this Agreement.
- (h) To permit persons duly authorized by the DIA and City, including but not limited to the City Council Auditors, to inspect and copy any records, papers, documents, facilities, goods and services of the Developer which are relevant to this Agreement, and to interview any employees and subcontractor employees of the Developer to assure the City and DIA of the satisfactory performance of the terms and conditions of this Agreement. Following such review, the City will deliver to the Developer a written report of its findings and request for development by the Developer of a corrective action plan where appropriate. The Developer hereby agrees to timely correct all deficiencies identified in the corrective action plan.
- (i) Additional monies due as a result of any audit or annual reconciliation shall be paid within thirty (30) days of date of the City's invoice.
- (j) Should the annual reconciliation or any audit reveal that the Developer owe the City or DIA additional monies, and the Developer does not make restitution within thirty (30) days from the date of receipt of written notice from the City, then, in addition to any other remedies available to the City, the City may terminate this Agreement, solely at its option, by written notice to the Developer.

11.22 Non-merger.

None of the terms, covenants, agreements or conditions set forth in this Agreement shall be deemed to be merged with any deed conveying title to the Project Parcel.

11.23 Exemption of City and DIA.

Neither this Agreement nor the obligations imposed upon the City or DIA hereunder shall be or constitute an indebtedness of the City or DIA within the meaning of any constitutional, statutory or charter provisions requiring the City to levy ad valorem taxes, or a lien upon any properties of the City or DIA. Payment or disbursement by the City or DIA of any loan or grant amount hereunder is subject to the availability of lawfully appropriated funds. If funds are not available pursuant to a lawful appropriation thereof by the City Council or DIA Board, this Agreement shall be void and the parties shall have no further obligations hereunder.

11.24 Parties to Agreement; Successors and Assigns.

This is an agreement solely between the DIA, the City and Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto. Subject to the limitations contained in Section 10.2, this Agreement shall be binding upon and benefit Developer, and Developer' successors and assigns, and shall be binding upon and benefit of the City and DIA, and their successors and assigns. However, Developer except as contemplated in Section 10.2, shall not assign, transfer or encumber its rights or obligations

hereunder or under any document executed in connection herewith without the prior written consent of the City and the DIA, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Developer may assign, transfer or encumber its rights or obligations hereunder or under any document executed in connection herewith to an entity in which the principals of Developer have a controlling interest without the prior written consent of City and the DIA; provided, however, that no such assignment, transfer or conveyance shall release Developer from any liability or obligation hereunder.

11.25 Venue; Applicable Law.

The rights, obligations and remedies of the parties specified under this Agreement shall be interpreted and governed in all respects by the laws of the State of Florida. All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Duval County, Florida. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

11.26 Civil Rights.

The Developer agree to comply with all of the terms and requirements of the Civil Rights Act of 1964, as amended, and the Civil Rights Act of 1968, as amended, and the antidiscrimination provisions of Chapter 126, Part 4, of the City Ordinance Code, and further agrees that in its operation under this Agreement it will not discriminate against anyone on the basis of race, color, age, disability, sex or national origin.

11.27 Further Assurances.

Each party to this Agreement will, on request of any other party,

- (a) promptly correct any defect, error or omission herein;
- (b) execute, acknowledge, deliver, procure, record or file such further instruments and do such further acts reasonably deemed necessary, desirable or proper by the such requesting party to carry out the purposes of this Agreement and to identify and subject to the liens of this Agreement any property intended to be covered thereby, including any renewals, additions, substitutions replacements, or appurtenances to the subject property;
- (c) provide such certificates, documents, reports, information, affidavits and other instruments and do such further acts reasonably deemed necessary, desirable or proper by the requesting party to carry out the purposes of this Agreement.

11.28 Exhibits.

In the event of a conflict between any provisions of this Agreement and any exhibit attached to or referenced in this Agreement, the provisions of this Agreement shall govern.

11.29 Construction.

All parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Developer further acknowledges that it has had ample time to review this Agreement and related documents with counsel of its choice. Any doubtful or ambiguous provisions contained herein shall not be construed against the party who drafted the Agreement. Captions and headings in this Agreement are for convenience of reference only and shall not affect the construction of this Agreement.

