

ORDINANCE NO. 771

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOMA LINDA TO AMEND AND REPLACE IN ITS ENTIRETY CHAPTER 3.13, HOTEL INCENTIVE PROGRAM, OF THE LOMA LINDA MUNICIPAL CODE.

WHEREAS, the general welfare and material well-being of the residents of the City of Loma Linda depend, in part, upon serving the existing needs of businesses, visitors, and families within the City as well as promoting tourism in the City; and

WHEREAS, the operation, maintenance, and expansion of the inventory of AAA Three Diamond Hotels and equivalent qualifying hotels, including pre-approved brand hotels which meet certain additional criteria, will serve the existing needs of businesses, visitors and families within the City and enhance the economy of the City by promoting an expanded and desirable range of lodging facilities, tourism, and experiences while providing employment opportunities for the residents of the City as described in Chapter 3.13 of Title 3 of the Loma Linda Municipal Code; and

WHEREAS, the City Council finds and determines that the implementation of the Hotel Incentive Program is a municipal affair which is (i) consistent with the City's economic goals and strategies, (ii) a matter of City-wide importance, (iii) necessary for the preservation and protection of the public health, safety and/or welfare of the community, and (iv) in accord with the public purposes and provisions of applicable State and local laws and requirements; and

WHEREAS, the authority granted and the purposes to be accomplished by Chapter 3.13 as described herein is a municipal affair for which public funds can be expended and that the operation, maintenance, and expansion of the inventory of Qualifying Hotels is of paramount importance to the City of Loma Linda, its residents, and businesses; and

WHEREAS, the City Council finds and determines that the establishment of the Hotel Incentive Program, by the adoption of this Ordinance, is not subject to the California Environmental Quality Act of 1970, herein referred to as "CEQA", pursuant to Sections 15378 and 15061(b)(3) of the State of California Guidelines for Implementation of CEQA, because it will not result in a direct or reasonably foreseeable physical change in the environment and is not defined as a "project".

WHEREAS, the City Council desires to amend and replace in its entirety Chapter 3.13 of the Loma Linda Municipal Code to adopt a hotel incentive program, as described in Exhibit "A" hereto.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMA LINDA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Enactment. Chapter 3.13 of Title 3 to the Loma Linda Municipal Code, is amended as set forth in Exhibit "A" hereto.

Section 2.     **Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional.

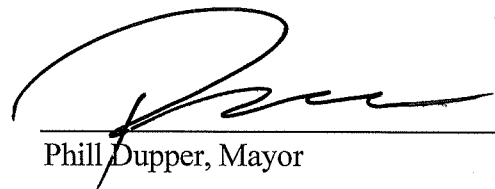
Section 3.             **Certification.** The City Clerk shall certify the passage of this ordinance and shall cause the same to be processed as required by law.

Section 4.             **CEQA.** This Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) under the general rule that CEQA does not apply to activities which can be seen with certainty to have no effect on the environment.

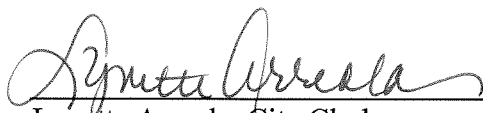
Section 5.     **Ordinance.** This ordinance shall become effective on the thirty-first day after passage.

I, Lynette Arreola, City Clerk of the City of Loma Linda, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 13<sup>th</sup> of September, 2022, and placed upon its second reading and adopted at a regular meeting of the City Council on the day 11<sup>th</sup> of October, 2022 by the vote:

Ayes:             Dupper, Dailey, Lenart, Jindal  
Noes:             None  
Absent:           Rigsby  
Abstain:          None

  
\_\_\_\_\_  
Phill Dupper, Mayor

Attest:

  
\_\_\_\_\_  
Lynette Arreola, City Clerk

## EXHIBIT "A"

### LOMA LINDA MUNICIPAL CODE

#### Title 3 REVENUE AND FINANCE

#### Chapter 3.13 HOTEL INCENTIVE PROGRAM

**3.13.000 Short Title.** This Chapter shall be known as the Hotel Incentive Program

A. **Purpose.** The purpose of this Chapter is to provide an incentive program for the operation of Hotels which, when opened for business, will qualify and operate as Qualifying Hotels, as defined herein. In the implementation of this Hotel Incentive Program, the City Council finds:

B. The general welfare and material well-being of the residents of the City of Loma Linda depend, in part, upon serving the existing needs of businesses and visitors and families utilizing medical facilities within the City as well as promoting tourism in the City.

