

EXHIBIT C

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Winstead PC
201 North Tryon Street, Suite 2000
Charlotte, North Carolina 28202
Attention: David Iacuzio, Esq.

Space Above For Recorder's Use

NON-DISTURBANCE AND RECOGNITION AGREEMENT

THIS NON-DISTURBANCE AND RECOGNITION AGREEMENT (“**NDRA**”) is made as of the [___] day of [____], 20[___], for good and valuable consideration, the receipt and sufficiency of which consideration are hereby acknowledged, by and among: WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association (together with its successors and/or assigns, “**Lender**”); KESARI HOSPITALITY LLC, an Arizona limited liability company (together with its successors and/or assigns, “**Tenant**”); and CITY OF YUMA, ARIZONA, an Arizona municipal corporation (together with its successors and/or assigns, “**City**”).

1. **Recitals.**

1.1 City is the holder of the landlord’s interest in that certain Yuma Riverfront Development First Phase Land and Improvements Lease between City and Clark-Lankford, LLC, a Delaware limited liability company (“**Developer**”), dated as of June 16, 2005, and recorded on August 28, 2005 as Fee #: 2005-27767 in the Official Records of Yuma County, Arizona, as amended by that certain First Amendment to Yuma Riverfront Development First Phase Land and Improvements Lease, dated May 26, 2010, and recorded on May 27, 2010 as Fee #: 2010-13304 (the “**First Amendment**”), that certain Second Amendment to Yuma Riverfront Development First Phase Land and Improvements Lease, dated June 13, 2011, and recorded on June 17, 2011 as Fee #: 2011-14281 (the “**Second Amendment**”), and that certain Third Amendment to Yuma Riverfront Development First Phase Land and Improvements Lease, dated as of [____], 20[___], and recorded on [____], 20[___] as Fee #: [____] (the “**Third Amendment**”), and as affected by that certain Yuma Riverfront Modification Agreement dated as of [____], 20[___], and recorded on [____], 20[___] as Fee #: [____] (the “**Modification Agreement**”) (collectively, the “**Lease**”), covering the land described therein (the “**Parcel**”) as set forth in Exhibit “A” attached hereto.

1.2 Pursuant to the Modification Agreement, Developer assigned all of its rights, title and interest as tenant under the Lease to Tenant, and Tenant assumed and agreed to perform all the obligations of tenant thereunder.

1.3 The Lease contemplated the development and construction of improvements, including, but not limited to, the construction of improvements now known as the Hilton Garden

Inn Yuma (aka Pivot Point Hotel) located at 310 North Madison Avenue, Yuma, Arizona and a separate Conference Center, located at 200 North Madison Avenue, Yuma, Arizona (collectively the “**Hotel and Conference Center Improvements**”). The Hotel and Conference Center Improvements have been completed and are located on real property legally described on Exhibit A attached to this NDRA. (The Hotel and Conference Center Improvements and the real property legally described on such Exhibit A are hereinafter called the “**Hotel and Conference Center Component**”).

1.4 Lender has agreed to lend money to Tenant, and Tenant has executed certain loan documents (the “**Loan Documents**”), including, but not limited to, that certain Leasehold Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing of even date herewith (the “**Deed of Trust**”) to secure the loan from Lender to Tenant (the “**Loan**”). The Deed of Trust will be recorded in the Official Records of Yuma County, Arizona, and will encumber Tenant’s interest in the Parcel. All references herein to the “Parcel” shall mean and refer to Tenant’s right, title and interest in the Lease and Tenant’s leasehold interest in the land comprising the Parcel and improvements located thereon.

1.5 Lender has certain rights under the Loan Documents in the event of a default by Tenant of its obligations under the Loan Documents.

