

**TERM SHEET:**  
**AMENDED AND RESTATED HOTEL-CONFERENCE CENTER DEVELOPMENT AGREEMENT**

**Background:** The Development Agreement was originally executed on November 7, 2012, pursuant to which the EPWA had an ownership interest in the Conference Center in exchange for the \$4.8M contribution toward the construction costs of the Conference Center. The dual ownership in the Project, without the EPWA's contribution being considered an equity investment, discouraged numerous lenders from financing the remaining construction costs of the Project. Therefore, the Developer requested the City and EPWA to make modifications to the original deal structure in an effort to secure financing for the Hotel-Conference Center. The revised terms include EPWA not owning the Conference Center, with a \$4.8M loan to the Developer, treated as equity in the Project, providing for an additional 10 year extension to the term of the ground lease, and providing an option to convert the Put Option to ground lease rental payments. With these revised terms, the Developer has secured financing with a local lender. The proposed terms of the Amended and Restated Development Agreement are summarized below.

**Developer:** Covell Partners in Development, LLC

**Property:** 7.867 acres of land at the NE corner of Sooner Road and Covell Road

**Project:** Developer shall construct a Hotel-Conference Center, comprised of a Hilton Garden Inn with 158 guest rooms and appropriate support facilities including restaurant, lounge or bar, supporting back-of-house facilities, and food preparation areas, as well as amenities characteristic of a Hilton Garden Inn, including pool and fitness room; and a conference center containing approximately 20,000 sf of meeting and support space, including a ballroom of 9,600 sf capable of hosting multi-day meetings for groups up to 400, large banquet events for up to 800 people, together with appurtenant facilities and amenities normally associated with a high-quality conference center. The commencement date is no later than 12/31/15, and completion is no later than 12/31/17.

**Conditions**

**Precedent:** Developer must provide, among other things: (a) evidence that sufficient funds of not less than \$21,580,000 are readily available to Developer for the construction of the Project; (b) franchise approval; (c) evidence of insurance in amounts and coverages required by the Agreement; and (d) copies of executed contract with the general contractor with indemnification provisions and assignment provisions in favor of the City of Edmond and EPWA.

**Progress**

**Meetings:** The City will receive weekly project meeting minutes developed by the Developer's general contractor. A City representative will be informed of and entitled to attend all meetings with the Developer's general contractor, architects, engineers, construction manager, and other contractors. The City Representative will have the right to inspect the progress and quality of all work performed, and to inspect all books, records, plans and specifications, shop drawings, contracts, agreements, and reports.

**Site and**

**Liens:** Developer is required to keep the Property free from accumulation of waste during construction. Developer is required to keep mechanic's and materialmen's liens from being filed against the Property.

**Purchase**

**Option:** Developer may purchase the Property \$2,200,000.

**Put Option:** EPWA may require the Developer to purchase the Property in the 15<sup>th</sup> year of operations for \$2,200,000.

**Insurance:** Developer and major contractors to maintain public liability, workers' compensation, automobile, and hazard insurance in required amounts.

**TERM SHEET:  
AMENDED AND RESTATED HOTEL-CONFERENCE CENTER GROUND LEASE**

- Background:** The Ground Lease was originally executed on November 7, 2012, pursuant to which the EPWA had an ownership interest in the Conference Center in exchange for the \$4.8M contribution toward the construction costs of the Conference Center. The dual ownership in the Project, without the EPWA's contribution being considered an equity investment, discouraged numerous lenders from financing the remaining construction costs of the Project. Therefore, the Developer requested the City and EPWA to make modifications to the original deal structure in an effort to secure financing for the Hotel-Conference Center. The revised terms include EPWA not owning the Conference Center, with a \$4.8M loan to the Developer, treated as equity in the Project, providing for an additional 10 year extension to the term of the ground lease, and providing an option to convert the Put Option to ground lease rental payments. With these revised terms, the Developer has secured financing with a local lender. The proposed terms of the Amended and Restated Ground Lease are summarized below.
- Landlord:** Edmond Public Works Authority
- Tenant:** Covell Partners in Development, LLC
- Property:** 7.867 acres of land at the NE corner of Sooner Road and Covell Road
- Rent:** \$1/year; except in the event the Put Option is not exercised by Landlord. See Put Option below.
- Term:** The initial term is 30 years, with two extension options of 10 years each, subject to the exercise of Purchase Option or Put Option.
- Purchase Option:** Tenant has the option to purchase the Property at any time during the Lease Term for \$2,200,000 for the Property.
- Put Option:** Landlord has the option to require the Developer to purchase the Property in the 15<sup>th</sup> year of operations of the Hotel-Conference Center for \$2,200,000.
- If Landlord does not exercise the Put Option, as determined in its sole discretion, Tenant shall be obligated to make annual ground lease payments ("Base Rent") to the EPWA for the remainder of the term, as extended, calculated as follows: Current fair market rental value, which has been determined to be \$111,250 (equivalent to 5% of the current appraised value of the land), adjusted annually by any percentage increase during the prior year in the National Consumer Price Index for All Urban Consumers (U.S. City Average – All Items; 1982-1984 = 100) issued by the Bureau of Labor Statistics of the United States Department of Labor, or any successor governmental authority that issues such indices. In no event will an adjustment result in a reduction in the prior year's Base Rent. Lease payments will commence in Year 15 of hotel-conference center operations, and the lease payment shall be adjusted annually based on CPI.
- Use of Premises:** Tenant will diligently and continuously operate the Hotel-Conference Center 365 days a year consistent with Hilton Standards. Tenant has agreed to certain prohibited uses that would be deemed a nuisance, immoral, or disreputable.
- Operation and Maintenance:** Tenant covenants to operate the hotel-conference center, maintain premises in good and safe condition and good repair, and pay all operating expenditures incurred.

