



CITY OF TUCSON
HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT
ADMINISTRATION DIVISION

Quarterly Monitoring Report
Memorandum of Agreement
Downtown Motor Apartments
For the period 10/1/15-12/31/15

Stipulations – Status

I. Rehabilitation of Historic Sign and Portion of Hotel

A. Downtown Motor Lodge LLC (Developer) will save and restore the existing project sign. Developer will work with the City Historic Preservation Office to attempt to obtain “Historic Landmark Sign Designation” and will pay for the application. In addition the developer will execute a Conservation Easement on the sign in favor of the City of Tucson. The form of Conservation Easement shall be as agreed to by the City of Tucson’s Historic Preservation Officer, City Attorney, and developer.

7/15/15-9/30/15 status update: Conservation easement has been drafted and is pending execution.

10/1/15-12/31/15 status update: Conservation easement executed and recorded. Copy is attached. Stipulation I(A) is complete.

B. Developer will retain approximately 47’ of the westernmost portion of the north building on the property and approximately 36’ of the westernmost portion of the south building on the property as depicted in the drawing attached as Exhibit C. These spaces will be used as offices and community space.

7/15/15-9/30/15 status update: No action during this period.

10/1/15-12/31/15 status update: Underway. Demolition of other areas of the building is complete; these two sections remain.

C. Any historic preservation of these portions of the property will meet the Secretary of the Interior’s Standards for Archaeology and Historic Preservation (SOI’s Standards; http://www.nps.gov/history/local-law/arch_stnds_9.htm), and will be carried out by or under the direct supervision of qualified professionals who meet the Secretary of Interior’s Professional Qualifications Standards.



7/15/15-9/30/15 status update: No action during this period.

10/1/15-12/31/15 status update: Developer has hired an architect approved by the Tucson Historic Preservation Office to oversee work related to the 47' of the westernmost portion of the north building and 36' of the westernmost portion of the south building as depicted in Exhibit C.

D. Contingent upon lender approval, developer will execute a Conservation Easement in favor of the City of Tucson. The form of Conservation Easement shall be as agreed to by the City of Tucson's Historic Preservation Officer, City Attorney, and developer.

7/15/15-9/30/15 status update: Conservation easement has been drafted and is pending execution.

10/1/15-12/1/15 status update: Conservation easement is executed and recorded. Copy is attached. Stipulation I(D) is complete.

E. Developer will confer with the Armory Park Neighborhood Association, the Armory Park Historic Zone Advisory Board, and the Plans Review Subcommittee of the Tucson-Pima County Historic Preservation Commission on building colors with an emphasis on masses or strong shades and horizontal colorization.

7/15/15-9/30/15 status update: No action during this period.

10/1/15-12/31/15 status update: No action during this period.

II. Salvage

A. Developer will allow owners of historic properties in Armory Park and contractors that specialize in rehabilitation of historic properties the right to salvage building materials, ornamentation, and architectural remains from the Property prior to demolition and only from the buildings scheduled to be demolished. Liability waivers will be required. To this end, the Developer will advertise and host an open house where Armory Park historic property owners and contractors can tour the building to identify specific removable materials to attempt recovery prior to demolition. Developer will engage in reasonable efforts to provide for salvage of the bricks to be set aside for a limited period of time. All materials requested will be made available first to owners of historic properties in Armory Park and then any remaining materials will be made available to contractors that specialize in rehabilitation of historic properties. The on-site Open House will not exceed the first 40 people. Developer will not permit materials contaminated with hazardous materials such as lead or asbestos to be salvaged.

7/15/15-9/30/15 status update: No action during this period.

10/1/15-12/31/15 status update: Salvage events occurred 10/18/15 and 11/13/15. Notification of salvage events were posted on the HCD Downtown Motor Apartments Project



webpage and sent to the Armory Park Neighborhood Association and Armory Park Historic Preservation Zone Advisory Board. Stipulation II(A) is complete.

III. Interpretive Exhibit/Signage

A. Developer will provide \$1,000.00 to create an exhibit/display that will interpret the historic building on the property or to create a plaque/memorial to Josias Joesler, Architect, at a location to be determined by those parties and the Developer. The interpretive exhibit/signage will need approval by the City's Preservation Officer in consultation with the Tucson Pima County Historic Plans Review Subcommittee.