1.6 Accordingly the parties have executed this NDRA to be effective as of the date first set forth above.

2. **Consent.**

2.1 City unconditionally consents to the making of the Loan, including, without limitation, Tenant’s encumbrance of its leasehold interest in the Parcel to Lender to secure the Loan and the recordation of the Deed of Trust in the Official Records of Yuma County, Arizona, against the leasehold interest created by the Lease. Notwithstanding anything in the Lease to the contrary, City hereby agrees that any transfer of Tenant’s interest in the Lease to Lender, or its successors and assigns (including, without limitation, the foreclosure or exercise of any or all rights and remedies afforded to Lender thereunder), shall not require City’s consent and shall not constitute a default or event of default under the Lease, nor will it constitute an event that terminates the Lease or entitles City to terminate the Lease. City hereby consents to Tenant’s grant to Lender of a security interest in the personal property owned by Tenant and located at the Parcel and a collateral assignment of subleases by Tenant of all or any portion of the Parcel and the rents, issues and profits therefrom. Any interest that City may have in such personal property or subleases, as the case may be, whether granted pursuant to the Lease or by statute, shall be subordinate to the interest of Lender.

2.2 Lender is a “Leasehold Mortgagee” and a “Designated Lender” (as such terms are defined in the Lease) and shall be considered a “Leasehold Mortgagee” and a “Designated Lender” pursuant to the provisions of Section 14 of the Lease. In this regard, Lender shall have all of the rights of a “Leasehold Mortgagee” or a “Designated Lender” under the Lease, including, without limitation, the right to receive notices of default from City and to cure as a “Leasehold Mortgagee” and a “Designated Lender” under the Lease. All of the lender protection provisions contained in the Lease that inure to the benefit of Lender, or its successors and

assigns, are hereby incorporated herein by this reference and restated and confirmed by City for the benefit of Lender, its successors and assigns. Lender acknowledges that City shall have no obligation to deliver physical possession of the Parcel to any Leasehold Mortgagee, or to its nominee. However, City will, at the sole cost and expense of such Leasehold Mortgagee, cooperate in the prosecution of summary proceedings to evict the Tenant then in default. As of the date hereof, Lender has delivered a copy of the Deed of Trust to City. By its terms, the Deed of Trust does not attach to the reversionary interest and estate of City in and to the land comprising the Parcel and improvements located thereon.

2.3 Tenant shall have the unrestricted right to mortgage and pledge the Lease and encumber the Lease with any recorded mortgage, deed of trust, collateral assignment of lease or other similar instrument creating a lien or other encumbrance on Tenant's leasehold interest in the Parcel, any assignment thereof and any modification or amendment of any of the terms thereof (i) without City's prior consent so long as such mortgage, deed of trust, collateral assignment of lease or other similar instrument is a Pre-approved Mortgage (as defined below), or (ii) subject to City's prior written consent (not to be unreasonably withheld, delayed or conditioned) if such mortgage, deed of trust, collateral assignment of lease or other similar instrument is not a Pre-approved Mortgage. The term "**Pre-approved Mortgage**" shall mean such a mortgage, deed of trust, collateral assignment of lease or other similar instrument, so long as the loan amount secured thereby is not greater than Nineteen Million Dollars (\$19,000,000). Lender shall have the right to exercise all rights of Tenant under the Lease.

3. **Subordination; Bankruptcy.**

3.1 The Deed of Trust shall not be subject or subordinate to any mortgage, deed of trust, lien, pledge, hypothecation, security interest, or any other monetary encumbrance encumbering the fee estate of the Parcel.

3.2 The rejection of the Lease by a trustee-in-bankruptcy of any ground lessor under the Lease shall not affect or impair the lien of the Deed of Trust or Lender's rights with respect to the Lease. In addition to Tenant's interest in the Parcel and all other interests specified in the Deed of Trust, the lien of the Deed of Trust specifically attaches to, and shall encumber, Tenant's right to use and possession of the Property if a trustee-in-bankruptcy of any lessor under the Lease rejects the Lease. The Lease shall not be treated as terminated by reason of the ground lessor's rejection of the Lease under Subsection 365(h)(1) of the Bankruptcy Code without Lender's prior written consent, and any such termination without Lender's prior written consent shall be null, void and of no force or effect. Landlord hereby acknowledges (a) the "possession" of Tenant notwithstanding the existence of any sublease, and (b) that the requirements of §365(h) of the United States Bankruptcy Code with respect to Tenant's possession are satisfied. In the event of the bankruptcy of Tenant, Lender may reject or assume the Lease. Landlord hereby acknowledges and agrees the provisions of this NDRA relating to bankruptcy are for the benefit of Lender and may be relied upon and shall be enforceable by Lender as if Lender were a party to the Lease.

