

**TOPEKA DEVELOPMENT CORPORATION**  
**BOARD OF DIRECTORS**  
**AGENDA**  
**April 9, 2024 – 5:00 p.m. to 6:00 p.m.**  
**City of Topeka, Kansas**

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Board of Directors:

Michael A. Padilla, President  
Neil Dobler, Vice President  
Karen A. Hiller, Secretary  
Michelle Hoferer, Treasurer  
Christina Valdivia-Alcala, Director

Sylvia E. Ortiz, Director  
David Banks, Director  
Brett D. Kell, Director  
Marcus D.L. Miller, Director  
Spencer Duncan, Director

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**Addressing the Board of Directors:** Public comment for the meeting will be available In-person or via Zoom. Individuals must contact the City Clerk's Office at 785-368-3940 or via email at [cclerk@topeka.org](mailto:cclerk@topeka.org) by no later than 4:00 p.m. on April 9, 2024 after which the City Clerk's Office will provide Zoom link information and protocols prior to the meeting. View the meeting online at <https://www.topeka.org/communications/live-stream/> or at <https://www.facebook.com/cityoftopeka/>. If you do not have access to a viewing option, please contact the City Clerk at 785-368-3940 or email [cclerk@topeka.org](mailto:cclerk@topeka.org) to make arrangements for an in person location.

**Written public comment** may also be considered to the extent it is personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at [cclerk@topeka.org](mailto:cclerk@topeka.org) on or before the February 6, 2024 meeting date.

The Federal Communications Commission (FCC) has adopted use of the 711 dialing code for access to Telecommunications Relay Services (TRS). TRS permits persons with a hearing or speech disability to use the telephone system via a text telephone (TTY) or other device to call persons with or without such disabilities. To reach the City Clerk's office using the TRS, please dial 711.

Agendas are available in the City Clerk's Office, 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or on the City's website at <https://topekadevelopmentcorporation.com/>.

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- 1. CALL TO ORDER:**
- 2. PLEDGE OF ALLEGEANCE:**
- 3. ROLL CALL:**
- 4. APPROVAL of February 6, 2024 meeting minutes.**
- 5. APPROVAL of an additional funding request for operations and maintenance of Hotel Topeka contingent upon Governing Body approval of the transfer of the funds to the Topeka Development Corporation.**

*(Approval of an additional \$500,000 tranche of operational funds from the General Fund (Hotel Non-Departmental Expense) to operate and maintain Hotel Topeka; and approval of \$200,000 from 2023 unreserved fund balances to rehabilitate the Trane Chiller.)*

- 6. UPDATE on the RevPar International Request for Information (RFI) to find an owner/operator for Hotel Topeka.**
- 7. OTHER NEW BUSINESS:**
- 8. PUBLIC COMMENT:**

Public comment for the meeting will be available In-person or via Zoom. Individuals must contact the City Clerk's Office at 785-368-3940 or via email at [cclerk@topeka.org](mailto:cclerk@topeka.org) by no later than 4:00 p.m. on the date of the meeting, after which the City Clerk's Office will provide Zoom link information and protocols prior to the meeting. Written public comment may also be considered to the extent it is submitted at the meeting or personally to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at [cclerk@topeka.org](mailto:cclerk@topeka.org) on or before the date. View the meeting online at <https://www.topeka.org/communications/live-stream/> or at <https://www.facebook.com/cityoftopeka/>.

- 9. EXECUTIVE SESSION:**

*(Executive sessions will be scheduled as needed and may include topics such as personnel matters, considerations of acquisition of property for public purposes, potential or pending litigation in which the city has an interest, employer-employee negotiations and any other matter provided for in K.S.A. 75-4319.)*

- 10. ADJOURNMENT**

# Topeka Development Corporation Board of Directors

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## **ITEM 4: February 6, 2024 TDC Meeting Minutes**

**Date:** April 9, 2024

**Contact Person:** Brenda Younger, Assistant Secretary

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**Topeka Development Corporation Board of Directors Meeting Minutes  
February 6, 2024**

The Topeka Development Corporation (TDC) Board of Directors met in the City Council Chambers at 5:00 p.m. with the following Board of Directors present: Karen Hiller, Sylvia Ortiz, Brett Kell, Spencer Duncan, Neil Dobler (Vice President) and Michelle Hoferer -6. Christina Valdivia-Alcala and Marcus D.L. Miller participated remotely -2. Board President Michael Padilla presided -1. Absent: David Banks -1.

Public comment for the meeting was available via Zoom or in-person. Individuals were required to contact the City Clerk's Office at 785-368-3940 or via email at [cclerk@topeka.org](mailto:cclerk@topeka.org) by no later than 4:00 p.m. on February 6, 2024, after which the City Clerk's Office provided the Zoom link information and protocols prior to the meeting start time. Written public comment was also considered to the extent it was personally submitted at the meeting or to the City Clerk's Office located at 215 SE 7th Street, Room 166, Topeka, Kansas, 66603 or via email at [cclerk@topeka.org](mailto:cclerk@topeka.org) on or before February 6, 2024.

PLEAGE OF ALLEGENCE was cited by meeting participants.

**APPROVAL of the November 14, 2023 Minutes.**

Director Duncan moved to approve the minutes. The motion seconded by Vice President Dobler carried unanimously on roll call vote. (9-0-0)

**APPROVAL of 2024 Operating Budget for Hotel Topeka.**

Braxton Copley, Project Manager, stated in December 2023 GF Hotels presented the draft operating budget for Hotel Topeka. He thanked Rick Pastorino, REVPAR International Principle and Paul Landry, Vice President, for providing their expertise and guiding him through the review of the budget in great detail. He reported the following:

- Hotel Topeka was a distressed asset with an occupancy of 33-34% on an annual average basis and a RevPAR (Revenue Per Available Room) of approximately \$35.
- Operating revenue budget being presented for approval reflects a 3% increase over last year with a net operating loss.
- Revenue is approximately \$4.3 million.
- Hotel Topeka staff members have been challenged to do the best they can with the distressed asset.
- Offsetting the revenue is \$4.2 million of expenses leaving a gross operating profit of approximately \$140,000.
- Deduct management fees and other expenses including insurance and taxes totaling approximately \$400,000 resulting in a net operating loss projection of \$396,000 for the year.

He spoke to the financial reality of the asset and stated the property will have to be financially supplemented until they can attract an owner/operator who was willing to take the asset on and invest significantly in the property to make it marketable. He requested approval of the budget as presented.

Director Duncan asked if the proposed budget included the Payment in lieu of Taxes (PILOT).

Braxton Copley stated a PILOT was not permissible; however, the proposed budget does include an operational service charge in an amount equal to what the real property taxes would for the hotel.

Director Duncan stated it was important for citizens to know the operational service charge was part of the reason for the net operating loss projection.

Director Ortiz questioned if there were additional budget cuts that could be made and referenced an email she received from a Hotel Topeka staff member informing her there are less expensive service contracts available.

Braxton Copley stated they have meet with Hotel management staff and it was confirmed the Hotel was operating with minimal staff across all operations.

Director Kell asked if they are working to coordinate events with the Stormont Vail Event Center.

Braxton Copley stated they have hired an experienced Hotel Marketing Manager who meets with Stormont Vail Events Center and GO Topeka staff members for the purpose of developing an events collaboration plan.

Director Hiller thanked Staff for their hard work in keeping the hotel operational and reminded citizens to keep this in mind when looking for places to hold events.

Braxton Copley stated they are doing the best that they can with a small staff; however, the additional small capital investment to make the atrium area water fountains operational and addressing life safety issues makes a huge difference in the ambiance of the hotel.

Vice President Dobler thanked Braxton Copley and hotel staff members for improving the hotel where they can.

Vice President Dobler moved to approve the 2024 Operating Budget for Hotel Topeka. The motion seconded by Director Kell carried on roll call vote. Directors Valdivia-Alcala and Ortiz voted "no." (7-2-0)

#### **UPDATE of REVPAR International Summary Analysis of Hotel Topeka.**

TDC Board Minutes

02-06-24

Braxton Copley, Project Manager, stated the City's Asset Manager REVPAR International will provide a summary of its analysis of Hotel Topeka along with its recommendation and next steps in the process to solicit an owner/operator to take over ownership and operation of the hotel.