7/15/15-9/30/15 status update: No action during this period

10/1/15-12/31/15 status update: No action during this period

IV. Neighborhood Outreach

A. Compass Affordable Housing and the City of Tucson Housing and Community Development Department will meet annually for three years with the Armory Park and Barrio Viejo Neighborhood Associations and instruct on how to apply for the City's Homeowner Rehab Program and other available City funding opportunities for their historic properties.

7/15/15-9/30/15 status update: No action during this period

10/1/15-12/31/15 status update: No action during this period

V. Mitigation Funds

A. Developer will commit \$8,500.00 toward a Historic Preservation Fund, to aid in the repair and maintenance of historic features of historic properties in Armory Park and Barrio Viejo. The Armory Park Neighborhood Association, by separate agreement, will be the sole fiscal and discretionary agent for the fund.

7/15/15-9/30/15 status update: No action during this period.

10/1/15-12/31/15 status update: No action during this period.

B. Developer will commit \$3,500.00 toward a fund for the repair of historic sidewalks in the Armory Park Historic District. The Armory Park Neighborhood Association will be the sole fiscal and discretionary agent for this fund.

7/15/15-9/30/15 status update: No action during this period.

10/1/15-12/31/15 status update: No action during this period.



VI. City Training

A. The City's Certifying Officer and Environmental Officer in the Housing and Community Development Department and the City's Historic Preservation Officer will attend the Advisory Council on Historic Preservation's *Section 106 Essentials and Advanced Section 106 Seminars* within the first year of the MOA.

7/15/15-9/30/15 status update: The City's Certifying Officer in the Housing and Community Development Department and the City's Historic Preservation Officer attended the Advisory Council on Historic Preservation's *Section 106 Essentials and Advanced Section 106 Seminars* September 9-11, 2015. Copies of their completion certificates are attached.

10/1/15-12/31/15 status update: The City's Environmental Officer has registered for the Advisory Council on Historic Preservation's *Section 106 Essentials and Advanced Section 106 seminars* scheduled for 2/23/16-2/24/16 in Washington DC.

Scheduling changes proposed:

07/15/15-9/30/15 status update: None

10/1/15-12/31/15 status update: None

Problems encountered:

07/15/15-9/30/15 status update: None

10/1/15-12/31/15 status update: None

Disputes and Objections received regarding the implementation of the MOA in the City's efforts to carry out the terms of the MOA:

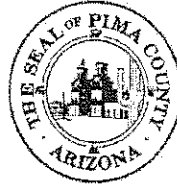
7/15/15-9/30/15 status update: None

10/1/15-12/31/15 status update: Received one concern 10/26/15 submitted by Demion Clinco of the Tucson Historic Preservation Foundation which was responded to on 10/27/15; copy attached.



F. ANN RODRIGUEZ, RECORDER
Recorded By: LW
DEPUTY RECORDER
41

W
LEWIS ROCA ROTHGERBER LLP
ONE S CHURCH AVE 700
TUCSON AZ 85701



SEQUENCE: 20152870077
NO. PAGES: 8
DEEDS 10/14/2015
10:38
MAIL
AMOUNT PAID: \$15.00

JOHN RODRIGUEZ, Esq.
One South Church Avenue, Suite 700
Tucson, AZ 85701-1611

DEED OF EASEMENT

DOWNTOWN MOTOR LODGE, LLC

CITY OF TUCSON

OCTOBER 5, 2015

Pima County Assessor Parcel No. 117-14-0930

(Cover Sheet for Recording Purposes Only)

(The "Sign")

DEED OF EASEMENT

THIS DEED OF CONSERVATION EASEMENT (the "Easement") is made as of the 5th day of October, 2015 by and between Downtown Motor Lodge, LLC, a body corporate (the "Property Owner"), whose principal address is 2835 North Stone Avenue, Tucson, Arizona 85701, and the City of Tucson, a municipal corporation organized and existing under the laws of the State of Arizona ("City").

RECITALS

A. City is a corporation whose responsibilities include protection of the public interest in stabilization and preservation of viable structures of historical significance within the City of Tucson.