4. **Notice; Tenant Default.**

4.1 All notices served upon Tenant with respect to the Lease shall also be served by City upon Lender via certified mail or nationally recognized overnight delivery at Lender's address set forth in Section 14.2 below, or such other address as Lender shall designate in writing to City.

4.2 Lender (or its designee) may enforce its rights under the Deed of Trust and acquire title to Tenant's leasehold interest in the Parcel in any lawful way and become the legal owner and holder of Tenant's leasehold interest in the Parcel, without City's consent, and pending foreclosure of the Deed of Trust, to oust Tenant and take possession of the Parcel. Such ouster shall not constitute a termination of the Lease, but shall be deemed an exercise of the assignment of the Lease to Lender (or such designee). In the event of (i) any foreclosure by Lender (whether by notice or judicially) of the Deed of Trust, or any other acquisition by Lender (or its designee) of Tenant's leasehold interest in the Parcel in lieu of such foreclosure (which, for clarity, shall include an assignment of the Lease by Tenant to Lender or its designee) (collectively, a "**Foreclosure**"), and (ii) the transfer of Tenant's leasehold interest in the Parcel to a third party purchaser or purchasers (by way of illustration and not in limitation, a purchaser or purchasers at a trustee's sale conducted pursuant to A.R.S. §33-810) concurrently with such Foreclosure or thereafter (Lender, its designee or a third party purchaser, each, a "**Purchaser**"), City shall recognize such Purchaser as the tenant under the Lease without further consent or approval by City, the Lease shall continue in full force and effect and such Purchaser be entitled to all of Tenant's rights as "Tenant" under the Lease. If Lender (or such designee) shall acquire Tenant's leasehold interest in the Parcel (whether under the Lease or under a New Lease), then Lender (or such designee) shall have the right to assign the Lease without City's prior consent so long as the transferee thereof (A) is experienced in operating (or who engages a manager with experience operating) hotels similar to the hotel located on the Parcel and (B) is approved as a franchisee pursuant to a franchise arrangement with an Approved Franchisor (defined below), in each case as determined by Lender in its reasonable discretion (an "**Approved Assignee**"), or subject to City's prior written consent (not to be unreasonably withheld, delayed or conditioned) if such transferee is not an Approved Assignee, and in either case, Lender (or such designee) thereupon shall be released from all liability for performance or observance of the covenants and conditions in the Lease arising from and after the date of such assignment. If an Approved Assignee shall acquire Tenant's leasehold interest in the Parcel, then such acquiring party shall give written notice to City within twenty (20) days of such acquisition. For purposes hereof, an "**Approved Franchisor**" shall mean Hilton (e.g., Hilton Garden Inn or Hilton Homewood Suites), Hyatt (e.g., Hyatt House or Hyatt Place), Marriott (e.g., Courtyard by Marriott or Marriott Residence Inn), or another national hotel brand that is designated as a "Upper Midscale" or higher category of hotel chain (for example, "Upscale" or "Luxury") on the "Global Chain Scales" or "U.S. Chain Scales" listings (or any successor listings) published from time to time by Smith Travel Research, Inc. and STR Global, Ltd. or any reasonably comparable listing service.

4.3 Until such time as Lender or its designee becomes "Tenant" under the Lease (whether pursuant to an assignment of the Lease by Tenant, by a Foreclosure, or otherwise), nothing in this NDRA shall constitute an assumption by Lender of any of Tenant's obligations under the Lease and Tenant shall continue to be liable for all of the obligations thereunder and shall perform all such obligations.

4.4 Whether before or after Foreclosure as defined herein, nothing in this NDRA, the Lease or any other document shall constitute a release of Tenant of any obligations of Tenant under the Lease.