Rick Pastorino, REVPAR International Principle, provided an overview of the following:

- What has been accomplished to date to include a Market Study, Branding Analysis, Financial and Return On Investment Analysis, and 2024 Hotel Budget Review.
- SWOT (Strengths, Weaknesses, Opportunities and Threats) of Hotel Topeka, Market Methodology and Strategy Process.
- The importance of renovating Hotel Topeka and the effect it will have on all area hotels.
- Future Projections for a 224-Unit Independent Hotel Topeka (**Attachment A**).
- Future Projections for a 224-Unit Double Tree by Holton Hotel (**Attachment B**).
- The importance of considering branding affiliations (**Attachment C**) with the preference to do so with Hilton DoubleTree Hotel because the cost of the product improvement plan was lower at \$12 million (excluding renovation of the Manor Conference Center) as well as access to 160 million loyalty members and national credibility. He noted if the Manor Conference Center was not renovated it will limit the ability of Hotel Topeka to achieve the stabilized results being projected, and it was assumed the Conference Center will be renovated alongside the hotel. It was anticipated there would be new ownership by the end of 2024; renovations in 2025 with anticipated fiscal improvement in 2026 due to the association with Hilton; and 14.4% Return on Investment by 2031.
- There is roughly an incremental asset value difference of \$8 million for an independent hotel verses a branded hotel.
- Return on Investment Summary (**Attachment D**) for a 224-Unit Hotel Topeka Hilton DoubleTree Hotel.
- Next steps include an RFP Process, Identify Qualified/Funded Developer, Further Evaluate Operator, and assist the City with the selection and negotiation of a new Owner/Operator.

Director Banks entered the room.

Braxton Copley asked the Board if Staff was moving in the right direction. He stated the next step would be to first have REVPAR reach out to potential owner/operators and then if that does not prove successful, engage a broker or issue an RFP and negotiate the terms with the assistance of REVPAR.

Director Kell spoke in support of branding affiliations and securing loyalty members. He spoke to the importance of having a website that was easy to navigate and asked Staff if they have considered promoting long-term stays with State legislators.

Braxton Copley stated Hotel staff members are working to entice long-term stays with State legislators and lobbyist to generate revenue for the property.

Director Duncan asked what the process and timeline would be if REVPAR reached out to potential owner/operators before they issued an RFP.

Rick Pastorino stated they would need 45-60 days to identify owners and operators interested in the property and have a full understanding of the asset, negotiate terms, and present an offer to the City for approval.

Director Duncan stated he believes the Board would be willing to develop potential incentive packages.

Vice President Dobler stated he was encouraged by the report and spoke to the importance of developing an acceptable incentive packet. He spoke in support of moving forward with a two-step approach by first allowing REVPAR to reach out to potential owner/operators before a formal RFP was issued. He asked what it would cost to build a new similar size hotel.

Rick Pastorino reported the first-step will allow them to understand what the market is seeking as well as the expectations of all parties involved. He noted it would cost significantly more to build a new hotel.

Director Hiller expressed her appreciation of the report. She stated the Manor Conference Center remains critical to the success of Hotel Topeka. She asked for an update regarding conversations with Shawnee County on the status of the renovation of the Conference Center.

Amanda Stanley, City Attorney, reported they continue to have ongoing conversations with the Shawnee County Counselor. She stated she believes there was an understanding that something needs to be done with the Manor Conference Center; however, no funds or timeline have been identified.

Director Hiller spoke to the importance of confirming the details with Shawnee County so REVPAR has a clear understanding of the options available.

President Padilla asked if they should forward interested owner/operators to REVPAR for consideration.

Braxton Copley requested all potential owner/operator leads be sent to him to be distributed to REVPAR.

Director Duncan stated they recognize the Manor Conference Center was important to Shawnee County and significant funding has been allocated to this facility. He also recognized the Conference Center was an important part of the hotel and it was his expectation that Shawnee County was ready to help and make sure they can work together on the project.

President Padilla thanked Rick Pastorino for providing his expertise on the subject matter and spoke in support of the two-step approach as outlined by Vice President Dobler.

Director Hiller inquired on the recommendation that a purchaser of the property may be interested in building a second hotel on the overall property site to optimize the capacity to handle large events.

Braxton Copley stated no recommendation has been made to build a second hotel and the vast majority of the site was located in the flood zone. He noted there were several area hotels that could help accommodate the need for a mass number of rooms for large events.

**APPROVAL of a request for Hotel Topeka operational funding in the amount of \$500,000 contingent upon Governing Body approval of the transfer of the funds to the Topeka Development Corporation.**

Richard U. Nienstedt, Interim City Manager, stated this was the next critical step in making the hotel functional so it can be placed on the market and purchased by a developer.

Braxton Copley, Project Manager, stated approval of an additional \$500,000 tranche of operational funds from the General Fund (Hotel Non-Departmental Expense) to operate and maintain Hotel Topeka. A request for additional operation funds in the amount of \$277,355 was received on January 26, 2024. If authorized by the Governing Body at the February 6, 2024 Governing Body meeting, a portion of the additional \$500,000 tranche would be used to pay the requested funds. He reminded the Board under the terms of the management agreement they are required to maintain a minimum of \$150,000 in operational funding and as the owner, they are responsible for funding any shortfalls – and this request would be considered a projected shortfall based on revenue and expenses.

Vice President Dobler inquired on the balance of the City of Topeka General Fund Reserves.

Rachelle Mathews, Assistant Treasurer, reported the City ended the 2022 Fiscal Year with \$27 million in the General Fund. 2023 results are still being finalized because they are waiting on the final sales tax payment from the Kansas Department of Revenue. She stated they are projecting an additional revenue surplus for 2023 in the approximate range of \$5 - \$8 million

Vice President Dobler asked if the \$500,000 would be allocated from reserve funds.

Councilmember Miller left the meeting.

Assistant Treasurer Mathews reported the City of Topeka Reserve Policy would not allow the use of General Fund Reserves for operational items; however, they are working to draft a plan based on the Hotel Condition Assessment and input from Braxton Copley's team to allow the use of General Fund Reserves to pay for capital expenses. The \$500,000 would be paid from the General Fund – not the Reserve Fund.



Director Duncan asked if the use of General Fund Reserves was mandated by City policy or a City ordinance.

City Attorney Stanley stated it was mandated by City resolution; however, it could be amended. She asked Assistant Treasurer Mathews to explain the risks associated with waiving the rule.

Assistant Treasurer Mathews stated if the policy was amended it would carry some additional risks with financial analysis for using Reserves to fund operations by serving as a red flag to investors, bond rating agencies and others who invest in City assets.

Braxton Copley clarified there are sufficient 2024 operating funds to pay for the request without using 2023 reserve funds.

Vice President Dobler moved to approve a request for Hotel Topeka operational funding in the amount of \$500,000 contingent upon Governing Body approval of the transfer of the funds to the Topeka Development Corporation. The motion seconded by President Padilla carried on roll call vote. Councilmembers Valdivia-Alcala, Ortiz and Banks voted “no.” (6-3-0)

NO FURTHER BUSINESS appearing the meeting adjourned at 5:59 p.m.



## Future Projections for 224-Unit Independent Hotel Topeka

Year	Occupancy	Average Daily Rate <sup>(1)</sup>	RevPAR <sup>(1)</sup>	Market Occupancy	Total Revenue	EBITDA <sup>(2)</sup> After Reserve	
						\$ Amount	%
GF Budget 2024	34%	\$99	\$33	61%	\$4,325,000	(\$396,000)	(9.2%)
2025	34%	\$104	\$35	62%	\$4,595,000	(\$331,000)	(7.2%)
2026	46%	\$125	\$58	64%	\$9,649,000	\$238,000	0.5%
2027	53%	\$136	\$72	65%	\$11,406,000	\$1,223,000	9.7%
2028	57%	\$147	\$84	66%	\$12,660,000	\$1,749,000	12.8%
2029	57%	\$152	\$87	67%	\$13,068,000	\$1,697,000	13.0%
2030	57%	\$156	\$89	67%	\$13,433,000	\$1,724,000	12.8%
2031	57%	\$161	\$92	67%	\$13,851,000	\$1,790,000	12.9%
<b>CAGR <sup>(3)</sup></b>	<b>4.4%</b>	<b>5.2%</b>	<b>9.8%</b>	<b>--</b>	<b>7.5%</b>	<b>49.7%</b>	

Notes: <sup>(1)</sup> Average daily rate and RevPAR have been rounded to the nearest dollar.  
<sup>(2)</sup> EBITDA is defined as Earnings Before Interest, Taxes, Depreciation, & Amortization.  
<sup>(3)</sup> Compound Annual Growth Rate for occupancy based on occupied room nights.