B. The Property Owner is the owner in fee simple of that certain property located in the City of Tucson, Pima County, Arizona, commonly known as the Downtown Motor Apartments, 383 South Stone, Tucson, AZ 85701, Pima County Assessor Parcel No. 117-14-0930 and which is more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property"), including the Downtown Motor Lodge neon sign (the "Sign"). (Any reference to the "Property" hereinafter shall be deemed to include the "Sign".)

C. The Sign has been identified as eligible for designation as a City of Tucson Historic Landmark Sign.

D. The Property Owner has executed a Memorandum of Agreement ("MOA") among the City of Tucson, the Advisory Council on Historic Preservation and the Arizona State Historic Preservation Office wherein the Property Owner agrees to restore the Sign and convey to the City a conservation easement covering the Sign.

E. In order to effectuate the obligations of the Property Owner under the MOA, the Property Owner desires to convey to City and City desires to accept a conservation easement covering the Sign.

F. The above Recitals are accurate and form an integral part of the agreement below.

AGREEMENT

NOW, THEREFORE, the Property Owner and City hereby agree as follows:

1. Grant of Easement: The Property Owner does hereby irrevocably convey unto City a conservation easement, in gross commencing on the date this Deed of Easement is fully executed (the "Effective Date") for a term of ten (10) years (the "Term"), in and to the Sign and which covenants contained herein contribute to the public purpose of restoring the Sign to prevent current rapid deterioration and allow for future preservation.

2. Property Owner's Covenants: In furtherance of the easement herein granted, the Property Owner hereby covenants and agrees with City as follows:

2.1 Contribution by Property Owner: Pursuant to the terms of the MOA, Property Owner will fund the restoration of the Sign necessary to make it eligible for designation as a City of Tucson Historic Landmark Sign.

2.2 Maintenance of the Sign: During the term of the Easement, the Property Owner will maintain the Sign in a good and sound state of repair so as to stabilize and prevent the deterioration of the Sign or any portion thereof. Subject to the casualty provisions of Paragraph 4 below, this obligation to maintain shall require replacement, repair and reconstruction accordingly within a reasonable time whenever necessary to have the external nature of the Sign at all times appear to be the same as the present Sign.

2.3 Maintenance of the Structural Elements. The Property Owner will maintain and repair Sign as is required to ensure the structural soundness and the safety of the Sign.

2.4 Inspection. In order to periodically observe the Sign, representatives of City shall have the right to enter the Property to inspect the Sign. This inspection will be made at a time mutually agreed upon by the Property Owner and City.

2.5 Insurance. Property Owner shall provide carry and maintain liability insurance to protect against injury to visitors or other persons on the Property, provide a Certificate of Insurance to City, evidencing such insurance, and naming City as an additional insured on the policy.

3. Warranties and Representations of the Property Owner. The Property Owner hereby represents and warrants to City as follows:

3.1 Information Furnished, True and Correct. All information about the Sign given to City by the Property Owner, is true, correct and complete.

3.2 Legal, Valid and Binding. This Easement is in all respects, legal, valid and binding upon the Property Owner and enforceable in accordance with its terms, and grants to City a direct, valid and enforceable conservation easement upon the Sign.

3.3 No Impairment of Conservation Easement. The Property Owner, for itself, its Manager and its Members, including but not limited to CAH-Downtown Motor Lodge

LLC and Compass Affordable Housing, Inc., and its assigns, has not reserved, and to its knowledge, no other person or entity has reserved, any rights, the exercise of which may impair the conservation easement granted herein.

3.4 Subordination. City hereby subordinates this Deed of Easement to any present or future deed of trust made by the Property Owner in favor of a lender that is recorded against title to the Property.

