

ECONOMIC DEVELOPMENT AGREEMENT

Between and Among

**The Redevelopment Commission of the City of Franklin, Indiana,
The Board of Public Works and Safety of the City of Franklin, Indiana,
Franklin Development Corporation,
and
Franklin Gateway Development, LLC**

Paris Drive – Eastside Development

This Economic Development Agreement (the “Agreement”) is entered into as of the ____ day of _____, _____ (“Effective Date”), by and between the **Redevelopment Commission of the City of Franklin, Indiana** (“RDC”), as the governing body of the City of Franklin, Indiana Redevelopment District, the **City of Franklin, Indiana, by and through its Board of Public Works and Safety** (“BOW”), the **Franklin Development Corporation** (“FDC”), an Indiana non-profit neighborhood development corporation, and **Franklin Gateway Development, LLC** an Indiana limited liability company. (Collectively, the RDC, BOW, FDC, and Franklin Gateway Development, LLC are the “Parties”; the RDC and BOW are the “City”; and Franklin Gateway Development, LLC is the “Developer”.)

RECITALS

WHEREAS, the Developer proposes to develop approximately 12.6 acres located near the northwest quadrant of State Road 44/King Street and Interstate 65 into a mixed-use development consisting of a northern lot upon which will be constructed and operated a four-story, 91 room Upper Midscale hotel under the Hampton Inn & Suites by Hilton flag, which portion of the project will include capital investment of approximately \$13 million to start construction by in the fall 2018, and multiple out-lots to be developed for uses such as sit-down restaurants, coffee shops/gathering places, quick service restaurants, conference facilities, general retail, or future hotels. All of the Project will be subject to existing planning and zoning requirements and to a Covenants and Restrictions document approved by the Parties to be incorporated into the development. To market the property, Developer plans to upgrade Paris Drive (to be renamed) to city-standards, build internal roads for the development, provide for necessary storm water retention, and assure lots have access to utilities. Developer anticipates these infrastructure projects will be completed by June 1, 2020 (the “Completion Deadline”);

WHEREAS, the Project is located within the City’s Amended Integrated Economic Development Target Area (the “Area”), and will serve both the Area and the existing Allocation areas in the City;

WHEREAS, the Developer is willing to undertake the Project if the RDC and FDC will provide certain financial incentives for the Project as provided in this Agreement;

WHEREAS, in order to induce the Developer to undertake the Project, the RDC and FDC are willing to provide financial assistance for the Project in accordance with the terms and conditions provided within this Agreement;

WHEREAS, the Project to redevelop and revitalize the Property will: (i) bring additional capital investment to the Area; (ii) return underutilized and vacant space in the Area to its highest and best use; (iii) be of public utility and benefit as measured by the creation and retention of full time jobs; and (iv) increase the level and diversity of the Area's tax base, all of which help to strengthen the economic well-being of the Area and encourage additional growth in the Area; and

WHEREAS, entering into this Agreement and providing funds to the Developer to induce it to undertake the Project and continue future Project operations in the Area fosters and encourages economic development, promotes the use of the Property in a manner that best serves the interest of the City and its citizens, and promotes significant opportunities for gainful employment, all of which help the RDC accomplish its statutory purposes.

NOW THEREFORE, in consideration of the terms and conditions contained in this Agreement, the RDC, FDC, and the Developer agree as follows:

1) Definitions. As used in this Agreement, the following terms shall have the below meanings unless the context clearly otherwise requires:

“Approved Plans” shall mean the Plan Packet submitted by the Developer to the Review Panel and reviewed and approved in accordance with the Plan Refinement Process of Section 2, including approvals required by the City of Franklin Department of Planning and Zoning.

“Building Plan” shall mean (a) the Site Plan / Plat for the entire Property, (b) the Construction Design, (c) a written commitment as to the specific name, corporate flag, and specific identification of the hotel end-user; and (d) a written commitment of type of users for lots located within the Property that are not used as a hotel.

“Construction Budget” shall mean a budget projecting the cost of the Project in accordance with the Approved Plans and reflecting Final Completion of the Project by the Developer by the Completion Deadline.

“Approved Plan Change” shall mean a change executed by the Review Panel and the Developer finalizing the inclusion into the Approved Plans of a change proposed in a Change Request by the Developer that is approved by the FDC Review Panel.

“Capital Commitment” for Developer shall mean at least Thirteen Million Dollars (\$13,000,000.00) of Eligible Expenses.

“Change Request” shall mean a written request by the Developer for a change to the Approved Plans.

“Construction Schedule” shall mean a schedule for construction of the Project in accordance with the Approved Plans, which schedule shall reflect Final Completion of the Project by the Developer by the Completion Deadline.

“Eligible Expenditures” means the improvements and costs of the Project listed on Exhibit “A”, attached hereto, and any other costs approved for expenditure. All such

costs must be costs generated by and attributable to third-party vendors. An Eligible Expenditure billed to an Affiliate Entity of Developer will be an Eligible Expenditure to the extent of the third-party cost and not include any mark-up or profit margin for the Developer's Affiliate Entity.

