

**AN ORDINANCE AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS RELATED TO A PROJECT PREVIOUSLY FINANCED BY THE CITY UNDER ARTICLE VI, SECTION 27 OF THE MISSOURI CONSTITUTION AND SECTIONS 100.010 TO 100.200 OF THE REVISED STATUTES OF MISSOURI; AND AUTHORIZING THE EXECUTION OF CERTAIN DOCUMENTS AND TAKING OF CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the City of Gladstone, Missouri (the "City") is a third class city and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

**WHEREAS**, the City is authorized under the provisions of Article VI, Section 27 of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

**WHEREAS**, in order for Glad Hotel Developers, LLC (the "Developer"), to construct certain commercial facilities consisting of a hotel and related improvements (collectively, the "Project"), the City did previously issue its Taxable Industrial Development Revenue Bonds (Hotel Project), Series 2019, in an aggregate principal amount not to exceed \$13,450,800 (the "Bonds"); and

**WHEREAS**, in connection with the development of the Project, the City entered into a Development Agreement dated February 21, 2019, with the Developer (the "Development Agreement"); and

**WHEREAS**, in connection with the issuance of the Bonds the City entered into a Lease Agreement dated November 1, 2019 (the "Lease") with SREH Mag Gladstone Partners, LLC (the "Company"); and

**WHEREAS**, the Project has been completed and the Company, the Developer and the City desire to amend the Lease and the Development Agreement to conform the terms thereof to the final arrangements for ownership and operation of the Project; and

**WHEREAS**, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City facilitate the operation of the Project through said amendments.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:**

**Section 1. Execution of Documents.** The Mayor or the City Manager of the City is hereby authorized and directed to execute a First Supplemental Lease Agreement between the City and the Company and a First Amendment to Development Agreement between the City and the

Developer (collectively the "City Documents") in substantially the forms presented to the City Council at this meeting, copies of which shall be filed in the records of the City. The Mayor or the City Manager of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

**Section 2. Further Authority.** The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the City Documents.

**Section 3. Severability.** The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of the Ordinance are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council has enacted the valid portions without the void ones, or unless the court finds that the valid portions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

**Section 4. Governing Law.** This Ordinance shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

**Section 5. Effective Date.** This Ordinance shall be approved and shall take effect and be in full force from and after its passage by the City Council and this Ordinance is signed by the Mayor.

**INTRODUCED, READ, PASSED, AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 12TH DAY OF DECEMBER, 2022.**



Bill Garnos, Mayor

ATTEST:



Kris Keller, City Clerk

First Reading: December 12, 2022

Second Reading: December 12, 2022



## *Request for Council Action*

RES ☐ # City Clerk Only

BILL ☒ # 22-41

ORD ☒ # 4.617

Date: 12/2/2022

Department: General Administration

Meeting Date Requested: 1/10/2022

Public Hearing: Yes ☐ Date: [Click here to enter a date.](#)

**Subject:** An Ordinance authorizing the execution of certain documents related to a project previously financed by the City under Article VI, Section 27 of the Missouri Constitution and Sections 100.010 to 100.200 of the revised statutes of Missouri; and authorizing the execution of certain documents and taking of certain actions in connection therewith.

**Background:** The agreement between the Marriott Hotel Developers and the City of Gladstone was based on a pre-pandemic construction schedule. The initial agreement also did not define the specifics of an art contribution that was verbally agreed upon by all parties. The proposed Ordinance authorizes the City Manager to amend the terms of the Development Agreement and Chapter 100 incentive package to redefine the lease payments to the City based on the completed project date as well as outline the funding for the art contribution associated with the project.