4. Application of Insurance Proceeds. Subject to the insurance proceeds requirements of any recorded Deed of Trust or Mortgage applicable to the Property, if any, in the event of damage or destruction of the Sign resulting from casualty, the Property Owner agrees to apply any and all available insurance proceeds and donations to the repair and reconstruction of the damaged Sign. In the event City determines, in its reasonable discretion, after reviewing all bona fide cost estimates in light of all available insurance proceeds and other monies available for such repair and reconstruction, that the damage to the Sign is of such magnitude and extent that repair and reconstruction of the damage would not be possible or practical, then the Property Owner may elect not to repair or reconstruct the damaged Sign. Notwithstanding the foregoing, in the event City notifies the Property Owner in writing that City has determined that repair and reconstruction of the damaged Sign is impossible or impractical and that the damaged Sign presents an imminent hazard to public safety, the Property Owner will at his sole cost and expense raze the damaged Sign and remove all debris, slabs, and any other portions and parts of the damaged structure within the time period required by City to protect the health, safety and welfare of the public, unless the Property Owner has commenced and is diligently pursuing repair or reconstruction of the damaged Structures. Upon razing of the damaged portion of the Sign, City shall release any interest it has in the insurance proceeds for the damaged Sign. Nothing in this paragraph is intended to supersede or impair the rights to insurance proceeds of a lien holder pursuant to a recorded Deed of Trust or Mortgage applicable to the Property.

5. Indemnification. The Property Owner covenants to pay, protect, indemnify, hold harmless and defend City at the Property Owner's sole cost and expense from any and all liabilities, claims, costs, attorney's fees, judgments or expenses asserted against City, its employees, agents or independent contractors, resulting from actions or claims of any nature arising out of the conveyance, possession, administration or exercise of rights under this Easement, except in such matters arising solely from the negligence of City, its employees and agents.

5.1 Survival of Indemnification. The obligations of the Property Owner under this indemnification shall continue beyond the term of this Easement as to any claim made against the City based upon any event occurring during the term of the easement, but only for a period of two (2) years after the term expires.

5.2 Explanation of Indemnification. For purposes of explanation of Paragraph 5 only, and without in any manner limiting the extent of the foregoing indemnification, the

Property Owner and City agree that the purpose of Paragraph 5 is to require the Property Owner to bear the expense of any claim made by any third party against City, which arises because the City has an interest in the Property as a result of this Easement. The Property Owner will have no obligation to City for any claims which may be asserted against City as a direct result of City's intentional misconduct or negligence.

6. Default/Remedy. In the event the Property Owner (a) fails to perform any obligation of the Property Owner set forth herein or otherwise comply with any stipulation or restriction set forth herein, or (b) any representation or warranty of the Property Owner set forth herein, is determined to have been untrue when made, in addition to any remedies now or hereafter provided by law and in equity, City, following prior written notice to the Property Owner, may (aa) institute suit(s) to enjoin such violation and to require the restoration of the Sign to the condition and appearance required under this Easement, or (bb) enter upon the Property, correct any such violation, and hold the Property Owner responsible for the cost thereof, or (cc) revoke City's acceptance of this Easement.

7. Waiver. The exercise by City or its designee of any remedy hereunder shall not have the effect of waiving or limiting any other remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or other use of such remedy at any other time.

8. Effect and Interpretation. The following provisions shall govern effectiveness and duration of this Easement:

8.1 Interpretation. Any rule of strict construction designed to limit the breadth of restriction on alienation or use of property shall not apply in the construction or interpretation of this Easement, and this Easement shall be interpreted broadly to affect the transfer of rights and restrictions on use herein contained.

8.2 Violation of Law. Nothing contained herein shall be interpreted to authorize or permit the Property Owner to violate any ordinance or regulation relating to building materials, construction methods or use, and the Property Owner agrees to comply with all laws applicable to the Property, including, without limitation, all building codes, zoning laws and laws related to the maintenance and demolition of historic property. In the event of any conflict between any such laws and the terms hereof, the Property Owner promptly shall notify City of such conflict and shall cooperate with City and the appropriate authorities to accommodate the purposes of both this Easement and such ordinance or regulation.

8.3 Amendments and Modifications. For purposes of furthering the preservation of the Sign, and to meet changing conditions, the Property Owner and City are free to amend jointly the terms of this Easement in writing without notice to any party; provided, however, that no such amendment shall limit the terms or interfere with the conservation purposes of this Easement. Such amendment shall become effective upon

recording the same among the land records of Pima County, Arizona, in the office of the County Recorder.

8.4 Time of the Essence. Time is of the essence in the performance of each and every term and condition of this Easement by the Property Owner.

8.5 Feminine and Masculine. For purposes of this Easement, the feminine shall include the masculine and the masculine shall include the feminine.

8.6 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties with respect to the subject matter herein. All prior and contemporaneous understandings, representations and agreements, oral or written, unless otherwise expressly stated herein and excepting the MOA referenced in the above Recitals, are hereby superseded and are of no further force and effect.