4.5 Each reference in this NDRA to Lender's "designee" means any entity that directly or indirectly controls, is directly or indirectly controlled by or is under common control with Lender, such control meaning the power to direct or cause the direction of management and policies of the entity by the ownership of the majority of the equity interest in such entity. Lender shall promptly give the City and Tenant of the name and address of any such designee.

4.6 To the extent that Lender is required to give Tenant notice of an "Event of Default" under the Loan Documents, Lender will also deliver a copy of such notice to City. To the extent that Tenant has the right to cure such default and fails to do so, City shall have an additional thirty (30) days following the expiration of Tenant's cure period within which to cure such default, so long as such default is susceptible to cure by City. Neither City's right to cure such default nor City's exercise of such right shall be deemed to be an assumption by City of liability under the Loan Documents. Notwithstanding the foregoing, in no event shall failure by Lender to deliver such notice subject Lender to any liability or otherwise prejudice Lender in any manner. The provisions of this paragraph shall replace and supersede Section 14.1(e) of the Lease with respect to Lender and the Deed of Trust.

5. **New Lease.** In addition to, and without in any way limiting, Lender's new lease rights pursuant to Section 14.3 of the Lease, in the event of a termination of the Lease for any reason, including, without limitation, as a result of a disaffirmation or a rejection of the Lease in a bankruptcy proceeding, then Lender (or its designee) shall have the right, but not the obligation, within thirty (30) days after written notice from City that the Lease has been terminated, to enter into a New Lease of the Parcel with City; provided that Lender (or such designee) shall, upon entering into such New Lease, (1) cure all monetary defaults existing at the time of termination of the Lease; and (2) agree to cure all non-monetary defaults existing at the time of termination of the Lease within a reasonable period thereafter with reasonable diligence; provided, further, that, if any default existing at the time of termination of the Lease is of such a nature that it cannot be cured by Lender (for example, bankruptcy of Tenant), such default shall be deemed cured and shall not be a default under the New Lease. The New Lease shall be effective as of the date of termination of the Lease and shall be equal in priority thereto, for the remainder of what otherwise would have been the term of the Lease but for such termination, at the rent and upon all of the same agreements, terms, covenants and conditions of the Lease and this NDRA.

6. **Estoppel.**

6.1 City and Tenant each hereby confirm to Lender that as of the date of this NDRA, to the best of their respective actual knowledge, and with respect to the Lease and their respective rights, obligations, title and interest in the Hotel and Conference Center Component and the Parcel:

(a) Neither City nor Tenant is in Default under the Lease and no conditions exist that, but for the passage of time or the giving of notice or both, would result in a Default by either City or Tenant under the terms of the Lease;

(b) The Lease and that certain Deed and Bill of Sale for Improvements, dated as of November 30, 2009, and recorded on August 17, 2011 as Fee #: 2011-18803 in the Official Records of Yuma County, Arizona, constitute the entire agreement between City and Tenant with respect to the matters set forth therein regarding the Hotel and Conference Center Component and the Parcel;

(c) The Lease has not been assigned, modified or amended in any way except as set forth herein;

(d) The Lease is in full force and effect;

(e) Any improvements required by the terms of the Lease to be made by Tenant have been completed;

(f) There are no unresolved or pending disputes between City and Tenant;

(g) No bankruptcy proceedings, whether voluntary or otherwise, are pending, or to City's knowledge, threatened, against City;

(h) The Lease permits the current use of the Parcel;

(i) To City's actual knowledge, neither City nor Tenant has any offsets, counterclaims, defenses, deductions or credits whatsoever with respect to the Lease, and City has not received any written notice to the contrary;

(j) The term of the Lease commenced on June 16, 2005, and expires at midnight on June 15, 2055;

(k) As of the date hereof, Tenant is required to pay the GPLET rate required by A.R.S. § 42-6203(A) for the Hotel improvements and (to the extent not exempt from such GPLET payment pursuant to A.R.S. § 42-6208) the Conference Center improvements to the Yuma County Treasurer on or before December 1 of each year;