"Final Completion" shall mean that the redevelopment and revitalization of the Property has been substantially completed according to the terms and conditions set forth in the Approved Plans (which shall include each individual parcel included within the Property, specifically including Parcel D, formerly known as the 'Red Carpet Site'), including completion of earthwork, completion of internal roads and other public improvements the out-lots are ready to be marketed and sold, access to all parcels is available.

"Laws" shall mean all applicable federal, state, and local laws, statutes, and/or ordinances, and any applicable governmental or judicial rules, regulations, guidelines, judgments, orders, and/or decrees.

"Project Documents" means the Agreement and the documents referenced in the Agreement to be executed as part of the fulfilling of the Agreement.

"Property" means the real estate and improvements in Franklin, Indiana, depicted on Exhibit "B" attached hereto, and generally includes the following: Parcel A – currently owned by J Enterprises Inn of Nashville, LLC, an affiliate of the Developer wholly owned by Developer's principals; Parcel B – currently owned by Triple T Property Investment, Inc.; Parcel C – currently owned by PAD Commercial, LLC; Parcel D – currently owned by the City of Franklin, Indiana; and Parcel E – currently owned by East King Street, LLC. The Developer is responsible for assembling (owning or otherwise controlling) the parcels, at its cost. With respect to Parcel D (formerly, the 'Red Carpet Site'), the parties agree that the City of Franklin, Indiana will not transfer ownership of this parcel to Developer until the Project's Covenants and Restrictions are approved and recorded with the Recorder of Johnson County, Indiana; during development of the Project, Developer and the City of Franklin will cooperate to reach an agreement that will permit Developer to enter upon and improve the parcel prior to the transfer of ownership.

"Redevelopment Statute" means Ind. Code § 36-7-14 and Ind. Code § 36-7-25 and all related and supplemental statutes as in effect on the Effective Date of this Agreement.

"Required Permits" shall mean all permits required by the Laws, for construction and use of the Project.

"Review Panel" shall mean a committee comprised of the FDC President (or designee), the RDC President (or designee), and the Mayor of the City of Franklin, Indiana (or designee) (the "Review Panel").

"Site Plan" shall mean the overall site development plan for the Property, depicting the positioning of all exterior improvements on the Property as they are planned to exist after the Project is complete, and identifying new exterior improvements or renovations to be accomplished as part of the Project.

“Sources and Uses Statement” shall mean a document illustrating the sources and uses of funding required for the Project, including those amounts which are expected by the Developer to be funded by the RDC and FDC.

“Tenant” shall mean the person(s) and entity(ies) that operate a business as a going concern on the Property under a lease or similar agreement with the Developer. In the event there is no such operator, the term “Tenant” shall mean the Developer.

2. Due Diligence / Plan Refinement Process. Subsequent to the parties’ execution of this Agreement, the Developer shall undertake a comprehensive inspection, analysis, and review of the Property, the Project, and the likely associated schedule and costs.

2.1 Conditions Precedent to Developer Obligations. Developer shall have one hundred twenty (120) days (the “Due Diligence Period”) to examine the Property and determine technical and economic feasibility of the Project. During the Due Diligence Period, Developer may (a) conduct due diligence studies including such physical inspections and other tests, (b) obtain information, analysis, proposals and contracts from contractors, architects, consultants and other experts, examinations, studies, title and survey reviews and appraisals of the Property as Developer shall deem necessary, (c) collect further information on Project schedule and costs, and construction requirements and timing, and other information as needed, (d) pursue any type of zoning, site plan approvals and permits as may be required for Developer to utilize the Property for the Project, (e) acquire leases, operating agreements or other commitments pertaining to operation of the tenant spaces; and (f) determine overall economic feasibility of the Project in Developer's exclusive discretion. Developer may in its sole discretion and for any reason determine that the Project is not feasible or that Developer no longer desires to proceed with the Project and terminate this Agreement without liability or penalty at any time prior to the conclusion of the Due Diligence Period.

2.2. Exclusivity of Dealing. During the Due Diligence Period and any extensions, the RDC and FDC will deal exclusively with the Developer relative to the Property, and will not solicit, accept, or consider other proposals. However, the parties acknowledge that as to Parcel D, currently owned by the City of Franklin, Indiana, an existing agreement exists between the City of Franklin, Indiana and Triple T Property Investments, Inc. that provides, among other things, that the parcel may be transferred to Triple T Property Investments, Inc. under certain conditions, and the parties understand that the City of Franklin, Indiana is bound to honor said agreement until and unless assigned to Developer or released, which may require Developer to enter into an agreement with both Triple T Property Investment, Inc. and the City of Franklin, Indiana relative to ownership and control of this Parcel D.

2.3. Extension of Due Diligence Period. Developer shall have the option and right to extend the Due Diligence Period past one hundred twenty (120) days for an initial extension period of sixty (60) days provided the Plan Packet has been submitted to the Review Panel, and a second extension period of sixty (60) days, provided Construction Plans have been submitted for state building permit approval.