IN WITNESS WHEREOF, the Property Owner and City executed this Easement as of the date first above written, which Easement shall be effective immediately upon such execution.

Downtown Motor Lodge, LLC

CAH-Downtown Motor Lodge, LLC

Its: Manager

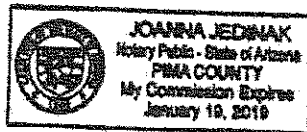
By: Compass Affordable Housing, Inc.

Its Manager

By: Maryann Beerling

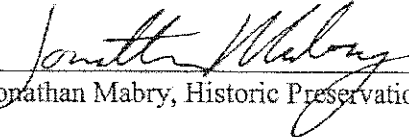
Its: Chief Executive Officer

SUBSCRIBED AND SWORN TO before me this 5th day of October, 2015, by Maryann Beerling.



Joanna Jednak Gulotta
NOTARY PUBLIC

Recommendation for Approval:

By: 
Jonathan Mabry, Historic Preservation Manager, Office of Integrated Planning

ACCEPTED, CITY OF TUCSON

By: 
Michael Ortega, City Manager

ATTEST: 
City Clerk

Approved as to form:

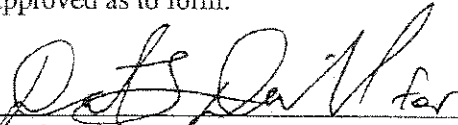

Damian Fellows, Principal Assistant City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION AND DEPICTION OF PROPERTY

Exhibit A

LEGAL DESCRIPTION

Lot 7 in Block 232 of the City of Tucson, Pima County, Arizona, according to the official survey, field notes, and map as made and executed by S. W. Foreman and approved and adopted by the Mayor and Common Council of said city (then Village) of Tucson, on June 26, 1872, a certified copy of which map is of record in the office of the County Recorder of Pima County, Arizona, in Book 3 of Maps and Plats at page 70 thereof.

F. ANN RODRIGUEZ, RECORDER

Recorded By: LW

DEPUTY RECORDER

41

W

LEWIS ROCA ROTHGERBER LLP

ONE S CHURCH AVE 700

TUCSON AZ 85701



SEQUENCE: 20152870078

NO. PAGES: 8

DEEDS 10/14/2015

10:38

MAIL

AMOUNT PAID: \$15.00

JOHN PARRICIAKI, ESQ.

One South Church Avenue, Suite 700

Tucson, AZ 85701-1611

DEED OF EASEMENT

DOWNTOWN MOTOR LODGE, LLC

CITY OF TUCSON

OCTOBER 5, 2015

Pima County Assessor Parcel No. 117-14-0930

(Cover Sheet for Recording Purposes Only)

(the "Facades")

DEED OF EASEMENT

THIS DEED OF CONSERVATION EASEMENT (the "Easement") is made as of the 5th day of October, 2015, by and between Downtown Motor Lodge, LLC, a body corporate (the "Property Owner"), whose principal address is 2835 North Stone Avenue, Tucson, Arizona 85701, and the City of Tucson, a municipal corporation organized and existing under the laws of the State of Arizona ("City").

RECITALS

A. City is a corporation whose responsibilities include protection of the public interest in stabilization and preservation of viable structures of historical significance within the City of Tucson.

B. The Property Owner is the owner in fee simple of that certain property located in the City of Tucson, Pima County, Arizona, commonly known as the Downtown Motor Apartments, 383 South Stone, Tucson, AZ 85701, Pima County Assessor Parcel No. 117-14-0930 and which is more particularly described in Exhibit "A" attached hereto and made a part hereof (the "Property").

C. The Property is listed in the National Register of Historic Places as a contributing property to the Armory Park Residential Historic District.

D. The Property Owner has executed a Memorandum of Agreement ("MOA") among the City of Tucson, the Advisory Council on Historic Preservation and the Arizona State Historic Preservation Office wherein the Property Owner agrees to 1) retain approximately 47' of the westernmost portion of the north building on the property and approximately 36' of the westernmost portion of the south building on the property (the "westernmost portions"); 2) rehabilitate these westernmost portions consistent with the plans and specifications approved by the City under activity numbers T15CM04642 and T15CM04644; and 3) convey to the City a conservation easement covering the facades (the "Facades") of those rehabilitated westernmost portions.