C. The operation, maintenance, and expansion of the inventory of Qualifying Hotels in the City will serve the existing needs of businesses and visitors and families using medical facilities within the City as well as promote and enhance the economy of the City and assist the City in promoting tourism by providing attractive and desirable visitor serving facilities and experiences that will serve the needs of visitors to medical facilities and their families and contribute to the growth and expansion of tourism opportunities in the City, providing employment opportunities for the residents of the City, and raising average daily room rates for all hotels

D. It is in the best interest of the City to induce and encourage the operation of new Qualifying Hotels that, but for the Hotel Incentive Program, would not operate within the City.

E. The authority granted and the purposes to be accomplished by this Chapter is a municipal affair for which public funds can be expended and that the operation, maintenance, and expansion of the inventory of Qualifying Hotels is of paramount importance to the City of Loma Linda, its residents, and businesses.

**3.13.020 Definitions.** For the provisions of this Chapter, the following definitions shall apply:

A. **"AAA Three Diamond Hotel(s)"** means a Hotel(s) which provides physical features and operational services which meet or exceed the rating criteria established for AAA Three Diamond Hotels by the American Automobile Association and the Minimum Development Standards which are on file with the City Clerk and available at no cost. In addition to the foregoing, the Shell Costs shall be not less than Sixty Five Thousand Dollars (\$65,000) per Guestroom and the Furniture, Fixtures and Equipment Costs shall be not less than Twelve Thousand Dollars (\$12,000) per Guestroom based upon costs as of January 1, 2021 and subject to increases (but not decreases) per the CPI as computed on each anniversary of January 1, 2021 until the Opening. Excepting only as provided under subsection D of Section 3.13.050 hereof, AAA Three Diamond Hotel(s) does not include Hotels operating on or before June 30, 2020, nor does it include property, including both Existing Hotels and/or undeveloped land, that is/are currently the subject of an agreement with the City of Loma Linda which agreement provides a subsidy or financing mechanism for the construction and/or operation of a Hotel.

B. **“AAA Three Diamond Hotel”** means a AAA Three Diamond Hotel that is Pre-Approved and either Under Construction or Opened for Business during the Eligibility Phase. The term “AAA Three Diamond Hotel” does not include all, or any portion of, or addition to, an Existing Hotel.

C. **“Administrative Fee”** means the sum of Three Thousand Dollars (\$3,000) which amount will be retained by the City, whether the Application is approved or disapproved, to defer the administrative costs of reviewing each Application and otherwise administering the Hotel Incentive Program.

D. **“Applicable Transient Occupancy Tax Rate”** means the lesser of current rate of Transient Occupancy Tax or fifteen percent (15%). The Applicable Transient Occupancy Tax Rate shall apply for the calculation of any and all Incentive Payments pursuant to Section 3.13.050 hereof without regard to any increases, at any time, in the rate of the Transient Occupancy Tax.

E. **“Applicant”** means a person or entity submitting an Application on or before June 30, 2025 pursuant to Section 3.13.040 hereof.

F. **“Application”** means the application submitted to the City Manager by an Applicant pursuant to Section 3.13.040 hereof, in the form prescribed by the City Manager.

