DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

Economic Development Division

m e m o r a n d u m

TO: Laurel Lunt Prussing, Mayor

FROM: Elizabeth H. Tyler, FAICP, Director, Community Development Services

DATE: October 21, 2010

SUBJECT: **Redevelopment Agreement with Xiao Jin Yuan (209 South Broadway Avenue – Former Historic Lincoln Hotel)**

Introduction and Background

The City of Urbana has been approached by Xiao Jin Yuan regarding his interest in purchasing and renovating the former Historic Lincoln Hotel at 209 South Broadway Avenue. The property consists of a vacant former hotel and conference center, which is currently owned by Marine Bank of Springfield and was acquired as part of a foreclosure on the previous owners, Urbana Enterprise LLC.

Mr. Yuan initially approached the City in February 2010 regarding interest in the property. Since that time Mr. Yuan has negotiated with representatives of Marine Bank of Springfield regarding the purchase, and with the City related to a redevelopment agreement (Exhibit A Draft Ordinance with Attached Agreement). As the property is located within Tax Increment Finance District 1, a TIF redevelopment agreement is possible to facilitate the proposed acquisition and renovation. The age and condition of the building make a redevelopment agreement necessary for the financial feasibility of the project.

Mr. Yuan is the owner and operator of a successful Hampton Inn in Crescent City, California. That project was made possible through a development agreement with Crescent City, and an approval process with the California Coastal Commission. The former City Manager of Crescent City has indicated that Mr. Yuan performed admirably and delivered as promised in that agreement. While Mr. Yuan has indicated he will retain ownership of the Hampton Inn, he has also indicated that as part of this project, he plans to relocate his family to the area and will personally oversee the renovation and operation of the former Historic Lincoln project.

The proposed project would involve a complete renovation of the 128-room hotel and conference center to allow for modern hotel amenities while honoring the historic character of the property.

The planned renovations will be undertaken with the intent to re-brand the property as an upscale boutique hotel and conference center, and would include support for local landmark status. The Developer plans to fund the entire purchase and the private portion of the renovation of the hotel with cash and is not seeking institutional financing at this time. Mr. Yuan's estimated investment in the property, including purchase price and renovations will be a minimum of $1,850,000.

The renovation project would be consistent with the planning framework established by the various City plans covering this area. This hotel use is consistent with past use of the property and is permitted by right as part of the B-4 zoning designation for this property. This project is also consistent with the 2005 Comprehensive Plan as this property is designated as Central Business, which calls for TIF assistance to facilitate redevelopment and reuse projects in the area. The Tax Increment Finance District #1 Plan specifically lists Historic Lincoln Hotel as a Private Development Assistance project, anticipating the need for TIF assistance as part of a renovation of the hotel. In addition, while this property is in TIF 1, it is immediately adjacent to the boundary of TIF 2. As such, the Historic Lincoln Hotel is also listed as a Private Development Assistance project in TIF 2, anticipating that a transfer of funds from TIF 2 to TIF 1 would be necessary for the project (as permitted by state law). The 2002 Downtown Strategic Plan identifies the Historic Lincoln Hotel (Jumer's at the time of the plan) as an important center of activity in downtown. Finally, this project supports several February 1, 2010, Urbana City Council and Mayor Goals including:

- Restore Historic Lincoln Hotel as a viable hotel and conference center while respecting its historic character. Work with developers to promote revitalization through available initiatives, fee waivers and tax credits for local and national landmark buildings.
- Enhance historic preservation and preserve older housing stock

Additionally, in recent weeks, a consortium of local property owners and developers have begun to discuss the potential of redeveloping and infilling portions of the Lincoln Square Village superblock and nearby block faces as a Mobility Enhanced Development that could potentially augment the mall, hotel, municipal parking deck, and other properties with additional residential, commercial, and transit oriented uses – all with a focus on sustainability, economic development, and historic preservation goals. This vision is arising from discussions initiated through the Downtown Plan Update process and would involve potential financing from the Federal Transit Administration (FTA), historic preservation tax credits, and other sources. The redevelopment of the Historic Lincoln Hotel as set forth in the attached redevelopment agreement will be an important first step in this larger redevelopment vision. The Developer has indicated his willingness to work with these development interests, the City, and other participating agencies in realizing this larger vision.

Overall, the project is a positive reuse of a historically important vacant building that is consistent with the planning framework established by the City. The approval of this agreement will facilitate private and public investment that will allow for the immediate stabilization of the

property and correction of current deficiencies, including but not limited to re-roofing to prevent additional water damage, repair of deficiencies in the pool area, elevator repairs, and other needed improvements. This agreement will also facilitate this property becoming a local landmark. In the absence of this agreement and renovation project, the condition of the building will continue to deteriorate. The long term viability of the build is uncertain if the building were to remain vacant for an extended period of time.

Discussion

The attached ordinance approves a redevelopment agreement with Xiao Jin Yuan for property located at 209 South Broadway Avenue (Exhibit B Location Map). This agreement provides for City assistance through TIF 1 and TIF 2 to help facilitate the purchase and renovation of an underutilized vacant building which was formerly a full-service hotel and conference center. It is estimated that this project, when completed, will create at least 60 new jobs related to the ongoing operation of the hotel, conference center, and restaurant. In addition, the Developer has committed to using local labor and professionals throughout the renovation process.

There are several items of note in the agreement. Section 3.1 Conditions Precedent outlines the items the Developer must complete prior to receiving any funding from the City. These items include purchasing the property, submitting a Registered Preference form supporting local landmark status within 21 days of the purchase, preparing and obtaining City approval for renovation plans for the building, providing a project budget for the renovation, providing evidence of the ability to fund the project, and providing a project schedule.

Once these conditions are met the City is committing a total of $1,450,000 in TIF 1 and TIF 2 funds over five years for the renovation of the property. The first component of City funding is outlined in Section 4.1(a) and includes up to $650,000 in the first year for improvements that need to be completed immediately. Examples of items to be completed with this funding include roof work, deficiencies in the pool area, elevator work, entrance upgrades, and other items to be approved by the City. In order to protect the City's investment, this funding is provided in the form of a loan to be forgiven upon the opening of the hotel, or to be repaid to the City if the property is sold prior to opening. The second component of City funding is outlined in Section 4.1 (b), which allows for up to $200,000 in TIF funds per year for four years for improvements to be approved by the City and completed over the five-year agreement period. This $800,000 ($200,000 per year for four years) is not available to the Developer until the hotel is open for business. All improvements to be funded with TIF funds will be approved by the City and must be Eligible Redevelopment Projects Costs as outlined in the TIF Act. The Developer has requested this level of City investment in order to make the improvements necessary to make the hotel viable and because the current lending environment prohibits bank financing for the project.

Section 4.3 of the agreement relates to local historic landmark status. As mentioned above, the

Developer will submit a Registered Preference form in support of local landmark status. In return, the City will consider a local landmark designation with the original hotel as "Contributing" and the new section as "Noncontributing". Additionally, the City agrees to waive all permit fees for the project consistent with City policy for local landmarks. Finally, the City agrees to not withhold a Certificate of Appropriateness for any roof replacement where materials are selected in consultation with the City.

In return for City assistance, the Developer has committed to purchase and renovate the historically important building and to rebrand the property as an upscale boutique hotel. The agreement calls for the building to be ready for occupancy by November 1, 2011, however, Mr. Yuan intends to be open for business prior to that date. While Mr. Yuan has indicated he will form a team of professionals after closing on the property to refine his renovation plan and budget, he is estimating that his private investment in the project will be a minimum of $1,850,000.

Fiscal Impact

The costs associated with this redevelopment agreement will be realized by TIF 1 and TIF 2. The resulting revenues will be a combination of TIF and general fund revenues. As has been mentioned above, the major incentives being offered include $650,000 in initial TIF financing and $200,000 per year for four additional years. (**$1,450,000** total over five years).

