ORDINANCE #68700
Board Bill No. 28

AN ORDINANCE APPROVING AND AUTHORIZING THE CITY TO EXECUTE A DEVELOPMENT AGREEMENT WITH HALLMARK HOTELS, LLC; PRESCRIBING THE FORM AND DETAILS OF SAID AGREEMENT AND THE TAKING OF FURTHER ACTIONS WITH RESPECT THERETO; AUTHORIZING THE TAKING OF OTHER ACTIONS, APPROVAL AND EXECUTION OF OTHER DOCUMENTS NECESSARY OR DESIRABLE TO CARRY OUT AND COMPLY WITH THE INTENT THEREOF; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City of St. Louis, Missouri (the "City") is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, Hallmark Hotels, LLC, a limited liability company duly organized and existing under the laws of the State of Missouri, (the "Company"), currently owns and operates a 440 room hotel on a leased site legally described in Exhibit A, attached hereto and incorporated herein by this reference (the "Hotel Property");

WHEREAS, the Hotel Property was found by the City to be "blighted" pursuant to Chapter 99 Mo. Rev. Stat. and Chapter 100 Mo. Rev. Stat., and was designated as such by Ordinance Nos. 61439, 61441, 66964 and 67223 of the City of St. Louis; and

WHEREAS, in connection with substantial renovation of the Hotel Property, to alleviate conditions of blight, the Company proposes to improve an approximate 600-car parking structure located on a portion of the Hotel Property (the "Garage Property") at an approximate cost of $2,500,000 (the "Project"), which Project will be financed in part by a transportation development district to be created by the Company pursuant to the Missouri Transportation Development District Act, Sections 238.200, *et. seq*. of the Revised Statues of Missouri, as amended (the "TDD Act"); and

WHEREAS, the City and the Company desire to formalize and memorialize the City's commitment to the Company with respect to the creation of a transportation development district and execution of the Development Agreement to facilitate the Project; and

WHEREAS, the Board of Aldermen hereby determines that the terms of the Development Agreement attached as Exhibit B hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the Company of their respective obligations under the Development Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the TDD Act.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. LOUIS, MISSOURI AS FOLLOWS:

Section 1. The Board of Aldermen finds and determines that it is necessary and desirable to enter into the Development Agreement with the Company in order to implement the Project and to enable the Company to carry out its proposal for renovation of the Hotel Property.

Section 2. The Board of Aldermen hereby approves, and the Mayor and Comptroller are hereby authorized and directed to execute, on behalf of the City, the Development Agreement between the City and the Company, and the City Register is hereby authorized and directed to attest to the Development Agreement and to affix the seal of the City thereto. The Development Agreement shall be in substantially the form attached hereto as Exhibit B, with such changes therein as shall be approved by the officers of the City executing the same and as may be consistent with the intent of this Ordinance and necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section 3. The Mayor and Comptroller or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary, desirable, convenient or proper in order to carry out the matters herein authorized. The Mayor and Comptroller or their designated representatives are hereby further authorized and directed to make any changes to the documents and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section 4. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and

subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Clerk, Board of Aldermen President, Board of Aldermen

Approved: Date:

Mayor Francis G. Slay

CITY OF ST. LOUIS BOARD BILL NO. 28

EXHIBIT A

Legal Description of Hotel Property

A TRACT OF LAND IN BLOCK 6490 (FORMERLY PART OF BLOCKS 87 AND 88), OF THE CITY OF ST. LOUIS, MISSOURI; SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE EASTERN LINE OF FOURTH STREET, 80 FEET WIDE, WITH THE SOUTHERN LINE OF WASHINGTON AVENUE, IRREGULAR WIDTH: THENCE S 15º 14' W 148.67 FEET, S 18º 17' 30" W 38.56 FEET AND S 17º 53' 45" W 474.60 FEET ALONG THE EASTERN LINE OF SAID FOURTH STREET, TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE CONTINUING S 17º 53' 45" W 420.09 FEET ALONG THE EASTERN LINE OF SAID FOURTH STREET, TO THE NORTHERN LINE OF PINE STREET, 60 FEET WIDE; THENCE S 72º 09' 15" E 313.76 FEET ALONG THE NORTHERN LINE OF SAID PINE STREET, TO THE WESTERN LINE OF THIRD STREET MEMORIAL HIGHWAY / INTERSTATE I-70, IRREGULAR WIDTH; THENCE N 17º 05' 45" E 241.85 FEET ALONG THE WESTERN LINE OF SAID THIRD STREET MEMORIAL HIGHWAY; THENCE N 72º 06' 15" W 207.39 FEET; THENCE N 17º 53' 45" E 178.00 FEET; THENCE N 72º 06' 15" W 103.00 FEET, TO THE EASTERN LINE OF SAID FOURTH STREET AND THE POINT OF BEGINNING, AND CONTAINING 93,846 SQUARE FEET OR 2.1544 ACRES.