G. **“Approved Equivalent Qualifying Hotel”** means a hotel which is designated as one of the brands enumerated in this subsection G and which additionally satisfies the other criteria enumerated within this subsection G as determined in good faith from time to time by the City Manager; in addition, such hotel must have been Pre-Approved and either Under Construction or Opened for Business during the Eligibility Phase. The brands enumerated in this subsection G are: (a) from among Hilton brands: (i) Hampton Inn/Hampton Inn and Suites; (ii) Home2 Suites; (iii) Homewood Suites; (iv) Tru by Hilton; (v) Hilton Garden Inn; (vi) Embassy Suites; (vii) Doubletree; and (viii) Hilton; (b) from among IHG brands: (i) Holiday Inn Express; (ii) Candlewood Suites; (iii) Holiday Inn & Suites; (iv) Hotel Indigo; (v) Crowne Plaza; (vi) Even Hotels; (vii) Staybridge Suites; and (viii) Atwell Suites; (c) from among Marriott brands: (i) Fairfield Inn & Suites; (ii) Courtyard by Marriott; (iii) Towneplace Suites; (iv) Residence Inn; (v) Element; (vi) Sheraton; (vii) Westin; (viii) Four Pointes; (ix) Marriott Hotel; (x) Springhill Suites; (xi) AC Hotel; and (xii) Aloft Hotel; and (d) from among Hyatt brands: (i) Hyatt Place; (ii) Hyatt House; (iii) Hyatt Hotel. The other criteria under this subsection G are as follows, all as determined in good faith from time to time by the City Manager: (A) free floor space: area size and placement of appointments provide an obvious degree of spaciousness allowing increased ease of movement for guests; (B)(i) connective technology: superior internet speed and capacity available throughout the property (e.g., multiple routers, consistent signal strength); (ii) remove guest service access through mobile device; (iii) two additional technology features (e.g., mobile device room key, wireless charging system, advanced business computing equipment, interactive electronic reader board with local information, boarding pass kiosk, device available for electronic check-/check-out, RFID keys, mobile device check-in); (C)(i) elevator service: multiple elevators, including decorative appointments, with one elevator having dedicated staff access; (ii) elevator landings including multiple accent features (e.g., chair/sofa, table, lamps/wall sconce, phone, artwork, mirror, flowers/plants); (D) exercise facilities: (i) designated room on campus or off site health club within one (1) mile with free access to guests; (ii) water cooler, towels, clock, sanitizer; (iii) additional personal training options (e.g., free

weights, benches, floor mats, physio balls, toning bars/rollers); (iv) special high impact flooring; (v) multiple televisions or individual televisions for each piece of cardio equipment; (vi) two or more additional amenities (e.g., infused water, bottled water, chilled towels, aromatherapy scents, ear buds, fresh fruit); (E) food and beverage outlets: (i) restaurant or breakfast area: standard continental breakfast with a minimum of juice, pastry, and hot beverage and grab-and-go option available or expanded breakfast including multiple hot items (e.g., waffles/pancakes, eggs, breakfast meats); (ii) lounge or bar area and outdoor/patio seating available; (iii) television; (F) meeting rooms: ample variety of meeting rooms on site or on immediately adjacent properties with access for guests (e.g., ballroom, boardroom, theater, and/or meeting rooms of various sizes adequate for business meetings); (G) restrooms: multiple restrooms in convenient location(s); (H) sundries and shops: dedicated sundry area or conventional gift shop on site or on immediately adjacent property with access to guests offering a moderate variety of merchandise (e.g., health and beauty items, food, beverage, basic technology accessories, and reading materials); (I) concierge services: staff available to assist guests with reservations at local restaurants, coordinate ticket or entertainment reservations, coordinate transportation needs for guests; (J) swimming pool: pool on site or on immediately adjacent property with access to guests with (i) a variety of comfortable, coordinated pool furniture, and (ii) at least one additional feature (e.g., hot tub, whirlpool spa, steam room, sauna, fountain, waterfall, zero-entry, infinity edge, children's splash pad, kiddie pool, water slide); (K) guest room seating layout: (i) seating for two guests; (ii) enhanced desk chair (ergonomic or coordinated with décor); (iii) chair positioned for television viewing; (iv) additional multifunctional seating option; (L) guest room closet space: (i) hand space for clothing, fully enclosed area or quality freestanding armoire adequate to enclose full-length apparel; (ii) matching, open-hook, wood/sculptured plastic hangers (heavy gauge with metal hook) and some hangers having skirt or pant hanging attachments, with supply ample for two guests; and (iii) one additional feature (e.g., illumination, drawers, shoe rack, walk-in capability, two or more shelves, upgraded luggage racks/designer style benches); (M) television: (i) equal to or greater than 40-inch flat panel; (ii) channel directory; (iii) cords hidden from view; (iv) all-in-one multimedia hub; (v) two or more additional features (e.g., high-definition channels, free/pay movie channels, digital art/property information, mood effects, multiple viewing angles, acoustic board, smart TV functionality, streaming capability, surround sound); (N) work space/writing surface: (i) large-size desk, task table or alternative writing surface; and (ii) multiple electrical outlets with USB ports at desktop; (O) ventilation: digital thermostat control on wall; (P) bathrooms: (i) one piece of decorative artwork or other decorative appointment; (ii) if vanity is separate from toilet area, it will be positioned in restricted view from the rest of the guest room; (iii) illuminated shower; (iv) illumination in multiple locations; (v) mirror to be decoratively framed/designed (e.g., floating, illuminated); (vi) personal care: multi-piece personal care package including two large-size bars of soap and two bottled items; (vii) double shower curtain or glass door with aluminum frame or door-less design; (viii) shower features: one custom water feature (e.g., body jets, hand-held sprayer, multiple showerheads, oversize ceiling rain shower, panels systems, steam shower rain showerhead, oversize wall-mounted showerhead, massage feature); (ix) tub to be standard size (5 ft. length x 2.5 ft. width) or larger.

