



**CALLED CITY COMMISSION MEETING
AGENDA FOR JUNE 25, 2015**

5:30 P.M.

**CITY HALL COMMISSION CHAMBERS
300 SOUTH FIFTH STREET**

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

	I.	<u>MOTION</u>
		A. R & F Called Meeting Notice
	II.	<u>ORDINANCES – ADOPTION</u>
		A. Accept Proposed Premiums and Authorize Payment to KLC for the City's Workers' Compensation, Liability, and Property Insurance Premiums in FY2016 – S. DOOLITTLE
		B. Accept Bid from Midstates Construction for Construction of a Pocket Park at Market House Square – S. ERVIN
		C. Accept Community Development Block Grant Award for Centerpoint Recovery Center – S. ERVIN
		D. Sale of 533 Madison Street – Smedley Yeiser Property – S. ERVIN
		E. Approve Contract for Services with GPEDC for FY2015 - CITY MGR
		F. Approve Hotel Development Agreement -- CITY MGR
	III.	<u>EXECUTIVE SESSION</u>
		• Economic Development

Agenda Action Form Paducah City Commission

Meeting Date: June 23, 2015

Short Title: Accept proposed premiums from the Kentucky League of Cities for Workers' Compensation, Liability Insurance and Property Insurance Coverage. **Total cost of all premiums is \$1,048,473.81.**

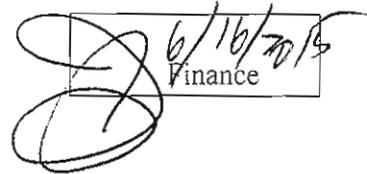
Ordinance Emergency Municipal Order Resolution Motion

Staff Work By: Steve Doolittle
Presentation By: Steve Doolittle

Background Information: Each year the City of Paducah receives from the Kentucky League of Cities the invoices for payment of premiums to cover these areas. Total Fiscal Year 2015-2016 (FY 2016) premiums are for the following: (1) Workers' Compensation \$411,750.95, (2) Liability Insurance \$505,208.54, (3) Property Insurance Coverage \$131,514.32. J. Carroll Convention Center to reimburse \$35,449.42 for property expenses associated with coverage of Expo and Convention Center in absence of executable hotel lease agreement.

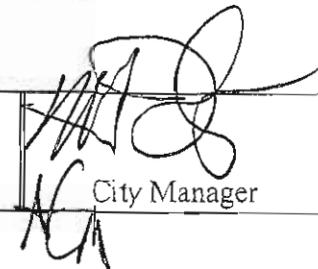
Goal: Strong Economy Quality Services Vital Neighborhoods Restored Downtowns

Funds Available: Account Name: Insurance Fund
Account Number: 072


6/16/2015
Finance

Staff Recommendation: That the Mayor and Commission approve the proposed premium rates for Workers' Compensation, Property and Liability insurance from the Kentucky League of Cities for FY 2016.

Attachments: Premium Invoices for Workers' Compensation, Liability and Property Insurance.

 Department Head	City Clerk	 City Manager
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Agenda Action Form Paducah City Commission

Meeting Date: 06/23/2015

Short Title: Request for an Ordinance authorizing the Mayor to execute a contract for the construction of a mini-park to be known as the Market House Square Pocket Park on the municipally owner vacant lot at 118 South 2nd Street between the City of Paducah and Midstates Construction Co., Inc..

Ordinance Emergency Municipal Order Resolution Motion

Staff Work By: Steve Ervin, Melinda Winchester, and Charles Doherty

Presentation By: Steve Ervin and Melinda Winchester

Background Information:

This project has been an effort to transpose a vacant concrete municipal lot used primarily for restaurant refuse collection into a small pocket park providing a relaxing public space within the downtown community. From the onset, Planning Staff and the Main Street Design Committee have reached out to local businesses, artists, and educational institutions in an effort to reap the benefits of local talent and resources available within the City of Paducah. Contributions from a multitude of local sources have greatly contributed to reducing the preliminary cost estimates of the park.

Shawnee Professional Services and J. Patrick Kerr Architects, Inc. AIA were instrumental in providing discounted services to the City in the preparations of surveys, architectural drawings, bid specifications, and professional guidance during this entire pre-construction phase of the project. The Paducah School of Art and Design's faculty and students will be donating their time and talent and to create unique ceramic tiles to be applied to the wall of the planter. The metal privacy panels to be used in blocking the unsightly view of the alley will also be manufactured by the PSAD and will feature a quilt inspired design created by local artist Char Downs. The two large fabric panels that will span between the adjoining walls of the park are the creations of local artist Frieda Fairchild. A permanent sculpture pad will also be constructed at the edge of the park and will be designed in such a way as to display new sculpture works of art on a rotating basis. The adjacent business owner's Jorge Martinez and Paul Gourieux of Tribeca Mexican Restaurant and Mary Cassity of Cassity's have both committed to help maintain the new pocket park as an "Adopt a Spot" project in cooperation with the Paducah Civic Beatification Board and the City of Paducah. Clearly this has been a cooperative effort within the community to enhance the quality of living in downtown Paducah.