11.30 Further Authorizations.

The parties acknowledge and agree that the Mayor of the City, or his designee, and the City's Corporation Secretary and the Chief Executive Officer of DIA, or their respective designees, are hereby authorized to execute any and all other contracts and documents and otherwise take all necessary action in connection with this Agreement.

11.31 Estoppel Certificate.

Within ten (10) days after request therefor from either Developer, or from the City or DIA to the Developer, the Developer, City and DIA, as applicable, agree to execute and deliver to the applicable parties, or to such other addressee or addressees as a Developer or City or DIA may designate (and any such addressee may rely thereon), a statement in writing certifying (if true) that this Agreement as it relates to the Project is in full force and effect and unmodified or describing any modifications; that the Developer (or City or DIA, as applicable) has performed all of its obligations under this Agreement arising prior to the date of the certificate, and making such other true representations as may be reasonably requested by Developer or City or DIA, as applicable.

IN WITNESS WHEREOF, this Agreement is executed the day and year above written.

ATTEST:

CITY OF JACKSONVILLE

By: _____
James R. McCain, Jr.
Corporation Secretary

By: _____
Lenny Curry, Mayor

WITNESS:

DOWNTOWN INVESTMENT AUTHORITY

Print Name: _____

By _____
Lori N. Boyer, CEO

Print Name: _____

DEVELOPER

WITNESS:

AXIS HOTELS LLC, a Florida limited liability company

By: _____, Its manager

Print Name: _____

By: _____

Name: _____

Print Name: _____

Its: _____

In accordance with Section 24.103(e), of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *provided however*, this certification is not nor shall it be interpreted as an encumbrance of funding under this Contract. Actual encumbrance[s] shall be made by subsequent check request[s], as specified in said Contract.

Director of Finance

Form Approved:

Office of the General Counsel

LIST OF EXHIBITS

- Exhibit A Description of Project Parcel
- Exhibit B Description of Building Improvements
- Exhibit C HPTF Scope of Work
- Exhibit D Disbursement Request Form
- Exhibit E JSEB Reporting Form
- Exhibit F Annual Survey

EXHIBIT A

Description of Project Parcel

That certain real property located generally at 420 N. Julia Street, Jacksonville, Florida.

(Legal Description to be inserted after confirmation by survey.)

EXHIBIT B

Description of Building Improvements

The subject site is currently improved with a 1923-built structure, known generally as the Ambassador Hotel, which is currently vacant and in the past has been used as a hotel and as a residential building. The Developer proposes to renovate the existing structure, maintaining its historic façade, to house what is expected to be a nationally flagged brand hotel. Upon completion, the hotel will feature approximately 100 rooms, a restaurant and lounge, meeting space, a fitness center, a lobby workstation, a sundries counter, a guest laundry area, and an outdoor courtyard. The hotel will also contract for the appropriate parking capacity and all necessary back-of-the-house space.

EXHIBIT C

HPTF Scope of Work

As described in the Historic Preservation Trust Fund Application and related permitting process and as reflected in the resulting order and Certificate of Appropriateness.

EXHIBIT D

REQUEST FOR DISBURSEMENT FORM

Developer Name: _____ Request/Draw Number: _____
Address: _____ Document Number: _____
_____ Date Submitted: _____
Phone: _____ Tax ID #: _____
Historic Building Name: _____
Historic Building Address: _____

DEVELOPER PAYMENT REQUEST

<u>Type of Eligible Expenditure</u>	<u>Amount of Eligible Costs Submitted for this Draw Payment</u>	<u>Eligible Percentage</u>	<u>Allowable Amount for this Draw Payment</u>
Exterior Rehabilitation & Restoration	_____	x 50%	_____
Building & Fire Code Improvements	_____	x 20%	_____
Interior Rehabilitation & Restoration	_____	x 20%	_____
Total Amount Requested in this Draw	_____		
1 Grant funds received to date	_____		
2 Grant funds previously requested but not yet received	_____		

Disbursements will be provided based on 100% completion of the Building Improvements. Once the Building Improvements are 100% complete, a final inspection by the Historic Preservation Section must be performed.