When completed, this project will generate incremental property taxes for TIF 1. Additionally, this project will generate hotel/motel tax, food and beverage tax, and utility taxes for the general fund. The general fund would also realize additional property taxes when TIF 1 expires in FY 2015/2016. Over ten years, it is estimated that this property will generate approximately $280,000 in property taxes, $1,048,000 in hotel/motel tax, $197,000 in food and beverage tax, and $165,000 in utility tax for total revenue of approximately **$1,690,000**. Of the approximately $1,690,000 in revenue to the City, approximately **$1,485,000 would be in general fund revenue**. These figures result in approximately **$240,000** in net benefit to the City over ten years with the majority of the benefit being realized by the general fund.

Comparing the incentives for the project and revenues generated by the project, it is estimated that, when taking all City funds into account, there is an **eight to nine year payback** period for this project. A more detailed fiscal analysis is provided as an attachment (Exhibit C Fiscal Analysis).

Aside from the direct revenue generated by the project, there are a number of indirect and intangible benefits to the project. It is estimated that this project will create at least 60 long-term jobs related to ongoing hotel operations, and the Developer has committed to using local labor and professionals for the renovation of the building. The re-occupancy of the hotel will bring new visitors to the area and will increase business activity and foot traffic, not only in Lincoln Square Village, but along Main Street and all of downtown. The project also represents a

significant investment allowing the renovation of a critically important property with significant historic value that has suffered from neglect and lack of investment in recent years. If the redevelopment agreement is not entered into and the hotel is not renovated, it will continue to pose a challenge to the success of downtown. The hotel has been vacant for almost 20 months and there is a concern that if the building is not renovated and reopened, it could deteriorate to the point where condemnation and potential demolition may be necessary.

The TIF 1 budget currently includes a line item of $600,000 for Historic Lincoln incentives. It is proposed that the additional $50,000 needed to cover the full $650,000 incentive for the first year would come from the TIF 2 fund balance. The $600,000 figure in the budget was an estimate, and a possible increase in costs was anticipated. There are adequate funds to accommodate this transfer from TIF 2 to TIF 1 (as permitted by state law) without impacting projects currently budgeted in both TIF districts. This transfer would affect the ability of the TIF districts to fund future yet-to-be-identified projects.

The second portion of the incentive ($200,000 per year for four years) will be budgeted as part of the TIF 1 and TIF 2 budgets in future years.

Options

1. Approve the redevelopment agreement ordinance and budget amendment ordinance as presented

2. Approve the redevelopment agreement ordinance and budget amendment ordinance with changes. It should be noted that any changes will need to be agreed upon by the Developer.

3. Deny the redevelopment agreement ordinance and budget amendment ordinance.

Recommendation

By encouraging the purchase and renovation of the project, the City will help to realize the goals set forth in the TIF Redevelopment Plans, the Downtown Strategic Plan, and Council Goals. Redevelopment of the hotel at this time will help to provide for immediate stabilization of a distressed property that has suffered neglect in recent years and which could likely otherwise deteriorate to the point of becoming a visible eyesore in the future. Lack of action at this time could eventually necessitate a costly demolition and loss of an important historic property.

Staff recommends that the City Council approve the attached redevelopment agreement ordinance.

Prepared by:

____

Tom Carrino, Economic Development Manager

Attachments:

Exhibit A: Draft Ordinance with Agreement and Conceptual Site Design
Exhibit B: Location Map
Exhibit C: Fiscal Analysis

Exhibit A

ORDINANCE NO. 2010-10-100

AN ORDINANCE APPROVING A REDEVELPMENT AGREEMENT WITH XIAO JIN YUAN
(209 South Broadway Avenue – Former Historic Lincoln Hotel)

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, as follows:

Section 1. That a Redevelopment Agreement Between the City of Urbana and Xiao Jin Yuan in substantially the form of the copy of said Agreement attached hereto, be and the same is hereby approved.

Section 2. That the Mayor of the City of Urbana, Illinois, be and the same is hereby authorized to execute and deliver and the City Clerk of the City of Urbana, Illinois, be and the same is authorized to attest to said execution of said Agreement as so authorized and approved for and on behalf of the City of Urbana, Illinois.

PASSED by the City Council this _____ day of _____________, 2010.

AYES:

NAYS:

ABSTAINS:

____
Phyllis Clark, City Clerk

APPROVED by the Mayor this _____ day of _________________, 2010.

____

Laurel Lunt Prussing, Mayor

DRAFT OF October 20, 2010

REDEVELOPMENT AGREEMENT

by and between the

CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS

and

XIO JIN YUAN,
a natural person

Dated as of November 1, 2010

Document Prepared By:

Kenneth N. Beth
Evans, Froehlich, Beth & Chamley
44 Main Street, Third Floor
Champaign, IL 61820

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EXHIBIT A	Description of Property
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REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (including any exhibits and attachments hereto, collectively, this **"Agreement"**) is made and entered into as of November 1, 2010, but actually executed by each of the parties on the dates set forth beneath each of their respective signatures below, by and between the **City of Urbana, Champaign County, Illinois**, an Illinois municipal corporation (the **"City"**), and **Xiao Jin Yuan**, a natural person, whose address is 849 Chetco Pointe Terrace, Brookings, Oregon 97415 (the **"Developer"**). This Agreement shall become effective upon the date of the last of the City and the Developer to so execute and date this Agreement (the **"Effective Date"**).

RECITALS

WHEREAS, in accordance with and pursuant to the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 et seq.), as supplemented and amended (the **"TIF Act"**), including by the power and authority of the City as a home rule unit under Section 6 of Article VII of the Constitution of Illinois, the City Council of the City (the **"Corporate Authorities"**) did adopt a series of ordinances (Ordinance Nos. 8081-61, 8081-62 and 8081-63 on December 22, 1980) including as supplemented and amended by certain ordinances (Ordinance No. 8637 on October 6, 1986, Ordinance No. 9394-100 on May 16, 1994, Ordinan ce No. 2003-12-148 on December 15, 2003, and Ordinance No. 2004-09-132 on October 4, 2004) (collectively, the **"TIF Ordinances"**); and

WHEREAS, under and pursuant to the TIF Act and the TIF Ordinances, the City designated the Urbana Downtown Tax Increment Redevelopment Project Area (the **"Redevelopment Project Area"**) and approved the related redevelopment plan, as supplemented and amended (the **"Redevelopment Plan"**), including the redevelopment projects described in the Redevelopment Plan (collectively, the **"Redevelopment Projects"**); and

WHEREAS, as contemplated by the Redevelopment Plan and the Redevelopment Projects, the Developer proposes to acquire the Property (as defined below) and to undertake (or cause to be undertaken) the Project (including related and appurtenant facilities as more fully defined below); and

WHEREAS, the Property (as defined below) is within the Redevelopment Project Area; and

WHEREAS, the Developer is unwilling to acquire the Property (as defined below) and to undertake the Project (as defined below) without certain tax increment finance incentives from the City, which the City is willing to provide; and

WHEREAS, the City has determined that it is desirable and in the City's best interests to assist the Developer in the manner set forth in this Agreement; and

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

ARTICLE I
DEFINITIONS

Section 1.1. Definitions. For purposes of this Agreement and unless the context clearly requires otherwise, the capitalized words, terms and phrases used in this Agreement shall have the meaning provided in the above Recitals and from place to place herein, including as follows:

"City Comptroller" means the City Comptroller of the City, or his or her designee.

"Corporate Authorities" means the City Council of the City.

"Eligible Redevelopment Project Costs" means those costs paid and incurred in connection with the Project which are authorized to be reimbursed or paid from the Fund as provided in Section 5/11-74.4-3(q)(3) of the TIF Act.