2.4. Plan Packet. Within sixty (60) days of the Effective Date, the Developer shall submit its proposed Building Plan, Construction Schedule, Construction Budget, and Sources

and Uses Statement (all of which constitute the “Plan Packet”) to the Review Panel for review and approval. The Review Panel shall, after consultation with the Developer, provide notice of its approval or disapproval of the Plan Packet within ten (10) calendar days after receipt of the Plan Packet from the Developer. The Review Panel, in its sole and absolute discretion, may exercise reasonable discretion in approving or disapproving the Plan Packet, consistent with this Agreement, the Covenants and Restrictions, and the building permit and zoning requirements. If the Review Panel disapproves of the Plan Packet, the Developer and the Review Panel shall meet to discuss the Review Panel’s concerns and options for modifying the Plan Packet to make it acceptable to the Review Panel.

2.5. Conduct of the Review Panel. Any Plan Packet Change Request submitted by the Developer shall be reviewed by the Review Panel, which may utilize the services of architects, engineers, and other persons possessing design expertise and experience in evaluating the Plan Packet and any Plan Packet Change Request. No presumption of any conflict of interest or impropriety shall be drawn or assumed by virtue of the fact that any of such consultants are affiliated with the RDC or FDC.

2.6. The Developer and Review Panel will work together to refine the Plan Packet, and if modifications to this Agreement are required, will advise the FDC and RDC of same, and cooperate in their efforts to reach a mutually agreeable modification of this Agreement.

2.7. Unless otherwise mutually agreed, the Plan Packet shall be completed, reviewed, and approved before the end of the Due Diligence Period, and if not, either party may terminate this Agreement.

2.8. Upon unanimous approval of the Plan Packet by the Review Panel, the Plan Packet will be deemed the Approved Plans (as hereinafter defined). If Parcel D (the Red Carpet site) is assigned to Developer, then approval of Plan Packet under the terms of this Agreement will also constitute approval of the development plan provided for in the City/Triple T agreement that pertains to Parcel D; in other words, the Developer is only required to submit one development plan for the entire Property (including all the Parcels), and will not be required to submit a separate development plan for Parcel D.

2.9. Plan Changes. If the Developer desires to make any material change to the Plan Packet, then it shall submit a “Plan Packet Change Request” to the Review Panel for review and approval. For purposes of this paragraph, a “material change” shall mean any change that deviates from the approved Site Plan, which shall be determined in the reasonable discretion of the Review Panel. Within ten (10) calendar days after the receiving a Plan Packet Change Request, the Review Panel shall deliver to the Developer written notice that it approves or rejects the Plan Packet Change Request; provided that: (i) the Review Panel shall not withhold its approval unreasonably; and (ii) if the Review Panel rejects all or any part of the Plan Packet Change Request, then such notice shall: (A) specify the part or parts that the Review Panel is rejecting; and (B) include the specific basis for such rejection. If the Review Panel approves a Plan Packet Change Request, then the Review Panel and the Developer shall execute a Plan Change. The Review Panel’s failure to timely approve or disapprove of any Plan Change Request shall be deemed an approval so long as such request(s) for approval expressly note(s) the Review Panel’s time for response therein

and that failure to timely respond is deemed approval. If not cured after written notice and reasonable opportunity during the term of this Agreement, material changes to the Approved Plans that are not identified in a Plan Packet Change approved by the Review Panel, may be deemed by the Review Panel to be a breach hereunder.

2.10. No Representations. Neither the RDC nor the FDC, nor any officer, employee, contractor, or agent thereof, shall be responsible in any way for any defects in the Approved Plans, or for any defects in any work done according thereto. Further, neither the RDC nor FDC makes, and shall not be deemed by virtue of any action of approval or disapproval taken by either to have made, any representation or warranty as to the suitability or advisability of the Approved Plans or their compliance with any Laws.

2.11. Required Permits. The Developer acknowledges that this Plan Refinement Process and the Plan Review Process is in addition to, and not in lieu of, any plan review or Required Permits required under applicable Laws, and it shall not be deemed a warranty or representation of any kind by the RDC or FDC or City that the Approved Plans comply with, or are approved under, applicable Laws. The Developer acknowledges that RDC and FDC and City cannot (and do not) guarantee that the Developer will be able to obtain the Required Permits or obtain the required approvals necessary from Local Zoning and/or statement requirements. Any changes sought by the Review Panel will be consistent with specifications to obtain Required Permits, and the Review Panel shall approve reasonable Plan Change Requests as needed to reflect any changes needed to obtain permits. The Developer shall be required to obtain all required approvals, permits, and reviews of the City of Franklin Department of Planning and Zoning before the plans are considered “approved”, as defined in Section 1.

3. Purchase or Control of Entirety of Property. If Developer elects to proceed at the conclusion of the Due Diligence Period (or earlier), Developer will purchase or obtain control of the entirety of the Property, either directly or through an intermediary entity wholly owned by the Developer’s principals. Developer will provide the RDC and FDC with a copy of all recorded deeds as soon as practicable after the closing. Developer acknowledges that neither the RDC nor FDC nor BOW has responsibility under this Agreement to assist Developer in the acquisition of ownership or control of the various parcels, other than as agreed relative to Parcel “D”. Otherwise, assemblage of the parcels is the Developer’s sole responsibility.