E. In order to effectuate the obligations of the Property Owner under the MOA, the Property Owner desires to convey to City and City desires to accept a conservation easement covering the Facades of the rehabilitated westernmost portions of the north and south buildings on the property.

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AGREEMENT

NOW, THEREFORE, the Property Owner and City hereby agree as follows:

1. Grant of Easement: The Property Owner does hereby irrevocably convey unto City a conservation easement, in gross commencing on the date this Deed of Easement is fully executed (the "Effective Date") for a term of ten (10) years (the "Term"), in and to the Facades and which covenants contained herein contribute to the public purpose of preserving the Facades of the westernmost portions of the north and south buildings on the property.

2. Property Owner's Covenants: In furtherance of the easement herein granted, the Property Owner hereby covenants and agrees with City as follows:

2.1 Contribution by Property Owner: Pursuant to the terms of the MOA, Property Owner will fund the rehabilitation of the westernmost portions of the north and south buildings on the property, including the Facades. Property Owner will rehabilitate the westernmost portions consistent with the plans and specifications approved by the City under activity numbers T15CM04642 and T15CM04644.

2.2 Maintenance of the Facades: During the term of the Easement, the Property Owner will maintain the Facades in a good and sound state of repair so as to stabilize and prevent the deterioration of the Facades or any portion thereof. Subject to the casualty provisions of Paragraph 4 below, this obligation to maintain shall require replacement, repair and reconstruction accordingly within a reasonable time whenever necessary to have the external nature of the Facades at all times appear to be the same as the rehabilitated facades.

2.3 Maintenance of the Structural Elements. The Property Owner will maintain and repair the westernmost portions of the north and south buildings on the property as is required to ensure the structural soundness and the safety of the Facades.

2.4 Inspection. In order to periodically observe the Facades, representatives of City shall have the right to enter the Property to inspect the exterior Facades. This inspection will be made at a time mutually agreed upon by the Property Owner and City.

2.5 Insurance. Property Owner shall provide carry and maintain liability insurance to protect against injury to visitors or other persons on the Property, provide a Certificate of Insurance to City, evidencing such insurance, and naming City as an additional insured on the policy.

3. Warranties and Representations of the Property Owner: The Property Owner hereby represents and warrants to City as follows:

3.1 Information Furnished, True and Correct. All information given to City by the Property Owner in order to induce City to accept this Easement, including all information contained in this Easement, is true, correct and complete.

3.2 Legal, Valid and Binding. This Easement is in all respects, legal, valid and binding upon the Property Owner and enforceable in accordance with its terms, and grants to City a direct, valid and enforceable conservation easement upon each of the Facades.

3.3 No Impairment of Conservation Easement. The Property Owner, for himself, his heirs, personal representatives, and assigns, has not reserved, and to his knowledge, no other person or entity has reserved, any rights, the exercise of which may impair the conservation easement granted herein.

4. Application of Insurance Proceeds. Subject to the insurance proceeds requirements of any recorded Deed of Trust or Mortgage applicable to the Property, if any, in the event of damage or destruction of any of the Facades resulting from casualty, the Property Owner agrees to apply any and all available insurance proceeds and donations to the repair and reconstruction of each of the damaged Structures. In the event City determines, in its reasonable discretion, after reviewing all bona fide cost estimates in light of all available insurance proceeds and other monies available for such repair and reconstruction, that the damage to the Facades is of such magnitude and extent that repair and reconstruction of the damage would not be possible or practical, then the Property Owner may elect not to repair or reconstruct the damaged Facades. Notwithstanding the foregoing, in the event City notifies the Property Owner in writing that City has determined that repair and reconstruction of the damaged Facades is impossible or impractical and that the damaged Facades present an imminent hazard to public safety, the Property Owner will at his sole cost and expense raze the damaged Facades and remove all debris, slabs, and any other portions and parts of the damaged Facades within the time period required by City to protect the health, safety and welfare of the public, unless the Property Owner has commenced and is diligently pursuing repair or reconstruction of the damaged Structures. Upon razing of the damaged portion of the Facades, City shall release any interest it has in the insurance proceeds for the damaged Facades. Nothing in this paragraph is intended to supersede or impair the rights to insurance proceeds of a lien holder pursuant to a recorded Deed of Trust or Mortgage applicable to the Property.