"Fund" means, collectively, the "Special Tax Allocation Fund" for the Redevelopment Project Area established under Section 5/11-74.8 of the TIF Act and the TIF Ordinances.

"Hotel Facility" means the 128-room hotel facility and related conference center and restaurant improvements located upon the Property.

"Incremental Property Taxes" means in each calendar year during the term of this Agreement, the portion of the ad valorem real estate taxes arising from levies upon taxable real property in the Redevelopment Project Area by taxing districts that is attributable to the increase in the equalized assessed value of the taxable real property in the Redevelopment Project Area over the equalized assessed value of the taxable real property in the Redevelopment Project Area on January 1, 1986 which, pursuant to the TIF Ordinances and Section 5/11-74.4-8(b) of the TIF Act, has been allocated to and when collected shall be paid to the City Comptroller for deposit by the City Comptroller into the Fund established to pay Eligible Redevelopment Project Costs and other redevelopment project costs as authorized under Section 5/11-74.4-3(q) of the TIF Act.

"Independent" or **"independent"**, when used with respect to any specified person, means such person who is in fact independent and is not connected with the City or the Developer as an officer, employee, partner, or person performing a similar function, and whenever it is provided in this Agreement that the opinion or report of any independent person shall be furnished, such person shall be appointed by the Developer and approved by the City, and such opinion or report shall state that the signer had read this definition and that the signer is independent within the meaning hereof.

"Loan Advances" means, collectively, amounts of proceeds to be advanced by the City in connection with the Redevelopment Loan to or at the direction of the Developer under and pursuant to Section 4.1(a) of this Agreement.

"Occupancy Date" means, subject to "unavoidable delays" as described in Section 9.5 of this Agreement, November 1, 2011, the date on which the Hotel Facility is ready for occupancy, utilization and continuous commercial operation as evidenced by the issuance of a certificate of

occupancy by the City, or such earlier date that any such certificate of occupancy is issued for the Hotel Facility by the City.

"Project" means the rehabilitation, reconstruction, repair or remodeling of the Hotel Facility upon the Property in one or more phases such that, upon completion of the Project, the Hotel Facility shall be operated and maintained as an upscale, boutique and historic hotel and conference center.

"Promissory Note" means the form of the Promissory Note attached hereto as Exhibit B.

"Property" means, collectively, the real estate consisting of the parcel or parcels legally described on Exhibit A hereto, together with the Hotel Facility and all other improvements thereon, upon or within which the Project is to be undertaken and completed.

"Redevelopment Loan" means a loan to be provided by the City to the Developer in the not to exceed principal amount, at the interest rate and due and payable on or before the Occupancy Date as specified in Section 4.1(a) of this Agreement.

"Reimbursement Amounts" means, collectively, amounts to be reimbursed or paid to or as directed by the Developer from the Fund by the City under and pursuant to Section 4.1(b) of this Agreement.

"Related Agreements" means all option, development, redevelopment, construction, financing, franchise, loan, ground lease and lease agreements, whether now or hereafter existing, executed by the Developer in connection with the Project.

"Requisition" means a request by the Developer for a Loan Advance or a payment or reimbursement of Reimbursement Amounts for Eligible Redevelopment Project Costs pursuant to the procedures set forth in Article VI of this Agreement.

Section 1.2. Construction. This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

(a) definitions include both singular and plural.

(b) pronouns include both singular and plural and cover all genders; and

(c) headings of sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.

(d) all exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement.

ARTICLE II
REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. In order to induce the Developer to enter into this Agreement, the City hereby makes certain representations and warranties to the Developer, as follows:

(a) Organization and Standing. The City is a home rule municipality duly organized, validly existing and in good standing under the Constitution and laws of the State of Illinois.

(b) Power and Authority. The City has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the City's Corporate Authorities. This Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent that any and all financial obligations of the City under this Agreement shall be limited to the availability of such Incremental Property Taxes therefor as may be specified in this Agreement and that such enforceability may be further limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery of this Agreement or the performance of the City's agreements, obligations and undertakings hereunder will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of any agreement, rule, regulation, statute, ordinance, judgment, decree, or other law by which the City may be bound.

(e) Governmental Consents and Approvals. No consent or approval by any governmental authority is required in connection with the execution and delivery by the City of this Agreement or the performance by the City of its obligations hereunder.

Section 2.2. Representations and Warranties of the Developer. In order to induce the City to enter into this Agreement, the Developer makes the following representations and warranties to the City:

(a) Organization. The Developer is a natural person whose address is 849 Chetco Pointe Terrace, Brookings, Oregon 97415.

(b) Power and Authority. The Developer has full power and authority to execute and deliver this Agreement and to perform all of its agreements, obligations and undertakings hereunder.

(c) Authorization and Enforceability. The execution, delivery and performance of this Agreement have been duly and validly authorized by all necessary action on the part of the Developer. This Agreement is a legal, valid and binding agreement, obligation and undertaking of

the Developer, enforceable against the Developer in accordance with its terms, except to the extent that such enforceability may be limited by laws, rulings and decisions affecting remedies, and by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforceability of debtors' or creditors' rights, and by equitable principles.

(d) No Violation. Neither the execution nor the delivery or performance of this Agreement will conflict with, violate or result in a breach of any of the terms, conditions, or provisions of, or constitute a default under, or (with or without the giving of notice or the passage of time or both) entitle any party to terminate or declare a default under any contract, agreement, lease, license or instrument or any rule, regulation, statute, ordinance, judicial decision, judgment, decree or other law to which the Developer is a party or by which the Developer or any of its assets may be bound.

(e) Consents. No consent or approval by any governmental authority or other person is required in connection with the execution and delivery by the Developer of this Agreement or the performance thereof by the Developer.

(f) No Proceedings or Judgments. There is no claim, action or proceeding now pending, or to the best of its knowledge, threatened, before any court, administrative or regulatory body, or governmental agency (1) to which the Developer is a party and (2) which will, or could, prevent the Developer's performance of its obligations under this Agreement.

Section 2.3. Related Agreements. Upon the request of the City, the Developer shall deliver true, complete and correct copies of all Related Agreements (redacted by the Developer to protect any confidential or proprietary information). The Developer represents and warrants to the City that such Related Agreements now executed and delivered are in full force and effect and have not been cancelled or terminated and that the Developer is not aware of any of its obligations under any of such existing Related Agreements required to be performed on or before the date hereof which have not been performed by the Developer or the other parties thereto.

Section 2.4. Disclaimer of Warranties. The City and the Developer acknowledge that neither has made any warranties to the other except as set forth in this Agreement. The City hereby disclaims any and all warranties with respect to the Property and the Project, express or implied, including, without limitation, any implied warranty of fitness for a particular purpose or merchantability or sufficiency of the Incremental Property Taxes for the purposes of this Agreement. Nothing has come to the attention of the Developer to question the assumptions or conclusions or other terms and provisions of any projections of Incremental Property Taxes, and the Developer assumes all risks in connection with the practical realization of any such projections of Incremental Property Taxes.

ARTICLE III
CONDITIONS PRECEDENT TO THE UNDERTAKINGS ON THE PART OF THE DEVELOPER AND THE CITY

Section 3.1. Conditions Precedent. The undertakings on the part of the City as set forth in this Agreement are expressly contingent upon each of the following:

(1) The Developer shall obtain fee simple title to the Property.

(2) Within twenty-one (21) days after obtaining fee simple title to the Property, the Developer shall submit to the City a completed Registered Preference form which indicates the Developer's agreement that the Hotel Facility be designated as a historic landmark in accordance with the provisions of Section XII-5 of the Urbana Zoning Ordinance.

