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October 18, 2013

[Revised – Replaces Letter Dated 10/4/2013]

City of Ann Arbor  
c/o James H. Chaconas, CCIM  
Colliers International  
400 E. Washington Street,  
Ann Arbor, MI 48104

**Re: 350 S. 5<sup>th</sup> Street, Ann Arbor**

Dear Jim:

We are pleased to present this outline of the terms and conditions upon which affiliates of Smart Hotels LLC and Opus Development Company, L.L.C. (“Purchaser”) propose to purchase the former Y Site (“Property”). This letter replaces the earlier submittal dated October 4, 2013.

The proposed terms are as follows:

1. **Property:** As used in this letter, the term “Property” refers to the rectangular-shaped parcel owned by the City of Ann Arbor (“Seller”) containing 34,848 SF, bounded by E. William Street on the South, 5<sup>th</sup> Street on the East, 4<sup>th</sup> street on the West and includes 350 W. 5<sup>th</sup> Avenue, Ann Arbor, MI and all rights and appurtenances whatsoever relating.
2. **Price:** The purchase price for the Property (the “Purchase Price”) shall be **FIVE MILLION TWO HUNDRED THOUSAND DOLLARS (\$5,200,000)**, plus or minus typical prorations.
3. **Assumptions and Contingencies:** Purchaser’s offer assumes and is contingent on the following:
  - A. **Utilities:** City to ensure all required public utilities with sufficient capacity to serve the project are available adjacent to the site from active, fully functioning lines;
  - B. **Setback:** Zero-lot line, except for service drive/setback at North limited to: (1)  $\leq 30'$  off northern lot line and (2) first-floor only ( $\leq 16'$  above grade); curb cut for hotel drop-off/check-in
  - C. **Parking:** Satisfactory off-site parking in Library Lane and 4th/William public garages made available to Purchaser, its tenants, customers, guests and invitees –terms TBD;
  - D. **Uses/Density:** 700% FAR – (1) Apartment – at least 130 market-rate units; (2) Hotel – at least 120 Guestrooms; (3) Retail;
  - E. **90-day Diligence Period:**
    - (1) Geotechnical – No soil/foundation cost premiums anticipated
    - (2) Environmental – Clean site anticipated

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- (3) Title/Survey – Seller to convey to Purchaser unencumbered fee simple title to the Property, to comprise two tax parcels, the dimensions and configuration of which shall be specified by Purchaser.
- F. Approvals/Permits: Within 180 days after Diligence Period with two 60-day extensions solely for purposes of achieving requisite Approvals.
4. Purchase Agreement: Seller and Purchaser would negotiate a definitive purchase agreement in form and substance satisfactory to each of them (the “Purchase Agreement”) with a targeted execution date of November 29, 2013. If either of the following events should occur, then this letter shall terminate and, except for the obligations set forth in Section 7 below, neither party shall have any further rights or obligations hereunder:
- (A) Within ten (10) business days of the date of this revised letter, Seller shall not have notified Purchaser in writing that the terms set forth in this letter are acceptable to Seller; or
- (B) The Purchase Agreement shall not be executed by both Seller and Purchaser by 12/31/2013.
5. Earnest Money: Purchaser would deposit in escrow with the title company earnest money of \$100,000 within five (5) business days after Seller delivers to Purchaser Seller’s written acceptance of the terms of this letter. Earnest money goes “hard” after the Diligence Period; refunded if Purchase Agreement not executed by specified date or contract terminated by end of Diligence Period.
6. Colliers International is Seller’s agent; Purchaser is represented by Peter Allen & Associates. We understand Seller will pay commission with 50/50 split to Seller’s and Purchaser’s brokers.
7. Confidentiality: The parties shall hold all information concerning this transaction in confidence to the extent permitted by law. The foregoing restrictions shall not apply to disclosures of information required by law or court order, or to information concerning the Property that is available to the general public other than through the disclosure by the Purchaser or its agents in violation of this letter.

Except for the obligations set forth in Section 7 above, this letter is not intended to create, and shall not create, any legally binding obligation on the Seller or the Purchaser (including, without limitation, any obligation to enter into the Purchase Agreement), and neither the Purchaser nor the Seller will be legally bound in any manner unless they each, acting in their sole discretion, elect to execute and deliver the Purchase Agreement. No negotiations, course of dealings or other circumstances shall obligate the Seller or Purchaser to enter into the Purchase Agreement. Either the Purchaser or the Seller has the right to terminate discussions or negotiations at any time and for any reason.

If Seller wishes to proceed in accordance with the above terms, it should please accept the terms of this letter by written notice to Purchaser delivered within ten (10) business days from the date set forth above; otherwise, this letter shall automatically terminate.

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**SMART HOTELS LLC**



By: Ed Small  
President, Smart Hotels LLC  
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(216) 533-0500

cc: Jon Adams, Smart Hotels LLC  
Kevin Mahaney, The Olympia Companies

**OPUS DEVELOPMENT COMPANY, L.L.C.**



By: Sean T. Spellman  
Vice President and General Manager  
[sean.spellman@opus-group.com](mailto:sean.spellman@opus-group.com)  
(847) 318-1619

**Accepted:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_