## Future Projections for 224-Unit DoubleTree By Hilton Hotel

Year	Occupancy	Average Daily Rate <sup>(1)</sup>	RevPAR <sup>(1)</sup>	Market Occupancy	Total Revenue	EBITDA <sup>(2)</sup> After Reserve	
						\$ Amount	%
GF Budget 2024	34%	\$99	\$33	61%	\$4,325,000	(\$396,000)	(9.2%)
2025	34%	\$104	\$35	62%	\$4,595,000	(\$331,000)	(7.2%)
2026	51%	\$130	\$66	64%	\$10,554,000	(\$84,000)	(2.8%)
2027	62%	\$141	\$87	65%	\$13,010,000	\$1,411,000	9.8%
2028	65%	\$153	\$99	66%	\$14,792,000	\$2,248,000	14.2%
2029	65%	\$158	\$103	67%	\$15,258,000	\$2,182,000	14.3%
2030	65%	\$162	\$105	67%	\$15,676,000	\$2,216,000	14.1%
2031	65%	\$167	\$108	67%	\$16,154,000	\$2,288,000	14.2%
<b>CAGR <sup>(3) (2)</sup></b>	<b>5.0%</b>	<b>5.1%</b>	<b>10.4%</b>	<b>--</b>	<b>8.9%</b>	<b>--</b>	<b>--</b>

Notes: <sup>(1)</sup> Average daily rate and RevPAR have been rounded to the nearest dollar.  
<sup>(2)</sup> EBITDA is defined as Earnings Before Interest, Taxes, Depreciation, & Amortization.  
<sup>(3)</sup> Compound Annual Growth Rate for occupancy based on occupied room nights.



## Branded Versus Independent

Full renovation to Guestrooms, Public Space, Maner CC, and Exterior Required  
(Under Either Scenario)

### DoubleTree By Hilton

- PIP = ~\$12 million (or higher)
- Affiliation with Hilton -160 million loyalty members.
- Strength of Brand – Access to Central Reservation System
- Lends Hotel National Credibility
- Excludes cost to renovate Maner CC

### Independent Hotel

- PIP = ~\$10 million
- Unaffiliated with National Brand
- Excludes cost to renovate Maner CC

Product Improvement Costs (PIP) Costs are in addition to acquisition costs and building improvements outlined in facility assessment





## Return on Investment Summary

Return on Investment Summary 224-unit Hotel Topeka, Topeka, KS Assumes DoubleTree Hotel		
	Assumes City Owns and Holds As of January 1, 2024	Assumes New Owner/Operator as of January 1, 2025
Hold Period	10 Years	
RE Taxes	No Abatement	10-Year Abatement Only
Investment Costs	1. Original Purchase Price = \$7.5 million 2. Carrying Costs/Subsidy for City = ~\$500K 3. Hilton PIP = \$12 million 4. Property Condition Costs/Deferred Maintenance = \$5 million 5. <u>Other Costs (Construction Financing + Interest + Contingency) = \$1.2 million</u> 6. <b>Total = \$26,200,363</b>	
Return On Investment Metrics		
Net Present Value (Discounted Cash Flow)	Total = (\$10,300,000) PAR =(\$46,000)	Total = (\$2,600,000) PAR =(\$12,000)
Internal Rate of Return	9.9%	20.8%

# Topeka Development Corporation Board of Directors

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## **ITEM 5: Hotel Topeka Funding Request**

**Date:** April 9, 2024

**Contact Person:** Brenda Younger, Assistant Secretary

**Project Manager:** Braxton Copley, Public Works Director

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Requesting an additional \$500,000 tranche of operational funds from the General Fund (Hotel Non-Departmental Expense) to operate and maintain Hotel Topeka; and \$200,000 from 2023 unreserved fund balances to rehabilitate the Trane Chiller.

## HOTEL TOPEKA EXPENSE SUMMARY

Date	Description	Amount	Category
12/1/2023	TOP HOTEL - OPERATING RESERVE	131,335.09	ADMINISTRATIVE COSTS
12/5/2023	TOP HOTEL - OPERATING RES #1	18,664.91	ADMINISTRATIVE COSTS
12/5/2023	TOP HOTE OP RES ROUND	(0.09)	ADMINISTRATIVE COSTS
12/1/2023	TOPHOTEL - LOCKS	90,661.82	CAPITAL OUTLAY BLDING & IMPROV
12/1/2023	TOPHOTEL - SPRINKLERS	7,297.00	CAPITAL OUTLAY BLDING & IMPROV
12/1/2023	TOPHOTEL - ACTUATORS	19,106.09	CAPITAL OUTLAY BLDING & IMPROV
12/5/2023	TOP HOTEL - OPERATING RES #2	150,000.00	ADMINISTRATIVE COSTS
12/18/2023	DIRECTORS & OFFICERS PREMIUM	132.47	INSURANCE - ADMINISTRATIVE COST
1/1/2024	DIRECTORS & OFFICERS PREMIUM	649.53	INSURANCE
2/29/2024	TOPHOTEL - HORN STROBE	632.46	CAPITAL OUTLAY BLDING & IMPROV
2/29/2024	TOP HOTEL - OP TRANSFER 2	227,355.00	ADMINISTRATIVE COSTS
2/29/2024	TOPHOTEL - EMERGENCY WA EXTR	24,058.31	CAPITAL OUTLAY BLDING & IMPROV
3/31/2024	TOPHOTEL - BACKFLOW REPAIR	9,479.00	CAPITAL OUTLAY BLDING & IMPROV
3/31/2024	TOPHOTEL - DOOR LOCK SERVER	2,003.64	CAPITAL OUTLAY BLDING & IMPROV
3/31/2024	2024 TDC OPS TRSF #4	215,851.00	ADMINISTRATIVE COSTS

<b>Total Hotel Disbursements</b>	<b>897,226.23</b>
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Resolution 9478 Limit	1,000,000.00
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Pending Requests Total	44,656.75
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<b>Remaining Authority</b>	<b>58,117.02</b>
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Total Operating Expenditures	743,987.91
Total Approved and Paid Capital Expendi	153,238.32



Trane U.S. Inc.  
11211 Lakeview Avenue  
Lenexa, KS 66219  
Phone: (913) 599-4664  
Fax: (913) 599-4669  
Service Contact: (913) 599-4664

February 21, 2024

HOTEL TOPEKA AT CITY CENTER  
1717 SW TOPEKA BLVD  
Topeka, KS 66612-6661  
(785) 431-4725

Site Address:  
Hotel Topeka at City Center  
1717 SW Topeka Blvd  
Topeka, KS 66612

**ATTENTION:** Wayne Wazlawik

**PROJECT NAME:** Hotel Topeka at City Center Chiller Overhaul

### **TRANE COMPRESSOR OVERHAUL FOR CENTRAVAC®**

Trane's CenTraVac Compressor Overhaul service program is a major inspection and maintenance program that brings the chiller compressors to like new condition. A chiller overhaul is recommended by Trane Service to be done every 8 to 10 years depending upon severity of use.

Per the attached proposal, it is our recommendation that your chiller be scheduled for a CenTraVac Compressor Overhaul. This is based on the deep dive of the unit that Trane performed on 2/2/2024.

Thank you for giving us this opportunity. If you have any questions or concerns, please call me at (913) 225-4134.