CITY OF ST. LOUIS BOARD BILL NO. 28

EXHIBIT B

DEVELOPMENT AGREEMENT
(Attached)

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of the _____ day of _____, 2010, by and between the CITY OF ST. LOUIS, MISSOURI (the "City"), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and HALLMARK HOTELS, LLC (the "Company"), a limited liability company duly organized and existing under the laws of the State of Missouri.

WHEREAS, the Company currently owns and operates a 440 room hotel on a leased site legally described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property") on which substantial renovation is planned;

WHEREAS, the Company also proposes to improve an approximate 600-car parking structure located on the Property (the "Parking Garage") at an approximate cost of approximately $2,500,000 (the "Project"), which Project will be financed in part by a transportation development district (the "District") to be created by the Company pursuant to the Missouri Transportation Development District Act, Sections 238.200, et. seq. of the Revised Statutes of Missouri, as amended (the "TDD Act"); and

WHEREAS, the City and the Company desire to formalize and memorialize the City's commitment to the Company with respect to the creation of the District to facilitate the Project.

NOW, THEREFORE, in consideration of the above premises and the mutual obligations of the parties hereto, each party hereby agrees as follows:

ARTICLE I.
CONSTRUCTION OF THE PROJECT

Section 1.1 Company to Construct the Project. The Company agrees to advance all costs as necessary to complete the Project, all subject to the Company's right to abandon the Project and to terminate this Agreement as set forth in Section 3.1 of this Agreement.

Section 1.2 Project and Construction Schedule. The Company shall commence or cause the District to commence construction of the Project within eighteen (18) months of the date of this Agreement, which Project shall be constructed in a good and workmanlike manner in accordance with the terms of this Agreement. The Company and/or the District shall cause substantial completion of the Project to occur as expeditiously as reasonably possible, but not later than December 31, 2014, absent an event of force majeure as provided for in Section 3.6 of this Agreement. In the event of any delay caused by an event of force majeure, the Company and/or the District shall be granted additional time to complete the Project up to and including December 31, 2017.

Section 1.3 Design Plans. Prior to the commencement of construction of the Project, the Company and/or the District shall submit to the City, for its approval, site plans (including landscaping), elevations and outline specifications of exterior materials to be used with respect to the Project (the "Design Plans"). The Company and/or the District shall construct the Project in accordance with the Design Plans submitted to and approved by the City. The Design Plans shall be deemed approved unless the City shall, within thirty (30) days following submission of such Design Plans, notify the Company and/or the District in writing of its rejection, stating in detail the reasons that any portion of such Design Plans are not in substantial conformity the provisions of this Agreement and applicable state and local laws and regulations. With respect to such portion or portions, if any, of the Design Plans that are rejected by the City, the Company and/or the District shall submit revised portions of the Design Plans, which shall be deemed approved unless rejected in the same manner as the original submission.

Section 1.4 Construction Contracts. The Company and/or the District may enter into or cause to be entered into one or more construction contracts to complete the Project. Prior to the commencement of construction of any portion of the Project, the Company and/or the District shall obtain or shall require that any of its contractors obtain workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type project. The Company and/or the District shall require that such insurance be maintained by any of its contractors for the duration of the construction of such portion of the Project. To the extent that laws pertaining to prevailing wage and hour apply to any portion of the Project, the City and the Company agree to cooperate to take all actions necessary to apply for the wage and hour determinations and otherwise comply with such laws.