After the planning stage was completed, the Planning Department solicited bids on behalf of the City of Paducah on April 5th, 2015 for the construction of a pocket park at 118 South 2nd Street via public notice in the Paducah Sun along with an electronic posting on the City website. A pre-bid meeting was held on April 13th, 2015 with the official bid opening set for

9:00 AM on April 28th, 2015. Three qualified bids were submitted before the deadline from B. H. Green and Sons, Inc., Midstates Construction Co., Inc., and Murray Construction and Real Estate, LLC., and opened on the 28th of April with the apparent low bidder being Midstates Construction Co., Inc. with a bid of \$44,371.00.

Using the bid scoring criteria published with the requests for bids, Planning Staff ranked the bids with Midstates Construction Co., Inc. scoring the highest.

Goal: Strong Economy Quality Services Vital Neighborhoods Restored Downtowns

Funds Available:

6/17/2015
Finance

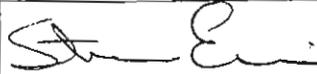
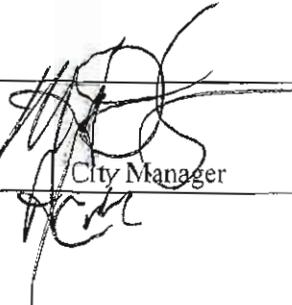
As of July 1, 2015, the Main Street Pocket Park account will be infused with adequate additional funds for FY 2016 to cover the contract amount.

Account Name: Main Street Pocket Park
Account Number: 040-4411-592-2307
Project Number: DT-0039

Staff Recommendation:

Staff recommends that the Commission adopt an ordinance authorizing the Mayor to execute a contract between the City of Paducah and Midstates Construction Co., Inc. to construct the pocket park at 118 South 2nd Street according to the bid specifications as contained in the bid documents dated April 28th, 2015.

Attachments:

 Department Head	City Clerk	 City Manager
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**Agenda Action Form
Paducah City Commission**

Meeting Date: 23 June 2015

Short Title: 2015 Community Development Block Grant (CDBG): Four Rivers Recovery Center

Ordinance Emergency Municipal Order Resolution Motion

Staff Work By: Sheryl Chino

Presentation By: Steve Ervin

Background Information: In 2006, the City of Paducah accepted a Community Development Block Grant (CDBG) Award from the Kentucky Department for Local Government on behalf of the sub-recipient, Four Rivers Behavioral Health's Center Point Recovery Center, of which the grant agreement expired June 2012. The City also accepted CDBG funding in 2013 and in 2014 to continue the project in the amount of \$250,000.

On April 28, 2015, the Commission through Municipal Order 1837 authorized the execution of a 2015 Four River Recovery Center CDBG application. The Kentucky Department of Local Government has accepted the application and issued a preliminary approval letter to the City of Paducah in the amount of \$250,000 on behalf of the Four Rivers Behavioral Health's Center Point Recovery Center.

The City of Paducah will receive \$12,500 for grant administration, monitoring and maintaining records with the amount of \$237,500 to be spent on salaries at Center Point Recovery Center. A local match is not required.

Goal: Strong Economy Quality Services Vital Neighborhoods Restored Downtowns

Funds Available:

Project Name: CDBG – Recovery (4)

Project #: CD0087

File #: 6.272

Acct. #: 006-1213-513.23-07

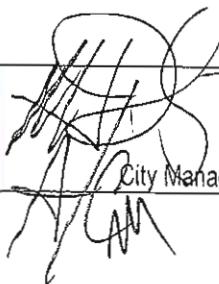
Budget: \$250,000

Source of Funds: Federal Grant, no local match required. The City will receive \$12,500 for administering the grant.

Finance

Staff Recommendation: Authorize and direct the Mayor to sign a legally binding agreement with the Four River Behavioral Health, LLC; as well as, all other required grant award documents including the Kentucky CDBG Procurement Policy.

Attachments: None

 Department Head	City Clerk	 City Manager
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Agenda Action Form Paducah City Commission

Meeting Date: June 23, 2015

Short Title: Sale of 533 Madison Street

Ordinance Emergency Municipal Order Resolution Motion

Staff Work By: Melinda Winchester, Steve Ervin
Presentation By: Steve Ervin

Key Components:

In an effort to reduce lot inventory and promote development within the Lowertown neighborhood, staff recently solicited bids for the sale of 533 Madison Street (Smedley Yeiser) for complete rehabilitation.

Bids:

In full compliance with the City's procurement policies, staff solicited sealed bids through an advertisement in the Paducah Sun on May 31st, 2015. Bids were opened at 2:00 PM on Monday, June 9th, 2015 with the following results:

533 Madison Street Bids:

1. Levi Kepsel and Luaren Jackson (Bighorn Properties, LLC): \$1.00

Bighorn Properties has submitted a bid that includes the complete rehabilitation of 533 Madison Street (Please find the proposal attached). The proposed rehabilitation cost is \$500,000. Upon approval by the City Commission, staff will proceed with the design approvals through the Historical and Architectural Review Commission.

Staff Recommendations:

Staff recommendation is that the property be transferred to the highest responsible bidder, Bighorn Properties for the offer of \$1.00.