Developer:

I hereby request an inspection to receive Payment #_____ for the amount of \$ _____. I certify that I have satisfactorily completed the necessary work to justify this request and that all bills incurred for labor used and materials furnished in making said repairs and improvements have been paid in full to this date.

Attached is a description of the work completed, the amount of payment requested by work item and such invoices, receipts, cancelled checks (or evidence that payment has cleared Developer's banking account), and other documents required by the DIA evidencing that the costs and expenses were actually incurred and paid for by the Developer and were expended on and pertain to the Work.

Developer Signature: _____ Date: _____

EXHIBIT E cont.

GOOD FAITH EFFORTS

Proposers who fail to meet the stated JSEB participation goals set forth in Section 'r' are required to submit with their proposal all efforts that would demonstrate a "Good Faith Effort" in the solicitation of subcontractors to meet the JSEB participation goals on this project.

The following categories, without limitations, may be utilized in considering Good Faith Efforts as outlined in Chapter 126, Jacksonville Ordinance code:

- (1) A contact log showing the name, address, and contact number (phone or fax) used to contact the proposed certified subcontractors, nature of work requested for quote, date of contact, person making the effort;
- (2) The description of work for which a quote was requested;
- (3) The amount of the quote given, if one was obtained;
- (4) The list of divisions of work not subcontracted and an explanation why not; and
- (5) Subcontractor information as requested by forms developed by the Department.

NOTE: The City will investigate and verify information submitted in determining Good Faith Effort and will compare the same with the performance of other proposers' attempts to meet the participation goals defined herein.

SOLICITATION EFFORTS - Should include your efforts to solicit quotes, through all reasonable and available means, the interest of all certified firms who have the capability to perform the work of the contract. The bidder should ensure that the requests are made within sufficient time to allow JSEB firms to respond. The contractor should take the initiative to contact firms which have indicated an interest in participating as a subcontractor/supplier.

ADDITIONAL EFFORTS - Utilizing the services offered by the City of Jacksonville Small and Emerging Business Office for assistance with recruitment efforts. Contractors are encouraged to undertake and document any other efforts taken in their attempt to fulfill the project goal.

EXHIBIT E cont.

Work Type Number	Description of Work, Service or Materials		JSEB Firm Name	
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				
2.				
3.				
Comments:				
Work Type Number	Description of Work, Service or Materials		JSEB Firm Name	
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				
2.				
3.				
Comments:				
Work Type Number	Description of Work, Service of Materials		JSEB Firm Name	
Contact Name (First and Last)	Contact Date	Contact Method	Contact Results	Bid Amount
1.				
2.				
3.				
Comments:				



EXHIBIT F

**Year 1
Annual Survey 2020**

Send completed form to:
 Downtown Investment Authority
 Attn: Contract and Regulatory Compliance
 117 West Duval Street, Suite 310
 Jacksonville, Florida 32202
 Fax: (904) 255-5309
 Email: Jcrescimbeni@coj.net

Please complete the form below as it relates to the project for which you may be entitled to receive DIA or State assistance. Should you have any questions, please call John Crescimbeni, Contract and Regulatory Compliance Manger, at (904) 255-5306.

Company Name: _____

Mailing Address: _____

Primary Contact Name: _____

Primary Contact Title: _____

Phone: _____ Email: _____

Signature: _____ Date of Report: _____

Print Name: _____ Title: _____

As of December 31, 2020:

I. CAPITAL INVESTMENT INFORMATION

Project Land Costs	[3] \$
Project Structure Costs	[4] \$
Project Equipment Costs	[5] \$
Other Costs	[6] \$
Total Project Costs (sum [3] through [6])	\$

II. ASSESSED PROPERTY VALUE

Assessed Value of Property on 2020 Duval County Property Tax Bill:	
Real Property	[7] \$
Personal Property	[8] \$
Total Assessed Value (sum [7] & [8])	\$
Amount of Taxes Paid: \$	Date Taxes Paid:

