

Memorandum of Agreement with Developer

1. This Agreement is made this ____ day of _____, ____ by and between _____ (“Developer”) and UNITE HERE Local11 (“Union”). “Developer” shall be deemed to include any person, firm, partnership, corporation, joint venture or other legal entity substantially under the control of the Developer covered by this Agreement, or one or more principal(s) of the Developer covered by this Agreement or a subsidiary of the Developer covered by this Agreement, or any person, firm, partnership, corporation, joint venture or other legal entity which substantially controls the Developer covered by this Agreement. Developer is engaged in the development of a _____ [description of project] (the “Project”) to be located in the area of [city], [state] commonly known as the “_____ Site,” located [location]. The Project will include a hotel (the “Hotel”), one or more restaurants (the “Restaurants”) and _____ [other elements], collectively known as the “Operations”. Many jobs will be created in the process. These jobs include permanent positions for food and beverage workers and hotel service workers in the Operations. The Union is interested in organizing the Employees of the various Operations. "Employees" means all employees of an Operator at the Project, but does not include office clerical employees or managerial or professional employees as defined in the National Labor Relations Act. "Operator" means any person, firm, proprietorship, partnership, corporation, joint venture or other form of business organization which has or acquires any right to operate an Operation at the Project, including the Developer itself if it operates an Operation at the Project. This Agreement shall cover all employees employed in classifications listed in Exhibit A, or in classifications called by different names when performing similar duties, at the Project (referred to hereinafter as "Employees").

2. In consideration for Developer's covenants made herein to establish conditions favorable for employees of the enterprises at the subject Project to choose whether to be represented by labor organizations in an atmosphere without delay, intimidation or labor-management conflict, the Union promises and covenants for itself and on behalf of its members that it will not engage in any strike, picketing, or boycott with respect to the Project as a whole or with respect to any Operation of said Project, provided that this promise shall terminate immediately and without notice with respect to any unit of Employees in such an Operation upon the recognition of any union other than the Union signatory to this Agreement as the exclusive collective bargaining representative for the Employees in that unit or any part of it, or upon the conclusion of a collective bargaining agreement or issuance of an interest arbitration award which concludes the collective bargaining agreement negotiations between the Operator and the Union for that unit. The Union and the Developer will not file any charges with the National Labor Relations Board or commence any other action in law or equity in connection with any act or omission occurring within the context of this agreement; arbitration under this Agreement shall be the exclusive remedy.

3. (a) Developer shall give the Union written notice of its intent to solicit bids or proposals from any potential Operator(s) at the time of the solicitation, and it shall inform the Union in writing of the identity and contact information of any potential Operator which has submitted a bid or proposal or has expressed an interest in doing so. If either has already occurred, Developer will

share such information with the Union immediately upon execution of this Memorandum of Agreement if Developer has not already done so. Developer shall incorporate the entirety of subsections (b), (c), (d), (e), (f), (g), and (h) of section 3 of this Memorandum of Agreement in any existing or future purchase and sale contract, lease, sublease, management agreement, operating agreement, franchise agreement or any other agreement or instrument disposing any interest in a Project and shall obligate any person who has taken or takes such interest, and any and all successors and assigns of such person, to in turn incorporate said subsections in any further purchase and sale contract, lease, sublease, operating agreement, franchise agreement or any other agreement or instrument disposing any interest in the Project. Developer shall enforce such provisions, or at its option, assign its rights to do so, to the Union. The terms "Operator," "Operation," and "Project" shall be modified in each such agreement or instrument to conform to the terminology in such agreement or instrument but retain the same meaning as in this Agreement. The Developer shall provide to the Union, upon request, copies of those portions of any such agreement or instrument showing the parties thereto and that it has been duly executed, the effective date(s) and term(s), and that the provisions required by this Agreement have been included therein.

(b) The Operator shall work with the Union and through its affiliated Hospitality Training Academy ("HTA") when recruiting for its initial complement of Employees to staff the Operations upon opening or thereafter when filling vacancies in job classifications covered by this Agreement. The HTA is jointly sponsored by the Union and hospitality industry employers in Southern California and Arizona and provides training to new entrants to the industry. Operator shall contact the Union and the HTA to request referral of applicants for all such initial-complement positions and subsequent vacancies. When requesting applicants from the Union and the HTA, the Operator shall state the qualifications which applicants are expected to possess. After initially screening such applicants, the HTA shall present them to the Operator for initial consideration. Neither the Union nor the HTA will be obligated to present or train for applicants once they have presented a number of qualified applicants willing to accept employment with the Operator equal in number to the positions available at the full public opening of the Hotel. The Union's selection of applicants for referral shall be on a non-discriminatory basis and shall not be based upon or in any way affected by membership in the Union or the Union's bylaws, rules, regulations, constitutional provisions, or any other aspects or obligation of Union membership policies or requirements, or upon personal characteristics of an applicant where discrimination based upon such characteristics is prohibited by law. The Operator agrees that any interest demonstrated by an applicant in joining the Union shall not constitute grounds for discriminatory or disparate treatment nor adversely impact the applicant's ability to be hired by the Operator. The Operator shall be the sole judge of an applicant's suitability, competence, and qualifications to perform the work of any job to be filled. The Hotel Operator shall enter into an agreement with the Union, that complies with 29 U.S.C. section 186(c), and shall make a \$ _____ contribution to the Hospitality Industry Training and Education Fund a minimum of sixty (60) days prior to the Hotel opening pursuant to said Agreement.

(c) The duly authorized representatives of the Union seeking to communicate with employees of the Operator in any unit consisting of Employees shall be permitted to enter upon the premises of the Project for that purpose, provided that such representatives shall only communicate with Employees on the Employees' non-work time and in places that are non-work areas for them and shall not interfere with the orderly operations conducted by the Operator.

(d) Within ten (10) days following receipt of written notice of intent to organize a unit of an Operator's Employees, the Operator shall furnish the Union with a complete list of Employees in the unit, including both full and part-time Employees, showing their place of employment, job classification, departments, phone numbers, emails, and home addresses. Thereafter, the Operator shall provide updated complete lists monthly. The Union shall keep the Employees' contact information confidential.

(e) The Operator will take a positive approach to the unionization of Employees. The Operator shall not take any action or make any statement that will directly or indirectly state or imply the Operator's opposition to or support for the selection by Employees of a collective bargaining representative, or preference for or opposition to any particular union as a bargaining agent.

(f) If the Union requests recognition as the exclusive collective bargaining agent for employees in a unit as defined above, the arbitrator identified in paragraph (h), or another person mutually acceptable to the Operator and the Union, will conduct a review of employees' authorization cards submitted by the Union in support of its claim to represent a majority of such employees. If that review establishes that a majority of such employees has designated the Union as their exclusive collective bargaining representative, the Operator will recognize the Union as such representative of such employees. The Operator will not file a petition with the National Labor Relations Board for any election in connection with any demands for recognition provided for in this agreement or file a notice of voluntary recognition with the NLRB, so that the decision of when and whether to provide such notice is within the sole discretion of the Union. If the Union notifies the NLRB of recognition pursuant to this Agreement and the NLRB instructs the Operator to post an NLRB notice of recognition, the Operator shall post the notice of recognition in accordance with the instructions from the NLRB immediately upon receipt of the notice. The Union and the Operator agree that if any other person or entity petitions the National Labor Relations Board for any election as a result of or despite recognition of the Union pursuant to this Paragraph, (a) the Operator and the Union will each request that the NLRB dismiss the petition on grounds of recognition bar or, if they have agreed to a collective bargaining agreement covering Employees at the time the petition is filed, on grounds of contract bar, (b) if the petition is not dismissed, the Operator and the Union shall agree to a full consent election agreement under Section 102.62(c) of the NLRB's Rules and Regulations, and (c) the Operator and the Union shall at all times abide by the provisions of this Agreement except that the Union may file unfair labor practice charges. Except as provided above, the Union and the Operator will not file any charges with the National Labor Relations Board in

connection with any act or omission occurring within the context of this agreement; arbitration under Paragraph (h) shall be the exclusive remedy.

(g) If the Union is recognized as the exclusive collective bargaining representative as provided in this subsection, negotiations for a collective bargaining agreement shall be commenced immediately and conducted diligently and in good faith to the end of reaching agreement expeditiously. If the parties are unable to reach agreement on a collective bargaining agreement within 90 days after recognition, all unresolved mandatory and permissive issues shall be submitted for resolution to final and binding arbitration. The arbitrator identified in Paragraph 3(h), below, shall be the arbitrator unless another arbitrator is mutually agreed to by the parties. The arbitrator shall be guided by the following considerations among others: a) Operator's financial ability; b) size and type of the Operator's operations; c) cost of living as it affects the Operator's employees; d) ability of the employees, through the combination of wages, hours and benefits, to earn a living wage to sustain themselves and their families; and e) employees' productivity.