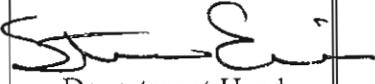
Goal: Strong Economy Quality Services Vital Neighborhoods Restored Downtowns

Funds Available:

Account Name:
Account Number:

Finance

Attachments: Elevations

 Department Head	City Clerk	 City Manager
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Agenda Action Form Paducah City Commission

Meeting Date: June 23, 2015

Short Title: Contract with GPEDC

Ordinance Emergency Municipal Order Resolution Motion

Staff Work By: Claudia Meeks
Presentation By: Jeff Pederson, City Manager

Background Information:

As part of the Investment Fund Decision Items for FY2015, the Commission approved appropriation of funding for Greater Paducah Partners For Progress and GPEDC in the amount of \$250,000, to be paid in quarterly installments.

In addition, since GPEDC has absorbed the role and all responsibilities of EntrePaducah, an additional \$50,000 was allotted, also payable in quarterly installments.

When the City provides funds to any organization, we prepare a simple Contract For Services agreement that describes the public services the organization will provide as a result of receiving the city funds.

Goal: Strong Economy Quality Services Vital Neighborhoods Restored Downtowns

Funds Available: This expenditure was appropriated in the FY2015 Budget.

Account Name: Investment Fund
Account Number: 004-0401-536-2307/ED0006/ED0101

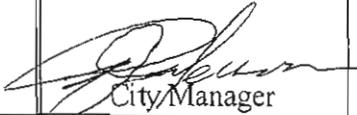

6/17/2015
Finance

Staff Recommendation:

Authorize the Mayor to enter into one-time Contracts For Services with GPEDC for a total of \$300,000 (\$250,000 for GPEDC responsibilities and \$50,000 for EntrePaducah responsibilities)

Attachments:

Ordinance
Contract

Department Head	City Clerk	 City Manager
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ORDINANCE NO. 2015-6-_____

AN ORDINANCE OF THE CITY OF PADUCAH, KENTUCKY, APPROVING A HOTEL DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PADUCAH, KENTUCKY AND PADUCAH RIVERFRONT HOTEL, LP WITH RESPECT TO A PUBLIC PROJECT AND AUTHORIZING THE EXECUTION OF THE HOTEL DEVELOPMENT AGREEMENT AND OTHER DOCUMENTS RELATED THERETO

WHEREAS, the City of Paducah, Kentucky (the "City") is the owner of certain real property situated along and near North 4th Street and Executive Boulevard in downtown Paducah adjacent to a publically owned convention center, generally known as the Julian Carroll and Paducah Expo Convention Center (the "Convention Center"); and

WHEREAS, the Board of Commissioners of the City of Paducah, Kentucky, have determined that it is necessary, appropriate, and in the best interest of the City to have designed, developed, constructed, operated, and managed on the City owned real property an upscale hotel to serve the Convention Center as well as the downtown business and tourism markets (the "Project"); and

WHEREAS, the Board of Commissioners of the City of Paducah, Kentucky, have reached an agreement with Paducah Riverfront Hotel, LP, a Kentucky ULPA Limited Partnership, by and through its General Partner, Paducah Hotel Inc., a Kentucky corporation, (the "Developer") for the development and construction of an upscale hotel and related improvements, and now the City and the Developer desire to enter into a binding, formal "Hotel Development Agreement" which would incorporate the final terms for the development and construction of the hotel and related improvements.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PADUCAH, KENTUCKY, AS FOLLOWS:

Section 1. Recitals and Authorization. The City hereby approves the Hotel Development Agreement among City and the Developer (the "Development Agreement") in substantially the form attached hereto as Exhibit A and made part hereof. It is further determined that it is necessary and desirable and in the best interest of the City to enter into the Development Agreement for the purposes therein specified, and the City Manager is directed and authorized to execute and deliver this Development Agreement as the City's offer to the Developer for the development of the Project. In the event this offer is accepted by the Developer, the Mayor of the City is hereby further authorized to execute the definitive agreements contemplated by the Development Agreement, together with such other agreements, instruments or certifications which may be necessary to accomplish the transaction contemplated by the Development Agreement with such changes in the Development Agreement not inconsistent with this Ordinance and not substantially adverse to the City as may be approved by the official executing the same on behalf of the City. The approval of such changes by said official, and that such are not substantially adverse to the City, shall be conclusively evidenced by the execution of such Development Agreement by such official.

Section 2. Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 3. Compliance With Open Meetings Laws. The City Commission hereby finds and determines that all formal actions relative to the adoption of this Ordinance were taken in an open meeting of this City Commission, and that all deliberations of this City Commission and of its committees, if any, which resulted in formal action, were in meetings open to the public, in full compliance with applicable legal requirements.

Section 4. Conflicts. All ordinances, resolutions, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

Section 5. Effective Date. This Ordinance shall be read on two separate days and will become effective upon summary publication pursuant to KRS Chapter 424.