4. TIF Incentive. Subsequent to receipt of Developer’s documentation evidencing it has acquired ownership or control of the entirety of the Property and subsequent to the approval of the Approved Plans (which will include the specific type, name, corporate flag, and specific identification of the hotel end-user, the RDC agrees to grant Five Hundred Sixty Thousand Dollars (\$560,000.00) (the “TIF Incentive”) to the FDC, acting in its capacity as a neighborhood development corporation, for it to deposit into the Escrow Account discussed below and expend on Eligible Expenditures in order to construct, rehabilitate, or repair the Property. The FDC agrees to expend the TIF Incentive for the Project expenses consistent with this Agreement. The disbursement procedures described below in Paragraph 5.2 will govern disbursements

5. Escrow Account. Upon receipt of the TIF Incentive, the FDC shall deposit same (the “Escrowed Funds”) into an interest bearing escrow account, which may be invested only in

secure investments approved by both the RDC, FDC, and the Developer, to be held by an escrow agent to be subsequently agreed to by the Parties (the “Escrow Agent”), pursuant to a mutually agreeable escrow and control agreement (the substantially complete form of which is attached as Exhibit “D”) to be executed by the RDC, FDC, the Developer, and Escrow Agent at Closing.

5.1. Security Interest in Escrow Account / Mortgage on Property. In order to secure the Developer’s obligations under the terms of this Agreement:

5.1.1. Developer agrees to execute and deliver to the RDC a promissory note, payable on demand, to be secured by the mortgage referenced below (the substantially complete forms of the promissory note and mortgage are attached as Exhibits “E” and “F”, respectively) in favor of the RDC to secure the Developer’s performance under the terms of this Agreement, the RDC’s investment in same. Upon a demand made for payment, the Developer will replenish the Escrow Account by depositing the requested funds with the Escrow Agent, or, at the RDC’s election, by paying same directly to the RDC.

5.1.2. the Developer agrees to grant and convey to the RDC and FDC a security interest in the Escrow Account and Escrowed Funds in the amount of Five Hundred Sixty Thousand Dollars (\$560,000.00) (the Secured Amount); and

5.1.3. the Developer agrees to grant and convey to the RDC a first priority mortgage against Parcel D (the former Red Carpet Site) in favor of the RDC.

5.2. Disbursement of Funds. Subject to Section 5.3 below concerning the Completion Deadline, the FDC’s Escrowed Funds shall be disbursed only upon written approval by the RDC, FDC, and the Developer as follows, and upon satisfaction of the disbursement conditions below:

5.2.1. Disbursements from the Escrow Account shall only be for expenses incurred or paid for Eligible Expenditures consistent with the Approved Building Plan, unless otherwise approved by the RDC and FDC. Subject to the terms of this Agreement, disbursements may be made to the Developer as reimbursements for Eligible Expenditures paid by it to third-party vendors. Eligible Expenditures include costs incurred both before and after Closing.

5.2.2. To obtain the RDC and FDC’s approval for a disbursement of funds, the Developer shall submit to the FDC a written request for disbursement of funds accompanied by a copy of an invoice from a third-party vendor documenting the Eligible Expenditure eligible for payment or reimbursement and a payment request form (collectively, “Payment Request”), and the original Payment Request shall be delivered to the FDC in care of its President, the FDC’s Attorney, and the City’s Community Development Director. In the event the Payment Request is for a reimbursement to the Developer for Eligible Expenditures paid by Developer (or paid for by an Affiliate Entity of Developer) to a third-party vendor, the Payment Request shall include a copy of a cancelled check, receipt, or other evidence of such payment to the third-party vendor. A certification by the Developer of payment shall constitute evidence of payment for invoices under Ten Thousand Dollars (\$10,000.00). The copies of the Payment Request may be delivered via email.

5.2.3. Each Payment Request from the Developer is subject to the reasonable review and approval of the RDC and FDC and must include a certified statement from the Developer that the Eligible Expenditure was incurred for the redevelopment and revitalization of the Property, that the amount requested to be paid for the Eligible Expenditure is believed reasonable for the goods and/or services provided, that the goods or services referenced in the Payment Request have been received by the Developer, and that no part of the Payment Request was included in any prior Payment Request.

5.2.4. As part of each Payment Request by a general contractor after the first Payment Request, the Developer shall also provide executed lien waivers from the general contractor that issued the invoices included in the prior Payment Request, evidencing that such prior invoices have been paid. Lien waivers will not be required if (a) Developer utilizes a no lien contract for the Project, or (b) if the vendor or contractor has no lien rights, or (c) the amount of the cost or invoice is under ten thousand dollars (\$10,000). [The RDC, FDC, and Developer will establish a procedure for processing partial payments and/or handling a dispute with a contractor.]

5.2.5. The RDC and FDC or their representative may inspect the Property to sufficiently confirm the accuracy of the statements and representations made in connection with the Payment Request.