Section 1.5 Governmental Approvals. The City agrees to employ reasonable and good faith efforts to cooperate with the Company and to expeditiously process and timely consider and respond to any and all applications for any site plan approvals, plat approvals, zoning changes, conditional use permits, variances, building permits, or other governmental approvals required for implementation of the Project, all in accordance with the applicable City ordinances and the laws of the State of Missouri, and to take all further actions on governmental approvals to effectuate this Agreement.

Section 1.6 Construction Practices; Design Plan Changes. All construction practices and procedures with respect to the Project shall be in conformity with all applicable state and local laws, ordinances and regulations. During the progress of the Project, the Company and/or the District may make such reasonable changes, including without limitation modification of the construction schedule, including dates of commencement and substantial completion (subject to the provisions of Section 1.2), modification of the areas in which the Project is to be performed, relocation, expansion or deletion of items, revisions to the areas and scope of Project, and any and all such other changes as site conditions or orderly development may dictate or as may be necessary or desirable, in the sole determination of the Company and/or the District, to enhance the economic viability of the Project; provided that the Company and/or the District shall comply with all laws, regulations and ordinances of the City and that the Company and/or the District shall not make any material changes to the Design Plans without the advance written consent of the City. For purposes of this Section, "material changes" shall mean any change that reduces the number of parking spaces for the Project by more than ten percent (10%).

Section 1.7 Certificate of Substantial Completion. Promptly after substantial completion of the Project, the Company and/or the District shall furnish to the City a Certificate of Substantial Completion in substantially the form of Exhibit B attached hereto

and incorporated herein by this reference. The City shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City unless, within thirty (30) days following delivery of the Certificate of Substantial Completion, the City furnishes the Company and/or the District with specific written objections to the status of the Project, describing such objections and the measures required to correct such objections in reasonable detail. Upon acceptance of the Certificate of Substantial Completion by the City or upon the lapse of thirty (30) days after delivery thereof to the City without any written objections thereto, the Company and/or the District may record the Certificate of Substantial Completion with the City's Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Company's agreement and covenant to construct and complete the Project.

ARTICLE II.
TRANSPORTATION DEVELOPMENT DISTRICT

Section 2.1 **Company Actions.** The City acknowledges that the Company has a long-term leasehold interest in the Property and intends to complete, or the cause the District to complete, the Project, subject to the formation of the District to (A) finance the Project through the issuance of transportation development revenue notes and/or bonds (the "TDD Obligations") and, (B) except as otherwise provided in Section 3.4 of this Agreement, hold the rights and benefits of ownership of the Project. The current budget for the Project (exclusive of the costs associated with formation and administration of the District and the costs of issuance of the TDD Obligations) is set forth in Exhibit C, attached hereto and incorporated herein by reference and is subject to change in accordance with Section 1.5 of this Agreement. In the event that the Company seeks to form the District pursuant to the TDD Act, the Company shall create and operate the District in accordance with the following:

A. The District's boundaries shall include without limitation the Property.

B. The District shall be authorized to issue the TDD Obligations in a principal amount equal to the cost of the various improvements necessary to complete the Project, plus related costs of the District, including without limitation the costs associated with formation and administration of the District and the costs of issuance of the TDD Obligations and accrued interest thereon.

C. The District shall be authorized to impose a transportation development district sales tax (the "TDD Sales Tax") in an amount not to exceed one percent (1%) on taxable sales within the District pursuant to Section 238.235 of the TDD Act, the net proceeds of which TDD Sales Tax shall be applied to debt service on the TDD Obligations and to pay the costs of formation and administration of the District, the costs of issuance of the TDD Obligations and accrued interest thereon.

D. The District's board of directors shall consist of five members, all of whom shall be nominated by the Company.

E. The District shall maintain accurate records of revenues received, which records shall be open to inspection by the City at all reasonable times.

F. The District shall maintain its existence until all TDD Obligations have been paid in full, at which time the District shall dissolve and the TDD Sales Tax shall no longer be levied unless a subsequent project has been authorized by the District and approved by the City in accordance with the TDD Act.