(3) The Developer shall, in conjunction with and subject to the City's approval, cause final development plans for the Project to be prepared, which such plans shall be consistent with Project description and in accordance with the codes, rules, regulations and ordinances of the City, it being understood that the City in its capacity as a municipal corporation has discretion to approve any such final development plans for any phase of the Project.

(4) The Developer shall have delivered to the City an itemized list of any and all estimated costs to complete the Project (the **"Project Budget"**) in accordance with the final development plans approved by the City.

(5) The Developer shall have provided evidence, in a commercially reasonable form satisfactory to the City, of its ability to pay for the costs of the Project, as itemized in the Project Budget.

(6) The Developer shall have delivered to the City a construction schedule for the completion of the Project which shall include the Occupancy Date.

Section 3.2. Reasonable Efforts and Notice of Termination. The Developer shall use due diligence to timely satisfy the conditions set forth in Section 3.1 above on or before November 1, 2011, but if such conditions are not so satisfied or waived by the City, then the City may terminate this Agreement by giving written notice thereof to the Developer. In the event of such termination, this Agreement shall be deemed null and void and of no force or effect and neither the City nor the Developer shall have any obligation or liability with respect thereto.

ARTICLE IV
CITY'S COVENANTS AND AGREEMENTS

Section 4.1. City's TIF Funded Financial Obligations. The City shall have the obligations set forth in this Section 4.1 relative to financing Eligible Redevelopment Project Costs in connection with the Project. Upon the submission to the City by the Developer of a Requisition for Eligible Redevelopment Project Costs incurred and paid and the approval thereof by the City in accordance with Article VI of this Agreement, the City, subject to the terms, conditions and limitation set forth in this Section 4.1 immediately below, agrees to reimburse the Developer, or to pay as directed by the Developer, from the Fund such Loan Advances and Reimbursement Amounts related to Project at the Property as follows:

(a) **Initial Redevelopment Loan Financing.** Upon satisfaction by the Developer of all of the conditions precedent as set forth in Section 3.1 of this Agreement and the execution and delivery

of the Promissory Note by the Developer, the City shall provide to the Developer the Redevelopment Loan. The Redevelopment Loan shall be a straight line of credit in the principal amount of up to $650,000, shall bear interest at a non-default rate of -0%- per annum, and shall be due and payable upon demand on the day immediately following the Occupancy Date. The proceeds of the Redevelopment Loan shall be made available to the Developer at the times specified in Section 6.4 of this Agreement in the form of Loan Advances payable to or at the direction of the Developer not more frequently than monthly. Anything to the contrary in the Promissory Note notwithstanding, in the event the Developer continues to retain exclusive ownership of the Property on the Occupancy Date and no "Default" under Section 7.7. of this Agreement by the Developer has then occurred and is continuing, the Redevelopment Loan shall be deemed fully paid and discharged.

(b) **Annual Benefit**. In addition to the initial Redevelopment Loan financing pursuant to Section 4.1(a) above, the City shall reimburse the Developer or pay as directed by the Developer at the times specified in Section 6.4 of this Agreement a total amount of up to $800,000 in Reimbursement Amounts, such total amount being payable in four (4) equal annual installments commencing with the calendar year immediately following the calendar year in which the Occupancy Date occurs.

(c) **Termination**. Anything to the contrary in the foregoing Section 4.1(b) above notwithstanding, the obligations of the City to reimburse the Developer for any Reimbursement Amounts under Section 4.1(b) above shall terminate: (i) no later than December 31, 2016, or such earlier date upon which the total amount of the reimbursement or payment obligations of the City under Section 4.1(b) above are reimbursed to the Developer or paid as directed by the Developer in accordance with this Section 4.1 of this Agreement; or (ii) at any time the Hotel Facility ceases continuous commercial operation or "goes dark".

Section 4.2. Defense of Redevelopment Project Area. In the event that any court or governmental agency having jurisdiction over enforcement of the TIF Act and the subject matter contemplated by this Agreement shall determine that this Agreement, including any payments of any Reimbursement Amounts to be made by the City, is contrary to law, or in the event that the legitimacy of the Redevelopment Project Area is otherwise challenged before a court or governmental agency having jurisdiction thereof, the City will defend the integrity of the Redevelopment Project Area and this Agreement. Anything herein to the contrary notwithstanding, the Developer agrees that the City may, to the extent permitted by law, use any Incremental Property Taxes, including any unpaid Reimbursement Amounts, if available, to be redirected to reimburse the City for its defense costs, including without limitation attorneys' fees and expenses.

Section 4.3. Historic Landmark Designation. Upon the submittal by the Developer of a completed Registered Preference form which indicates the Developer's agreement that the Hotel Facility be designated as a historic landmark as provided in Section 3.1 of this Agreement, the Corporate Authorities of the City shall consider the designation of the Hotel Facility as an historic landmark under and pursuant to Section XII-5 of the Urbana Zoning Ordinance, with the 1923 portion of the Hotel Facility to be considered as a "Contributing" structure and the 1982 portion of the property to be considered as a "Noncontributing" structure as defined in Section XII-2 of the Urbana Zoning Ordinance for the purposes of the review of any alteration, relocation, construction,

removal or demolition of the exterior architectural appearance of the Hotel Facility under Section XII-6 of the Urbana Zoning Ordinance. Pursuant to such designation, the City shall waive all building permit fees for the Project. Further, the City agrees not to withhold approval of a Certificate of Appropriateness for any proposed reroofing of the Hotel Facility that uses asphalt shingles selected by the Developer in consultation with the Department of Community Development Services of the City.

ARTICLE V
DEVELOPER'S COVENANTS

Section 5.1. Commitment to Undertake Required Improvements. The Developer covenants and agrees to commence the Project, including the correction of all applicable violations of the building codes and ordinances of the City in connection with the Property, and to have the Hotel Facility ready for occupancy, utilization and continuous commercial operation on the Occupancy Date. The Developer recognizes and agrees that the City has sole discretion with regard to all approvals and permits relating to the Project, including but not limited to approval of the final development plans, any required permits and any certificates of occupancy, and any failure on the part of the City to grant or issue any such required permit or certificates of occupancy shall not give rise to any claim against or liability of the City pursuant to this Agreement. The City agrees, however, that any such approvals shall not be unreasonably denied, withheld or delayed.

Section 5.2. Compliance with Agreement and Laws During Development. The Developer shall at all times acquire, construct and install the Project, including any related required improvements, in conformance with this Agreement and all applicable laws, rules and regulations, including without limitation all applicable subdivision, zoning, environmental, building code or any other land use ordinances of the City, and, to the extent applicable, the Prevailing Wage Act (820 ILCS 130/0.01 et seq.) of the State of Illinois. Whenever possible, the Developer shall cause the Project to be designed, constructed and installed utilizing innovative and effective techniques in energy conservation. Any agreement of the Developer related to the design, construction or installation of the Project with any contractor, subcontractor or supplier shall, to the extent applicable, contain provisions substantially similar to those required of the Developer under this Agreement.

Section 5.3. Historic Landmark Designation. Provided an historic landmark designation has been made by the City in accordance with Section XII-5 of the Urbana Zoning Ordinance, the Developer shall comply with all applicable provisions of such Section XII-6 of the Zoning Ordinance in connection applications for Certificates of Appropriateness and shall not apply to rescind such designation during the term of this Agreement as provided in Section 9.13 hereof.