H. “**Brand**” means the distinctive name of a Hotel that, by virtue of its distinctive name, is identified by specific physical and operational features so that guests are assured that they will receive a specified level of service and amenities wherever the property is located.

I. “**City Manager**” means the City Manager of the City of Loma Linda or his/her designee.

J. “**CPI**” means the Consumer Price Index-Urban for the Los Angeles-Orange-Riverside

County Average, Subgroup “All Items,” (1982-1984 = 100) as established by the Bureau of Labor Statistics of the U.S. Department of Labor.

K. **“Deposit”** means One Hundred Dollars (\$100.00) per Guestroom which Deposit shall be (i) returned to the Applicant, if the Application is rejected, (ii) retained by the City in the event that the Application is terminated pursuant to subsection D of Section 3.13.040, or (iii) refunded within thirty (30) days after a Pre-Approved Qualifying Hotel Opens for Business. The City shall have no obligation to earn interest or apply interest or earnings with respect to the Deposit.

L. **“Eligibility Phase”** means the period commencing on the effective date of this Chapter and terminating (with respect to the receipt of applications) on the earlier to occur of (i) June 30, 2025, or (ii) the date on which there are a total of Seven Hundred (700) Guestrooms comprised of Guestrooms of New Qualifying Hotels which have been Pre-Approved and have Opened for Business.

M. **“Existing Hotel”** means a building that was constructed, occupied, and used as a Hotel on or before June 30, 2020.

N. **“Financing”** refers to the combination of debt and equity sufficient to construct and operate a Qualifying Hotel for which an Application has been filed with the City Manager.

O. **“Flag”** means the entity whose Brand is used to identify the Hotel.

P. **“Furniture, Fixtures and Equipment”** means movable furniture, fixtures or other equipment that have no permanent connection to the structure of a building or utilities within the Hotel, as well as operational supplies. More specifically, furniture, fixtures and/or equipment would include decorative items, wall coverings, flooring treatment, window treatments, casework, furnishings & accessories, furniture, data communications equipment, voice communications equipment, audio visual communications equipment, electronic surveillance equipment, electronic detection and alarm equipment, commercial equipment, foodservice equipment, entertainment equipment, athletic & recreational equipment, collection and disposal equipment. Operational supplies include all supplies needed for the operation of the hotel, such as stationery, computer equipment and accessories, guestroom TV’s and mounts, alarm clocks in rooms, linen, pillows, maids’ carts and supplies, trash cans, all items for the hotel restaurant, bar, banquet and conference facilities (including china, utensils, glasses, etc.). Furniture, Fixtures and Equipment shall also include, for purposes of “Furniture, Fixtures and Equipment Costs,” taxes, freight, warehouse expense, installation fees and purchasing agent fees. Furniture, Fixtures and Equipment Costs shall be adjusted annually on January 1 of each year to reflect changes in CPI.