Section 2.2 **City's Actions.** The City acknowledges that, in the event that the Company seeks to create the District, the City will be the local transportation authority required to approve the Project in accordance with the TDD Act. The City further acknowledges the general economic benefit created by the planned renovations to the Property and completion of the Project and the overall value to the community created by such improvements. To that end, the City shall cooperate with the Company and the District as follows:

A. The City shall in good faith cooperate with the Company in all proceedings relating to the creation and certification of the District and shall not object to the Company's petition for the creation of the District.

B. The City hereby approves the Project identified in the Design Plans as a "project" within the meaning of the TDD Act.

C. The City may, through the Board of Estimate and Apportionment, appoint one non-voting advisor to the District's board of directors having the authority and rights set forth in Section 238.220.4 of the TDD Act.

Section 2.3 Sublease of Land and Lease of Improvements. The City and the Company acknowledge and agree that the District will enter into a Sublease of Land and Lease of Improvements ("Sublease") with the Company for the Parking Garage. The City and Company acknowledge and agree that the City will be designated a third party beneficiary thereunder solely with respect to the maintenance provisions thereof. Accordingly, such Sublease shall constitute a mutually satisfactory agreement between the City and the District regarding development and future maintenance of the Project in accordance with Section 238.225.3 of the TDD Act. Upon substantial completion of the Project, the District shall execute, deliver and record, and the City shall accept, the Deed in substantially the form of Exhibit D, attached hereto and incorporated herein by this reference, conveying ownership of the Project to the City for the period set forth therein. The City and the Company acknowledge and agree that the Deed shall constitute a contract pertaining to the transfer of ownership and control of the Project from the District to the City in accordance with Section 238.275 of the TDD Act.

ARTICLE III.
GENERAL PROVISIONS

Section 3.1 Company's Right of Termination. At any time prior to the delivery of the Certificate of Substantial Completion, the Company may, by giving written notice to the City, abandon the Project and terminate this Agreement and the Company's obligations hereunder if the Company determines, in its sole discretion, that the Project is no longer economically feasible. Upon such termination, the City shall have no obligation to assist the Company in forming the TDD.

Section 3.2 City's Right of Termination. The City may terminate this Agreement if the Company fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with Section 1.6 of this Agreement and the schedule set forth in Section 1.2 of this Agreement. Upon termination of this Agreement for any reason, the City shall have no obligation to assist the Company in forming the TDD.

Section 3.3 Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective heirs, administrators, executors, personal representatives, successors and assigns. Without limiting the generality of the foregoing, all or any part of the Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Company named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after substantial completion of the Project, whereupon the party disposing of its interest in the Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement). Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with: (a) the right of the Company to encumber or collaterally assign its leasehold interest in the Property or any portion thereof to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the costs of the Project, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; (b) the right of the Company to assign its rights, duties and obligations under this Agreement to any party related to the Company by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended; provided that in each such event (i) the Company shall remain liable hereunder for the substantial completion of the Project and shall be released from such liability hereunder only upon substantial completion of the Project and (ii) the Company provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer.

Section 3.4 Income Tax Considerations. The City and Company acknowledge that the District shall hold legal title to the Project, but for all purposes (including financial reporting and federal income tax purposes), the Company shall retain the benefits of ownership. The City and Company also acknowledge that all proceeds paid to the Company by the District for the repayment of the TDD Obligations are intended to benefit the community at large by encouraging visitors through the redevelopment of the Property. The proceeds paid to the Company by the District for the repayment of the TDD Obligations shall be used by the Company as reimbursement for its costs to construct the Project.

Section 3.5 Remedies. Except as otherwise provided in this Agreement and subject to the Company's and the City's respective rights of termination, in the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days,

provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach, in case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the additional thirty (30) day period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

Section 3.6 **Force Majeure.** Neither the City nor the Company nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended (but with respect to the times for performance set out in Section 1.2 of this Agreement, only to the extent provided therein and established thereunder) in the event of any delay caused by force majeure, including without limitation damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Company to proceed with construction of the Project or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the District, the TDD Obligations, or this Agreement; provided that such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by the Company in bad faith, and further provided that the Company notifies the City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

Section 3.7 **Notices.** Any notice, demand or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States first class mail, postage prepaid, or delivered personally, In the case of the Company, to:

Hallmark Hotels, LLC
c/o Love Hotel Management Company
200 N. 4th Street
St. Louis, Missouri 63102
Attention: Joseph Ruggeri

With a copy to:

Greensfelder, Hemker & Gale, P.C.
10 South Broadway
Suite 2000
St. Louis, Missouri 63102
Attention: Vincent J. Garozzo

In the case of the City, to:

City of St. Louis
City Hall
1200 Market Street
St. Louis, Missouri 63103
Attention: Mayor, Room 200
Attention: Comptroller, Room 212

With a copy to:

St. Louis Development Corporation
1015 Locust Street
Suite 1200
St. Louis, Missouri 63101
Attention: Executive Director

And

City Counselor

City of St. Louis
1200 Market Street, Room 314
St. Louis, Missouri 63103
Attention: Patricia A. Hageman

or to such other address(es) with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this paragraph.

Section 3.8 **Inspection.** The City may conduct such periodic inspections of the Project as may be generally provided in the building code of the City. In addition, the Company shall allow other authorized representatives of the City reasonable access to the Property from time to time upon advance notice prior to the completion of the Project for inspection thereof. The Company shall not unreasonably deny the City and its officers, employees, agents and independent contractors the right to inspect, upon request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Project as the City determines is reasonable and necessary to verify the Company's compliance with the Concept Site Plan, the Design Plans and the terms of this Agreement.

Section 3.9 **Choice of Law.** This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of State of Missouri for all purposes and intents.

Section 3.10 **Entire Agreement; Amendment.** The parties agree that this Agreement constitutes the entire agreement between the parties and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the parties.

Section 3.11 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

Section 3.12 **Severability.** In the event any term or provision of this Agreement 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 3.13 **Representatives Not Personally Liable.** No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Company in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

Section 3.14 **Release and Indemnification.** The indemnifications and covenants contained in this Section shall survive termination or expiration of this Agreement.

A. The Developer releases from and covenants and agrees that the City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the City, its governing body members, officers, agents, attorneys, employees and independent contractors against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed (excluding consequential and punitive damages), to persons or property occurring or allegedly occurring as a result of any negligent or malicious acts or omissions of the Company, its officers, agents, attorneys, employees and independent contractors, in connection with its or their activities conducted pursuant to this Agreement.

B. The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Company or its officers, agents, employees, independent contractors or any other persons who may be about the Property or the Project except for matters arising out of the gross negligence or willful misconduct of the City and its governing body members, officers, agents, attorneys, employees and independent contractors.

C. 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 governing body members, officers, agents, attorneys, employees or independent contractors in their individual capacities.

D. The Developer releases from and covenants and agrees that the City, its governing body members, officers,

agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold the City, its governing body members, officers, agents, attorneys, employees and independent contractors, harmless from and against any and all third party suits, interest, claims and cost of reasonable attorneys fees incurred by any of them, resulting from, arising out of, or in any way connected with: (i) the enforcement of this Agreement, the validity of the TDD Obligations or the enforcement or validity of any other agreement or obligation made in connection therewith and their approvals (excluding opinions of the City's counsel whenever such claim is based on such party's own negligence); (ii) the negligence or willful misconduct of the Company or its officers, agents, employees or independent contractors in connection with the design, management, development, redevelopment and construction of the Project, or (iii) the compliance by the Company with all applicable state, federal and local environmental laws, regulations and ordinances as applicable to the Property, to the extent such condition existed prior to the acquisition thereof by the Company. The foregoing release and indemnification shall not apply in the case of such liability arising directly out of the negligence or malicious acts or omissions of the City or its governing body members, officers, agents, attorneys, employees and independent contractors in connection with its or their activities conducted pursuant to this Agreement or which arises out of matters undertaken by the City following termination of this Agreement as to the Project or any particular portion thereof.

Section 3.15 **Survival.** Notwithstanding the expiration or termination or breach of this Agreement by either party, the agreements contained in Sections 3.7, 3.9, 3.10,3.11,3.12, 3.13, 3.14 and 3.15 and Article IV of this Agreement shall, except as otherwise expressly set forth herein, survive such early expiration or early termination of this Agreement by either party.