5.2.6. No Event of Default shall have occurred and remain uncured under this Agreement.

5.2.7. Limit on Frequency of Payment Requests. Unless otherwise agreed to by the FDC, Payment Requests shall be reviewed and approved once a month in accordance with the FDC's normal monthly claims approval process. Provided a proper Payment Request is executed and delivered at least seven days prior to the FDC's regular monthly meeting, the FDC will consider the Payment Request at such regular monthly meeting.

5.2.8. Developer's Election to Direct Escrow Monies to Liquor Store Demolition: The Developer may elect to direct up to Two Hundred Fifty Thousand Dollars (\$250,000.00) of the Escrowed monies to partially offset the cost of purchasing, demolishing, cleaning, and otherwise preparing Parcel E (the southernmost parcel of the Property) for redevelopment, and upon a jointly-issued disbursement request from the RDC, FDC, and Developer to the Escrow Agent, an amount not to exceed Two Hundred Fifty Thousand Dollars (\$250,000) may be withdrawn from the Escrow Account and delivered to Developer for this Parcel E work.

5.2.9. Developer must be in compliance with all local, state, and federal requirements, including, but not limited to, all state and local zoning, building, and development regulations, including permitting and code enforcement.

5.3. Completion Deadline. Notwithstanding any other provision of this Agreement to the contrary, in the event any Escrowed Funds remain unexpended on the Completion Deadline, such remaining Escrowed Funds shall be immediately disbursed by the

Escrow Agent to the FDC, and upon such final disbursement, the Escrow Agent is absolved of further responsibility. Developer shall have no claim or right to any remaining Escrowed Funds deposited by the FDC unless and only to the extent the Developer has actual damages from a breach by the RDC or the FDC.

6. Good Faith Purchasing Commitment. The Developer agrees to make commercially reasonable efforts to purchase supplies and materials from or make bidding opportunities available to qualified, price-competitive suppliers located or residing in the City of Franklin.

7. Compliance Report. The Developer agrees to file a written Annual Report (“Annual Report”) with the FDC for each of the fiscal years ending during the term of this Agreement (the “Reporting Year”).

7.1. The written Annual Report shall include the following:

7.1.1. The amount the Developer has expended to date on the Project.

7.1.2. The assessed value increase generated by the Project.

7.1.3. The real property taxes and assessments paid and attributable to the Property in the Reporting Year, along with a copy of the tax bill.

7.1.4. A list of the Tenants occupying the Property, the total rentable square footage within the Property, and the percentage of the rentable square footage that was leased during the Reporting Year.

7.1.5. To the extent reasonably obtainable, the number of full-time equivalent employees employed on the Property on the Effective Date of this Agreement, the number of full-time equivalent employees employed on the Property at the end of the Reporting Year, and the difference between those numbers.

7.1.6. To the extent reasonably obtainable, the average hourly wage (with salaried positions converted to hourly wage) of the employees employed on the Property on the Effective Date of this Agreement and the average hourly wage (with salaried positions converted to hourly wage) of the employees employed on the Property at the end of the Reporting Year.

7.1.7. Whether any portion of the business operations has closed or been transferred to a location outside of Franklin, Indiana.

7.1.8. The general status of and future expectations for the Project.

7.1.9. A certification of the accuracy of the information provided, to be signed by the highest executive officer of the Developer as follows: “I hereby certify, subject to the penalties for perjury, that, after due inquiry, I have personal knowledge of the subject matter covered by this Annual Report and that the representations in this Annual Report are to my knowledge true in all material respects.”

8. Restrictions on Tax Abatement, Tax-Exempt Treatment and Tax Increment Financing as to Parcel D. Developer covenants and agrees that until the 25th anniversary of the Effective Date of this Agreement, neither Developer nor any successor interest holder in or to Parcel D (the former Red Carpet site) (including, without limitation, any tenants) shall seek to have Parcel D, or any portion thereof, be exempt from real estate taxes or seek to have the real estate taxes assessed abated. For the avoidance of doubt, the foregoing restriction shall apply regardless of whether such party is entitled to any tax abatement or reduction as a matter of their tax status (e.g. 501(c)(3) entities) or otherwise. In the event of a breach of this paragraph, Developer shall be required to pay to the RDC payments-in-lieu of taxes equal to what the property taxes otherwise would have been, unless prior written consent of the RDC is obtained. Further, the parties acknowledge that Parcel D, by prior agreement between the BOW and Johnson County Government, will not be included within an allocation area for purposes of collecting tax increment. The parties further agree to deed restrictions relative to these specific restrictions, whether in the recorded Covenants and Restrictions or otherwise.

9. Representations and Warranties of Developer. The Developer represents and warrants to the RDC and FDC as follows:

9.1. It is duly organized and validly existing under the laws of the State of Indiana, and the Agreement is the legal, valid, and binding obligation and enforceable against it in accordance with its terms.