5. Indemnification. The Property Owner covenants to pay, protect, indemnify, hold harmless and defend City at the Property Owner's sole cost and expense from any and all liabilities, claims, costs, attorney's fees, judgments or expenses asserted against City, its employees, agents or independent contractors, resulting from actions or claims of any nature arising out of the conveyance, possession, administration or exercise of rights under this Easement, except in such matters arising solely from the negligence of City, its employees and agents.

5.1 Survival of Indemnification. The obligations of the Property Owner under this indemnification shall continue beyond the term of this Easement as to any claim made against the City based upon any event occurring during the term of the easement, but only for a period of two (2) years after the term expires.

5.2 Explanation of Indemnification. For purposes of explanation of Paragraph 5 only, and without in any manner limiting the extent of the foregoing indemnification, the Property Owner and City agree that the purpose of Paragraph 5 is to require the Property Owner to bear the expense of any claim made by any third party against City, which arises because the City has an interest in the Property as a result of this Easement. The Property Owner will have no obligation to City for any claims which may be asserted against City as a direct result of City's intentional misconduct or gross negligence.

6. Default/Remedy. In the event the Property Owner (a) fails to perform any obligation of the Property Owner set forth herein or otherwise comply with any stipulation or restriction set forth herein, or (b) any representation or warranty of the Property Owner set forth herein, is determined to have been untrue when made, in addition to any remedies now or hereafter provided by law and in equity, City, or its designee, following prior written notice to the Property Owner, may (aa) institute suit(s) to enjoin such violation and to require the restoration of the Facade to the condition and appearance required under this Easement, or (bb) enter upon the Property, correct any such violation, and hold the Property Owner responsible for the cost thereof, or (cc) revoke City's acceptance of this Easement.

7. Waiver. The exercise by City or its designee of any remedy hereunder shall not have the effect of waiving or limiting any other remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or other use of such remedy at any other time.

8. Effect and Interpretation. The following provisions shall govern effectiveness and duration of this Easement:

8.1 Interpretation. Any rule of strict construction designed to limit the breadth of restriction on alienation or use of property shall not apply in the construction or interpretation of this Easement, and this Easement shall be interpreted broadly to affect the transfer of rights and restrictions on use herein contained.

8.2 Violation of Law. Nothing contained herein shall be interpreted to authorize or permit the Property Owner to violate any ordinance or regulation relating to building materials, construction methods or use, and the Property Owner agrees to comply with all applicable laws, including, without limitation, all building codes, zoning laws and all other laws related to the maintenance and demolition of a historic property. In the event of any conflict between any such laws and the terms hereof, the Property Owner promptly shall notify City of such conflict and shall cooperate with City and the appropriate

authorities to accommodate the purposes of both this Easement and such ordinance or regulation.

8.3 Amendments and Modifications. For purposes of furthering the preservation of the Facades, and to meet changing conditions, the Property Owner and City are free to amend jointly the terms of this Easement in writing without notice to any party; provided, however, that no such amendment shall limit the terms or interfere with the conservation purposes of this Easement. Such amendment shall become effective upon recording the same among the land records of Pima County, Arizona, in the office of the County Recorder.

8.4 Recitals. The above Recitals are incorporated herein by this reference.

8.5 Time of the Essence. Time is of the essence in the performance of each and every term and condition of this Easement by the Property Owner.

8.6 Feminine and Masculine. For purposes of this Easement, the feminine shall include the masculine and the masculine shall include the feminine.

8.7 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the parties with respect to the subject matter herein. All prior and contemporaneous understandings, representations and agreements, oral or written, unless otherwise expressly stated herein, are hereby superseded and are of no further force and effect.

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IN WITNESS WHEREOF, the Property Owner and City executed this Easement as of the date first above written, which Easement shall be effective immediately upon such execution.

Downtown Motor Lodge, LLC

CAH-Downtown Motor Lodge, LLC
Its: Manager
By: Compass Affordable Housing, Inc.
Its Manager

By: *Maryann Beerling*
Its: Chief Executive Officer

SUBSCRIBED AND SWORN TO before me this 5th day of October, 2015, by Maryann Beerling.