Sincerely,

Chad Bertelsmeier  
Direct Account Manager  
E-mail: Chad.Bertelsmeier@trane.com  
Cell: (913) 225-4134  
**Trane**



## PROPOSAL

We are pleased to offer you this proposal for performance of the following Services for the Equipment listed:

# Hotel Topeka at City Center

The following "Covered Equipment" will be serviced at Hotel Topeka at City Center:

Equipment	Qty	Manufacturer	Model Number	Serial Number	Asset Tag
Chiller #1	1	Trane	RTHDUB2FXT	U18E01188	Chiller #1

## SCOPE:

- Plug 5 Condenser Tubes (Failed ECTT)
- Compressor Replacement and removal
- Oil Separator
  - o Cond Pressure Transducer
  - o O/rings in&out
  - o Service Valve
  - o (5) Relief Valves
- Discharge Line Replacement
  - o (2) Orings
  - o HPC Switch
  - o Isolation Butterfly Valve
- Oil Tank
  - o Optical Sensor
  - o (2) Elm01405
  - o Masher Oil Solenoid Valve
  - o Oil Cooler
  - o TXV For Oil Cooler
  - o (2) Service Valves on oil Line
- Evaporator Parts
  - o Gas Pump Assembly
    - Fill solenoid Valve
    - Drain Solenoid Valve
    - Check Valve
    - (No Coils Needed)
  - o (2) Suction Line Orings
  - o Charging Valve at bottom of Evap
  - o Service Valve near evap pressure Transducer
  - o Evap Pressure Transducer
  - o Liquid Level Sensor
  - o Liquid Level Canister Housing
  - o EXV
  - o (2) Sight glasses on EXV Housing
  - o Gasket from EXV Housing to evap
  - o Ring from EXV Housing to liquid Line

- Condenser Parts
  - o (10) Tube Plugs
  - o Service valve on top of condenser.
  - o Charging Valve on bottom of condenser
  - o Isolation Service Valve on bottom of Condenser
  - o (2) Gaskets for isolation Service Valve
  - o Need Oil fittings for compressor (3)
  - o Oil Sump
- Seal entire unit – Dehydrate entire unit and run R-134b through the unit to descale, and remove all grime and rust throughout the unit. This is a multi-cycle in order to get it back to as new as possible. This is a (5) day process.
  - o Flushing Procedure:
    - We will first Flush the chiller out with refrigerant brought on site to use as a flushing gas. This is to help remove any standing water as well as reduce the number of debris in the chiller.
  - o Unit Dehydration
    - This will be measured on the micron Level
    - Our normal acceptance criteria would be when the unit is able to hold a 1,000 micron vacuum hold test for 4 hours with no more than 2000 micron rise in that time
    - We will leave the unit under vacuum (nitrogen blanket may be needed)
    - When completed we will disconnect all equipment as necessary
- Startup Unit and verify operation.

Trane plans to remove the Trane chiller from Hotel Topeka – load it up on a truck – and take it to the Trane Parts center in Topeka at a staging area.

This will give us access to Forklifts – easier access – removal and changing of a 600 lb compressor – and all the parts will be stored in a staging area at the parts center. This also gives us access to 480 for the descaling/R-134b equipment.

PRICING AND ACCEPTANCE

TOTAL PRICE: .....\$198,677.86 USD

CLARIFICATIONS

- 1. Price does not include applicable sales taxes, which will be added and reflected in the invoice(s).
- 2. Any service not listed is not included.
- 3. Work will be performed during normal Trane business hours.
- 4. Fan coil to be reinstalled by customer once Chiller is relocated and reinstalled

I appreciate the opportunity to earn your business and look forward to helping you with all of your service needs. Please contact me if you have any questions or concerns.

In addition to any other amounts then due hereunder, if this Agreement is terminated or cancelled prior to its scheduled expiration, Customer shall pay to Company the balance of any amounts billed to but unpaid by Customer. In the event a "Service Project" is also included as part of the Agreement funding option, Customer shall pay to Company the Cancellation Fee which shall be set forth in "Exhibit A" Cancellation Schedule attached hereto, which Cancellation Fee represents unbilled labor, non-labor expenses, and parts materials and components. Subject only to a prior written agreement signed by Trane, payment is due upon receipt of invoice in accordance with Section 7 of the attached Terms and Conditions – Quoted Service.

This proposal is valid 30 days from February 21, 2024.

This agreement is subject to Customer’s acceptance of the attached Trane Terms and Conditions – Quoted Service.

CUSTOMER ACCEPTANCE	TRANE ACCEPTANCE Trane U.S. Inc.
_____	_____
Authorized Representative	Submitted By: Chad Bertelsmeier
_____	Proposal Date: February 09, 2024
Printed Name	Cell: (913) 225-4134
_____	Office: (913) 599-4664
Title	License Number:
_____	_____
Purchase Order	Authorized Representative
_____	_____
Acceptance Date	Title
	_____
	Signature Date

**TERMS AND CONDITIONS – QUOTED SERVICE**

**“Company” shall mean Trane U.S. Inc..**

To obtain repair service within the scope of Services as defined, contact your local Trane District office identified on the first page of the Agreement by calling the telephone number stated on that page. That Trane District office is responsible for Company's performance of this Agreement. Only Trane authorized personnel may perform service under this Agreement. For Service covered under this Agreement, Company will be responsible for the cost of transporting a part requiring service.

**1. Agreement.** These terms and conditions are an integral part of Company's offer and form the basis of any agreement (the “Agreement”) resulting from Company's proposal (the “Proposal”) for the services (the “Services”) on equipment listed in the Proposal (the “Covered Equipment”). **COMPANY'S TERMS AND CONDITIONS ARE SUBJECT TO PERIODIC CHANGE OR AMENDMENT.**

**2. Connected Services.** In addition to these terms and conditions, the Connected Services Terms of Service (“Connected Services Terms”), available at <https://www.trane.com/TraneConnectedServicesTerms>, as updated from time to time, are incorporated herein by reference and shall apply to the extent that Company provides Customer with Connected Services, as defined in the Connected Services Terms.

**3. Acceptance.** The Proposal is subject to acceptance in writing by the party to whom this offer is made or an authorized agent (“Customer”) delivered to Company within 30 days from the date of the Proposal. If Customer accepts the Proposal by placing an order, without the addition of any other terms and conditions of sale or any other modification, Customer's order shall be deemed acceptance of the Proposal subject to Company's terms and conditions. If Customer's order is expressly conditioned upon the Company's acceptance or assent to terms and/or conditions other than those expressed herein, return of such order by Company with Company's terms and conditions attached or referenced serves as Company's notice of objection to Customer's terms and as Company's counteroffer to provide Services in accordance with the Proposal. If Customer does not reject or object in writing to Company within 10 days, the Company's counteroffer will be deemed accepted. Customer's acceptance of the Services by Company will in any event constitute an acceptance by Customer of Company's terms and conditions. In the case of a dispute, the applicable terms and conditions will be those in effect at the time of delivery or acceptance of the Services. This Agreement is subject to credit approval by Company. Upon disapproval of credit, Company may delay or suspend performance or, at its option, renegotiate prices and/or terms and conditions with Customer. If Company and Customer are unable to agree on such revisions, this Agreement shall be cancelled without any liability, other than Customer's obligation to pay for Services rendered by Company to the date of cancellation.

**4. Cancellation by Customer Prior to Services; Refund.** If Customer cancels this Agreement within (a) thirty (30) days of the date this Agreement was mailed to Customer or (b) twenty (20) days of the date this Agreement was delivered to Customer, if it was delivered at the time of sale, and no Services have been provided by Company under this Agreement, the Agreement will be void and Company will refund to Customer, or credit Customer's account, the full Service Fee of this Agreement that Customer paid to Company, if any. A ten percent (10%) penalty per month will be added to a refund that is due but is not paid or credited within forty-five (45) days after return of this Agreement to Company. Customer's right to cancel this Agreement only applies to the original owner of this Agreement and only if no Services have been provided by Company under this Agreement prior to its return to Company.

**5. Cancellation by Company.** This Agreement may be cancelled by Company for any reason or no reason, upon written notice from Company to Customer no later than 30 days prior to performance of any Services hereunder and Company will refund to Customer, or credit Customer's account, that part of the Service Fee attributable to Services not performed by Company. Customer shall remain liable for and shall pay to Company all amounts due for Services provided by Company and not yet paid.

**6. Services Fees and Taxes.** Fees for the Services (the “Service Fee(s)”) shall be as set forth in the Proposal and are based on performance during regular business hours. Fees for outside Company's regular business hours and any after-hours services shall be billed separately according to the then prevailing overtime or emergency labor/labour rates. In addition to the stated Service Fee, Customer shall pay all taxes not legally required to be paid by Company or, alternatively, shall provide Company with acceptable tax exemption certificates. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due.

**7. Payment.** Payment is due upon receipt of Company's invoice. Company reserves the right to add to any account outstanding for more than 30 days a service charge equal to the lesser of the maximum allowable legal interest rate or 1.5% of the principal amount due at the end of each month. Customer shall pay all costs (including attorneys' fees) incurred by Company in attempting to collect amounts due or otherwise enforcing these terms and conditions.

**8. Customer Breach.** Each of the following events or conditions shall constitute a breach by Customer and shall give Company the right, without an election of remedies, to terminate this Agreement or suspend performance by delivery of written notice: (1) Any failure by Customer to pay amounts when due; or (2) any general assignment by Customer for the benefit of its creditors, or if Customer becomes bankrupt or insolvent or takes the benefit of any statute for bankrupt or insolvent debtors, or makes or proposes to make any proposal or arrangement with creditors, or if any steps are taken for the winding up or other termination of Customer or the liquidation of its assets, or if a trustee, receiver, or similar person is appointed over any of the assets or interests of Customer; (3) Any representation or warranty furnished by Customer in connection with this Agreement is false or misleading in any material respect when made; or (4) Any failure by Customer to perform or comply with any material provision of this Agreement. Customer shall be liable to the Company for all Services furnished to date and all damages sustained by Company (including lost profit and overhead).