9.2. The execution, delivery, and performance by the Developer of the Agreement are within its corporate or entity powers, have been duly authorized by all necessary corporate or entity action, and do not (i) conflict with, or result in a breach of, any provision of its Articles of Incorporation and Bylaws, or similar entity documents; (ii) require any approval or consent of any other person (including, without limitation, any shareholder); (iii) contravene any law, rule, or regulation of the State of Indiana or of the United States, or any order, writ, judgment, injunction, decree, determination, or award presently in effect that affects or binds it or any of its properties; (iv) conflict with or result in a breach of or default under any indenture, loan, credit agreement, or any other agreement or instrument to which it is a party in respect of indebtedness for money borrowed; or (v) result in the creation or imposition of any lien, security interest, or other charge or encumbrance upon any of its properties pursuant to any such indenture, agreement, or instrument, except pursuant to or as permitted by the Agreement.

9.3. It has received no notice of any action, suit, or proceeding at law or equity, or before or by any federal, state, local, or other governmental departments, commission, board, bureau, agency, or instrumentality, domestic or foreign, pending or threatened against it or its properties that, if determined adversely, would be a material adverse occurrence, and it is not in default with respect to any final judgment, writ, injunction, decree, rule, or regulation of any court or federal, state, local, or other governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, that constitutes a material adverse occurrence.

10. Additional Duties of the Developer. The Developer agrees that until Final Completion, it shall:

10.1. Promptly pay and discharge all taxes, assessments and governmental charges which may be lawfully levied, assessed or imposed upon the Property, or upon the Developer's income or profits, and all lawful and undisputed claims for labor, material and services which, if unpaid, might become a lien or charge against the Property. In the event of a good faith dispute as to a claim for labor, material or service, Developer retains its rights to withhold such payment and dispute the amount, and to provide the FDC with assurance of protection of the Property from a lien or charge against the Property;

10.2. Permit with reasonable notice any authorized representative of the FDC or the City, including but not limited to its attorneys and inspectors, to enter upon and inspect and examine the Property at reasonable times during normal business hours utilizing safe construction area precautions;

10.3. Give prompt written notice to the FDC of any process or action taken or pending whereby a third-party is asserting a material claim against the Developer or any of its assets;

10.4. Pay when due all liabilities, including trade accounts, in accordance with regular terms, except for claims contested in good faith by appropriate proceedings and

10.5. Comply with all local, state, and federal requirements, including, but not limited to, all state and local zoning, building, and development regulations, including permitting and code enforcement.

11. Representations, Warranties, and Covenants of the RDC and FDC and BOW.

11.1. The RDC and FDC represent and warrant, subject to all applicable legal requirements, as of the date hereof, that (i) they have the requisite power, right and legal authority to execute, deliver and perform their obligations under this Agreement and have taken all action necessary to authorize the execution, delivery, performance and observance of their obligations under this Agreement, and (ii) this Agreement, when executed and delivered by duly authorized representatives of the RDC and FDC, will constitute the legal, valid and binding obligation of the RDC and FDC, enforceable against the RDC and FDC in accordance with its terms. The BOW warrants that it has title to Parcel D but that said Parcel is subject to an agreement with Tripe T Property Investment, Inc., as referenced in Section 2.2.

11.2. The RDC and FDC covenant and agree to take or cause to be taken (and shall cooperate with the Developer to enable it to take or cause to be taken) all actions reasonably necessary under statutes, regulations and rules applicable to the Project, and to execute and deliver or cause to be executed and delivered such documents as may be reasonably necessary under such statutes, regulations and rules, to assist and permit the Developer to undertake and complete the Project.

12. Events of Default.

12.1. Any one (1) or more of the following shall constitute an "Event of Default" hereunder:

12.1.1. Dissolution, liquidation, or termination of the business of the Developer; assignment by the Developer for the benefit of its creditors; appointment of a receiver or a trustee for the Developer or any of their assets, which appointment is consented to or, if not consented to, is not removed or discharged within sixty (60) days after such appointment; or the filing by the Developer of a petition for relief under the United States Bankruptcy Code, which petition is consented to, or, if involuntary, remains un-dismissed for sixty (60) days after such filing; and

12.1.2. The initiation of any action or proceeding by any federal, state or local governmental department, agency or instrumentality to seize any assets of the Developer, including but not limited to the Property pursuant to 18 U.S.C. Sec. 1963, 21 U.S.C. Sec. 853, 21 U.S.C. Sec. 881, I.C. 34-24-1-1 et seq. or any similar federal, state or local laws and/or regulations as such laws or regulations may be amended, modified or supplemented from time to time.

12.1.3. Material breach of a duty or obligation imposed by the terms of this agreement.

13. Suspension of Obligations Upon Uncured Event of Default.

13.1. Upon an uncured Event of Default by Developer hereunder, the FDC may suspend its obligation to fund any further payments or approve any disbursements otherwise provided for hereunder.

13.2. Upon an uncured Event of Default by the RDC or FDC hereunder, Developer may suspend its obligation to perform under the terms of the parties' agreement.

14. Mutual Assistance. The parties agree, subject to further proceedings required by law, to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the case of the RDC, the adoption of resolutions), copies of which will be provided to all parties, as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement, and to aid and assist each other in carrying out said terms, provisions and intent.