MAYOR

ATTEST:

Tammara S. Sanderson, City Clerk

Introduced by the Board of Commissioners, June 23, 2015

Adopted by the Board of Commissioners, June _____, 2015

Recorded by Tammara S. Sanderson, City Clerk, June _____, 2015

Published by *The Paducah Sun*, _____

/ord/agree-hotel development-paducah riverfront hotel

EXHIBIT A TO ORDINANCE

189716

Execution copy

HOTEL DEVELOPMENT AGREEMENT

THIS HOTEL DEVELOPMENT AGREEMENT (this "**Development Agreement** or this **Agreement**") is made and entered into as of the ____ of ___, 2015, (the "Effective Date") by and between PADUCAH RIVERFRONT HOTEL LP, a Kentucky ULPA Limited Partnership, by and through its General Partner, Paducah Hotel Inc., a Kentucky corporation, having an address of 1401 Spring Bank Drive, Building A, Suite 8, Owensboro, KY 42303, (hereinafter referred to as the "**Developer**"); and CITY OF PADUCAH, a Kentucky second class city having an address of 300 South 5th Street, PO Box 2267, Paducah, KY 42002-2267 (hereinafter referred to as the "**City**").

WHEREAS, the City is the owner of certain real property situated along and near North 4th Street and Executive Boulevard in downtown Paducah adjacent to a publically owned convention center, generally known as the Julian Carroll and Paducah Expo Convention Center (the "**Convention Center**"); and

WHEREAS, the City, having previously purchased and razed a dilapidated hotel which was at one time located thereon; and

WHEREAS, the City, and its local government partners, namely the Paducah-McCracken County Convention Center (the "**PMCCC**") and the Paducah Riverfront Development Authority (the "**PRDA**") have determined, after conducting various planning studies, geotechnical studies, and market analyses that the presence of a new hotel adjacent to the Convention Center will stimulate business for the Convention Center as well as the downtown business and tourism markets; and

WHEREAS, the Developer's affiliates have extensive experience building and managing hotels having built and managed over 35 hotels including the most recent development of a full service Holiday Inn Hotel on the Banks of the Ohio River in Owensboro, Kentucky, adjacent to the Owensboro Convention Center; and

WHEREAS, the City desires to have developed and constructed on this city owned real property an upscale hotel substantially the same in function and design to the hotel recently completed in Owensboro, which is to be located adjacent to the Convention Center; and

WHEREAS, the Developer desires to develop, construct, operate and manage the hotel and the Convention Center; and

WHEREAS, the parties hereto understand the City's goal is the delivery of an exciting, vibrant, and professionally designed hotel that serves the Convention Center as well as the downtown business and tourism markets; and

WHEREAS, the parties hereto acknowledge preliminary work has been completed, and the parties do now desire to enter into a legally binding development agreement to facilitate the process and to assure the parties understand their respective roles in the development and financing of the development and construction of the hotel; and

WHEREAS, the parties also desire to induce the City and the Developer to proceed to the next step of negotiating and executing definitive agreements with the City and PMCCC for the planning, construction, use, occupancy, operation, management of the hotel and related improvements and the Convention Center.

NOW, THEREFORE, in consideration of the foregoing promises, and for other valuable consideration, the legal adequacy and sufficiency of which is hereby acknowledged by all parties hereto, the City and Developer do hereby agree as follows:

1. The City Manager has been directed and authorized by the Paducah City Commission to negotiate and deliver this Development Agreement on behalf of the City as its offer to the Developer. If the Developer chooses to accept this offer it shall execute and deliver this Development Agreement to the City on or before July 2, 2015. By its signature on this Development Agreement, the Developer irrevocably accepts the terms of this Development Agreement and agrees to be bound by it. In the event, the Developer fails to timely accept this offer as required herein, this offer shall expire. This Development Agreement shall become effective upon its execution by all parties, the Effective Date, and shall expire on January 29, 2016 (the "Term") (unless the parties agree in writing to an extension of this date), unless the Conditions Subsequent set forth in Section 6 of this Development Agreement are satisfied prior to the expiration of the Term, in which case this Development Agreement shall continue in force and effect for the same term as any definitive real property transfer, lease or other agreements for the use and occupancy of the hotel and the City's real property (as more particularly defined herein) entered into by and between the City and the Developer pursuant to this Development Agreement. In the event any of the Conditions Subsequent set forth in Section 6 of this Development Agreement are not satisfied or waived by the City prior to the

expiration of the Term, this Agreement shall terminate whereupon the City shall have no further liabilities or obligations to the Developer hereunder.

2. The City and the Developer acknowledge and agree the Developer shall develop and construct a full service Holiday Inn Hotel substantially the same in function and design to the hotel recently completed in Owensboro by the Developer's affiliate and in accordance with the construction plans and specifications to be provided herein ("the "Hotel"). The Hotel shall have 123 hotel rooms for transient occupancy. The construction type shall be of a composite structural steel-concrete and have no fewer than five occupied stories. The Hotel will have amenities attractive to visitors including, at least, a 50 seat restaurant and full service bar. The restaurant will be open for breakfast, lunch, and dinner. It will also include a pool, fitness center, and business center and meeting spaces. Further, the Developer shall construct parking improvements necessary to accommodate the Hotel and compatible with the Hotel design (the "Parking Improvements"). Upon the Effective Date of this Development Agreement, the Developer shall provide to the City the construction plans and specifications for the Hotel, which shall be incorporated by reference into this Development Agreement. The Developer shall perform the construction and the development of the Hotel in a good and workmanlike manner in accordance with generally accepted construction practices.
3. The City and the Developer acknowledge and agree the Hotel and the Parking Improvements shall be constructed and developed upon certain real property owned by the City and the development project shall include the following two tracts of real property, as more particularly shown on Exhibit A attached hereto:
 - a. The Hotel shall be constructed and developed on Tract I, a +/-1.4 acre tract located at 600 North 4th Street, Paducah, McCracken County, Kentucky; and
 - b. The Parking Improvements shall be constructed and developed on Tract II, a tract lying on the opposite side of the flood wall from Tract I. (Tract I and Tract II shall be collectively referred to as the "Property").
4. The parties acknowledge and agree that the following are the Developer's commitments for capital improvements and/or expenditures in connection with the development of the Hotel, the Parking Improvements, or for such other matters as set forth below (the "Investment Commitments"):
 - a. To engage and hire immediately after the Effective Date of this Development Agreement and prior to construction, the services of, architects, engineers, interior

designers and other consults necessary to begin development and construction of the Hotel on Tract I.