**Budget Discussion:** Funds are budgeted in the amount of \$0 from the N/A Fund. Ongoing costs are estimated to be \$ 0 annually. Previous years' funding was \$

**Public/Board/Staff Input:**

**Provide Original Contracts, Leases, Agreements, etc. to:** City Clerk and Vendor

Bob Baer  
Department Director/Administrator

JM  
City Attorney

SW  
City Manager

## FIRST SUPPLEMENTAL LEASE AGREEMENT

THIS FIRST SUPPLEMENTAL LEASE AGREEMENT, dated as of May 4, 2022 (the "First Supplemental Lease"), is between the CITY OF GLADSTONE, MISSOURI, a third class city and political subdivision duly organized and existing under the laws of the State of Missouri, as lessor (the "City"), and SREH MAG GLADSTONE PARTNERS, LLC, a limited liability company organized and existing under the laws of the State of Delaware, as lessee (the "Company");

### RECITALS:

1. Following notice to affected taxing jurisdictions in accordance with Section 100.059.1 of the Act, the City Council adopted Ordinance No. 4.480 on July 29, 2019 (the "Ordinance"), (i) approving a plan for the Company's commercial project, and (ii) authorizing the issuance of \$13,450,800 principal amount of Taxable Industrial Development Revenue Bonds (Hotel Project), Series 2019, to pay the costs of a portion of the Project consisting of construction of a hotel and related improvements (collectively, the "Project Improvements"), located on certain real property in the City (the "Project Site," as more fully described on Exhibit A hereto). The Project Improvements and the Project Site are collectively referred to herein as the "Project" as further defined herein.

2. Pursuant to the Ordinance, the City did execute and deliver (a) the Trust Indenture dated November 1, 2019 (the "Indenture"), between the City and Security Bank of Kansas City, Kansas City, Kansas, as bond trustee (the "Trustee"), for the purpose of issuing and securing the Bonds, (b) a Lease Agreement dated as of November 1, 2019 (the "Original Lease," together with this First Supplemental Lease, the "Lease") with the Company, as lessee, and (c) a Performance Agreement dated as of November 1, 2019 (the "Performance Agreement").

3. The City and the Company desire to amend certain provisions of the Lease and to enter into this First Supplemental Lease to affect that purpose.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the City and the Company do hereby represent, covenant and agree as follows:

**Section 1. Definitions.** In addition to words and terms defined elsewhere in this First Supplemental Lease, capitalized words and terms used in this First Supplemental Lease shall have the meanings given to such words and terms in Section 101 of the Indenture and Section 1.1 of the Original Lease. To the extent of any conflict between the definitions in the First Supplemental Lease and the Original Lease, definitions in this First Supplemental Lease shall control.

**Section 2. Representations by the City.** The City makes the following representations as the basis for the undertakings on its part herein contained:

(a) The City is a third-class city and political subdivision duly organized and validly existing under the laws of the State of Missouri. Under the provisions of the Act, the City has lawful power and authority to enter into the transactions contemplated by this First Supplemental Lease and to carry out its obligations hereunder. By proper action of its governing body, the City has been duly authorized to execute and deliver this First Supplemental Lease, acting by and through its duly authorized officers; and

(b) No member of the governing body of the City or any other officer of the City has any significant or conflicting interest, financial, employment or otherwise, in the Company or in the transactions contemplated hereby.

**Section 3. Representations by the Company.** The Company makes the following representations as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly incorporated, validly existing and in good standing under the laws of the State of Delaware and authorized to do business in Missouri;

(b) The Company has lawful power and authority to enter into this First Supplemental Lease and to carry out its obligations hereunder and the Company has been duly authorized to execute and deliver this First Supplemental Lease, acting by and through its duly authorized officers and representatives;

(c) The execution and delivery of this First Supplemental Lease, the consummation of the transactions contemplated hereby, and the performance of or compliance with the terms and conditions of this First Supplemental Lease by the Company will not, to the best of the Company's knowledge, conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restrictions or any agreement or instrument to which the Company is a party or by which it or any of its property is bound, or the Company's organizational documents, or any order, rule or regulation applicable to the Company or any of its property of any court or governmental body, or constitute a default under any of the foregoing, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Company under the terms of any instrument or agreement to which the Company is a party; and

(d) Core Bank is the only "Financing Party" under any Financing Documents or leasehold mortgage under a Leasehold Mortgage as described in Section 14.01 of the Original Lease.