- Insurance:** Tenant to maintain public liability, workers' compensation, automobile, and hazard insurance in required amounts.
- Indemnity:** Tenant indemnifies, defends and holds Landlord harmless from and against all claims, demands, judgments, costs, and expenses arising out of or related to the Lease.
- CVB:** Tenant agrees to lease to the City, at no cost, approximately 1,500 square feet of space in the Conference Center to the Edmond Convention and Visitors' Bureau for purposes of the CVB's offices and a visitors' center, with 3 designated parking spaces. After exercise of either the Purchase Option or the Put Option, a commercially reasonable amount of rent will be charged for the CVB's offices.
- Taxes:** The property shall be returned to the tax rolls on or before the tenth anniversary of the date that a Certificate of Occupancy for the Hotel-Conference Center is issued by the City. As of that date, the property, as improved, shall become fully taxable, and owner of the Hotel-Conference Center shall be responsible for payment of all ad valorem taxes assessed against the Property, with all improvements thereon.
- Assignment:** Landlord's consent is required prior to Tenant's assignment of the Lease.
- Termination:** In addition to other rights of termination, Landlord may terminate the Lease in the event the conditions precedent described in Article III of the Development Agreement are not satisfied.

**TERM SHEET:  
FUNCTION SPACE LICENSE AGREEMENT**

- Background:** The parties executed a Conference Center Management Agreement on November 7, 2012, pursuant to which the Developer would be responsible for the operation and management of all aspects of the Conference Center, on behalf of the EPWA, including maintenance, repairs, insurance, and utilities, in exchange for payment of an annual management fee. The source of the management fee was the Hotel Occupancy Tax collected by the City in accordance with the Municipal Code. The City and EPWA had reserved specific rights to utilize the Hotel-Conference Center for City Sponsored Events. The revised deal structure, as described above in the terms of the Amended and Restated Development Agreement and Ground Lease, prompted a conversion of the Management Agreement to a License Agreement. The Developer will be responsible for all operational and management aspects of the Conference Center, but no longer on the EPWA's behalf as the EPWA will have no ownership interest in the Conference Center. Under the proposed Function Space License Agreement, the EPWA will pay a license fee for its use of the Conference Center for City Sponsored Events on substantially the same terms as set out in the Management Agreement, and as summarized below.
- Licensor:** Covell Partners in Development, LLC, or an affiliate (Licensor)
- Licensee:** Edmond Public Works Authority, a public trust
- Term:** 15 years, commencing on the date a certificate of occupancy is issued for the Hotel-Conference Center
- Use of Facility:** Licensor grants the Licensee and its designees a license to utilize the Function Space (the ballroom and other meeting rooms) for City Sponsored events only (events coordinated and hosted by Licensee or Licensee's designees and not by or on behalf of a third party). Licensee shall only pay for retail cost of food and beverage services. Licensee shall pay reasonable expenses incurred for set up and staffing. Licensee shall be entitled, free of charge, to use the main ballroom three (3) times per calendar year and other meeting rooms six (6) times per calendar year, and use of up to five (5) daily uses of guest rooms within the Hotel per calendar month, subject to availability and certain other restrictions.
- License Fees:** In exchange for Licensee's use of the Function Space, Licensee pays Licensor a license fee, which is paid solely from the Hotel Occupancy Tax imposed and collected by the City on the Hotel pursuant to City of Edmond Municipal Code, Chapter 3.12, and from no other source. Any payment by EPWA is limited to the amount of lawfully available funds from the City's receipts from the adjacent Hotel and is further limited by negotiated Annual Caps ranging from \$173,720 in Year 1 to a maximum of \$290,048.00 in Year 15.

**TERM SHEET:  
EPWA SUBORDINATED LOAN AGREEMENT, PROMISSORY NOTE AND  
SUBORDINATED MORTGAGE**

**Borrower:** Covell Partners in Development, LLC

**Lender:** Edmond Public Works Authority, a public trust

**Loan Amount:** \$4,800,000.00

**Loan Purpose:** To provide assistance with the costs to construct the Hotel-Conference Center.

**Collateral:** All of Borrower's right, title, and interest in and to the Hotel-Conference Center, including all buildings, improvements, furnishings, equipment, appliances, system facilities, and fixtures, and all rents, leases, accounts, goods, inventory, personal property.