- b. To fully satisfy the Investment Commitments by the Developer committing to expend under this Development Agreement and the definitive agreements contemplated herein a minimum of \$18 million (total project) in the development, construction, and equipping of the Hotel on Tract I and the Parking Improvements on Tract II.
- c. To immediately apply for and close on a loan before the expiration of the Term financing in the amount of \$12 million dollars with a bank of the Developer's choosing (the "Bank"), and to diligently complete and fully satisfy the conditions for construction/permanent financing with the Bank. The Bank loan may be in the form of conventional financing or the issuance of Industrial Revenue Bonds for a term up to twenty (20) years, at the sole cost of the Developer, in accordance with KRS Chapter 103.
- d. Developer will immediately upon the Effective Date of this Agreement complete and submit its application to the Kentucky Tourism Development Commission for sales tax credits issued pursuant to the Kentucky Tourism Development Act, and receive written acknowledgement from the Kentucky Tourism Development Commission that the Developer has been awarded the aforesaid sales tax credits.
- e. To obtain and maintain all licensing, permitting and certification requirements for the lawful construction of the Hotel and the Parking Improvements and operation of the Hotel, including but not limited to, all City development and zoning ordinances and policies, Army Corps of Engineers permitting, and such other federal, state and local agency licensing, demolition, construction, permitting or certification requirements as are necessary for alcoholic beverage service, food service, construction, operation, maintenance and the overall public health (collectively, "Governmental Permits").
- f. Develop, construct, and operate the Hotel on the Property in conformity with all applicable laws and regulations.
- g. Provide, at their expense, written reports reasonably satisfactory to the City of the Developer's progress in satisfying the Investment Commitments. Such reports shall be certified as accurate by the Developer. The City reserves the right to require any reasonable verification procedures or processes.

- h. Negotiate and execute definitive management and/or operational agreements with PMCCC to operate the Convention Center before the expiration of the Term of this Agreement.
- i. To secure, at their sole cost and expense, comprehensive commercial general liability insurance covering the development and construction of the Hotel and the Parking Improvements on the Property in an amount agreeable to the City Manager, or his designee; provided, however, the amount of comprehensive commercial general liability insurance coverage shall not be greater than the amount required by Holiday Inn or the Intercontinental Hotels Group. Insurance shall be with a reputable insurance company, which policy shall name the City of Paducah as an additional insured. The Developer shall obtain all workers' compensation insurance required by applicable statutes. The certifications of insurance shall be presented to the City upon taking possession of the Property.
- j. To relocate, at their sole cost and expense, all utility mains, lines and facilities necessary for the development and construction of the Hotel and the Parking Improvements. City represents that electric, water, sanitary sewers and natural gas are all present on Tract I
- k. To promptly pay when due real property taxes, personal property taxes, and any and all other government levies, assessments or taxes of every kind and nature whatsoever, which are assessed, levied, imposed upon, or would become due and payable out of or with respect to the Property, the Hotel, or any personal property, equipment or other facility used in the operation of the Hotel (subject to the provisions of Section 103.285 of the Kentucky Revised Statutes regarding tax exemption of public property used for public purposes, so long as it is owned in fee by the City); and any charges for utilities, communications and other services rendered or used in or about the Hotel, the Parking Improvements, and the Property.
- l. Before the expiration of the Term of this Development Agreement, negotiate and execute any and all definitive agreements between the City, the Developer, and the Bank as required under this Development Agreement regarding the following, without limitation: (a) construction of the Hotel and the Parking Improvements by the Developer, (b) the convey and transfer of fee title or a 20 year lease agreement with option to purchase pursuant to KRS Chapter 103 from City to Developer, for nominal consideration, as to Tract I, (c) first mortgage or leasehold mortgage in favor of the Bank as to Tract I, (d) the \$12 million dollar loan with the Bank for the

construction of the Hotel and Parking Improvements, (e) the lease agreement from the City to the Developer, for nominal consideration, as to Tract II for an initial term terminating on the date Tract I ceased to be used and operated as a hotel, for vehicular parking in connection with the Hotel and for no other purpose, and (f) the right of first refusal as to the North 3rd Street Property (as defined herein).