Q. **“Furniture, Fixtures and Equipment Costs”** means the actual and direct third party costs of all Furniture, Fixtures and Equipment. Furniture, Fixtures and Equipment Costs shall be adjusted annually on January 1 of each year to reflect changes in the CPI.

R. **“Guestroom(s)”** means a room or suite within a Hotel intended for Transient Occupancy by guests for compensation.

S. **“Hotel”** means any building which includes all of the following: (i) ninety (90) or more Guestrooms; (ii) at the premises, or under agreement with a hotel within one thousand (1,000) feet of a different building that is under common ownership with the Hotel, at least two thousand five hundred

(2,500) square feet of meeting room and pre function space.

T. **“Hotel Incentive Program”** means the program set forth in this ordinance to encourage the operation of Qualifying Hotels.

U. **“Hotel Operator”** means franchisee, manager, lessee, or licensee with whom an Owner has a contract to operate the Qualifying Hotel pursuant to a franchise, management, lease, or license arrangement.

V. **“Incentive Payments”** are the payments made by the City to the Owner pursuant to Section 3.13.050 hereof.

W. **“Initial Milestone”** means the date which is the earlier to occur of (i) twelve (12) months following the date of approval of the Application or (ii) June 30, 2023.

X. **“Maximum Aggregate Amount”** means Eight Hundred Fifty Thousand Dollars (\$850,000.00). No interest accrues on the Maximum Aggregate Amount.

Y. **“New Qualifying Hotel”** means a Qualifying Hotel(s) that was not operating in the City as of June 30, 2020.

Z. **“Open(s)(ing)(ed) for Business”** or **“Opening”** means the day on which a Pre-Approved Qualifying Hotel opens for business to the general public.

AA. **“Operating Covenants”** means the covenants described in Section 3.13.060 of this Chapter.

BB. **“Owner”** means the person or entity who is the owner of a Hotel or a site upon which a Hotel is to be constructed, whether in the capacity of fee simple owner, lessee, sub-lessee, mortgagee in possession, licensee, franchisee, or any other capacity, or the assignee or designee of such Owner.

CC. **“Ownership”** means fee simple, lease, license, franchise or other interest in property or a contract to purchase any such interest, which would entitle the Owner to construct a New Qualifying Hotel.

DD. **“Pre-Approved”** or **“Pre-Approved Qualifying Hotel”** means a Qualifying Hotel whose Application has been approved by the City Manager pursuant to Section 3.13.040 hereof.

EE. **“Qualifying Hotel”** means a hotel which is (i) a New AAA Three Diamond Hotel or (ii) an Approved Equivalent Qualifying Hotel as determined in good faith by the City Manager.

FF. **“Shell Cost”** means actual and direct third party costs of all materials, labor and equipment associated with the construction of the Hotel. Site costs, parking costs, furniture, Fixtures and Equipment Costs, architectural engineering, permits and fees, legal, accounting, taxes, sale or lease commissions, marketing expenses, initial operating capital and other indirect costs, as well as the developer overhead are excluded from Shell Costs. Shell Costs shall be adjusted annually on January 1 of each year to reflect changes in the CPI.

GG. “**Site Control**” means Ownership of a site on which a Qualifying Hotel is proposed.

HH. “**Transient Occupancy**” means an uninterrupted stay of no more than twenty-eight consecutive calendar days.