Section 5.4. City's Right to Monitor and Inspect Project. In addition to any other rights specified in this Agreement with regard to the construction and maintenance of the Project, the City shall have the right, but not the obligation, to inspect the Property for the purpose of monitoring the progress of the Project. During such inspections, which may be made with reasonable advance notice and during normal business hours, representatives of the city shall be allowed access to the Property as necessary for the City to determine whether the Project is proceeding in a timely manner and in compliance with all applicable laws, codes, ordinances and regulations, subject to

limitations required by safety considerations. The rights set forth herein and the City's exercise of those rights shall not be construed to relieve the Developer of its separate and independent obligations under this Agreement and under any applicable City codes, regulations and ordinances or as a waiver of any further rights of the City regarding the construction and maintenance of the Project, including the right to require compliance and issue stop work orders or violation notices.

Section 5.5. **City's Right to Audit Developer's Books and Records**. The Developer agrees that the City or its agents shall have the right and authority to review and audit, from time to time (at the Developer's principal office during normal business hours) the Developer's books and records relating to the total amount of all costs paid or incurred by the Developer for the Project and the total amount of related Eligible Redevelopment Project Costs, in order to confirm that any such Eligible Redevelopment Project Costs claimed to have been paid and incurred by the Developer were directly related and allocable to the costs of the Project that was financed by the Developer and in fact paid and incurred by the Developer.

Section 5.6. **Continuing Compliance with Laws**. The Developer agrees that in the continued use, occupation, operation and maintenance of the Hotel Facility, the Developer will comply with all applicable federal and state laws, rules, regulations and all applicable City ordinances and codes.

Section 5.7. **Real Estate Tax Obligations**. The Developer agrees to pay and discharge, promptly and when the same shall become due, all general real estate taxes, and all applicable interest and penalties thereon, that at any time shall become due and payable upon or with respect to, or which shall become liens upon, any part of the Property. The Developer, including any others claiming by or through it, hereby covenants and agrees not to file any application for property tax exemption for any part of the Property under any applicable provisions of the Property Tax Code of the State of Illinois (35 ILCS 200/1-1 et seq.), as supplemented and amended, unless the City and the Developer shall otherwise have first entered into a mutually acceptable agreement under and by which the Developer shall have agreed to make a payment in lieu of taxes to the City, it being mutually acknowledged and understood by both the City and the Developer that any such payment of taxes (or payment in lieu thereof) by the Developer is a material part of the consideration under and by which the City has entered into this Agreement. This covenant of the Developer shall be a covenant that runs with the land being the Property upon which the Project is undertaken and shall be in full force and effect until December 31, 2035, upon which date this covenant shall terminate and be of no further force or effect (and shall cease as a covenant binding upon or running with the land) immediately, and without the necessity of any further action by City or Developer or any other party; provided, however, upon request of any party in title to the Property, the City shall execute and deliver to such party an instrument, in recordable form, confirming for the record that this covenant has terminated and is no longer in effect. Nothing contained within this Section 5.6 shall be construed, however, to prohibit the Developer from initiating and prosecuting at its own cost and expense any proceedings permitted by law for the purpose of contesting the validity or amount of real property taxes assessed and levied upon the Property or any part thereof.

Section 5.8. **Downtown Plan Update and Other Redevelopment Efforts**. The Developer agrees to participate in and make reasonable accommodations for planning and development activities associated with an ongoing update to the City's 2002 Downtown Strategic Plan, including

those associated with a local consortium that has been formed to explore mobility enhanced development options for the core area containing Lincoln Square Village and the Property, the municipal parking deck, the Busey Bank property on Race Street, and other immediate environs. Planning activities to be undertaken in this area by such consortium and others may include, but are not limited to, market studies, urban design/architectural studies, and applications for relevant state and federal grants pertaining to the unified goals of transportation, sustainability, economic development and historic preservation. The expected outcome will be transit enhanced redevelopment and new infill development that will complement and strengthen the viability of the Hotel Facility by providing for a stronger customer base and improved connectivity with the remainder of the downtown area and other locations, including the University of Illinois campus.

ARTICLE VI
PAYMENT PROCEDURES FOR ELIGIBLE REDEVELOPMENT PROJECT COSTS

Section 6.1. Payment Procedures. The City and the Developer agree that the Eligible Redevelopment Project Costs constituting the Loan Advances and Reimbursement Amounts shall be paid solely, and to the extent available, from Incremental Property Taxes that are deposited in the Fund and not otherwise. The City and the Developer intend and agree that any Loan Advances and Reimbursement Amounts shall be disbursed by the City Comptroller for payment to the Developer in accordance with the procedures set forth in this Section 6.1 of this Agreement.

The City hereby designates the City Comptroller as its representative to coordinate the authorization of disbursement of any Loan Advances or Reimbursement Amounts for the Eligible Redevelopment Project Costs. Payments to the Developer of any Loan Advances or Reimbursement Amounts for Eligible Redevelopment Project Costs shall be made upon request therefor, in form reasonably acceptable to the City (each being a **"Requisition"**) submitted by the Developer with respect to Eligible Redevelopment Project Costs incurred and paid but not previously submitted. Each such Requisition shall be accompanied by appropriately supporting documentation, including, as applicable: (i) receipts for paid bills or statements of suppliers, contractors or professionals, together with required contractors' affidavits or lien waivers; or (ii) an affidavit by an Independent accountant which verifies that any such Eligible Project Redevelopment Costs (including any payroll records of the Developer involving specifically described work on the Project) have been paid and incurred by the Developer.

Section 6.2. Approval and Resubmission of Requisitions. The City Comptroller shall give the Developer written notice disapproving any of the Requisitions within ten (10) days after receipt thereof. No such approval shall be denied except on the basis that **(i)** all or some part of the Requisition does not constitute Eligible Redevelopment Project Costs or has not otherwise been sufficiently documented as specified herein; **(ii)** the Developer is in "Default" under this Agreement as described in Section 7.1 hereof; or **(iii)** any subsequent amendment to the TIF Act or any subsequent decision of a court of competent jurisdiction makes any such payment unauthorized. If a Requisition is disapproved by such City Comptroller, the reasons for disallowance will be set forth in writing and the Developer may resubmit any such Requisition with such additional documentation or verification as may be required. The same procedures set forth herein applicable to disapproval shall apply to such resubmittals.

Section 6.3. **Carryover**. Upon the approval of any of the applicable Requisitions as set forth in Section 6.2 above, any excess amount of Eligible Redevelopment Project Costs over and above the amount of any Loan Advances or any Reimbursement Amounts then payable as specified in Section 4.1 of this Agreement shall carry over into any remaining future period that any such Loan Advances or Reimbursement Amounts become due and payable under this Agreement.

Section 6.4. **Time of Payment**. The City shall pay each of the applicable Loan Advances or Reimbursement Amounts which are approved by any one or more Requisitions under this Article to the Developer within thirty (30) calendar days after (i) the approval of such applicable Requisition(s); or (ii) the date specified in Section 4.1 of this Agreement, whichever in (i) or (ii) is later.

ARTICLE VII
DEFAULTS AND REMEDIES

Section 7.1. **Events of Default**. The occurrence of any one or more of the events specified in this Section 7.1 shall constitute a **"Default"** under this Agreement.

(1) The furnishing or making by or on behalf of the Developer of any statement or representation in connection with or under this Agreement, any of the Related Agreements or any Requisition that is false or misleading in any material respect;

(2) The failure by the Developer to timely perform any term, obligation, covenant or condition contained in this Agreement or any of the Related Agreements;

(3) The failure by the City to pay any Loan Advances or Reimbursement Amounts which become due and payable in accordance with the provisions of this Agreement; and

(4) The failure by the City to timely perform any other term, obligation, covenant or condition contained in this Agreement.