- m. Negotiate and execute a payment in lieu of taxes agreement with the City and the Paducah Independent School District in the event the Bank loan is consummated as an Industrial Revenue Bond pursuant to KRS Chapter 103.
 - n. The Developer providing written assurances, to the sole satisfaction of the City, within ninety (90) days of the Effective Date of this Development Agreement, that the Developer has obtained all funding for the Investment Commitments as set forth in Section 4 herein; and that the Hotel will proceed and has the potential to generate the required new public revenue to finance the repayment of the conventional loan or the Industrial Revenue Bonds and the tax credits granted by the Kentucky Tourism Development Act.
5. The parties acknowledge and agree that the following are the City's commitments in connection with the development of the Hotel:
- a. Transfer long-term use and occupancy of Tract I to the Developer by sale in fee or 20 year lease agreement with option to purchase pursuant to KRS Chapter 103, for a nominal sum, and upon such other terms as are mutually agreeable among the parties. This transfer is contingent upon the Developer satisfying the Investment Commitments and the Conditions Subsequent set forth in Section 6 of this Development Agreement. It is understood between the parties that in order to accomplish the issuance of Industrial Revenue Bonds pursuant to KRS Chapter 103 the City may need to retain title to Tract I, or reacquire Tract I from the Developer and lease Tract I to the Developer to consummate the Bank loan pursuant to KRS Chapter 103. The City understands and agrees that as a material inducement to enter into this Agreement it is the intent of all parties that for \$1.00 and the fulfillment of all condition herein, fee simple title to Tract I will ultimately vest in the Developer or its assigns subject only to any bonding requirements as referenced herein.
 - b. Negotiate and execute a long term lease agreement with the Developer, for nominal consideration (\$1 per year), as to Tract II for an initial term terminating on the date Tract I ceased to be used and operated as the Hotel, for vehicular parking in

connection with the Hotel and for no other purpose, upon such other terms as may be mutually agreed to by the parties.

- c. Negotiate and execute a payment in lieu of taxes agreement with the Developer and the Paducah Independent School District in the event the Bank loan is consummated as an Industrial Revenue Bond pursuant to KRS Chapter 103.
- d. At the City's expense, improve use of the Property by removing a section of the permanent flood wall with an opening allowing access between Tracts I and II; create permanent public parking along North 4th Street and along the south/west side of Tract I; and to improve and develop at City's expense approximately 56 public parking spaces on a triangular tract of land lying on the opposite side of the Executive Boulevard from Tract I (the "Triangular Tract"), all as referenced on Exhibit A, and granting to the Developer a non-exclusive license to use the Triangular Tract for vehicular parking in connection with the Hotel and for no other purpose for a period of three (3) years from date of opening of the Hotel, as evidenced by the issuance of the Certificate of Occupancy by the City of Paducah.
- e. Grant and accord to the Developer, for a period of three (3) years commencing with the issuance of the Certificate of Occupancy (the "First Refusal Term"), the right of first refusal to purchase three (3) tracts of real estate generally located at 501 North 3rd Street, Paducah, McCracken County, Kentucky, which is more particularly described on Exhibit C (the "North 3rd Street Property") subject to the conditions set forth in this Section 5 (e); provided, however, the City acquires marketable fee title to the North 3rd Street Property. In the event the City should receive a bona fide offer for the North 3rd Street Property, which the City desires to accept during the First Refusal Term, the City shall provide to the Developer a written notification which states (i) the price or rentals stated under the offer, and (ii) the other terms and conditions which are material to the offer. The City shall deliver such written notification to the Developer. Upon receipt of such written notice, the Developer shall have a period of thirty (30) days to elect to purchase or lease, as the case may be, the North 3rd Street Property which is subject to the bona fide offer at the same rentals, at the same commitment of investment dollars in the development of the North 3rd Street Property, and with the same material terms as set forth under the bona fide written offer, except that in the event of a purchase the Developer shall purchase at a purchase price of \$300,000.00 but all other terms of the bona fide offer must be accepted by the Developer. In the event the Developer desires to exercise

the right of first refusal, the Developer shall deliver to the City a written notice of the Developer's election to exercise such right by the expiration of the aforesaid 30 day period. In the event the Developer elects to exercise its right of first refusal herein, the Developer shall be bound to complete the purchase or lease, as the case may be, in accordance with the terms and conditions of the bona fide written offer as provided above; provided, however, the Developer agrees that its use of the North 3rd Street Property shall be limited to hotel development or hotel related development which are beneficial to the economic development of the Paducah downtown area, and for no other purpose. The closing with the Developer shall be within sixty (60) days of the Developer's election. If the Developer does not exercise its right of first refusal within the aforementioned 30 day period, the City shall be free to accept the bona fide written offer and to complete the lease or sale at the price and upon the material terms and conditions set forth in said bona fide written offer. This right of first refusal shall automatically terminate upon the expiration of the First Refusal Term.