(l) Rent under the Lease is payable pursuant to Section 3 of the Lease. City does not hold a security deposit under the Lease. Pursuant to Section 3.1 of the Lease, Tenant is obligated to commence payments of Annual Rent to City, in the amount of 3% of Hotel Room Revenue, beginning on June 16, 2041, and for clarity, such Annual Rent is not subject to any floor or cap, and shall be payable in addition to (i) the Incremental Rent, (ii) the GPLET rate required by A.R.S. § 42-6203(A) for the improvements on the Parcel subject thereto, and (iii) the Additional Rent;

(m) Pursuant to Section 3.2 of the Lease, in addition to the Annual Rent, beginning on November 30, 2018, Tenant shall pay Incremental Rent to City, which shall be equal to the difference between (i) the GPLET rate required by A.R.S. § 42-6203(A) for the Hotel and Conference Center and (ii) the GPLET rate required by A.R.S. § 42-6203(B) for the Hotel and Conference Center, as adjusted by the Arizona Department of Revenue pursuant to A.R.S. § 42-6203(B)(3), calculated as if the Hotel and Conference Center were subject to the provisions of A.R.S. § 42-6203(B); provided, that if by reason of statutory amendment or final,

non-appealable court adjudication, the aforementioned difference between the GPLET rates referenced in the immediately preceding clauses (i) and (ii) cannot then be determined, such difference, if any, shall be determined in accordance with Section 3.2 of the Lease as it existed prior to the Second Amendment. The Incremental Rent shall be determined by the City Administrator, which shall give notice to Tenant of such amount no later than 30 days prior to November 30, 2018 and on every fifth (5th) consecutive anniversary of such date;

(n) As of the date hereof, the GPLET rate required by A.R.S. § 42-6203(A) for the Hotel and Conference Center (i) for the payment due on December 1, 2018 and on each December 1 thereafter, up to and including December 1, 2029, is expected to be equal to \$1.20 per square foot of the Hotel improvements located on the Parcel, (ii) for the payment due on December 1, 2030 and on each December 1 thereafter, up to and including December 1, 2039, is expected to be equal to \$0.90 per square foot of the Hotel improvements located on the Parcel, (iii) for the payment due on December 1, 2040 and on each December 1 thereafter, up to and including December 1, 2049, is expected to be equal to \$0.60 per square foot of the Hotel improvements located on the Parcel, and (iv) for the payment due on December 1, 2050 and on each December 1 thereafter for the remainder of the Lease Term (which is scheduled to expire at midnight on June 15, 2055), is expected to be equal to \$0.40 per square foot of the Hotel improvements located on the Parcel; pursuant to A.R.S. § 42-6208(4), the Conference Center improvements located on the Parcel are expected to be exempt from payment of the GPLET;

(o) As of the date hereof, the GPLET rate required by A.R.S. § 42-6203(B) for the Hotel and Conference Center is equal to the sum of (x) \$2.20 per square foot of the Hotel improvements located on the Parcel and (y) \$2.20 per square foot of the Conference Center improvements located on the Parcel. As of the date hereof, the GPLET rate required by A.R.S. § 42-6203(B) is adjusted by the Arizona Department of Revenue on December 1 of each year, using the average annual (positive or negative) percentage change for the two (2) most recent fiscal years in the producer price index for new construction published by the United States Bureau of Labor Statistics;

(p) Based on that certain Initial Certification of Government Property Lease Building Square Footage dated November 29, 2010 and delivered to City by Joseph Wong Design Associates, (i) the total gross square footage of the Hotel improvements located on the Parcel was equal to 83,364 square feet on such date and (ii) the total gross square footage of the Conference Center improvements located on the Parcel was equal to 19,812 square feet on such date; City intends to rely on such Initial Certification for purposes of calculating Incremental Rent under the Lease (including, without limitation, the GPLET rates required by A.R.S. § 42-6203(A) and § 42-6203(B) as component calculations thereof), unless an equivalent form of certification, prepared by an architect reasonably satisfactory to City and Tenant, indicates a different gross square footage for such improvements;