ARTICLE IV.
REPRESENTATIONS OF THE PARTIES

Section 4.1 **Representations of the City.** The City hereby represents and warrants that the City has full constitutional and lawful right, power and authority, under current applicable law, to execute, deliver and perform the terms and obligations of this Agreement. All expenditures of City funds contemplated in this Agreement are hereby appropriated from currently available funds of the City. The City expressly acknowledges that this Agreement is not conditioned on (A) receipt of any federal or State grant or loan or (B) an appropriation not within the current City's fiscal year. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

Section 4.2 **Representations of the Company.** The Company hereby represents and warrants that the Company has full corporate power to execute and perform the terms and obligations of this Agreement, and all of the foregoing has been duly and validly authorized by all necessary corporate proceedings, as evidenced by a certified copy of a good standing certificate and resolution of Company authorizing the improvements to the Garage Property. This Agreement constitutes the legal, valid and binding obligations of the Company, enforceable in accordance with its terms.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the City and the Company have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

"CITY": CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

By: _____
Comptroller

(SEAL)

Attest:

_____
City Register

Approved as to Form:

_____
City Counselor

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

On this _____ day of _____, 2010, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

_____
Notary Public

(SEAL)

My Commission Expires:

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

On this _____ day of _____, 2010, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

_____
Notary Public

(SEAL)

My Commission Expires:

"COMPANY": HALLMARK HOTELS, LLC

By: LOVE HOTEL MANAGEMENT COMPANY
its sole member

By:_____
Name: _____
Title: _____

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

On this _____ day of _____, 2010, before me appeared , to me personally known, who, being by me duly sworn, did say that he is the _____ of LOVE HOTEL MANAGEMENT COMPANY, a Missouri corporation, and the sole member of HALLMARK HOTELS, LLC, a Missouri limited liability company, and that he is authorized to sign the instrument on behalf of said company, and acknowledged to me that he executed the within instrument as said company's free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

_____

Notary Public

(SEAL)

My Commission Expires:

EXHIBIT A

Legal Description of Hotel Property

A TRACT OF LAND IN BLOCK 6490 (FORMERLY PART OF BLOCKS 87 AND 88), OF THE CITY OF ST. LOUIS, MISSOURI; SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE EASTERN LINE OF FOURTH STREET, 80 FEET WIDE, WITH THE SOUTHERN LINE OF WASHINGTON AVENUE, IRREGULAR WIDTH: THENCE S 15º 14' W 148.67 FEET, S 18º 17' 30" W 38.56 FEET AND S 17º 53' 45" W 474.60 FEET ALONG THE EASTERN LINE OF SAID FOURTH STREET, TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE CONTINUING S 17º 53' 45" W 420.09 FEET ALONG THE EASTERN LINE OF SAID FOURTH STREET, TO THE NORTHERN LINE OF PINE STREET, 60 FEET WIDE; THENCE S 72º 09' 15" E 313.76 FEET ALONG THE NORTHERN LINE OF SAID PINE STREET, TO THE WESTERN LINE OF THIRD STREET MEMORIAL HIGHWAY / INTERSTATE I-70, IRREGULAR WIDTH; THENCE N 17º 05' 45" E 241.85 FEET ALONG THE WESTERN LINE OF SAID THIRD STREET MEMORIAL HIGHWAY; THENCE N 72º 06' 15" W 207.39 FEET; THENCE N 17º 53' 45" E 178.00 FEET; THENCE N 72º 06' 15" W 103.00 FEET, TO THE EASTERN LINE OF SAID FOURTH STREET AND THE POINT OF BEGINNING, AND CONTAINING 93,846 SQUARE FEET OR 2.1544 ACRES.

EXHIBIT B

[Form of Certificate of Substantial Completion]

The undersigned, Hallmark Hotels, LLC (or its successors or assigns) (the "Developer"), pursuant to that certain Development Agreement dated as of _____, 2010, between the City of St. Louis, Missouri (the "City") and the Developer (the "Agreement"), hereby certifies to the City as follows:

1. That as of _____, 20___, the construction, renovation, repairing, equipping and constructing of the Project (as that term is defined in the Agreement) located on that certain real estate more particularly described on Exhibit A attached hereto and made a part hereof by this reference, has been substantially completed in accordance with the Agreement.