- f. In addition to the transfer in fee of Tract I and long term lease of Tract II, the City will contribute \$900,000.00 to the construction of the Hotel and the Parking Improvements to be used at the Developer's discretion in building and/or furnishing the Hotel and the Parking Improvements, less a credit in favor of the City in an amount up to \$50,000.00 as reimbursement to the City for any and all expenses incurred in the flood wall improvements to be performed by City under Section 5 (d) herein. The City shall provide appropriate documentation as to the incurred expenses.
- g. To the extent permitted under applicable law and without compromising public health, safety and welfare, take reasonable actions (subject to the City's rules and regulations and applicable law) to facilitate the construction of the Hotel. The City may also in its discretion grant waivers that are lawfully permitted to be granted, and may waive permit, inspection, and building inspector fees, zoning fees, and platting fees.
- h. To aid and/or participate in the financing necessary for the development and construction of the Hotel by the Developer through the issuance of Industrial Revenue Bonds for a term up to twenty (20) years at the sole cost of the Developer in accordance with KRS Chapter 103 in the amount of not less than \$12 million dollars. The bonds shall be limited and special revenue bonds of the City and neither the full

faith or credit nor the taxing power of the City shall be pledged to the payment of such bonds.

i. **City Covenant.** As an incentive and an inducement to the Developer to develop, construct, operate and manage the Hotel and to aid in the Developer's financing of the Hotel, the City shall not offer Economic Incentives within the Downtown Market Area to any Hospitality Project commencing with the issuance of a Certificate of Occupancy by the City of Paducah for the Hotel and extending one (1) year thereafter; provided, however, the Developer is not in default of any obligation under this Agreement, any mortgage encumbering the Property and/or the Hotel, any obligation to the Bank providing financing to the Hotel, and any obligation to PMCCC. For the purpose of this section only, the following definitions shall apply:

i. **Hospitality Project** – Shall mean any project, building or facility that is intended for the rent or occupancy of a suite, room, or rooms charged by all person, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodation businesses. This shall not apply to an owner occupied bed and breakfast business consisting of eight (8) or fewer guests rooms, or the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more.

ii. **Downtown Market Area** – Shall mean an area lying between HC Mathis Drive on the North; Broad Street on the South; 28th Street on the West and the Ohio River on the East; less and except the Irvin Cobb Hotel located at 600 Broadway, all as shown on **Exhibit D**.

iii. **Economic Incentive** – Shall mean a grant, provision, or transfer from the City of Paducah, or other agency of the City designed to induce or spur economic development within the Downtown Market Area, that may consist of land transfers below fair market value, cash assistance, loans, grants, tax relief and other similar forms of financial assistance.

6. **Conditions Subsequent.** The Developer expressly acknowledges and agrees that the obligations of the City as set forth in this Development Agreement are contingent upon (unless waived by the City) the following Conditions Subsequent, and unless the Conditions

Subsequent are satisfied by the Developer or waived by the City prior to the expiration of the Term of this Development Agreement, this Development Agreement shall terminate whereupon the City shall have no further liabilities or obligations to the Developer hereunder:

- a. The Developer providing written assurances, to the sole satisfaction of the City, within ninety (90) days of the Effective Date of this Development Agreement, that the Developer has obtained all funding for the Investment Commitments as set forth in Section 4 herein; and that the Hotel will proceed and has the potential to generate the required new public revenue to finance the repayment of the conventional loan or the Industrial Revenue Bonds and the tax credits granted by the Kentucky Tourism Development Act, as required by Section 4 (n).
 - b. Definitive agreements between the City, the Developer, the Paducah Independent School District and/or the Bank have been executed and consummated as required by Section 4 (l) and 4 (m) herein.
 - c. Definitive agreement is executed and consummated by and between the Developer, or its affiliate, and the PMCCC as set forth in Section 4(h) herein.
 - d. The Developer's continued ability to pay its debts when and as due, and avoid insolvency or any form of voluntary or involuntary bankruptcy.
 - e. The written engagement and hiring of the services of, architects, engineers, interior designers and other consults necessary for the design, development and planning of the Hotel and the Parking Improvements as required by Section 4 (a), and
 - f. The conventional loan or issuance of the Industrial Revenue Bond in accordance with KRS Chapter 103 with the Bank has closed and is consummated as required by Section 4(c) and the Developer is ready to proceed with construction of the Hotel.
7. Miscellaneous Provisions. The following miscellaneous provisions shall apply:
- a. Notices. All notices provided for herein will be in writing and addressed to the parties at the addresses as referenced above.
 - b. Other Rights and Remedies. The duties and obligations imposed by this Agreement and the rights and remedies available thereunder are in addition to and not a limitation of any duties, obligations, rights, and remedies, otherwise imposed or available by law.
 - c. Assignment. The operation of the Hotel and Convention Center will be performed by the Developer's sister company, Gateway Lodging Company, Inc., or Gateway's selected partners, vendors, subcontractors, or suppliers, as may be necessary in the normal conduct of its business; and the City does hereby grant its

consent thereto. Notwithstanding this assignment, the Developer agrees to continue to be bound by the duties and obligations created herein. The Developer will make no additional assignments under this Agreement without the City's prior consent, which consent will not be reasonably withheld.