II. “**Transient Occupancy Tax**” means the transient occupancy tax levied and collected pursuant to Chapter 3.12 of Title 3 of the Loma Linda Municipal Code, as it may be amended from time to time and held in the City’s general fund for unrestricted use. Chapter 3.12 of the Loma Linda Municipal Code, as it may be amended from time to time, is referred to therein and herein as the “Transient Occupancy Tax Code;” provided, that, in no event, shall an amendment of the Transient Occupancy Tax Code after the date of this Agreement result in an increase in the Applicable Transient Occupancy Tax Rate.

JJ. “**Under Construction**” means that all necessary discretionary entitlements have been approved by the City of Loma Linda, grading and building permits have been issued, and that inspection approvals by the City of Loma Linda of grading and foundations to grade level have been obtained, vertical construction of Guestrooms has begun, and, if so requested by the City Manager, the Operating Covenants have been recorded.

**3.13.040 Eligibility for Hotel Incentive Program.**

A. Application Process. To become eligible for the Hotel Incentive Program as a Qualifying Hotel, application must be made before the end of the Eligibility Phase and the Owner shall:

1. Complete and submit to the City Manager, the Application for the Hotel Incentive Program, which shall contain, at a minimum:

- a) Evidence of site control.
- b) Description of development team, including, the development entity, the architect(s), interior designer, landscape architect, and other professional disciplines related to the construction and operation of the Hotel as a Qualifying Hotel (including requirements as a AAA Three Diamond Hotel, if applicable) for the purposes of confirming that the Hotel will be a Qualifying Hotel and, if applicable, a AAA Three Diamond Hotel when Opened for Business.
- c) The operating plan for the Qualifying Hotel which sets forth with reasonable particularity the operational characteristics of the hotel focusing on those matters which are intended to result in the Hotel being rated as a Qualifying Hotel and, if applicable, a AAA Three Diamond Hotel under this Ordinance.
- d) Conceptual design of the Hotel for the purpose of confirming that the Hotel will be a Qualifying Hotel and, if applicable, a AAA Three Diamond Hotel, when Opened for Business.
- e) Timeline for the commencement of operation.
- f) Third party certification as to Shell Costs and Furniture, Fixtures and Equipment Costs.



- g) Evidence of Three Million Five Hundred Thousand Dollars (\$3,500,000) cash or its equivalent or more equity capital in the developer entity.
- h) References from financial institutions.
- i) Independent, third-party certification, acceptable to the City, that the proposed Hotel will be a Qualifying Hotel and third party certification acceptable to City, or the determination in good faith by the City Manager, that the proposed hotel will be a Qualifying Hotel; provided that with respect to AAA Three Diamond Hotels, the designation by AAA of AAA Three Diamond Hotels shall be deemed dispositive.

2. If request therefor is made by the City Manager, execute Operating Covenants which shall include provisions regarding continuing use, maintenance, indemnification regarding prevailing wage, and such other provisions as the City Manager, in his/her sole discretion, may reasonably determine are necessary or appropriate to preserve the goals and intent of this chapter.

3. Pay the Administrative Fee and the Deposit.

B. Consideration of the Application by the City Manager. The City Manager shall approve or disapprove Applications based on the above within sixty (60) days after a complete submittal.

C. Treatment of the Administrative Fee and the Deposit. If the Application is rejected, the City shall retain the Administrative Fee and return the Deposit to the Applicant. If the Application is approved, the City shall retain the Administrative Fee and Deposit. The Deposit shall be refunded within thirty (30) days after the Qualifying Hotel Opens for Business or retained by the City if the Application is terminated pursuant to subsection D below.

D. Termination of Approved Application. An approved Application shall be automatically terminated without further notice and the Deposit shall be retained by the City unless on or before the Initial Milestone, Owner provides the City with written evidence, acceptable to the City Manager acting in his/her sole and absolute discretion, that a Brand and/or Flag, Hotel Operator, and commitment to provide Financing for the Qualifying Hotel is likely. The Application shall also terminate and the Deposit retained by the City if, at any time prior to Opening for Business, any material factual representation(s) made in the Application by the Owner was not true when made or has become not true, as determined by the City Manager acting in his/her reasonable discretion.