**9. Performance.** Company shall perform the Services in accordance with industry standards generally applicable in the state or province where the Services are performed under similar circumstances as of the time Company performs the Services. Company is not liable for any claims, damages, losses, or expenses, arising from or related to work done by or services provided by individuals or entities that are not employed by or hired by Company. Company may refuse to perform any Services or work where working conditions could endanger property or put at risk the safety of people. Parts used for any repairs made will be those selected by Company as suitable for the repair and may be parts not manufactured by Company. Customer must reimburse Company for services, repairs, and/or replacements performed by Company at Customer's request beyond the scope of Services or otherwise excluded under this Agreement. The reimbursement shall be at the then prevailing applicable regular, overtime, or holiday rates for labor/labour and prices for materials. Prior to Company performing the additional services, repairs, and/or replacements, Customer may request a separate written quote stating the work to be performed and the price to be paid by Customer for the work.

**10. Customer Obligations.** Customer shall: (a) provide Company reasonable and safe access to the Covered Equipment and areas where Company is to work; and (b) unless otherwise agreed by Customer and Company, at Customer's expense and before the Services begin, Customer will provide any necessary access platforms, catwalks to safely perform the Services in compliance with OSHA, state, or provincial industrial safety regulations or any other applicable industrial safety standards or guidelines.

**11. Exclusions.** Unless expressly included in the Proposal, the Services do not include, and Company shall not be responsible for or liable to the Customer for, any claims, losses, damages or expenses suffered by the Customer in any way connected with, relating to or arising from any of the following:

- (a) Any guarantee of room conditions or system performance;
- (b) Inspection, operation, maintenance, repair, replacement or performance of work or services outside the Services;
- (c) Damage, repairs or replacement of parts made necessary as a result of the acts or omission of Customer or any Event of Force Majeure;
- (d) Any claims, damages, losses, or expenses, arising from or related to conditions that existed in, on, or upon the premises before the effective date of this Agreement (“Pre-Existing Conditions”) including, without limitation, damages, losses, or expenses involving a Pre-Existing Condition of building envelope issues, mechanical issues, plumbing issues, and/or indoor air quality issues involving mold/mould, bacteria, microbial growth, fungi or other contaminants or airborne biological agents; and
- (e) Replacement of refrigerant is excluded, unless replacement of refrigerant is expressly stated as included with the Proposal.

**12. Limited Warranty.** Company warrants that: (a) the material manufactured by Company and provided to the Customer in performance of the Services is free from defects in material and manufacture for a period of 12 months from the earlier of the date of equipment start-up or replacement and (b) the labor/labour portion of the Services is warranted to have been properly performed for a period of 90 days from date of completion (the “Limited Warranty”). Company obligations of equipment start-up, if any are stated in the Proposal, are coterminous with the Limited Warranty period. Defects must be reported to Company within the Limited Warranty period. Company's obligation under the Limited Warranty is limited to repairing or replacing the defective part at its option and to correcting any improperly performed labor/labour. No liability whatsoever shall attach to Company until the Services have been paid for in full. Exclusions from this Limited Warranty include claims, losses, damages, and expenses in any way connected with, related to, or arising from failure or malfunction of equipment due to the following: wear and tear; end of life failure; corrosion; erosion; deterioration; Customer's failure to follow the Company-provided maintenance plan; unauthorized or improper maintenance; unauthorized or improper parts or material; refrigerant not supplied by Company; and modifications made by others to Company's equipment. Company shall not be obligated to pay for the cost of lost refrigerant or lost product. Some components of Company equipment may be warranted directly from the component supplier, in which case this Limited Warranty shall not apply to those components and any warranty of such components shall be the warranty given by the component supplier. Notwithstanding the foregoing, all warranties provided herein terminate upon termination or cancellation of this Agreement. Equipment, material and/or parts that are not manufactured by Company (“Third-Party Product(s)”) are not warranted by Company and have such warranties as may be extended by the respective manufacturer. **CUSTOMER UNDERSTANDS THAT COMPANY IS NOT THE MANUFACTURER OF ANY THIRD-PARTY PRODUCT(S) AND ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR SPECIFICATIONS ARE THOSE OF THE THIRD-PARTY MANUFACTURER, NOT COMPANY AND CUSTOMER IS NOT RELYING ON ANY WARRANTIES, CLAIMS, STATEMENTS, REPRESENTATIONS, OR**

**SPECIFICATIONS REGARDING THE THIRD-PARTY PRODUCT THAT MAY BE PROVIDED BY COMPANY OR ITS AFFILIATES, WHETHER ORAL OR WRITTEN.**

THE REMEDIES SET FORTH IN THIS LIMITED WARRANTY ARE THE SOLE AND EXCLUSIVE REMEDIES FOR WARRANTY CLAIMS PROVIDED BY COMPANY TO CUSTOMER UNDER THIS AGREEMENT AND ARE IN LIEU OF ALL OTHER WARRANTIES AND LIABILITIES, CONDITIONS AND REMEDIES, WHETHER IN CONTRACT, WARRANTY, STATUTE, OR TORT (INCLUDING NEGLIGENCE), EXPRESS OR IMPLIED, IN LAW OR IN FACT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR FITNESS FOR A PARTICULAR PURPOSE AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE. COMPANY EXPRESSLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES, ENDORSEMENTS OR CONDITIONS OF ANY KIND. EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF QUALITY, FITNESS, MERCHANTABILITY, DURABILITY AND/OR OTHERS ARISING FROM COURSE OF DEALING OR TRADE OR REGARDING PREVENTION BY THE SCOPE OF SERVICES, OR ANY COMPONENT THEREOF. COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE. ADDITIONALLY, COMPANY MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND REGARDING PREVENTING, ELIMINATING, REDUCING OR INHIBITING ANY MOLD, FUNGUS, BACTERIA, VIRUS, MICROBIAL GROWTH, OR ANY OTHER CONTAMINANTS (INCLUDING COVID-19 OR ANY SIMILAR VIRUS) (COLLECTIVELY, "CONTAMINANTS"), WHETHER INVOLVING OR IN CONNECTION WITH EQUIPMENT, ANY COMPONENT THEREOF, SERVICES OR OTHERWISE. IN NO EVENT SHALL COMPANY HAVE ANY LIABILITY FOR THE PREVENTION, ELIMINATION, REDUCTION OR INHIBITION OF THE GROWTH OR SPREAD OF SUCH CONTAMINANTS INVOLVING OR IN CONNECTION WITH ANY EQUIPMENT, THIRD-PARTY PRODUCT, OR ANY COMPONENT THEREOF, SERVICES OR OTHERWISE AND CUSTOMER HEREBY SPECIFICALLY ACKNOWLEDGES AND AGREES THERETO

**13. Indemnity.** To the maximum extent permitted by law, Company and Customer shall indemnify and hold harmless each other from any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, resulting from death or bodily injury or damage to real or personal property, to the extent caused by the negligence or misconduct of the indemnifying party, and/or its respective employees or authorized agents in connection with their activities within the scope of this Agreement. Neither party shall indemnify the other against claims, damages, expenses, or liabilities to the extent attributable to the acts or omissions of the other party or third parties. If the parties are both at fault, the obligation to indemnify shall be proportional to their relative fault. The duty to indemnify and hold harmless will continue in full force and effect, notwithstanding the expiration or early termination of this Agreement, with respect to any claims based on facts or conditions that occurred prior to expiration or termination of this Agreement.