Joanna Jedinak Gulotta
NOTARY PUBLIC

Recommendation for Approval:

By: *Jonathan Mabry*
Jonathan Mabry, Historic Preservation Manager, Office of Integrated Planning

ACCEPTED, CITY OF TUCSON

By: *[Signature]*
Michael Ortega, City Manager

ATTEST: *[Signature]*
City Clerk

Approved as to form:

[Signature]
Damian Fellows, Principal Assistant City Attorney

EXHIBIT "A"

LEGAL DESCRIPTION AND DEPICTION OF PROPERTY

Exhibit A

LEGAL DESCRIPTION

Lot 7 in Block 232 of the City of Tucson, Pima County, Arizona, according to the official survey, field notes, and map as made and executed by S. W. Foreman and approved and adopted by the Mayor and Common Council of said city (then Village) of Tucson, on June 26, 1872, a certified copy of which map is of record in the office of the County Recorder of Pima County, Arizona, in Book 3 of Maps and Plats at page 70 thereof.

Sally Stang - Re: Downtown Motor Hotel - concerns regarding fulfillment of stipulations of the Memorandum of Agreement.

From: Sally Stang <Sally.Stang@tucsonaz.gov>
To: Michael Ortega <Michael.Ortega@tucsonaz.gov>; Nicole Ewing-Gavin <Nicole.E...>
Subject: Re: Downtown Motor Hotel - concerns regarding fulfillment of stipulations of the Memorandum of Agreement.

Good Morning Mr. Clinco,

The salvage open house was held on 10/16/15 and the salvage event on 10/18/15. The notice of the open house and event was sent 10/8/15 to the HCD project website, to the Compass website and Facebook page, to the Armory Park Neighborhood Association, to the Armory Park Residential Historic Preservation Zone Advisory Board, and to the Ward VI office.

The developer is setting aside bricks as stated in the MOA that will be made available to those interested in the near future.

The terms of the easements for this project are consistent with the other facade and historic sign projects funded by HCD. Copies of the recorded easements will be included in the second quarterly report and posted on HCD's project website.

Sally Stang, Director
Housing & Community
Development Department
City of Tucson

310 North Commerce Park Loop
Santa Rita Building
[520.791.4171](tel:520.791.4171) office
[520.837.5395](tel:520.837.5395) direct

>>> Demion Clinco <demion.clinco@preservetucson.org> 10/26/2015 11:49 AM >>>

Ms. Stang,

I am reaching out because I am very concerned that the detailed stipulations of the Downtown Motor Hotel Section 106 Memorandum of Agreement that was agreed upon and signed as mitigation for damage to Armory Park and Barrio Libre NRHP districts is now being diluted and not fulfilled.

Section: II. Salvage A. Developer will allow owners of historic properties in Armory Park and contractors that specialize in rehabilitation of historic properties the right to salvage building materials, ornamentation, and architectural remains from the Property prior to demolition and only from the buildings scheduled to be demolished. Liability waivers will be required. To this end, the Developer will advertise and host an open house where Armory Park historic property owners and contractors can tour the building to identify specific removable materials to attempt recovery prior to demolition. Developer will engage in reasonable efforts to provide for salvage of the bricks to be set aside for a limited period of time. All materials

requested will be made available first to owners of historic properties in Armory Park and then any remaining materials will be made available to contractors that specialize in rehabilitation of historic properties. The on-site Open House will not exceed the first 40 people. Developer will not permit materials contaminated with hazardous materials such as lead or asbestos to be salvaged.

No salvage is occurring on the site as stipulated in the MOA. Instead a demolition contractor is currently demolishing the building and dumping it into a truck.

See attached picture.

Second. I have heard that the conservation easements are not being developed to last in perpetuity, instead are being drafted with short time frames of 5/10/20 years that will then allow the remaining historic fabric to be demolished. This is inconsistent with the MOA and the agreements reached as part of the section 106 process.

I would like to see drafts of these conservation easements - can you please send them as soon as possible.

It is very disturbing that despite an agreed upon signed MOA - the conditions are not being honored.

I look forward to hearing from you as soon as possible on these issues.

Demion Clinco

Tucson Historic Preservation Foundation

PO Box 40008

Tucson, Arizona 85717