**Section 4. Amendments to Original Lease.** The Original Lease is hereby amended as follows:

(a) The following is added as Section 4.9 to the Original Lease:

**Section 4.9 Contribution for Public Art.**

The Parties hereby agree that in lieu of the responsibilities related to Public Art contained in the Development Agreement, the Company has contributed the amount of \$25,000 to the City for the Public Art. Such contribution shall be deemed to satisfy the responsibilities of the Company related to the Public Art contained in the Original Agreement. The Parties anticipate that the Public Art contribution will be reimbursed to the Company by the CID, subject to the approval of the CID.

(b) Section 5.2(a) of the Original Lease is amended to read:

**Additional Rent.** Additional Rent shall be composed of the City Lease Payments and Additional Lease Payments, which are defined below and payable as described below:

(a) The Company shall be required to make a monthly cash lease payment directly to the City (the "City Lease Payments"). The City Lease Payments shall be the greater of (i) \$3,600 month or (ii) the amount calculated using the following equation and table, which deals with the level of occupancy of the hotel that is a part of the Project:

(Total room nights in the month/Occupied room nights in the month)x100=Monthly Occupancy Percentage)

<b>Monthly Occupancy Percentage</b>	<b>Resulting Monthly Lease Payment</b>
36-44%	\$4,600
45-54%	\$5,600
55-64%	\$6,600
65-82%	\$7,600
Over 82%	\$8,600

By way of illustration, for a 30 day month, if the hotel contains 95 rooms, the total room nights would be 2,850. If the number of occupied room nights (e.g. the nights that rooms are rented) for the month equal 1,425, the City Lease Payments for that month would be \$5,600. If the hotel is not open or the Monthly Occupancy Percentage is less than 36%, the City Lease Payments would be \$3,600.

The City Lease Payments shall be due on the 15<sup>th</sup> day of each month (or the next business day thereafter if the 15<sup>th</sup> day is not a business day) and, to the extent applicable, shall be based on the prior month's Monthly Occupancy Percentage as set forth above. The first City Lease Payment shall be payable on January 15, 2023.

Within one-hundred twenty (120) days after the end of each calendar year, the City shall have the right to audit the books and records of the hotel to verify the accuracy of the City Lease Payments made for the prior calendar year. If the City intends to perform such an audit, it shall provide 30 days prior written notice to the Company.

(c) Section 11.1(e) of the Original Lease is amended to read:

(e) the sum of \$1,000, provided that if this Lease terminates prior to its full term identified in **Section 3.2** hereof, the price to exercise the purchase option will be the amount of \$864,000 minus the aggregate amount of City Lease Payments made prior to the termination date.

**Section 5. Notices.** All written notices to be given under this First Supplemental Lease shall be given by mail to the party entitled thereto as set forth in the Indenture.

**Section 6. Section Headings.** All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this First Supplemental Lease.

**Section 7. Authority for this First Supplemental Lease.** This First Supplemental Lease is authorized pursuant to the provisions of and in accordance with the Original Lease and the Indenture. Unless modified or amended or supplemented by the terms of this First Supplemental Lease all other provisions of the Original Lease, as amended and supplemented, remain in full force and effect. All other terms and provisions of the Original Lease, as amended and supplemented, are hereby ratified and confirmed. References to "Lease" in the Original Lease shall include the Original Lease, as amended and supplemented by this First Supplemental Lease.

**Section 8. Applicable Law.** This First Supplemental Lease shall be governed by and construed in accordance with the laws of the State of Missouri.

**Section 9. Execution.** This First Supplemental Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and

the same First Supplemental Lease. It is also agreed that separate counterparts of this First Supplemental Lease may be executed by the Trustee and the City all with the same force and effect as though the same counterpart had been executed by both the Trustee and the County.

**Section 10. Successors.** This First Supplemental Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

**Section 11. Anti-Boycott Provision.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, as amended (the "Act"), by entering into this First Supplemental Lease, the Company certifies that it and its parent company, wholly or majority-owned subsidiaries, and other affiliates, if any, are not currently engaged in, or for the duration of this First Supplemental Lease will not engage in, a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. The Lessor understands that "boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations, but does not include an action made for ordinary business purposes.