Section 7.2. **Rights to Cure**. The party claiming a Default under Section 7.1 of this Agreement (the **"Non-Defaulting Party"**) shall give written notice of the alleged Default to the other party (the **"Defaulting Party"**) specifying the Default complained of. Except as required to protect against immediate, irreparable harm, the Non-Defaulting Party may not institute proceedings or otherwise exercise any right or remedy against the Defaulting Party until thirty (30) days after having given such notice, provided that in the event a Default is of such nature that it will take more than thirty (30) days to cure or remedy, such Defaulting Party shall have an additional period of time reasonably necessary to cure or remedy such Default provided that such Defaulting Party promptly commences and diligently pursues such cure or remedy. During any such period following the giving of notice, the Non-Defaulting party may suspend performance under this Agreement until the Non-Defaulting Party receives written assurances from the Defaulting Party, deemed reasonably adequate by the Non-Defaulting Party, that the Defaulting Party will cure or remedy the Default and remain in compliance with its obligations under this Agreement. A Default not cured or remedied or otherwise commenced and diligently pursued within thirty (30) days as provided above shall constitute a **"Breach"** of this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by either party in asserting any of its rights or

remedies as to any Default or any Breach shall not operate as a waiver of any such Default, Breach or of any other rights or remedies it may have as a result of such Default or Breach.

Section 7.3. **Remedies**. Upon the occurrence of a Breach of this Agreement by the Developer, the City shall have the right to terminate this Agreement by giving written notice to the Developer of such termination and the date such termination is effective. Except for such right of termination by the City, the only other remedy available to either party upon the occurrence of a Breach of this Agreement by the Defaulting Party shall be to institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such Breach, including but not limited to proceedings to compel any legal action for specific performance or other appropriate equitable relief. Notwithstanding anything herein to the contrary, the sole remedy of the Developer upon the occurrence of a Breach by the City under any of the terms and provisions of this Agreement shall be to institute legal action against the City for specific performance or other appropriate equitable relief and, under no circumstances, shall the City be subject to any monetary liability or be liable for damages (compensatory or punitive) under any of the provisions, terms and conditions of this Agreement. In the event that any failure of the City to pay any annual Reimbursement Amounts which become due and payable in accordance with the provisions hereof is due to insufficient Incremental Property Taxes being available to the City, any such failure shall not be deemed to be a Default or a Breach on the part of the City.

Section 7.4. **Costs, Expenses and Fees**. Upon the occurrence of a Default or a Breach which requires either party to undertake any action to enforce any provision of this Agreement, the Defaulting Party shall pay upon demand all of the Non-Defaulting Party's charges, costs and expenses, including the reasonable fees of attorneys, agents and others, as may be paid or incurred by such Non-Defaulting Party in enforcing any of the Defaulting Party's obligations under this Agreement or in any litigation, negotiation or transaction in connection with this Agreement in which the Defaulting Party causes the Non-Defaulting Party, without the Non-Defaulting Party's fault, to become involved or concerned.

Section 7.5. **Redevelopment Loan**. The rights and obligations of both the City and the Developer in connection with the Redevelopment Loan, including any defaults and remedies in connection therewith, shall be as exclusively otherwise specified in the Promissory Note, anything to the contrary in this Article VII of this Agreement notwithstanding.

ARTICLE VIII
RELEASE, DEFENSE AND INDEMNIFICATION OF CITY

Section 8.1. **Declaration of Invalidity**. Notwithstanding anything herein to the contrary, the City, its Corporate Authorities, officials, agents, employees and independent contractors shall not be liable to the Developer for damages of any kind or nature whatsoever or otherwise in the event that all or any part of the TIF Act, or any of the TIF Ordinances or other ordinances of the City adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, shall be declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof; provided that

nothing in this Section 8.1 shall limit claims by Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts if otherwise permitted by applicable law.

Section 8.2. Damage, Injury or Death Resulting from Project. The Developer releases from and covenants and agrees that the City and its Corporate Authorities, officials, agents, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the City, its Corporate Authorities, officials, agents, employees and independent contractors thereof against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the construction or installation of the Project, except as such may be caused by the intentional conduct, gross negligence, negligence or other acts or omissions of the City, its Corporate Authorities, officials, agents, employees or independent contractors that are contrary to the provisions of this Agreement.

Section 8.3. Damage or Injury to Developer and Others. The City and its Corporate Authorities, officials, agents, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or any of its officers, agents, independent contractors or employees or of any other person who may be about the Property or the Project due to any act of negligence of any person, except as such may be caused by the intentional misconduct, gross negligence, or acts or omissions of the City, its Corporate Authorities, officials, agents, employees, or independent contractors that are contrary to the provisions of this Agreement.

Section 8.4. No Personal Liability. All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its Corporate Authorities, officials, agents, employees or independent contractors in their individual capacities. No member of the Corporate Authorities, officials, agents, employees or independent contractors of the City shall be personally liable to the Developer **(i)** in the event of a Default or Breach by any party under this Agreement, or **(ii)** for any amount of any Reimbursement Amounts which may become due and payable under the terms of this Agreement.

Section 8.5. City Not Liable for Developer Obligations. Notwithstanding anything herein to the contrary, the City shall not be liable to the Developer for damages of any kind or nature whatsoever arising in any way from this Agreement, from the Promissory Note or any other obligation or agreement made in connection therewith or from any Default or Breach under this Agreement; provided that nothing in this Section 8.5 shall limit claims by the Developer against the Fund or actions by the Developer seeking specific performance of this Agreement or other relevant contracts.

Section 8.6. Actions or Obligations of Developer. The Developer agrees to indemnify, defend and hold harmless the City, its Corporate Authorities, officials, agents, employees and independent contractors, from and against any and all suits, claims and cost of attorneys' fees, resulting from, arising out of, or in any way connected with **(i)** any of the Developer's obligations under or in connection with this Agreement, **(ii)** the construction or installation of the Project, and **(iii)** the negligence or willful misconduct of the Developer, its officials, agents, employees or independent contractors in connection with the management, development, redevelopment,

construction or installation of the Project, except as such may be caused by the intentional conduct, gross negligence, negligence or breach of this Agreement by the City, its Corporate Authorities, officials, agents, employees or independent contractors.

Section 8.7. **Environmental Covenants**. To the extent permitted by law, the Developer agrees to indemnify, defend, and hold harmless the City, its Corporate Authorities, officials, agents, employees and independent contractors, from and against any and all claims, demands, costs, liabilities, damages or expenses, including attorneys' and consultants' fees, investigation and laboratory fees, court costs and litigation expenses, arising from: **(i)** any release or threat of a release, actual or alleged, of any hazardous substances, upon or about the Property or respecting any products or materials previously, now or thereafter located upon, delivered to or in transit to or from the Property regardless of whether such release or threat of release or alleged release or threat of release has occurred prior to the date hereof or hereafter occurs and regardless of whether such release occurs as a result of any act, omission, negligence or misconduct of the City or any third party or otherwise; **(ii)** (A) any violation now existing (actual or alleged) of, or any other liability under or in connection with, any environmental laws relating to or affecting the Property, or (B) any now existing or hereafter arising violation, actual or alleged, or any other liability, under or in connection with, any environmental laws relating to any products or materials previously, now or hereafter located upon, delivered to or in transit to or from the Property, regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen prior to the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises, as the result of any act, omission, negligence or misconduct of the City or any third party or otherwise; **(iii)** any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any hazardous substances on or about or allegedly on or about the Property; or **(iv)** any breach, falsity or failure of any of the representations, warranties, covenants and agreements of the like. For purposes of this paragraph, "hazardous materials" includes, without limit, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or related materials defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 9601 et seq.), and in the regulations adopted and publications promulgated pursuant thereto, or any other federal, state or local environmental law, ordinance, rule, or regulation.

Section 8.8. **Notification of Claims**. Not later than thirty (30) days after the Developer becomes aware, by written or other overt communication, of any pending or threatened litigation, claim or assessment, the Developer will, if a claim in respect thereof is to be made against the Developer which affects any of the Developer's rights or obligations under this Agreement, notify the City of such pending or threatened litigation, claim or assessment, but any omission so to notify the City will not relieve the Developer from any liability which it may have to the City under this Agreement.