15. Submission Of Disagreements To Mediation. In the event the Parties disagree as to any material matter (such as but not limited to whether a default has occurred, whether one Party has a duty to act or a duty to refrain from acting, or whether an ambiguity exists as to the scope and terms of the Parties' agreements), the dispute will be submitted to non-binding mediation under the Indiana rules of alternative dispute resolution.

16. Breach. Before any failure of any party of this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform such obligation and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within thirty (30) days of the receipt of such notice. If after said notice, the breaching party fails to cure the breach, the non-breaching party may seek any remedy available at law or equity, subject

however to compulsory non-binding mediation.

17. Remedies and Boilerplate. All remedies shall be reasonably tailored to alleviate actual damage, and not cause forfeiture of value nor a loss to one Party disproportionate to the amount required to remedy actual harm to the other Party. Protective boilerplate provisions will be interpreted to be bilateral.

18. Cumulative Rights and Remedies. All rights and remedies of the Parties herein specified are cumulative and in addition to, and not in limitation of, any rights and remedies that the Parties may have pursuant to the Project Agreement, by law or in equity, or otherwise.

19. Notices. All notices required or permitted to be given hereunder shall be in writing and delivered either in person, by a nationally recognized overnight delivery carrier, or by certified mail, return receipt requested, with additional copy delivered by email, if such delivery information is known by the sender, to the parties at their respective addresses set forth below, or at such other address as notice of which may have been given to the other party.

To the RDC:

Franklin Redevelopment Commission
c/o President
70 East Monroe Street
Franklin, Indiana 46131
Phone No: 317-736-3631
Email: klinke@franklin.in.gov

To Developer:

Franklin Gateway Development, LLC
Attn: Janeen M. Sprague
430 2nd Street
Columbus IN 47201
Phone No: 812-379-2173

To the FDC:

Franklin Development Corporation
c/o Community Development Director
70 East Monroe Street
Franklin, Indiana 46131
Phone No: 317-736-3631
Email: klinke@franklin.in.gov

To the BOW

Board of Public Works and Safety
c/o Mayor, City of Franklin
70 East Monroe Street
Franklin Indiana 46131
Phone No.: 317-736-3631

Any notice given in accordance with this Section shall be deemed to have been duly given or delivered: a) on the date the same is personally delivered to the recipient as evidenced by a duly acknowledged written receipt, b) on the date the same is received by the recipient as evidenced by the returned postal receipt, c) on the date the recipient delivers a non-automated email message acknowledging receipt of the notice by email or otherwise, or d) on the date following the day the notice is timely delivered to a nationally recognized overnight delivery carrier for delivery on the next business day.

20. Miscellaneous.

20.1. Entire Agreement. This Agreement, together with all agreements referenced herein and any other certificates and documents executed in conjunction herewith, constitutes the entire agreement of the parties and supersedes any and all prior agreements, arrangements, and understandings relating to the subject matter hereof. All recitals herein and exhibits, schedules and related agreements attached hereto are incorporated herein by this reference and expressly made a part of this Agreement. Neither this Agreement, nor any term hereof, may be changed, modified, altered, waived, discharged, or terminated, except by written instrument.

20.2. Binding Agreement. This Agreement shall bind and inure to the benefit of the parties and their respective legal representatives, heirs, successors, and assigns.

20.3. Other Entities. The EDA with Developer will be non-assignable by Developer without the consent of the RDC and FDC and BOW. The RDC and FDC agree that Developer may enter agreements with and utilize or partner with other entities which are wholly owned by Developer, or wholly owned by Developer and its owners, (such entities known as "Affiliate Entities" to (a) work on the Project development, (b) hold the Property title and serve as lessor of the Property, and (c) hold the hotel and/or housing assets and operate the business located on the Property. Developer will remain responsible under the EDA for the completion of all duties imposed under the EDA. Developer may form a subsidiary LLC to accept and own title to the Property at Closing and this entity may later operate as the owner and lessor of the Property when it is occupied. Developer and its owners may also form and work with other affiliated entities to assist with the Project development.

20.4. Duplicates. This Agreement shall be executed in at least three (3) duplicates, with at least one originally executed version for each party. This Agreement may be executed in any number of counterparts, but all of such counterparts together shall constitute one and the same Agreement. For purposes of this Agreement, signatures by facsimile (including e-mail with a .pdf copy of the executed instrument attached) shall be binding to the same extent as original signatures. When a counterpart is delivered by facsimile, the original shall be delivered promptly after delivery of the facsimile counterpart.

20.5. Headings. The section headings and titles herein are solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

20.6. Amendment. Neither this Agreement, nor any term hereof, may be changed, modified, altered, waived, discharged, or terminated, except by written instrument.

20.7. No Waiver Provision. Except as expressly set forth herein to the contrary, no waiver of any provision of this Agreement shall be deemed to have been made unless expressed in writing and signed by the party charged therewith. Failure to insist upon strict adherence to any term of this Agreement shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

20.8. Time of Essence. Time is of the essence in this Agreement. The parties shall have the right to treat all time deadlines contained or referenced in this Agreement as material and to exercise such remedies as may be provided in this Agreement, at law, in equity, or otherwise, in the event such time deadlines are not met.