E. Effect of Termination of Pre-Approved Qualifying Hotel. If and to the extent an Application for a Hotel that was Pre-Approved as a Qualifying Hotel(s) is terminated pursuant to subsection D of this Section 3.13.040 prior to Opening, the next Application in order of submittal shall be considered by the City Manager for Pre-Approval as a Qualifying Hotel.

F. Vesting of Pre-Approved Qualifying Hotel. The right of an Owner to receive Incentive Payments shall vest upon Pre-Approval subject only to voluntary withdrawal of an Application by the Owner or termination pursuant to subsection D of this Section 3.13.040.

**3.13.050 Incentive Payments.**

A. Confirmation of the fulfillment of the Requirements of Subsection A. of Section 3.13.020. Upon completion of a Hotel for which an Application has been approved pursuant to Section 3.13.040, the Applicant shall provide the City with written certification (which in the case of approval by the American Automobile Association that a Hotel has been awarded AAA Three Diamond status, evidence of such approval) that the requirements in subsection A of Section 3.13.020 have been met. If the Hotel is asserted to be a Qualifying Hotel that has not received AAA Three Diamond status, the certification shall, upon request therefor by the City Manager, include written materials that reasonably substantiate the other criteria for a Qualifying Hotel. The City Manager shall approve or reject the results of such submittal(s) acting in his/her reasonable discretion.

B. Qualifying Hotel. The City shall pay Incentive Payments to an Owner of a Qualifying Hotel in an amount equal to fifty percent (50%) of the Transient Occupancy Tax collected and remitted to the City based on the Applicable Transient Occupancy Tax Rate with respect to such Qualifying Hotel pursuant to Chapter 3.12 of this Code; provided that in no event shall Incentive Payments, as aggregated, exceed the Maximum Aggregate Amount. Such Incentive Payments shall be calculated and made for the ten (10) year annual period commencing on the Opening and terminating on the tenth (10<sup>th</sup>) anniversary date of the Opening or, if earlier, as of the time the Maximum Aggregate Amount is reached.

C. Termination of Incentive Payments. Incentive Payments under this Section 3.13.050 shall terminate upon the expiration of the terms described above or at such time as the Hotel ceases to operate as a Qualifying Hotel for reasons other than temporary closure due to repair, casualty loss, or maintenance issues or, if sooner, as of the time the Maximum Aggregate Amount has been reached.

D. Payments under Ordinance No. 733. With respect to any Qualifying Hotel or AAA Three Diamond Hotel that was developed and opened within the City having qualified as a AAA Three Diamond Hotel prior to June 30, 2020 under Ordinance No. 733 (the "Original Ordinance"), requirements relative to operation and provisions relative to incentive payments shall continue to be applied under the Original Ordinance.

### **3.13.060 Operating Covenants.**

Each Owner eligible to participate in the Hotel Incentive Program shall, upon receipt of request therefor by the City Manager, execute the Operating Covenants which shall be recorded with the County of San Bernardino Recorder's office. A form of the Operating Covenants is on file with the City Clerk.

### **3.13.070 General Fund Revenues.**

All Transient Occupancy Tax Revenues remitted to the City with respect to a Qualifying Hotel shall be deemed general fund revenues of the City and shall be deposited in the City's general fund.

### **3.13.080 Administrative Rules and Regulations.**

Consistent with the intent and goals of this chapter, the City Manager shall adopt administrative rules and regulations for implementation and furtherance of the requirements of this Chapter including, without limitation, the form of the Application, the form of the Operating Covenant and the manner of compliance with Government Code Section 53083.

**3.13.090 Annual Administrative Review.**

The City Manager shall cause a review of the Hotel Incentive Program each year and if amendment or termination is warranted present a proposed amendment to this Chapter to the City Council for its consideration.

**3.13.100 Term**

The provisions of this Chapter shall be suspended as of the last day of the Eligibility Phase.