ARTICLE IX
MISCELLANEOUS PROVISIONS

Section 9.1 Entire Agreement and Amendments. This Agreement (together with Exhibit A and B attached hereto) is the entire agreement between the City and the Developer relating to the subject matter hereof. This Agreement supersedes all prior and contemporaneous negotiations, understandings and agreements, written or oral, and may not be modified or amended except by a written instrument executed by both of the parties.

Section 9.2. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the City and the Developer and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation or liability of any third persons to either the City or the Developer, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or the Developer. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 9.3. Counterparts. Any number of counterparts of this Agreement may be executed and delivered and each shall be considered an original and together they shall constitute one agreement.

Section 9.4. Special and Limited Obligation. This Agreement shall constitute a special and limited obligation of the City according to the terms hereof. This Agreement shall never constitute a general obligation of the City to which its credit, resources or general taxing power are pledged. The City pledges to the payment of its obligations under Sections 4.1 hereof only such amount of the Incremental Property Taxes as is set forth in Section 4.1 hereof, if, as and when received, and not otherwise.

Section 9.5. Time and Force Majeure. Time is of the essence of this Agreement; provided, however, neither the Developer nor the City shall be deemed in Default with respect to any performance obligations under this Agreement on their respective parts to be performed if any such failure to timely perform is due in whole or in part to the following (which also constitute "unavoidable delays"): any strike, lock-out or other labor disturbance (whether legal or illegal, with respect to which the Developer, the City and others shall have no obligations hereunder to settle other than in their sole discretion and business judgment), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruption of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, acts of terrorism, war, fuel shortages, accidents, casualties, acts of God or third parties, or any other cause beyond the reasonable control of the Developer or the City.

Section 9.6. Waiver. Any party to this Agreement may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 9.7. Cooperation and Further Assurances. The City and the Developer covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental hereto and such further acts, instruments, pledges and transfers as may be reasonably required for the better assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the City or the Developer or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of this Agreement.

Section 9.8. Notices and Communications. All notices, demands, requests or other communications under or in respect of this Agreement shall be in writing and shall be deemed to have been given when the same are (a) deposited in the United States mail and sent by registered or certified mail, postage prepaid, return receipt requested, (b) personally delivered, (c) sent by a nationally recognized overnight courier, delivery charge prepaid or (d) transmitted by telephone facsimile, telephonically confirmed as actually received, in each case, to the City and the Developer at their respective addresses (or at such other address as each may designate by notice to the other), as follows:

(i) In the case of the Developer, to:

____
____
____
Attn: ____________________
Tel: (__) ___-____ / Fax: (__) ___-____

(ii) In the case of the City, to:
City of Urbana, Illinois
400 South Vine Street
Urbana, IL 61801
Attn: Community Development Director
Tel: (217) 384-2439 / Fax: (217) 384-0200

Whenever any party hereto is required to deliver notices, certificates, opinions, statements or other information hereunder, such party shall do so in such number of copies as shall be reasonably specified.

Section 9.9. Assignment. The Developer agrees to not sell, assign or otherwise transfer any of its rights and obligations under this Agreement to any party without the prior written consent of the City. Any such sale assignment or transfer in whole or in part shall be void and shall, at the option of the City, terminate this Agreement. No such sale, assignment or transfer, including any with the City's prior written consent, shall be effective or binding on the City, however, unless and until the Developer delivers to the City a duly authorized, executed and delivered instrument which contains any such sale, assignment or transfer and the assumption of all the applicable covenants, agreements, terms and provisions of this Agreement by the applicable party thereto.

Section 9.10. **Successors in Interest**. Subject to Section 9.9 above, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respectively authorized successors, assigns and legal representatives (including successor Corporate Authorities).

Section 9.11. **No Joint Venture, Agency, or Partnership Created**. Nothing in this Agreement nor any actions of either of the City or the Developer shall be construed by either of the City, the Developer or any third party to create the relationship of a partnership, agency, or joint venture between or among the City and any party being the Developer.

Section 9.12. **Illinois Law; Venue**. This Agreement shall be construed and interpreted under the laws of the State of Illinois. If any action or proceeding is commenced by any party to enforce any of the provisions of this Agreement, the venue for any such action or proceeding shall be in Champaign County, Illinois.

Section 9.13. **Term**. Unless earlier terminated pursuant to the terms hereof, this Agreement shall be and remain in full force and effect from and after the Effective Date until the last of the reimbursement or payment obligations of the City have been made by the City in accordance with Section 4.1 and Article XI hereof; provided, however, that anything to the contrary notwithstanding, the Developer's obligations under Section 5.7 and Article VIII of this Agreement shall be and remain in full force and effect in accordance with the express provisions thereof.

Section 9.14. **Recordation of Agreement**. Either party may record this Agreement or a Memorandum of this Agreement in the office of the Champaign County Recorder at any time following its execution and delivery by both parties.

Section 9.15. **Construction of Agreement**. This Agreement has been jointly negotiated by the parties and shall not be construed against a party because that party may have primarily assumed responsibility for preparation of this Agreement.

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized officers or manager(s) as of the date set forth below.

CITY OF URBANA, CHAMPAIGN COUNTY, ILLINOIS

By:_______________________________

Mayor

ATTEST:

____

City Clerk

Date:_____________________

____

By:_______________________________

Its _______________________________

Date:_____________________

[Exhibits A and B follow this page and are an integral part of this Agreement in the context of use.]

EXHIBIT A

<u>Description of Property</u>

EXHIBIT B

Promissory Note

PROMISSORY NOTE

Borrower: **Xiao Jin Yuan**
849 Chetco Pointe Terrace
Brookings, Oregon 97415

Lender: **City of Urbana, Champaign County, Illinois,**
an Illinois municipal corporation
400 S. Vine Street
Urbana, IL 61801
Attn: City Comptroller

Principal Amount: $650,000.00 **Interest Rate:** -0-% **Date of Note:** __________, 2010

PROMISE TO PAY. **Xiao Jin Yuan**, a natural person (the **"Borrower"**) promises to pay to City of Urbana, Champaign County, Illinois (**"Lender"**), or order, in lawful money of the United States of America, the principal amount of Six Hundred Fifty Thousand Dollars ($650,000.00), or so much as may be outstanding, together with interest at the rate of -0-% per annum on the unpaid principal balance of each advance. Interest shall be calculated from the date of each advance until repayment of such advance.

PAYMENT. Borrower will pay this loan in accordance with the following payment schedule:

> Any and all principal and interest owing hereon is due and payable upon demand by the City in the event that any and all such principal and interest owing hereon is not deemed fully paid and discharged on the day immediately following the **"Occupancy Date"** as described in Section 4.1(a) of the Redevelopment Agreement between Lender and Borrower dated as of November 1, 2010 (the **"Redevelopment Agreement"**, including as such quoted terms are defined therein).

The annual interest rate for this Note is computed on the basis of 360 days or twelve 30-day months. Borrower will pay Lender at Lenders address shown above or at such other place as Lender may designate in writing. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges.

PREPAYMENT. Borrower may pay all or a portion of the amount owed earlier than it is due without Lender's consent.