(h) The parties agree that any disputes over the interpretation or application of this Agreement shall be submitted to expedited and binding arbitration, with Najeeb Khoury serving as the arbitrator. If he is unavailable to serve within thirty (30) calendar days of notification then Fred Horowitz, or another mutually acceptable person, shall be the arbitrator. The arbitrator shall have the authority to determine the arbitration procedures to be followed. The arbitrator shall also have the authority to order the non-compliant party to comply with this Agreement. The parties hereto agree to comply with any order of the arbitrator, which shall be final and binding. The United States District Court for the Central District of California shall have exclusive jurisdiction in any action concerning arbitration under this Agreement. The parties hereto agree to comply with any order of the arbitrator, which shall be final and binding, and furthermore consent to the entry of any order of the arbitrator as the order or judgment of the court, without entry of findings of fact and conclusions of law. Any party who unsuccessfully resists arbitration or an arbitration award under this Agreement shall be liable for the other party's legal fees and expenses for enforcement. No party has provided any consideration for this Agreement other than that set forth in this Agreement.

4. This Agreement shall be in full force and effect with respect to each Operation from the date it is fully executed on behalf of the Developer and the Union until four (4) years from the full public opening of each Operation subject to the provisions of Section 2.
5. In the event that the Developer sells, transfers, or assigns all or any part of its right, title, or interest in the Project or substantially all of the assets used in the operation of the Project, or in the event there is a change in the form of ownership of the Developer, the Developer shall give the Union reasonable advance notice thereof in writing, and the Developer further agrees that as a condition to any such sale, assignment, or transfer, the Developer will obtain from its successor or successors in interest a written assumption of this Agreement and furnish a copy thereof to the Union, in which event the assignor shall be relieved of its obligations hereunder to the extent that the assignor has fully transferred its right, title, or interest. The parties

recognize that a violation of Paragraph 3(a) or Paragraph 5 would cause the Union irreparable injury, and agree that the Union shall not be required to post a bond in any action for injunctive relief to address an actual or threatened violation of those Paragraphs. Developer shall provide the Union regular updates describing the status of the Project, including the estimated date that construction will commence and conclude, the status of any Operator selection subject to paragraph 3(a), and a summary of governmental entitlements secured and applied for that are necessary to the Project's completion. Such updates will be provided on at least a bi-monthly basis.

6. The provisions of section 3(b)-(h) of this Agreement may be modified in a bona fide agreement between an Operator and the Union, but only if the modification is explicitly set forth in such agreement in clear and unambiguous terms.
7. Any disputes over the interpretation or application of this Agreement shall be submitted to expedited and binding arbitration pursuant to the procedure in paragraph 3(h). The Developer agrees that it has consulted with counsel prior to entering into this Agreement, and that it has entered into this Agreement freely and voluntarily and without duress, coercion or any other unlawful or improper inducement by the Union or any other private or governmental entity or person, and for adequate consideration. The Developer further agrees that it will not contest the legality or enforceability of this Agreement in any forum, and that it will indemnify the Union for any and all costs of litigation, including the Union's attorneys' fees, incurred by the Union in any proceeding in which the Developer breaches this promise. Any party who unsuccessfully resists arbitration or an arbitration award under this Agreement shall be liable for the other party's legal fees and expenses for enforcement. No party has provided any consideration for this Agreement other than that set forth in this Agreement.
8. In the event that any provision of this Agreement should be rendered invalid by applicable legislation or be declared invalid by any court or regulatory agency of competent jurisdiction, such action shall not invalidate the entire Agreement, it being the express intention of the parties hereto that all other provisions not rendered invalid shall remain in full force and effect. All parties agree that the subject matter of any provision found to be invalid shall be renegotiated for the purpose of replacing the invalidated provision with a valid substitute which most nearly achieves the same objective. In the event the parties are unable to agree on a substitute, the matter shall be submitted to arbitration as provided in Paragraph 3(h); the arbitrator shall choose or formulate a substitute provision which accomplishes the purposes of the preceding sentence.

IN WITNESS WHEREOF, the parties hereto by their duly designated representatives have hereunto set their hands.

_____ [Developer]

By:

Its:

Date:

UNITE HERE Local 11

By:

Its:

Date:

EXHIBIT A

All regular full-time, regular part-time and on call hotel service, housekeeping, food and beverage, and laundry employees (including, but not limited to, room attendants, housepersons, bell persons, telephone operators, kitchen employees, servers, bussers, runners, bartenders, cashiers, hosts, concierges, laundry workers, and front desk, recreational, and parking employees) employed at the Hotel, but excluding all secretarial, office clerical, sales, and skilled maintenance employees and all managers and guards as defined under the National Labor Relations Act.