20.9. Computation of Time. In computing a time period prescribed in this Agreement, the day of the act or event shall not be counted. All subsequent days, including intervening weekend days and holidays, shall be counted in the period. The last day of the period so computed is to be included unless it is a weekend day or a legal holiday under Indiana law, in which case the period shall be extended to the next day that is not a weekend day or legal holiday.

20.10. Severability. If any provision of this Agreement is found to be invalid, illegal, or unenforceable, the balance of this Agreement shall remain in full force and effect, and if any provision herein is held to be inapplicable to any person or circumstance, it shall nevertheless remain applicable to all other persons and circumstances, unless the result thereof would result in an unjust modification of the balance of rights and obligations hereunder.

20.11. Governing Law. This Agreement shall be governed by and construed exclusively in accordance with the laws of the State of Indiana. The Parties hereto: (a) irrevocably consent to the exclusive jurisdiction of the courts of the State of Indiana; and (b) irrevocably waive any and all objections to such consents. Each party shall be responsible for its own legal expenses for review of this Agreement or in pursuit of any claim related to or arising under it.

20.12. Consents. No consent, agreement, or approval shall be effective unless in writing signed by the party from whom such consent, agreement, or approval is required.

20.13. Interpretation. The Agreement shall be liberally construed to accomplish the intent and purpose of the Agreement. When applicable, use of the singular form of any word shall mean or apply to the plural, and the use of the masculine form of any word shall mean or apply to the feminine, and vice versa.

20.14. No Agent Liability. No official, director, officer, employee or agent of the RDC or FDC or BOW shall be charged personally by Developer, its employees or agents, with any liabilities or be held personally liable to Developer under any term or provision of this Agreement or because of the execution by such party of this Agreement or because of any default by such party hereunder. No official, director, officer, employee or agent of Developer, its employees or agents, or Affiliate Entities, shall be charged personally with any liabilities by the RDC or the FDC or the BOW or be held personally liable to the RDC or the FDC or the BOW under any term or provision of this Agreement or because of the execution by such party of this Agreement or because of any default by such party hereunder.

20.15. Review by Counsel. The parties acknowledge that each has had the opportunity to be represented by counsel in this matter, and, for purposes of the rule of

contract interpretation that construes a document against its drafter, the parties agree that neither party nor its counsel shall be considered the drafter hereof.

20.16. No Third-Party Benefit. Nothing herein expressed or implied is intended to confer on any person other than the parties hereto or their respective successors, assigns, and legal representatives, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

20.17. Additional Documents. The parties hereto shall execute and deliver any and all consents, releases, authorizations, transfers and other documents as may be reasonably required to carry out the provisions of this Agreement and to fully accomplish its purposes and intents.

20.18. No Partnership/Joint Venture. It is hereby acknowledged by the RDC, FDC, BOW, and Developer that the relationship between and among them created hereby and by any other document executed in connection with this Agreement is that of donor and donee, and is not intended to be and shall not in any way be construed to be that of a partnership, a joint venture or that of principal and agent.

20.19. Force Majeure. Each party shall be excused for any delay in performing any of its obligations under this Agreement, if such delay is caused by an event of Force Majeure. "Force Majeure" shall mean any act of God; any accident (including equipment failure, HVAC failure or electricity outage for extended periods of time, destruction or damage to equipment not caused by the party relying upon such circumstance or event); any explosion; any fire, flood, ice, earthquake, lightning, tornado or other severe weather condition or calamity; any civil disturbance, labor dispute or labor or material shortage; any sabotage or act (or specific, imminent threatened act) of terrorism; any act of a public enemy, uprising, insurrection, civil unrest, war or rebellion; or any action or restraint by court order or public or governmental authority or lawfully established civilian authorities. In an event of Force Majeure, an extension of time equal to one day for each day of delay due to Force Majeure shall be provided.

IN WITNESS WHEREOF, the RDC, FDC, and Developer have caused this Agreement to be executed by their authorized officers and/or representatives, all as of the date first above-written.

Developer

Franklin Gateway Development, LLC

By: _____

Printed: _____

Title: _____

**CITY OF FRANKLIN, BY AND THROUGH THE
FRANKLIN REDEVELOPMENT COMMISSION**

By: _____

Robert D. Heuchan, President

By: _____

Brian J. Deppe, Secretary

Franklin Development Corporation

By: _____

Jeffrey R. Mercer, President

By: _____

Kim Minton, Secretary

**CITY OF FRANKLIN, BY AND THROUGH THE
BOARD OF PUBLIC WORKS AND SAFETY**

By: _____

By: _____

By: _____

Exhibit A

Description and Itemization of “Eligible Expenditures”

Sitework, including demolition

Roadway Design/Construction

Parking Design/Construction

Building Design/Construction

Exhibit "B"

Insert Legal Description

Insert Exhibit “C”

Pro Forma Escrow and Control Agreement

Insert Exhibit “D”

Insert Pro Forma Promissory Note

Exhibit "E"

Insert Pro Form Indemnifying Mortgage