



## II. FISCAL IMPACT ANALYSIS

### A. Five Year Summary of Fiscal Impact:

Fiscal Years	2014	2015	2016	2017	2018
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT					
#ADDITIONAL FTE					
POSITIONS (CUMULATIVE)					

Is Item Included in Current Budget?    Yes      No

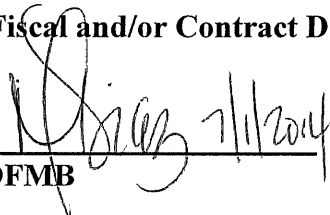
Budget Account No:


### B. Recommended Sources of Funds/Summary of Fiscal Impact:

### C. Departmental Fiscal Review:

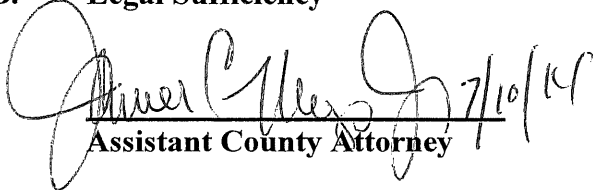
## III. REVIEW COMMENTS:

### A. OFMB Fiscal and/or Contract Dev. and Control Comments:

  
 \_\_\_\_\_  
 OFMB

  
 \_\_\_\_\_  
 Contract Dev. & Control  
*7-7-14 Bob Kuch*

### B. Legal Sufficiency

  
 \_\_\_\_\_  
 Assistant County Attorney

### C. Other Department Review

\_\_\_\_\_  
 Department Director

**(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.)**

**SECOND AMENDMENT TO DEVELOPMENT AGREEMENT**

THIS IS A SECOND AMENDMENT TO DEVELOPMENT AGREEMENT made and entered into \_\_\_\_\_, 2014, by and between PALM BEACH COUNTY, a political subdivision of the State of Florida, ("County") THE RELATED COMPANIES, L.P., a New York limited partnership ("Related") and CITYPLACE HOTEL, LLC, a Delaware limited liability company ("Developer"). (The County, Related and Developer are collectively referred to herein as the Parties.)

WITNESSETH:

WHEREAS, the Parties entered into that certain Development Agreement dated November 30, 2012 (R2013-0103) (the "Development Agreement"); and

WHEREAS, the Parties have agreed to amend the Development Agreement as hereinafter set forth.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00), the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference. Terms not defined herein shall have the same meaning as ascribed to them in the Development Agreement.
2. Modifications to the Development Agreement are made by this Second Amendment to Development Agreement. Words in ~~strikethrough~~ type are deletions from the existing language in the Development Agreement and words in underscored language type are additions to the language in the Development Agreement.
3. Article 5, Section 5.3(a)(iii) of the Development Agreement shall be amended as follows:

~~(iii) — The words, "To the fullest extent permitted by law, Contractor shall and does hereby indemnify and hold harmless the County Indemnified Parties, from and against any and all liability, claims, demands, damages, losses, fines, penalties, expenses and costs of every kind and nature, including, without limitation, costs of suit and attorneys' fees and disbursements (collectively, "Expenses"), resulting from or in any manner arising out of, in connection with or on account of: (1) any act, omission, fault or neglect of Contractor, or anyone employed by it in connection with the work or any phase thereof, or any of its agents, contractors, subcontractors, employees, invitees or licensees in connection with the work, or anyone for whose acts any of them may be liable, (2) claims of injury (including physical, emotional, economic or otherwise) to or disease, sickness or death of persons or damage to property (including, without limitation, loss of use resulting therefrom) and all other claims of whatsoever kind, type, nature, description, or characterization including, without limitation, all claims related to delay in the performance of the Construction Work, claims related to interference by County or any other person with Construction of the Hotel or Garage, all claims related to changes in the Construction Work, and all claims related to activity sequencing,~~