2. Such Project has been performed in a workmanlike manner and in accordance with the Design Plans (as those terms are defined in the Agreement).

3. Lien waivers for applicable portions of the Project have been obtained.

4. This Certificate of Substantial Completion is being issued by the Developer to the City in accordance with the Agreement to evidence the Developer's satisfaction of all obligations and covenants with respect to the Project.

5. The City's acceptance (below) or the City's failure to object in writing to this Certificate within 30 days of the date of delivery of this Certificate to the City (which written objection, if any, must be delivered to the Developer prior to the end of such 30 day period), and the recordation of this Certificate with the City of St. Louis Recorder of Deeds shall evidence the satisfaction of the Developer's agreements and covenants to complete the Project.

This Certificate shall be recorded in the office of the Recorder of Deeds for the City of St. Louis. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

All certifications or statements made or set forth in this Certificate of Substantial Completion are made solely for the benefit of the City and shall not be relied upon or used for any purpose by any third party in any proceeding, claim or contest of any kind, nature or character.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this _____ day of _____, _____.

_____

By: _____
Name: _____
Its: _____

ACCEPTED:

CITY OF ST. LOUIS, MISSOURI

By: _____
Name:_____
Title:_____

[ADD NOTARIES OF ALL PARTIES AND LEGAL DESCRIPTION]

EXHIBIT C

Project Budget

Estimated Cost of Physical Improvements:	$2,500,000
Estimated Land Acquisition Expenditures	$0
Estimated Interest Charges on TDD Obligations Over life of TDD	$3,000,000
Estimated administrative and professional fees Over life of TDD	500,000
TOTAL ESTIMATED EXPENDITURES	$6,000,000

EXHIBIT D

QUIT CLAIM DEED

THIS DEED, made and entered into effective as of the ___ day of _____, 20__, by and between CROWNE PLAZA TRANSPORTATION DEVELOPMENT DISTRICT, a political subdivision of the State of Missouri, having an address of c/o Love Management Company, 200 N. 4th, St. Louis, Missouri 63102 (“Grantor”), and THE CITY OF ST. LOUIS, a municipal corporation of the State of Missouri (“Grantee”), having an address of 1200 Market Street, Room 200, St. Louis, Missouri 63103.

The purpose and intent of this Deed is for the Grantor to comply with the requirements of the “Development Agreement” made and entered into as of the ___ day of _____, 2010, by and between the Grantee and Hallmark Hotels, LLC (“Hallmark”), which requires delivery of this Deed pursuant to Section 2.3 thereof.

WITNESSETH, that Grantor, for and in consideration of the sum of One Dollar ($1.00) and other valuable consideration paid by the said Grantee, the receipt and adequacy of which are hereby acknowledged, does by these presents, REMISE, RELEASE AND QUIT CLAIM, unto the Grantee, for a period of one (1) day, commencing on the date hereof, that certain 600-car parking structure improved as required by the Development Agreement (the "Parking Garage") (but excluding the land located thereunder) situated in the City of St. Louis, State of Missouri, located on that certain real estate ("Real Estate") more particularly described on Exhibit A attached hereto and made a part hereof by this reference.

TO HAVE AND TO HOLD the same together with all rights and appurtenances to the same belonging unto the Grantee and to its successors and assigns for the term of one (1) day.

Hallmark has subleased the Real Estate to Grantor pursuant to the Sublease, as defined in the Development Agreement and Grantor hereby assigns said Sublease to Grantee for a period of one (1) day commencing on the date hereof and Grantee hereby accepts such assignment.

Upon the expiration of the one (1) day period, title to the Parking Garage and the leasehold estate created by the Sublease shall automatically revert to Grantor without the need for any additional writing. However, upon Grantor's request, Grantee covenants and agrees to sign and deliver a quit claim deed to the Parking Garage and an assignment of the Sublease to Grantor.

[SIGNATURES TO APPEAR ON FOLLOWING PAGES]

GRANTOR SIGNATURE PAGE FOR QUIT CLAIM DEED

IN WITNESS WHEREOF, the said Grantor has caused this Deed to be signed effective the day and year first above written.