**Repayment Terms:** Borrower shall make eight (8) annual fixed payments of principal in the amount of \$192,000 each, without interest, commencing no later than the 7<sup>th</sup> anniversary of the date the certificate of occupancy is issued for the Hotel-Conference Center (currently anticipated to be in September, 2024). Thereafter, commencing no later than the 15<sup>th</sup> anniversary of the date the certificate of occupancy is issued for the Hotel-Conference Center (currently anticipated to be in September, 2032), and each year thereafter until the Maturity Date, Borrower shall make annual fixed payments of principal and interest based on a 25-year amortization of the Promissory Note, with interest accruing at a fixed rate of three percent (3%). A final payment of all outstanding principal, interest and all other obligations owing under the Loan Documents shall be due and payable on the Maturity Date.

**Maturity Date:** September \_\_, 2049 (date pending execution of the loan documents)

**Prepayment:** There will be no penalty for prepayment.

**Default:** During the continuance of an Event of Default, interest shall be payable at the rate of 15% per annum.

**Events of Default:** Events of Default include Borrower's failure to pay any principal, interest or other obligation due under any of the Loan Documents when due and payable; a default by Borrower in the covenants or agreements in the Loan Documents; a change in control occurs; insolvency or bankruptcy by the Borrower; dissolution of the Borrower; a default under the senior loan documents; any work stoppage on the Project for more than ten consecutive business days except as a result of a force majeure event

**Security:** Developer will execute a Promissory Note evidencing the loan and a Mortgage in favor of EPWA granting a security interest in the Collateral. This security interest will be subordinate to the first lien of RCB Bank, the primary construction lender.

**TERM SHEET:  
INTERCREDITOR AGREEMENT**

**Project:** Hotel-Conference Center at the NE corner of Sooner Road and Covell Road

**Borrower:** Covell Partners in Development, LLC

**Senior Lender:** RCB Bank, an Oklahoma banking corporation

**Senior Loan Amount:** \$21,580,000.00

**Junior Lender:** Edmond Public Works Authority, a public trust

**Junior Loan Amount:** \$4,800,000.00

**Collateral:** All of Borrower's right, title, and interest in and to the Hotel-Conference Center, including all buildings, improvements, furnishings, equipment, appliances, system facilities, and fixtures, and all rents, leases, accounts, goods, inventory, personal property.

**Subordination:** EPWA's lien on the Collateral pledged is subordinate in priority to the first lien of the Senior Lender.

**Rights of Senior**

**Lender:** Senior Lender is entitled to receive all payments of principal and interest under the Senior Loan before EPWA receives payments under the EPWA loan documents.

Senior Lender may exercise any available remedies, including foreclosing on the Collateral and selling the assets, to ensure the Senior Loan is paid in full.

In the event the Senior Lender exercises an enforcement action with respect to the Senior Loan, Senior Lender may: (a) convert the Put Option to fair market rental value payments, as more particularly described in the Ground Lease; and (b) exercise the Purchase Option, provided consummation of the sale may be conditioned upon a pending sale by the Senior Lender.

Senior Lender's prior written consent is required to any amendment or modification to the EPWA Loan documents, the Development Agreement, the Ground Lease, or the Function Space License Agreement

**Rights of Junior**

**Lender:** After the Senior Loan is paid in full (which currently has a scheduled maturity date in September, 2022), EPWA may receive all payments of principal and interest due under the EPWA loan.

EPWA may commence enforcement action, as appropriate and necessary, of its rights under the Development Agreement and the Ground Lease.

EPWA may commence enforcement action, as appropriate and necessary, of its rights under the EPWA loan agreement after the Senior Loan is paid in full.

**Notice:** Each party is to give the other notice of defaults under the respective loan documents.

9.11.2015

**TERM SHEET:  
HOTEL OCCUPANCY TAX AGREEMENT**

**Parties:** The City of Edmond and Edmond Public Works Authority

**Summary:** Pursuant to the Function Space License Agreement by and among Covell Partners in Development, LLC, as Licensor, EPWA, and the City, the Licensor grants EPWA and City a license to use the Hotel-Conference Center for City Sponsored events. In exchange for said use of the Hotel-Conference Center, the EPWA, as Licensee, pays Licensor a license fee, up to certain annual limits, over a fifteen (15) year period. This fee is collected by the City from the hotel occupancy tax pursuant to the City of Edmond Municipal Code, Chapter 3.12, generated at the Hotel-Conference Center.

Under the proposed Agreement, the City agrees to appropriate each year the amount of money generated by the Hotel Occupancy Tax for the benefit of EPWA's payment obligations required under the Function Space License Agreement.