**Section 12. Electronic Transactions.** The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. Any requirement in the Lease for original documents may be satisfied by electronic copies of original documents.



IN WITNESS WHEREOF, the parties hereto have caused this First Supplemental Lease to be executed in their respective names by their duly authorized signatories, all as of the date first above written.



[SEAL]

CITY OF GLADSTONE, MISSOURI

By: [Signature]  
Name: ~~Scott Wingerson~~ Robert Baer  
Title: City Manager

ATTEST:

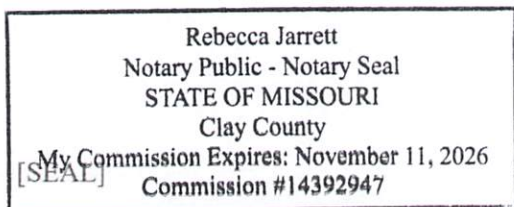
By: [Signature]  
Name: Kris Keller  
Title: City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI     )  
                                      ) SS.  
COUNTY OF CLAY     )

On this 4th day of May, 2023, before me, the undersigned, a Notary Public, appeared *Robert Baer* ~~SCOTT WINGERSON~~ and KRIS KELLER, to me personally known, who, being by me duly sworn, did say that they are the City Manager and City Clerk, respectively, of the CITY OF GLADSTONE, MISSOURI, and that the seal affixed to the foregoing instrument is the corporate seal of said City, and that said instrument was signed and sealed on behalf of said City by authority of its governing body, and said officers acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.



[Signature]  
Typed or Printed Name: Rebecca Jarrett  
Notary Public in and for said State

My commission expires: 11-11-26



**SREH MAG Gladstone Partners, LLC**, a Delaware limited liability company

By: **SREH MAG Gladstone Manager, LLC**, a Delaware limited liability company, its Manager

By: **ZAR Capital Partners, LLC**, a Delaware limited liability company, its Manager

By: Andrew Scarlett  
Andrew Scarlett, its Authorized Signatory

**ACKNOWLEDGMENT**

STATE OF TN )  
COUNTY OF Davidson ) SS.

On this 4th day of Jan., 2022, before me, the undersigned, a Notary Public, appeared **ANDREW SCARLETT**, to me personally known, who, being by me duly sworn, did say that he is the Manager of **SREH MAG GLADSTONE PARTNERS, LLC**, a Delaware limited liability company, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed in behalf of said corporation by authority of its Board of Directors, and said officer acknowledged said instrument to be executed for the purpose therein stated and as the free act and deed of said corporation.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my notarial seal the day and year last above written.



[SEAL]

Patti Rocha  
Typed or Printed Name: Patti Rocha  
Notary Public in and for said State

My commission expires: 3-3-2025

**CONSENTS**

Core Bank, as "Financing Party" under Financing Documents and leasehold mortgagee under a Leasehold Mortgage as described in Section 14.01 of the Original Lease, hereby consents to the execution and delivery of the First Supplemental Lease.

**CORE BANK,**

By: \_\_\_\_\_  
Name:  
Position:

Security Bank of Kansas City, as "Trustee" as described in the Original Lease, hereby consents to the execution and delivery of the First Supplemental Lease.

**SECURITY BANK OF KANSAS CITY,**

By: \_\_\_\_\_  
Name:  
Position:

SREH MAG Gladstone Partners, LLC, as owner of 100% of the outstanding Bonds as described under the Original Lease, hereby consents to the execution and delivery of the First Supplemental Lease.

**SREH MAG GLADSTONE PARTNERS, LLC,**

By: \_\_\_\_\_  
Name:  
Position:

**EXHIBIT A**  
**PROJECT SITE**

The real property more specifically described below:

**Legal Description**

The following described property in the City of Gladstone, Clay County, Missouri:

**Parcel 1:**

All of Lots Four (4) and Five (5), Block Twenty-five (25), LINDEN, a subdivision in Gladstone, Clay County, Missouri.