~~timing, or 'stacking' (i.e. concurrent scheduling) of trades occurring or resulting directly or indirectly from the work or any portion thereof or the activities of Contractor or anyone employed by it in connection with the work, or any portion thereof, or any of its respective agents, contractors, subcontractors, employees, invitees or licensees in connection with the work, or anyone for whose acts any of them may be liable, or (3) mechanics' or materialmen's or other liens or claims (and all costs or expenses associated therewith) asserted, filed or arising out of the work or any phase thereof other than liens or claims arising out of Developer's failure to make the required payments properly due Contractor. In no event shall Contractor be able to seek or be entitled to consequential damages (including, without limitation, loss of profits or loss of business opportunity) for claims arising under this contract, except to the extent any of the foregoing is caused by the gross negligence or willful misconduct of any of the County Indemnified Parties. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to Contractor by under worker's compensation acts, disability benefit acts or other employee benefit acts or other insurance provided for by this contract; or (y) the fact that the Expenses were caused in part by a party indemnified hereunder. The Contractor further agrees that this indemnification shall be made a part of all contracts and purchase orders with, subcontractors or material suppliers. The indemnification agreement included in this contract is to be assumed by all subcontractors.~~

(iii) The words, "To the fullest extent permitted by law, Construction Manager shall and does hereby indemnify and hold harmless the County Indemnified Parties, from all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Construction Manager and persons employed or utilized by the Construction Manager in the performance of this Agreement. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by Construction Manager under worker's compensation acts, disability benefit acts or other employee benefit acts or other insurance provided for by this Agreement. The Construction Manager further agrees that this indemnification shall be made a part of all Trade Contracts and purchase orders with Trade Contractors, subcontractors or material suppliers.

4. Except as set forth herein, the Development Agreement remains unrevised and in full force and effect, and the Parties hereby ratify, conform and adopt the Development Agreement as amended hereby.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have set their hands and seals on the date set forth above

Witnesses:

CITYPLACE HOTEL, LLC

Ashley E Dowden  
Signature

By: [Signature]  
Name: GOPAL RAJEGOWDA  
Title: VICE PRESIDENT

Ashley E Dowden  
Printed Name

[Signature]  
Signature

Julie Alvord  
Printed Name

State of New York )  
County of ~~New York~~ Kings ) SS:

On the 18<sup>th</sup> day of June, 2014, before me, the undersigned, personally appeared Gopal Rajegowda personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is(are) subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

ERIN M. CUNNINGHAM  
Notary Public, State of New York  
No. 01CU6283130  
Qualified in Kings County  
Commission Expires 5/28/2017

[Signature]  
Notary Public (Signature)

Erin M. Cunningham  
(Printed Name)

(AFFIX NOTARY SEAL)

5/28/2017  
(My Commission Expires)

Witnesses:

RELATED COMPANIES, L.P., a  
New York limited partnership

A Dowden  
Signature

Ashley E Dowden  
Printed Name

Rita Bergmont  
Signature

Rita BERGMONT  
Printed Name

By: The Related Realty Group, Inc., a  
Delaware corporation, its sole general  
Partner

By: Michael J Brenner

Name: Michael J. Brenner

Title: Executive Vice President

Date: 6/18/14

State of New York )  
County of Kings ) SS:

On the 18<sup>th</sup> day of June in the year 2014, before me, the undersigned, personally appeared Michael Brenner, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to be within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public (Signature)  
Erin M Cunningham  
(Printed Name)

(AFFIX NOTARY SEAL)

Erin M. Cunningham  
(My Commission Expires) 5/28/2017

ERIN M. CUNNINGHAM  
Notary Public, State of New York  
No. 01CU6283130  
Qualified in Kings County  
Commission Expires 5/28/2017

PALM BEACH COUNTY, FLORIDA, a  
Political Subdivision of the State of Florida

ATTEST:  
SHARON R. BOCK, Clerk & Comptroller

By its BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Priscilla A. Taylor, Mayor

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

By: \_\_\_\_\_  
Assistant County Attorney

By: \_\_\_\_\_  
Assistant County Administrator

STATE OF FLORIDA  
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_ and \_\_\_\_\_, as Mayor of the Pam Beach County Board of County Commissioners and as Clerk & Comptroller of Palm Beach County, on behalf of Palm Beach County, a political Subdivision of the State of Florida who are \_\_\_\_ personally know to me or \_\_\_\_ who have produced \_\_\_\_\_ as identification.

Notary Public (Signature)

\_\_\_\_\_  
(Printed Name)

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
(My Commission Expires)