**14. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION REFRIGERANT LOSS, PRODUCT LOSS, LOST REVENUE OR PROFITS, OR LIABILITY TO THIRD PARTIES), INCLUDING CONTAMINANTS LIABILITIES, OR PUNITIVE DAMAGES WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL AND AGGREGATE LIABILITY OF THE COMPANY TO THE CUSTOMER WITH RESPECT TO ANY AND ALL CLAIMS CONNECTED WITH, RELATED TO OR ARISING FROM THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, WHETHER BASED IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY OR FACTS, SHALL NOT EXCEED THE COMPENSATION RECEIVED BY COMPANY UNDER THIS AGREEMENT. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY DAMAGES (WHETHER DIRECT OR INDIRECT) RESULTING FROM MOLD, FUNGUS, BACTERIA, MICROBIAL GROWTH, OR OTHER CONTAMINATES OR AIRBORNE BIOLOGICAL AGENTS. TO THE MAXIMUM EXTENT ALLOWED BY LAW, COMPANY SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING IN CONNECTION WITH PROVIDING THE ENERGY AND BUILDING PERFORMANCE SERVICES: INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION; CUSTOMER'S NETWORK SECURITY; COMPUTER VIRUS; COMMUNICATION FAILURE; THEFT OR DESTRUCTION OF DATA; GAPS IN DATA COLLECTED; AND UNAUTHORIZED ACCESS TO CUSTOMER'S DATA OR COMMUNICATIONS NETWORK.

**15. CONTAMINANTS LIABILITY**

The transmission of COVID-19 may occur in a variety of ways and circumstances, many of the aspects of which are currently not known. HVAC systems, products, services and other offerings have not been tested for their effectiveness in reducing the spread of COVID-19, including through the air in closed environments. **IN NO EVENT WILL COMPANY BE LIABLE UNDER THIS AGREEMENT OR OTHERWISE FOR ANY INDEMNIFICATION, ACTION OR CLAIM, WHETHER BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE, FOR ANY BODILY INJURY (INCLUDING DEATH), DAMAGED TO PROPERTY, OR ANY OTHER LIABILITIES, DAMAGES OR COSTS RELATED TO CONTAMINANTS (INCLUDING THE SPREAD, TRANSMISSION MITIGATION, ELIMINATION, OR CONTAMINATION THEREOF) (COLLECTIVELY, "CONTAMINANTS LIABILITIES") AND CUSTOMER HEREBY EXPRESSLY RELEASES COMPANY FROM ANY SUCH CONTAMINANT LIABILITIES.**

**16. Asbestos and Hazardous Materials.** The Services expressly exclude any identification, abatement, cleanup, control, disposal, removal or other work connected with asbestos or other hazardous materials (collectively, "Hazardous Materials"). Should Company become aware of or suspect the presence of Hazardous Materials, Company may immediately stop work in the affected area and shall notify Customer. Customer will be responsible for taking any and all action necessary to correct the condition in accordance with all applicable laws and regulations. Customer shall be exclusively responsible for any claims, liability, fees and penalties, and the payment thereof, arising out of or relating to any Hazardous Materials on or about the premises, not brought onto the premises by Company. Company shall be required to resume performance of the Services only when the affected area has been rendered harmless.

**17. Insurance.** Company agrees to maintain the following insurance during the term of the contract with limits not less than shown below and will, upon request from Customer, provide a Certificate of evidencing the following coverage:

Commercial General Liability	\$2,000,000 per occurrence
Automobile Liability	\$2,000,000 CSL
Workers Compensation	Statutory Limits

If Customer has requested to be named as an additional insured under Company's insurance policy, Company will do so but only subject to Company's manuscript additional insured endorsement under its primary Commercial General Liability policies. In no event does Company or its insurer waive its right of subrogation

**18. Force Majeure.** Company's duty to perform under this Agreement is contingent upon the non-occurrence of an Event of Force Majeure. If Company shall be unable to carry out any material obligation under this Agreement due to an Event of Force Majeure, this Agreement shall at Company's election (i) remain in effect but Company's obligations shall be suspended until the uncontrollable event terminates or (ii) be terminated upon ten (10) days' notice to Customer, in which event Customer shall pay Company for all parts of the Services furnished to the date of termination. An "Event of Force Majeure" shall mean any cause or event beyond the control of Company. Without limiting the foregoing, "Event of Force Majeure" includes: acts of God; acts of terrorism, war or the public enemy; flood; earthquake; lightning; tornado; storm; fire; civil disobedience; pandemic insurrections; riots; labor disputes; labor or material shortages; sabotage; restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep in force the necessary governmental authorizations, permits, licenses, certificates or approvals if not caused by Company and the requirements of any applicable government in any manner that diverts either the material or the finished product to the direct or indirect benefit of the government.

**19. General.** Except as provided below, to the maximum extent provided by law, this Agreement is made and shall be interpreted and enforced in accordance with the laws of the state or province in which the Services are performed without regard to choice of law principles which might otherwise call for the application of a different state's or province's law. Any dispute arising under or relating to this Agreement that is not disposed of by agreement shall be decided by litigation in a court of competent jurisdiction located in the state or province in which the Services are performed. Any action or suit arising out of or related to this Agreement must be commenced within one year after the cause of action has accrued. To the extent the premises are owned and/or operated by any agency of the United States Federal Government, determination of any substantive issue of law shall be according to the United States Federal common law of Government contracts as enunciated and applied by Federal judicial bodies and boards of contract appeals of the Federal Government. This Agreement contains all of the agreements, representations and understandings of the parties and supersedes all previous understandings, commitments or agreements, oral or written, related to the Services. No documents shall be incorporated herein by reference except to the extent Company is a signatory thereon. If any term or condition of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, all other terms and conditions of this Agreement will nevertheless remain in full force and effect as long as the economic or legal substance of the transaction contemplated hereby is not affected in a manner adverse to any party hereto. Customer may not assign, transfer, or convey this Agreement, or any part hereof, without the written consent of Company. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties hereto and their permitted successors and assigns. This Agreement may be executed in several counterparts, each of which when executed shall be deemed to be an original, but all together shall constitute but one and the same Agreement. A fully executed facsimile copy hereof or the several counterparts shall suffice as an original. No modifications, additions or changes may be made to this Agreement except in a writing signed by Company. No failure or delay by the Company in enforcing any right or exercising any remedy under this Agreement shall be deemed to be a waiver by the Company of any right or remedy.

**20. Equal Employment Opportunity/Affirmative Action Clause.** Company is a United States federal contractor that complies fully with Executive Order 11246, as amended, and the applicable regulations contained in 41 C.F.R. Parts 60-1 through 60-60, 29 U.S.C. Section 793 and the applicable regulations contained in

41 C.F.R. Part 60-741; and 38 U.S.C. Section 4212 and the applicable regulations contained in 41 C.F.R. Part 60-250; and Executive Order 13496 and Section 29 CFR 471, appendix A to subpart A, regarding the notice of employee rights in the United States and with Canadian Charter of Rights and Freedoms Schedule B to the Canada Act 1982 (U.K.) 1982, c. 11 and applicable Provincial Human Rights Codes and employment law in Canada.

**21. U.S. Government Contracts.**

**The following provision applies only to direct sales by Company to the US Government.** The Parties acknowledge that all items or services ordered and delivered under this Agreement / Purchase Order are Commercial Items as defined under Part 12 of the Federal Acquisition Regulation (FAR). In particular, Company agrees to be bound only by those Federal contracting clauses that apply to "commercial" suppliers and that are contained in FAR 52.212-5(e)(1). Company complies with 52.219-8 or 52.219-9 in its service and installation contracting business. **The following provision applies only to indirect sales by Company to the US Government.** As a Commercial Item Subcontractor, Company accepts only the following mandatory flow down provisions: 52.219-8; 52.222-26; 52.222-35; 52.222-36; 52.222-39; 52.247-64. If the Services are in connection with a U.S. government contract, Customer agrees and hereby certifies that it has provided and will provide current, accurate, and complete information, representations and certifications to all government officials, including but not limited to the contracting officer and officials of the Small Business Administration, on all matters related to the prime contract, including but not limited to all aspects of its ownership, eligibility, and performance. Anything herein notwithstanding, Company will have no obligations to Customer unless and until Customer provides Company with a true, correct and complete executed copy of the prime contract. Upon request, Customer will provide copies to Company of all requested written communications with any government official related to the prime contract prior to or concurrent with the execution thereof, including but not limited to any communications related to contractor's Customer's ownership, eligibility or performance of the prime contract. Customer will obtain written authorization and approval from Company prior to providing any government official any information about Company's performance of the Services that are the subject of this offer or agreement, other than the Proposal or this Agreement.