(q) City has not received written notice of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against the City's interest in the Parcel;

(r) City has not received any written notice that it is in violation of any governmental law or regulation applicable to its interests in the Parcel or its operation including, without limitation, any environmental law or the Americans with Disabilities Act; and

(s) City has not assigned, conveyed, transferred, sold, encumbered or mortgaged its interest in the Lease or the Parcel and there are currently no mortgages, deeds of trust or other security interests encumbering City's fee interest in the Parcel and no third party has an option or preferential right to purchase all or any part of the Parcel.

The parties acknowledge that the statements made in the foregoing subsections (k) through (p) (inclusive) are subject to any changes to Arizona law relating to the calculation and payment of the GPLET (including any interpretations thereof by the Arizona Department of Revenue or the Yuma County Treasurer).

7. **Lease Default.** Notwithstanding anything to the contrary contained in the Lease, City hereby further covenants and agrees that Lender shall have the right, but not the obligation, to cure any default by Tenant under the Lease and Lender shall be afforded: (a) forty-five (45) days after written notice from City to cure any such default, (b) in the event that any such default cannot, with reasonable diligence, be cured within forty-five (45) days after such written notice from City, such longer period as may be required to complete such cure, provided that Lender notifies City of its intention to cure such default and Lender promptly commences and diligently pursues such cure to completion, (c) in the case of a non-monetary default, a reasonable time thereafter to obtain possession of the Parcel (including possession by a receiver) and to cure such default after obtaining possession as long as such remedy is being prosecuted with diligence and continuity, or (d) in the case of a non-monetary default not susceptible of being cured, to institute, prosecute and complete foreclosure proceedings or otherwise acquire Tenant's leasehold interest in the Parcel as long as such remedy is being prosecuted with diligence and continuity; provided, however, Lender shall not be obligated to continue such possession or to continue such foreclosure proceedings after such default shall have been cured. City shall not exercise any remedy under the Lease unless and until Lender has failed to cure or cause to be cured the relevant default by Tenant within the relevant time period provided to Lender for doing so as set forth in this Section 7. In connection with Lender's cure rights hereunder and under the Lease, Lender shall be allowed sufficient time necessary to complete any foreclosure action, including delays due to restraint by law or any order or injunction issued by a court, so long as Lender is making payments required by the Lease. Upon completion of such foreclosure proceedings or upon such acquisition of Tenant's leasehold interest in the Parcel, Lender (or such designee) shall cure all then-existing non-monetary defaults within the applicable cure period described in subclause (b) above; provided, further, that, if any default is of such a nature that it cannot be cured by Lender (for example, bankruptcy of Tenant), such default shall be deemed cured and shall not be a default under the Lease.

8. **Casualty and Condemnation.** Lender shall be entitled to participate in any settlement regarding insurance or condemnation proceeds or awards, to collect and hold any such proceeds or awards and to determine and direct whether any such proceeds or awards are made available for the restoration of the Parcel or are applied to the repayment of the Loan. Following a casualty or condemnation, the Lease may not be cancelled, terminated or modified without Lender's consent. Upon a taking for a temporary period, the Lease shall continue and the entire

award shall be payable to Tenant for the payment of rent and, thereafter, debt service on the Loan, subject to the provisions of the Loan Documents. The parties hereto shall give Lender notice of any arbitration, appraisal, or administrative proceedings relating to the Lease, or of any pending adjustment of insurance claims relating to insurance policies maintained pursuant to the Lease or to condemnation awards relating to the Parcel, and Lender shall have the right to intervene therein and be made a party to such proceedings. The parties hereto hereby consent to such intervention. In the event that Lender shall not elect to intervene or become a party to the proceedings, Lender shall receive notice and a copy of any award or decision made in connection therewith.

9. **Assignment.** If Lender shall succeed to the interest of Tenant under the Lease in any manner and the Lender assigns its right under the Lease, Lender shall thereby be released from any further obligations under the Lease, and City shall look solely to such successor-in-interest of the Lender for performance of such obligations.