**Parcel 2:**

A portion of Lots 1, 2 and 3, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri, being more particularly described as follows:

Commencing at the Northwest corner of said Lot 1; thence South 89 degrees 37 minutes 44 Seconds East along the North line of said Lot 1, a distance of 80.00 feet to the point of beginning of said tract of land; thence continuing along said North line South 89 degrees 37 minutes 44 seconds East, a distance of 43.91 feet to the Northeast corner of said Lot 1; thence along the East line of said Lots 1, 2 and 3 South 00 degrees 25 minutes 15 seconds West, a distance of 160.38 feet to the Southwest corner of said Lot 3; thence along the South line of said Lot 3 North 89 degrees 50 minutes 09 seconds West, a distance of 124.17 feet to the Southwest corner of said Lot 3; thence on the West line of said Lots 2 and 3 North 00 degrees 30 minutes 41 seconds East, a distance of 80.83 feet; thence parallel with the North line of said Lot 1 South 89 degrees 37 minutes 44 seconds East, a distance of 80.00 feet; thence parallel with the West line of said Lot 1, 2 and 3 North 00 degrees 30 minutes 41 seconds East, a distance of 80.00 feet to the point of beginning, being Tract 2 as shown on the Certificate of Survey recorded December 7, 2016 as Document No. 2016043750 in Book H at Page 177.

**Parcel 3:**

All of Lots 8 & 9, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri.

**Parcel 4:**

Lots 10, 11, and 12, except the North 39.28 feet of Lot 12, Block 25 LINDEN, an addition to the City of Gladstone, Clay County, Missouri.

**Parcel 5:**

Lots 6 and 7, Block 25, LINDEN, a subdivision in Gladstone, Clay County, Missouri, according to the recorded plat thereof.

## **FIRST AMENDMENT TO DEVELOPMENT AGREEMENT**

**THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT** (“First Amendment”) entered into as of May 4 2022, 2022, by and between the **CITY OF GLADSTONE, MISSOURI**, a third class city organized and existing under the laws of the State of Missouri (the “City”), and **GLAD HOTEL DEVELOPERS, LLC**, a Nebraska limited liability company authorized to do business in the State of Missouri (the “Company”) (the City and the Company are each a “Party” or collectively the “Parties”). Capitalized terms not defined elsewhere in this First Amendment shall have the meaning set forth in **Section 1** hereof.

### **RECITALS:**

**WHEREAS**, the City and the Company previously entered into a Development Agreement dated as of February 21<sup>st</sup>, 2019 (the “Original Agreement” as amended by this First Amendment, the “Agreement”) for the implementation of the Project described therein; and

**WHEREAS**, the Project is substantially complete and the Parties desire to amend the Original Agreement related thereto.

**NOW, THEREFORE**, in consideration of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

**Section 1. Definitions.** Capitalized words and terms used but not otherwise defined herein shall have the same meanings as such terms are given in the Original Agreement, as applicable. In case of any conflict in the definitions between the Original Agreement, the definition contained in this First Amendment shall control.

“Public Art” means the design and construction of a gateway feature for the City’s downtown, or other contribution to public art.

**Section 2. Amendment of Section 3.06.** The Original Agreement is hereby amended by substituting the following for Section 3.06 thereof.

#### **Section 3.06. Consideration.**

(a) The consideration to the City for the transfer of the leasehold interest and option to purchase the Project Site to the Company under the Chapter 100 lease at the Closing shall be the agreement of the Company (i) to make required lease payments under the Chapter 100 Lease, which shall include but may not be limited to amounts necessary to pay principal and interest on the Chapter 100 Bonds, PILOTS as set forth in **Exhibit F**, and cash payment amount determined in the manner described in sub-paragraph (b) below, (ii) to construct the Public Improvements as set forth in **Section 4.02**, (iii) to enter into the Shared Parking Agreement and performance of the Company’s obligations thereunder, and (iv) to make the contribution of the Public Art.