- d. **Governing Law.** This document shall, in all respects, be governed by the laws of the state of Kentucky. Venue shall be with McCracken Circuit Court.
- e. **Entire Agreement.** This Agreement expresses the complete agreement of the parties and supersedes all prior written or oral agreements or understandings between the City and the Developer with regard to the matters addressed herein. The making, execution, and delivery of this Agreement by the parties hereto have not been induced by any representations, statements, warranties or agreements other than those expressly set forth herein.
- f. **Amendments.** This Agreement may not be modified or amended unless by writing signed by both parties hereto.
- g. **Time.** All times referred herein shall be strictly construed, as all of such times shall be deemed of the essence. Notwithstanding the foregoing, in the event of any reasonable delay or failure of the Developer to timely perform any of its obligations hereunder within the time period referred herein due to unforeseeable causes beyond its control and without its fault or negligence (force majeure), including, but not restricted to, acts of God, acts of a public enemy, unforeseen underground conditions, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, severe shortage of materials, unusually severe weather, acts of any governmental agency, or delays caused by the failure of contractors or subcontractors to perform, each such time period directly affected by the force majeure shall be extended for the period of the force majeure delay to a date mutually agreeable to the parties.
- h. **Counterparts.** This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same agreement.
- i. **Binding Effect.** Although the planning, construction, operation, management, use, and occupancy of the Property and the Hotel shall be subject to the terms of more definitive agreements, which will encompass issues not addressed in this Development Agreement, the parties agree that the terms of this Development Agreement will be incorporated into such other definitive agreements. The parties further acknowledge and agree that this Development Agreement reflects the basic

business arrangement between the parties and is intended to be binding on the Developer, its successors and assigns, and conditionally binding on the City, its successors and assigns, provided the Conditions Subsequent are timely satisfied by the Developer. However, this Development Agreement shall be binding only as to the matters set forth in this Development Agreement, and shall not bind the parties regarding any other future matters not contained within this Development Agreement.

- j. Guaranty. Glenn D. Higdon unconditionally guarantees all of the Developer's obligations contained in this Development Agreement and the subsequent definitive agreements to be executed and entered into between the parties and agrees to indemnify the City for any breach hereof or thereof. This guaranty shall be specifically set forth in each of the aforesaid definitive agreements.

[See following pages for signatures.]

IN WITNESS WHEREOF, the parties have executed the Hotel Development Agreement on the date first written above.

DEVELOPER:

PADUCAH RIVERFRONT HOTEL LP,

By: Paducah Hotel Inc., a Kentucky corporation,
Its General Partner

By: _____

GLENN D. HIGDON

Title: _____

GUARANTOR:

GLENN D. HIGDON

IN WITNESS WHEREOF, the parties have executed this Hotel Development Agreement on the date first written above.

CITY:

CITY OF PADUCAH, KENTUCKY

By: _____

Print: _____

Title: CITY MANAGER

EXHIBIT B – HAS BEEN DELETED

EXHIBIT C

EXHIBIT C
THE NORTH 3RD STREET PROPERTY

TRACT I

Beginning at the point of intersection of the north line of Harrison Street and the west line of North Third Street; thence in a northerly direction with the west line of North Third Street North 31 degrees 27 minutes West 347.12 feet to its point of intersection with the south line of Clay Street; thence with an interior angle of 90 degrees 03 minutes in a westerly direction with the south line of Clay Street South 58 degrees 30 minutes West 163.25 feet to the east line of an alley; thence with an interior angle of 89 degrees 57 minutes in a southerly direction with the east line of said alley South 31 degrees 27 minutes East 347.12 feet to a point in the north line of Harrison Street; thence with an interior angle of 90 degrees 03 minutes in an easterly direction with the north line of Harrison Street North 58 degrees 30 minutes East 163.25 feet to the point of beginning, LESS SO MUCH as was conveyed to the Commonwealth of Kentucky by deed dated July 26, 1979, recorded July 1, 1980, in Deed Book 629, page 550; said deed described a triangular parcel of 532 square feet for new street right-of-way

TRACT II

Beginning at an iron pipe at the corner of the intersection of Executive Blvd (formerly Clay Street) as it intersects with the public alley and from thence south 29 deg 38' 53" E. 179.25 feet to an iron pipe; thence south 60 deg 26' 10" W. 63.35 feet to a pipe, thence north 61 deg 28' 24" W 189.45 feet to an iron pipe; thence north 29 deg 38' 53" W. 18.43 feet to an iron pipe; thence north 60 deg 26' 10" E. 163.25 feet to the point of beginning, constituting 0.487 acres.

TRACT III

Beginning at a point in the north right of way line of Riverfront Access Road (Park Avenue), said point being 33.00 feet left of Park Avenue Station 158+92.04; thence N. 60 deg 20' 56" E 62.95 feet to a point 86.24 feet left of Riverfront Access Road (Park Avenue) Station 159+25.24; thence S 29 deg 37' 37" E. 72.76 feet to a point 48.10 feet left of Riverfront Access Road (Park Avenue) Station 159+87.04; thence S 28 deg 31' 36" W. 15.10 feet to a point in the north right of way line of Riverfront Access Road (Park Avenue), said point being 33.00 feet left of Riverfront Access Road (Park Avenue) Station 159+87.04; thence N 61 deg 28' 24" W. along the north right of way line of Riverfront Access Road (Park Avenue), 95.00 feet to the point of the beginning, containing 3,007.44 square feet.

For clarification purposes, Tract II and III hereinabove are contiguous parcels, and are bounded on the northeast by Clay Street; on the east by a 20 foot alley lying between the above-described property and the Paducah Centre property owned by Wells Health Properties, L.L.C., and on the southwest by Park Avenue

Being the same property conveyed to Kentucky Holdings, I, LLC, a Delaware limited liability company, by deed dated September 29, 2006, of record in Deed Book 1104, page 491, McCracken County Court Clerk's Office.

EXHIBIT D

Exhibit D
Map of Downtown Market Area