**22. Limited Waiver of Sovereign Immunity.** If Customer is an Indian tribe (in the U.S.) or a First Nation or Band Council (in Canada), Customer, whether acting in its capacity as a government, governmental entity, a duly organized corporate entity or otherwise, for itself and for its agents, successors, and assigns: (1) hereby provides this limited waiver of its sovereign immunity as to any damages, claims, lawsuit, or cause of action (herein "Action") brought against Customer by Company and arising or alleged to arise out of the furnishing by Company of any product or service under this Agreement, whether such Action is based in contract, tort, strict liability, civil liability or any other legal theory; (2) agrees that jurisdiction and venue for any such Action shall be proper and valid (a) if Customer is in the U.S., in any state or United States court located in the state in which Company is performing this Agreement or (b) if Customer is in Canada, in the superior court of the province or territory in which the work was performed; (3) expressly consents to such Action, and waives any objection to jurisdiction or venue; (4) waives any requirement of exhaustion of tribal court or administrative remedies for any Action arising out of or related to this Agreement; and (5) expressly acknowledges and agrees that Company is not subject to the jurisdiction of Customer's tribal court or any similar tribal forum, that Customer will not bring any action against Company in tribal court, and that Customer will not avail itself of any ruling or direction of the tribal court permitting or directing it to suspend its payment or other obligations under this Agreement. The individual signing on behalf of Customer warrants and represents that such individual is duly authorized to provide this waiver and enter into this Agreement and that this Agreement constitutes the valid and legally binding obligation of Customer, enforceable in accordance with its terms.

1-10.48 (0821)  
Supersedes 1-10.48 (0720)

## **SECURITY ADDENDUM**

This Addendum shall be applicable to the sale, installation and use of Trane equipment and the sale and provision of Trane services. "Trane" shall mean Trane U.S. Inc. for sales and services in the United States, or Trane Canada ULC for sales and services in Canada.

1. **Definitions.** All terms used in this Addendum shall have the meaning specified in the Agreement unless otherwise defined herein. For the purposes of this Addendum, the following terms are defined as follows:

"Customer Data" means Customer account information as related to the Services only and does not include HVAC Machine Data or personal data. Trane does not require, nor shall Customer provide personal data to Trane under the Agreement. Such data is not required for Trane to provide its Equipment and/or Services to the Customer.

"Equipment" shall have the meaning set forth in the Agreement.

"HVAC Machine Data" means data generated and collected from the product or furnished service without manual entry. HVAC Machine Data is data relating to the physical measurements and operating conditions of a HVAC system, such as but not limited to, temperatures, humidity, pressure, HVAC equipment status. HVAC Machine Data does not include Personal Data and, for the purposes of this agreement, the names of users of Trane's controls products or hosted applications shall not be Personal Data, if any such user chooses to use his/her name(s) in the created accounts within the controls product (e.g., firstname.lastname@address.com). HVAC Machine Data may be used by Trane: (a) to provide better support services and/or products to users of its products and services; (b) to assess compliance with Trane terms and conditions; (c) for statistical or other analysis of the collective characteristics and behaviors of product and services users; (d) to backup user and other data or information and/or provide remote support and/or restoration; (e) to provide or undertake: engineering analysis; failure analysis; warranty analysis; energy analysis; predictive analysis; service analysis; product usage analysis; and/or other desirable analysis, including, but not limited to, histories or trends of any of the foregoing; and (f) to otherwise understand and respond to the needs of users of the product or furnished service. "Personal Data" means data and/or information that is owned or controlled by Customer, and that names or identifies, or is about a natural person, such as: (i) data that is explicitly defined as a regulated category of data under any data privacy laws applicable to Customer; (ii) non-public personal information ("NPI") or personal information ("PI"), such as national identification number, passport number, social security number, social insurance number, or driver's license number; (iii) health or medical information, such as insurance information, medical prognosis, diagnosis information, or genetic information; (iv) financial information, such as a policy number, credit card number, and/or bank account number; (v) personally identifying technical information (whether transmitted or stored in cookies, devices, or otherwise), such as IP address, MAC address, device identifier, International Mobile Equipment Identifier ("IMEI"), or advertising identifier; (vi) biometric information; and/or (vii) sensitive personal data, such as, race, religion, marital status, disability, gender, sexual orientation, geolocation, or mother's maiden name.

"Security Incident" shall refer to (i) a compromise of any network, system, application or data in which Customer Data has been accessed or acquired by an unauthorized third party; (ii) any situation where Trane reasonably suspects that such compromise may have occurred; or (iii) any actual or reasonably suspected unauthorized or illegal Processing, loss, use, disclosure or acquisition of or access to any Customer Data.

"Services" shall have the meaning set forth in the Agreement.

2. **HVAC Machine Data; Access to Customer Extranet and Third Party Systems.** If Customer grants Trane access to HVAC Machine Data via web portals or other non-public websites or extranet services on Customer's or a third party's website or system (each, an "Extranet"), Trane will comply with the following:
  - a. **Accounts.** Trane will ensure that Trane's personnel use only the Extranet account(s) designated by Customer and will require Trane personnel to keep their access credentials confidential.
  - b. **Systems.** Trane will access the Extranet only through computing or processing systems or applications running operating systems managed by Trane that include: (i) system network firewalls; (ii) centralized patch management; (iii) operating system appropriate anti-malware software; and (iv) for portable devices, full disk encryption.
  - c. **Restrictions.** Unless otherwise approved by Customer in writing, Trane will not download, mirror or permanently store any HVAC Machine Data from any Extranet on any medium, including any machines, devices or servers.
  - d. **Account Termination.** Trane will terminate the account of each of Trane's personnel in accordance with Trane's standard practices after any specific Trane personnel who has been authorized to access any Extranet (1) no longer needs access to HVAC Machine Data or (2) no longer qualifies as Trane personnel (e.g., the individual leaves Trane's employment).
  - e. **Third Party Systems.** Trane will provide Customer prior notice before it uses any third party system that stores or may otherwise have access to HVAC Machine Data, unless (1) the data is encrypted and (2) the third party system will not have access to the decryption key or unencrypted "plain text" versions of the HVAC Machine Data.

3. Customer Data; Confidentiality. Trane shall keep confidential, and shall not access or use any Customer Data and information that is marked confidential or by its nature is considered confidential ("Customer Confidential Information") other than for the purpose of providing the Equipment and Services, and will disclose Customer Confidential Information only: (i) to Trane's employees and agents who have a need to know to perform the Services, (ii) as expressly permitted or instructed by Customer, or (iii) to the minimum extent required to comply with applicable law, provided that Trane (1) provides Customer with prompt written notice prior to any such disclosure, and (2) reasonably cooperate with Customer to limit or prevent such disclosure.
4. Customer Data; Compliance with Laws. Trane agrees to comply with laws, regulations governmental requirements and industry standards and practices relating to Trane's processing of Customer Confidential Information (collectively, "**Laws**").
5. Customer Data; Information Security Management. Trane agrees to establish and maintain an information security and privacy program, consistent with applicable HVAC equipment industry practices that complies with this Addendum and applicable Laws ("**Information Security Program**"). The Information Security Program shall include appropriate physical, technical and administrative safeguards, including any safeguards and controls agreed by the Parties in writing, sufficient to protect Customer systems, and Customer's Confidential Information from unauthorized access, destruction, use, modification or disclosure. The Information Security Program shall include appropriate, ongoing training and awareness programs designed to ensure that Trane's employees and agents, and others acting on Trane's, behalf are aware of and comply with the Information Security Program's policies, procedures, and protocols.
6. Monitoring. Trane shall monitor and, at regular intervals consistent with HVAC equipment industry practices, test and evaluate the effectiveness of its Information Security Program. Trane shall evaluate and promptly adjust its Information Security Program in light of the results of the testing and monitoring, any material changes to its operations or business arrangements, or any other facts or circumstances that Trane knows or reasonably should know may have a material impact on the security of Customer Confidential Information, Customer systems and Customer property.
7. Audits. Customer acknowledges and agrees that the Trane SOC2 audit report will be used to satisfy any and all audit/inspection requests/requirements by or on behalf of Customer. Trane will make its SOC2 audit report available to Customer upon request and with a signed nondisclosure agreement.
8. Information Security Contact. Trane's information security contact is Local Sales Office.
9. Security Incident Management. Trane shall notify Customer after the confirmation of a Security Incident that affects Customer Confidential Information, Customer systems and Customer property. The written notice shall summarize the nature and scope of the Security Incident and the corrective action already taken or planned.
10. Threat and Vulnerability Management. Trane regularly performs vulnerability scans and addresses detected vulnerabilities on a risk basis. Periodically, Trane engages third-parties to perform network vulnerability assessments and penetration testing. Vulnerabilities will be reported in accordance with Trane's cybersecurity vulnerability reported process. Trane periodically provides security updates and software upgrades.
11. Security Training and Awareness. New employees are required to complete security training as part of the new hire process and receive annual and targeted training (as needed and appropriate to their role) thereafter to help maintain compliance with Security Policies, as well as other corporate policies, such as the Trane Code of Conduct. This includes requiring Trane employees to annually re-acknowledge the Code of Conduct and other Trane policies as appropriate. Trane conducts periodic security awareness campaigns to educate personnel about their responsibilities and provide guidance to create and maintain a secure workplace.
12. Secure Disposal Policies. Policies, processes, and procedures regarding the disposal of tangible and intangible property containing Customer Confidential Information so that wherever possible, Customer Confidential Information cannot be practicably read or reconstructed.
13. Logical Access Controls. Trane employs internal monitoring and logging technology to help detect and prevent unauthorized access attempts to Trane's corporate networks and production systems. Trane's monitoring includes a review of changes affecting systems' handling authentication, authorization, and auditing, and privileged access to Trane production systems. Trane uses the principle of "least privilege" (meaning access denied unless specifically granted) for access to customer data.
14. Contingency Planning/Disaster Recovery. Trane will implement policies and procedures required to respond to an emergency or other occurrence (i.e. fire, vandalism, system failure, natural disaster) that could damage Customer Data or any system that contains Customer Data. Procedures include the following
  - (i) data backups; and
  - (ii) formal disaster recovery plan. Such disaster recovery plan is tested at least annually.