10. **No Amendment.** The Lease shall not be amended, modified, cancelled or terminated, nor shall a surrender of the Parcel be accepted by City, without the prior written consent of Lender, and such action(s) without Lender's prior written consent shall not be binding on Tenant or Lender.

11. **No Merger.** There shall be no merger of the Lease or any interest in the Lease or of the leasehold estate created thereby, with the fee estate in the Parcel, by reason of the fact the Lease or such interest therein, or such leasehold estate, may be directly or indirectly held by or for the account of any person who shall hold the fee estate in the Parcel, or any interest in such fee estate, nor shall there be a merger by reason of the fact that all or part of the leasehold estate created by the Lease may be conveyed or mortgaged in a leasehold mortgage or deed of trust to a mortgagee or beneficiary who shall hold the fee estate in the Parcel or any interest of the City under the Lease.

12. **Environmental Covenants.** City acknowledges and agrees that Tenant shall at all times have the right to enforce the indemnity set forth in Section 6.4(e) of the Lease against City. City's obligations under this Section 12 shall survive the termination or expiration of the Lease.

13. **Estoppel Certificate.** Within thirty (30) days following Lender's written request, City shall provide Lender with an estoppel certificate in accordance with the provisions and conditions of Section 20 of the Lease.

14. **Miscellaneous.**

14.1 This NDRA shall be binding upon and inure to the benefit of City, Tenant and Lender and their respective successors and assigns, including, without limitation, any successful bidder at any judicial foreclosure or trustee's sale. The term "Lender," when used in this NDRA, will be deemed to include, without limitation, (a) any securitization trust to which Lender may assign the Loan, it being understood that any assignment of the Loan shall not require the consent of City but any such assignee as to the Loan shall be bound by the terms of the Loan Documents and the Lease (as applicable to Lender) and/or (b) any person or entity which

acquires title to or the right to possession of the Parcel by, through, or under Lender and/or the Loan Documents, whether directly or indirectly.

14.2 All notices served upon Tenant with respect to the Lease shall also be served by City upon Lender via certified mail or nationally recognized overnight delivery at Lender's below address or such other address as Lender shall designate in writing to City. No notice of default or termination from City to Tenant shall be deemed to have been duly given unless and until a copy thereof has been so served upon Lender. Except as otherwise required by law, any notice required or permitted under this NDRA shall be in writing and shall be given by personal delivery, or by deposit in the United States mail, certified or registered, return receipt requested, postage prepaid, addressed to the parties at their respective addresses set forth below, or at such other address as such party may designate in writing pursuant to the terms of this Section, or by any nationally recognized express or overnight delivery service (e.g., Federal Express or UPS), delivery charges prepaid:

If to City:	City Administrator One City Plaza Yuma, Arizona 85364
With Copy to:	City Attorney One City Plaza Yuma, Arizona 85364
If to Lender:	Wells Fargo Commercial Mortgage Servicing 401 South Tryon Street, 8 th Floor Charlotte, North Carolina 28202
With Copy to:	Winstead PC 201 North Tryon Street, Suite 2000 Charlotte, North Carolina 28202 Attention: David Iacuzio, Esq.
If to Tenant:	Kesari Hospitality LLC 445 Hotel Circle South San Diego, California 92108 Attn: Mitesh R. Kalthia

Any notice sent by United States Postal Service certified or registered mail shall be deemed to be effective the earlier of the actual delivery, or three (3) business days after deposit in a post office operated by the United States Postal Service. Any notice sent by a recognized national overnight delivery service shall be deemed effective one (1) business day after deposit with such service. Any notice personally delivered or delivered through a same-day delivery/courier service shall be deemed effective upon its receipt or refusal to accept receipt by the addressee. Any party may designate a different person or entity or change the place to which any notice shall be given as herein provided, by giving notice to the other parties as provided in this Section 14.2.