GRANTOR:

CROWNE PLAZA TRANSPORTATION DEVELOPMENT DISTRICT, a political subdivision of the State of Missouri

By: _____
Name: _____
Title: _____

STATE OF MISSOURI)
) ss.
CITY OF ST. LOUIS)

On this _____ day of _____, in the year 20__, before me, a Notary Public in and for said state, personally appeared _____, being the _____ of Crowne Plaza Transportation Development District, a political subdivision of the State of Missouri, known to me to be the person who executed the within Quit Claim Deed in behalf of said _____, and that said instrument was signed in behalf of said _____ by authority of its _____, and he/she acknowledged to me that he/she executed the same for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

_____
Notary Public

My term expires:

GRANTEE SIGNATURE PAGE FOR QUIT CLAIM DEED

IN WITNESS WHEREOF, said Grantee has caused this Deed to be signed by its Mayor and Comptroller effective the day and year first above written.

GRANTEE:

THE CITY OF ST. LOUIS, MISSOURI, a municipal corporation of the State of Missouri

By: _____
_____, Mayor

By: _____
_____, Comptroller

Approved as to form:

_____
_____

City Counselor

Attest:

_____
_____

City Register

State of Missouri)
) ss.
City of St. Louis)

On this _____ day of _____ 20___, before me appeared _____ and _____ to me personally known, who being by me duly sworn did say that they are the Mayor and the Comptroller of the City of Saint Louis, respectively, and that they are authorized to execute this Deed on behalf of the City of Saint Louis under the authority of Ordinance _____ and acknowledge said instrument to be the free act and deed of the City of Saint Louis.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the City and State aforesaid, the day and year first above written.

_____
Notary Public

My term expires:

Consent

Hallmark Hotels, LLC, a limited liability company organized and existing under the laws of the State of Missouri hereby consents to the delivery of the aforesaid Deed and assignment of the Sublease as therein provided.

Hallmark Hotels, LLC

By: Love Hotel Management Company, its sole member

By: _____
Print Name: _____
Title: _____

STATE OF MISSOURI)
) SS
CITY OF ST. LOUIS)

On this _____ day of _____, 20__, before me appeared , to me personally known, who, being by me duly sworn, did say that he is the _____ of LOVE HOTEL MANAGEMENT COMPANY, a Missouri corporation, and the sole member of HALLMARK HOTELS, LLC, a Missouri limited liability company, and that he is authorized to sign the instrument on behalf of said company, and acknowledged to me that he executed the within instrument as said company's free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

_____

Notary Public

(SEAL)

My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND IN BLOCK 6490 (FORMERLY PART OF BLOCKS 87 AND 88), OF THE CITY OF ST. LOUIS, MISSOURI; SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE POINT OF INTERSECTION OF THE EASTERN LINE OF FOURTH STREET, 80 FEET WIDE, WITH THE SOUTHERN LINE OF WASHINGTON AVENUE, IRREGULAR WIDTH: THENCE S 15º 14' W 148.67 FEET, S 18º 17' 30" W 38.56 FEET AND S 17º 53' 45" W 474.60 FEET ALONG THE EASTERN LINE OF SAID FOURTH STREET, TO THE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE CONTINUING S 17º 53' 45" W 420.09 FEET ALONG THE EASTERN LINE OF SAID FOURTH STREET, TO THE NORTHERN LINE OF PINE STREET, 60 FEET WIDE; THENCE S 72º 09' 15" E 313.76 FEET ALONG THE NORTHERN LINE OF SAID PINE STREET, TO THE WESTERN LINE OF THIRD STREET MEMORIAL HIGHWAY / INTERSTATE I-70, IRREGULAR WIDTH; THENCE N 17º 05' 45" E 241.85 FEET ALONG THE WESTERN LINE OF SAID THIRD STREET MEMORIAL HIGHWAY; THENCE N 72º 06' 15" W 207.39 FEET; THENCE N 17º 53' 45" E 178.00 FEET; THENCE N 72º 06' 15" W 103.00 FEET, TO THE EASTERN LINE OF SAID FOURTH STREET AND THE POINT OF BEGINNING, AND CONTAINING 93,846 SQUARE FEET OR 2.1544 ACRES.

Approved: July 9, 2010