15. Return of Customer Data. If Trane is responsible for storing or receiving Customer Data, Trane shall, at Customer's sole discretion, deliver Customer Data to Customer in its preferred format within a commercially reasonable period of time following the expiration or earlier termination of the Agreement or, such earlier time as Customer requests, securely destroy or render unreadable or undecipherable each and every original and copy in every media of all Customer's Data in Trane's possession, custody or control no later than [90 days] after receipt of Customer's written instructions directing Trane to delete the Customer Data.
16. Background checks Trane shall take reasonable steps to ensure the reliability of its employees or other personnel having access to the Customer Data, including the conducting of appropriate background and/or verification checks in accordance with Trane policies.
17. DISCLAIMER OF WARRANTIES. EXCEPT FOR ANY APPLICABLE WARRANTIES IN THE AGREEMENT, THE SERVICES ARE PROVIDED "AS IS", WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT AS TO SUCH SERVICES SHALL BE WITH CUSTOMER. TRANE DISCLAIMS ANY AND ALL OTHER EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES WITH RESPECT TO THE SERVICES AND THE SERVICES PROVIDED HEREUNDER, INCLUDING ANY EXPRESS OR IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE SERVICES WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR RETURN/RESPONSE TO INQUIRIES WITHIN ANY SPECIFIC PERIOD OF TIME.

November 2023

## APPENDIX

### SERVICE BEST PRACTICES

Trane is completely dedicated to making buildings better. The ongoing pursuit of better buildings, using our long-term domain expertise to push new technologies into everyday use, keeps us at the forefront of the industry.

In addition to the services details in the agreement above, we take practical steps every day to ensure our approach is safe and efficient.

#### SAFETY

Since 2003, U.S. Bureau of Labor Statistics records have consistently shown the Total Recordable Incident Rate (TRIR) and Days Away From Work (DAFW) for Trane have been significantly lower than those for HVAC repair and maintenance contractors and specialty trade contractors (construction). The company's safety culture in America is unparalleled in the building service industry, with proven results in the continuous reduction of injury rates. Trane incident rates (OSHA) are consistently 50 to 70 percent below the industry average.

A wide range of safety training and resources are available to Trane technicians, including:

- Safety training—20 hours per year
- Electrical safety—NFPA 70E compliant, electrical PPE
- Fall protection
- Ergonomics
- USDOT compliance
- Refrigerant management training

#### ENVIRONMENTAL PRACTICES

Trane policies and procedures are compliant with all federal and state regulations. Refrigerant (and substitutes) handling, storage and leak repair processes are compliant with Environmental Protection Agency regulation 40 CFR Part 82. Service technicians are Universal-certified and use only certified recovery equipment

Refrigerant Management Software (RMS) captures, manages and reports all refrigerant activity at your site. Annually, Trane will send you a report documenting all refrigerant activity that we performed for each piece of equipment during the past 12 months

Trane adheres to all environmental regulations when removing used oil from refrigeration units.

#### CONSISTENCY

Nationwide, Trane technicians follow documented, formal processes that ensure uniform service delivery. As an OEM, Trane has developed exclusive service procedures which provide the most reliable outcomes, and extended equipment longevity, at the most cost-effective price.

- Exclusive service work flow processes provide detailed steps and information encompassing parts, materials, tools and sequence of execution
- Additional steps addressing safety, quality control, work validation and environmental compliance
- Technicians must consistently reference documented processes to ensure no critical steps are skipped or omitted
- Applicable service processes meet or exceed ASHRAE 180-2008 Standard Practice for Inspection and Maintenance of Commercial Building HVAC Systems



1 RESOLUTION NO. \_\_\_\_\_  
2

3 A RESOLUTION introduced by Interim City Manager Richard U. Nienstedt regarding  
4 additional funding for operations and maintenance of Hotel Topeka.

5 WHEREAS, on October 17, 2023, the Governing Body issued Resolution No. 9478  
6 which provided funding to the single purpose entity (SPE), now known as the Topeka  
7 Development Corporation, in an amount not to exceed \$500,000; and

8 WHEREAS, on February 6, 2024, the Governing Body issued Resolution No. 9491  
9 for additional funding not to exceed an additional \$500,000; and

10 WHEREAS, the City has received a request from the Topeka Development  
11 Corporation for operational funding in the amount of \$500,000; and

12 WHEREAS, the management agreement requires the owner to maintain a minimum  
13 working capital account of \$150,000; and

14 WHEREAS, the Governing Body acknowledges additional funding needs to be  
15 authorized, and

16 WHEREAS, the consultant that the City retained has completed a Property  
17 Condition Assessment (PCA) that identified that only one of two chillers is currently  
18 operational at Hotel Topeka and has recommended that the non-working chiller (the Trane  
19 Chiller) be replaced or rehabilitated as part of the immediate capital needs; and

20 WHEREAS, the Governing Body agrees with the need to have two chillers  
21 operational at Hotel Topeka.

22 NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE  
23 CITY OF TOPEKA, KANSAS, that the Governing Body authorizes funding to the Topeka  
24 Development Corporation, not to exceed an additional \$500,000 from General Fund –  
25 Hotel Non-Departmental Expense to operate and maintain Hotel Topeka.

26 BE IT FURTHER RESOLVED BY THE GOVERNING BODY OF THE CITY OF  
27 TOPEKA, KANSAS, that the Governing Body authorizes funding to the Topeka  
28 Development Corporation, from excess funds from the 2023 unreserved fund balances in  
29 the amount of \$200,000 to rehabilitate the Trane chiller.

30 ADOPTED and APPROVED by the Governing Body on\_\_\_\_\_.

31 CITY OF TOPEKA, KANSAS

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Michael A. Padilla, Mayor

37 ATTEST:

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42 \_\_\_\_\_  
Brenda Younger, City Clerk

# Topeka Development Corporation Board of Directors

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## **ITEM 6: RevPAR International RFI**

**Date:** April 9, 2024

**Contact Person:** Brenda Younger, Assistant Secretary

**Project Manager:** Braxton Copley, Public Works Director

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# **RevPar International**

## **Request for Information (RFI)**

**April 9, 2024**

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### **RFI Process Requested Information:**

1. Brief qualifications package for your organization/company.
2. Owner/Operator structure proposed for this asset.
3. Proposed Hotel Operator (if not captive to your firm). If a 3<sup>rd</sup> party, please provide qualifications package for it.
4. Your desire/intent to enter into a purchase agreement with the City of Topeka and the economic incentives requested from the City in order to do so, and subsequently complete the renovation/repositioning as planned.
5. Capital Structure and sources of funds to purchase and renovate hotel.
6. A short (1 to 2 page) narrative on your vision for the asset if different from that proposed herein (i.e., scope of renovation, branding (if planned) and timing to complete it.)
7. A 5-year operating pro-forma for the subject hotel that corresponds to #6 above with the assumptions for major line items that reflect your proposed strategy to achieve stated objectives.
8. Other similar hotel projects that your company has acquired and renovated in the past.
9. Two references of investors or partners and contact information for similar projects undertaken and completed successfully in the past five years.

**Submittals:** Owner/Operator must express interest by March 18, 2024.

Formal submittals are due by April 5, 2024.