14.3 This NDRA is delivered in and relates to property located in Yuma County, Arizona, and the rights and obligations of the parties hereunder shall be governed by and

construed in accordance with the substantive laws and judicial decisions of the State of Arizona (regardless of Arizona conflict of laws principles or the residence, location, domicile or place of business of the parties and their constituent principals) and applicable federal laws, rules and regulations.

14.4 To the extent that there are any conflicts between the terms of this NDRA and the Lease, the terms of this NDRA shall control as between Lender (or its designee) and City, but the terms of the Lease shall control as between Tenant and City. Except as expressly modified, amended and supplemented by this NDRA, all of the terms, covenants and conditions of the Lease shall remain in full force and effect. This NDRA constitutes the entire agreement between the parties hereto with respect to the matters contained herein. This NDRA may not be modified or amended except by a written agreement signed by the parties or their respective successors in interest.

14.5 This NDRA may be executed and acknowledged in one or more counterparts, each of which may be executed by one or more of the signatory parties. Signature and notary pages may be detached from the counterparts and attached to a single copy of this NDRA physically to form one legally effective document.

14.6 Each party to this NDRA represents and warrants to the others that all necessary company, corporate and/or governmental approvals, consents and authorizations have been obtained prior to the execution of this NDRA by such party, and that the person executing this NDRA on behalf of such party is duly authorized to do so to bind such party.

14.7 Capitalized terms not defined herein shall have the definitions set forth in the Lease.

14.8 If any provision of this NDRA is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable, that portion shall be deemed severed from this NDRA, and all remaining parts shall continue in full force as though the invalid, illegal or unenforceable portion had never been part of this NDRA.

14.9 Any waiver of a default or provision under this NDRA must be in writing and does not constitute a waiver of any other default or provision concerning the same or any other provision of this NDRA. No delay or omission in the exercise of any right or remedy shall impair such right or remedy or be construed as a waiver. A consent to or approval of any other or subsequent act shall not be deemed to be a consent to or approval of any other act. Any waiver given by a party shall be null and void if the party requesting such waiver has not provided a complete and accurate disclosure of all material facts relevant to the waiver requested.

14.10 This NDRA shall continue in effect until all of the obligations of Tenant to Lender under any of the loan documents executed by Tenant in connection with the Loan are fully paid and discharged.

14.11 City and Tenant execute this NDRA for the benefit of Lender with full knowledge that Lender is relying on this NDRA in making the Loan to Tenant and this NDRA constitutes a material inducement for Lender in making the Loan to Tenant.

14.12 This NDRA shall be governed by and construed under the laws of the State of Arizona.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have each caused this NDRA to be executed on or as of the day and year first above written.

CITY

CITY OF YUMA, an Arizona municipal corporation

By: _____
Gregory K. Wilkinson
City Administrator

ATTEST:

By: _____
Lynda L. Bushong, City Clerk

APPROVED AS TO FORM:

By: _____
Richard W. Files, City Attorney

STATE OF ARIZONA)
) ss.
County of Yuma)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Gregory K. Wilkinson, City Administrator of the City of Yuma, who acknowledged that he signed the foregoing instrument on behalf of the City.

Notary Public

My commission expires:

LENDER

WELLS FARGO BANK, NATIONAL
ASSOCIATION, a national banking association

By: _____
Name: _____
Its: _____

NOTARY

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____, 20__ by
_____, the _____ of WELLS FARGO BANK, NATIONAL
ASSOCIATION, a national banking association, on behalf of the said corporation.

Notary Public

Print Name: _____

My commission expires:

TENANT

KESARI HOSPITALITY LLC,
an Arizona limited liability company

By: _____
Name: Mitesh R. Kalthia
Its: Manager

NOTARY

A notary public or other officer completing this certificate verifies only the identity of the individuals who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

On _____, 20____, before me, _____, Notary Public, personally appeared Mitesh R. Kalthia, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the state of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

EXHIBIT “A”

Legal Description

Lot 1, of PIVOT POINT YUMA, according to the plat of record in the office of the County Recorder of Yuma County, Arizona, in Book 26 of Maps and Plats, Pages 92 through 96, recorded in Recording No. 2013-33774.