(b) The Company shall be required to make a monthly cash lease payment to the City under the Chapter 100 Lease (the “City Lease Payment”). The City Lease Payment shall be the greater of \$3,600 month or (b) the amount calculated using the following equation and table, which deals with the level of occupancy of the hotel that is a part of the Project:

(Total room nights in the month/Occupied room nights in the month)x100=Monthly Occupancy Percentage)

<b>Monthly Occupancy Percentage</b>	<b>Resulting Monthly Lease Payment</b>
36-44%	\$4,600
45-54%	\$5,600
55-64%	\$6,600
65-82%	\$7,600
Over 82%	\$8,600

By way of illustration, for a 30 day month, if the hotel contains 95 rooms, the total room nights would be 2,850. If the number of occupied room nights (e.g. the nights that rooms are rented) for the month equal 1,425, the monthly lease payment for that month would be \$5,600. If the hotel is not open or the Monthly Occupancy Percentage is less than 36%, the monthly lease payment would be \$3,600.

The monthly lease payment shall be due on the 15<sup>th</sup> day of each month (or the next business day thereafter if the 15<sup>th</sup> day is not a business day) and, to the extent applicable, shall be based on the prior month's Monthly Occupancy Percentage as set forth above. The first City Lease Payment shall be payable on January 15, 2023.

The Chapter 100 Lease will provide that at the end of its term the Project Site may be purchased for \$1,000, provided that if the Chapter 100 Lease terminates prior to its full term identified therein, the price to exercise the purchase option will be the amount of \$864,000 minus the aggregate amount of City Lease Payments made prior to the termination date.

(c) The City shall have the right to audit the books and records of the hotel to verify the accuracy of the City Lease Payments made for the prior calendar year. If the City intends to perform such an audit, it shall provide 30 days prior written notice to the Company.

**Section 3. Public Art.** In the Original Agreement, the Company and the City agreed that the Company would undertake the design, construction and related responsibilities related to the Public Art. The Parties hereby agree that in lieu of the responsibilities related to Public Art contained in the Original Agreement, the Company has contributed the amount of \$25,000 to the City for the Public Art. Such contribution shall be deemed to satisfy the responsibilities of the Company related to the Public Art contained in the Original Agreement. The Parties anticipate that the Public Art contribution will be reimbursed to the Company by the CID, subject to the approval of the CID.

**Section 4. Applicable Law.** This First Amendment shall be taken and deemed to have been fully executed, made by the parties in, and governed by, the laws of the State of Missouri for all purposes and intents.

**Section 5. Ratification of Original Agreement.** Unless modified or amended or supplemented by the terms of this First Amendment all other provisions of the Original Agreement, as amended and supplemented, remain in full force and effect. All other terms and provisions of the Original Agreement, as amended and supplemented, are hereby ratified and confirmed.

**Section 6. Counterparts.** This First Amendment is executed in multiple counterparts, each of which shall constitute one and the same instrument.

**Section 7. Severability.** In the event any section, term or provision of this First Amendment is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect to the extent the remainder can be given effect without the invalid provision.

**Section 8. Headings.** Headings of articles and sections are inserted only for convenience and are in no way to be construed as a limitation or expansion on the scope of the particular articles, sections or subsections to which they refer. Words in the singular shall include the plural, and vice versa, where appropriate.

**Section 9. Anti-Boycott Provision.** Pursuant to Section 34.600 of the Revised Statutes of Missouri, as amended (the "Act"), by entering into this First Amendment, the Company certifies that it and its parent company, wholly or majority-owned subsidiaries, and other affiliates, if any, are not currently engaged in, or for the duration of this First Amendment will not engage in, a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel. The Company understands that "boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations, but does not include an action made for ordinary business purposes.

**Section 10. Electronic Transactions.** The transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. Any requirement in the Indenture for original documents may be satisfied by electronic copies of original documents.

[Remainder of page intentionally blank.]



IN WITNESS WHEREOF, the Parties have executed this First Amendment on the date first written above.



ATTEST:

Kris Keller  
City Clerk

**CITY OF GLADSTONE, MISSOURI**

By:   
~~Scott Wingerson~~ Robert Baer  
City Manager

**GLAD HOTEL DEVELOPERS, LLC**

By: MAG PARTNERS, LLC, its manager

By:   
Name: John Hughes  
Title: Manager