LATE CHARGE. If a payment is **10 days or more late,** Borrower will be charged **5.000% of the regularly scheduled payment.**

DEFAULT. Borrower will be in default if any of the following happens: (a) Borrower fails to make any payment when due; (b) Borrower breaks any promise Borrower has made to Lender, or Borrower fails to comply with or to perform when due any other term, obligation, covenant, or condition contained in this Note, the related Redevelopment Agreement or other agreement related to this Note, or in any other agreement or loan Borrower has with Lender; (c) any representation or statement made or furnished to Lender by Borrower or on Borrower's behalf is false or misleading in any material respect either now or at the time made or furnished; (d) Borrower does or becomes insolvent, a receiver is appointed for any part of Borrower's property, Borrower makes an assignment for the benefit of creditors, or any proceeding is commenced either by Borrower or against Borrower under any bankruptcy or insolvency laws; (e) any creditor tries to take any of Borrower's property on or in which Lender has a lien or security interest; or (f) any guarantor dies or any of the other events described in this default section occurs with respect to any guarantor of this Note.

LENDER'S RIGHTS. Upon default, Lender may declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, without notice, and then Borrower will pay that amount. Upon default, or if this Note is not paid or deemed paid at final maturity, Lender, at its option, may add any unpaid accrued interest to principal and such sum will bear interest therefrom until paid, at the rate of 8% per annum. Lender may hire or pay someone else to help collect this Note if Borrower does not pay. Borrower also will pay Lender that amount. This includes, subject to any limits under applicable law, Lender's attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, including attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. If not prohibited by applicable law, Borrower also will pay any court costs, in addition to all other sums provided by law. **This Note has been delivered to Lender and accepted by Lender in the State of Illinois. If there is a lawsuit, Borrower agrees upon Lender's request to submit to the jurisdiction of the courts of Champaign County, the State of Illinois. Lender and Borrower hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or Borrower against the other. This Note shall be governed by and construed In accordance with the laws of the State of Illinois.**

CONFESSION OF JUDGMENT. Borrower hereby irrevocably authorizes and empowers any attorney-at-law to appear in any court of record and to confess judgment against Borrower for the unpaid amount of this Note as evidenced by an a affidavit signed by an officer of Lender setting forth the amount then due, plus attorney's fees as provided in this Note, plus costs of suit, and to release all errors, and waive all rights of appeal. If a copy of this Note, verified by an affidavit, shall have been filed in the proceeding, it will not be necessary to file the original as a warrant of attorney. Borrower waives the right to any stay of execution and the benefit of all exemption laws now or hereafter in effect. No single exercise of the foregoing warrant and power to confess judgment will be deemed to exhaust the power, whether or not any such exercise shall be held by any court to be invalid, voidable, or void; but the power will continue undiminished and may be exercised from time to time as Lender may elect until all amounts owing on this Note have been paid in full.

LINE OF CREDIT. This Note evidences a straight line of credit. Once the total amount of principal has been advanced, Borrower is not entitled to further loan advances. Advances under this Note may be requested by Borrower or by an authorized person in accordance with the Redevelopment Agreement. The following party or parties are authorized to request advances under the line of credit until Lender receives from Borrower at Lender's address shown above written notice of revocation of their authority: ________________ or ____________________. Borrower agrees to be liable for all sums advanced in accordance with the instructions of an authorized person. The unpaid principal balance owing on this Note at any time shall be evidenced by endorsements on this Note. Lender will have no obligation to advance funds under this Note if: (a) Borrower is in default under the terms of this Note; or any agreement that Borrower has with Lender, including the Redevelopment Agreement made in connection with the signing of this Note; (b) Borrower ceases doing business or is insolvent; or (c) Borrower has applied funds provided pursuant to this Note for purposes other than those authorized by Lender.

GENERAL PROVISIONS. Lender may delay or forego enforcing any of its rights or remedies under this Note without losing them. Borrower, and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waives presentment, demand for payment, protest and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan, or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made.

PRIOR TO SIGNING THIS NOTE, BORROWER HAS READ AND UNDERSTANDS ALL THE PROVISIONS OF THIS NOTE. BORROWER AGREES TO THE TERMS OF THE NOTE AND ACKNOWLEDGES RECEIPT OF A COMPLETED COPY OF THE NOTE.

BORROWER:

XIAO JIN YUAN

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ENDORSEMENTS

DATE OF TRANSACTION	PRINCIPAL ADVANCE	PRINCIPAL BALANCE

Exhibit "B"

Main Street
Race Street
Elm Street
Green Street
Lincoln Square

Location Map: Historic Lincoln Hotel

Subject Site

Exhibit C

Fiscal Analysis Summary

	$3.3 Million Total Investment 10 Year Scenario	
Purchase Price	$	600,000
Private Investment	$	1,250,000
Total City Incentives	$	1,450,000
Net GF Revenue	$	1,484,471
Net TIF Revenue	$	(1,244,110)
Net City (GF and TIF)	$	240,361
City Break Even	Year 8-9	

Assumptions: Years shown are calendar year, 5 year improvement schedule, hotel/motel assumptions based on Mr. Yuan's information, food and beverage based on restaurant operations starting in year 2, TIF expires calendar year 2015, first property tax collections in calendar year 2012.

Year by Year Fiscal Analysis											
Year	1	2	3	4	5	6	7	8	9	10	Total
Costs											
TIF Incentive	$ 650,000	$ 200,000	$ 200,000	$ 200,000	$ 200,000	$ -	$ -	$ -	$ -	$ -	$ 1,450,000
Total Costs	$ 650,000	$ 200,000	$ 200,000	$ 200,000	$ 200,000	$ -	$ -	$ -	$ -	$ -	$ 1,450,000
Revenue											
TIF Incremetal Taxes	$ -	$ -	$ 34,682	$ 47,018	$ 59,353	$ 64,836	$ -	$ -	$ -	$ -	$ 205,890
GF Taxes	$ -	$ -	$ -	$ -	$ -	$ -	$ 17,540	$ 18,066	$ 18,608	$ 19,166	$ 73,380
Hotel/Motel Tax	$ -	$ 44,676	$ 96,123	$ 105,326	$ 112,825	$ 120,680	$ 128,904	$ 137,513	$ 146,522	$ 155,949	$ 1,048,518
Food and Bev	$ -	$ 10,500	$ 21,000	$ 21,630	$ 22,279	$ 22,947	$ 23,636	$ 24,345	$ 25,075	$ 25,827	$ 197,239
Utility Tax	$ -	$ 15,623	$ 16,248	$ 16,898	$ 17,574	$ 18,277	$ 19,008	$ 19,768	$ 20,559	$ 21,381	$ 165,334
Total Revenue	$ -	$ 70,799	$ 168,053	$ 190,872	$ 212,031	$ 226,740	$ 189,087	$ 199,692	$ 210,764	$ 222,323	$ 1,690,361
Annual GF Net	$ -	$ 70,799	$ 133,371	$ 143,854	$ 152,678	$ 161,904	$ 189,087	$ 199,692	$ 210,764	$ 222,323	
GF Total	$ -	$ 70,799	$ 204,170	$ 348,023	$ 500,701	$ 662,605	$ 851,692	$ 1,051,384	$ 1,262,148	$ 1,484,471	$ 1,484,471
Annual TIF Net	$ (650,000)	$ (200,000)	$ (165,318)	$ (152,982)	$ (140,647)	$ 64,836	$ -	$ -	$ -	$ -	
TIF Total	$ (650,000)	$ (850,000)	$ (1,015,318)	$ (1,168,300)	$ (1,308,946)	$ (1,244,110)	$ (1,244,110)	$ (1,244,110)	$ (1,244,110)	$ (1,244,110)	$ (1,244,110)
Annual City Net	$ (650,000)	$ (129,201)	$ (31,947)	$ (9,128)	$ 12,031	$ 226,740	$ 189,087	$ 199,692	$ 210,764	$ 222,323	
Total City Net	$ (650,000)	$ (779,201)	$ (811,148)	$ (820,276)	$ (808,245)	$ (581,505)	$ (392,418)	$ (192,727)	$ 18,037	$ 240,361	$ 240,361