

EXHIBIT B

ASSIGNMENT AND ASSUMPTION AGREEMENT REGARDING THE HOTEL OCCUPANCY TAX ECONOMIC INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF AURORA, ILLINOIS AND MIDWEST MANAGEMENT II, INC.

This **ASSIGNMENT AND ASSUMPTION AGREEMENT REGARDING THE HOTEL OCCUPANCY TAX ECONOMIC INCENTIVE AGREEMENT BY AND BETWEEN THE CITY OF AURORA, ILLINOIS AND MIDWEST MANAGEMENT II, INC.**, (“Agreement”), effective as of September __, 2023 (“Effective Date”), is by and between the City of Aurora, an Illinois municipal corporation (“City”), Midwest Management II, Inc., an Illinois corporation (“Midwest”), and Encore Hospitality, LLC, an Illinois limited liability company (“ENCORE”). All capitalized terms not defined in this Agreement shall have the definitions set forth in the “Hotel Occupancy Tax Economic Incentive Agreement by and between the City of Aurora, Illinois and Midwest Management II, Inc.” (“Economic Incentive Agreement”).

WHEREAS, the City and MIDWEST entered into the Economic Incentive Agreement on September 18, 2015, which was recorded against the Hotel Property as document no. 2015K058774, on October 28, 2015. The Hotel Property is legally described in **Exhibit A** attached hereto and made a part heretof; and

WHEREAS, MIDWEST executed a certain mortgage in favor of the City recorded October 29, 2015 as document no. 2015K059013 (the “Mortgage”). The balance owed under the Mortgage as of the Effective date is \$205,063.02; and

WHEREAS, MIDWEST desires to sell the Hotel Property and the Hotel to ENCORE and assign all of its rights and obligations under the Economic Incentive Agreement and Mortgage to ENCORE, and ENCORE wishes to accept the assignment pursuant to the terms and conditions of this Agreement; and

WHEREAS, pursuant to Section 5.02 of the Economic Incentive Agreement, the Economic Incentive Agreement may be assigned by MIDWEST to a bonafide purchaser of the Hotel and Hotel Property provided that thirty (30) days prior written notice is given to the City and MIDWEST, the assignee City agree to the assignment in writing; and

WHEREAS, City staff has conducted its due diligence on ENCORE and finds that ENCORE is a bonafide purchaser of the Hotel Property and the Hotel, MIDWEST has provided with City with at least thirty (30) days prior written notice of the assignment. Accordingly, the City hereby consents to the assignment subject to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Assignment and Assumption. MIDWEST hereby assigns and transfers to ENCORE all MIDWEST’s right, title, and interest in and to the Economic Incentive Agreement and Mortgage. ENCORE hereby accepts such assignment and assumes all MIDWEST’s duties

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and obligations under the Economic Incentive Agreement and Mortgage and agrees to perform and discharge, as and when due, all of the obligations of MIDWEST under the Economic Incentive Agreement and Mortgage accruing on and after the Effective Date of this Agreement. MIDWEST shall be responsible for performance of its obligations under the Economic Incentive Agreement and Mortgage prior to the Effective Date of this Agreement and ENCORE shall be responsible for all obligations as of and after the Effective Date of this Agreement. ENCORE is hereby bound by all terms, conditions and provisions of the Economic Incentive Agreement, and Mortgage including, without limitation, the City's default remedies. Subject to the provisions of Section 4 below, MIDWEST is released of any and all future obligations under the Economic Incentive Agreement and Mortgage.

2. Consent to Assignment of Economic Incentive Agreement. Subject to the provisions of this Agreement, the City hereby consents to: (a) MIDWEST's assignment of its rights and obligations under the Economic Incentive Agreement and Mortgage to ENCORE; and (b) ENCORE's assumption of MIDWEST's rights and obligations under the Economic Incentive Agreement and Mortgage, both pursuant to and in accordance with the Economic Incentive Agreement and Mortgage.

3. Representations and Warranties. MIDWEST represents and warrants that (a) it has not assigned or granted a security interest in the Economic Incentive Agreement to any person other than ENCORE; (b) its interest in the Economic Incentive Agreement is not subject to any claims, set offs, encumbrances or deductions; (c) as to MIDWEST and, to MIDWEST's current knowledge, the Economic Incentive Agreement constitutes the valid and binding obligations of the parties thereto, is enforceable in accordance with its terms and has not been amended; (d) it is not in default under the terms of the Economic Incentive Agreement or Mortgage; and (e) as to MIDWEST's and, to Midwest's current knowledge, all covenants, conditions and agreements have been performed in all material respects as required by the Economic Incentive Agreement and Mortgage by all parties thereto, except those which are not due to be performed until after the date of this Agreement.

4. Contingency. This Agreement is contingent on (a) MIDWEST and ENCORE closing on the purchase and sale of the Hotel and the Hotel Property, (b) the City executing a subordination of lien whereby the Mortgage is subordinated to ENCORE's first mortgage held by CCFBANK. Accordingly, the assignment and the City's consent thereto effectuated by Section 1 and Section 2 above, shall have no force or effect until such time as MIDWEST and ENCORE close on the purchase and sale of the Hotel and the Hotel Property. Further, this Agreement shall become null and void if MIDWEST and ENCORE do not close on the purchase and sale of the Hotel Property and the Hotel by October 15, 2023.

5. Consultation with Counsel. MIDWEST and ENCORE acknowledge that they had had an opportunity to review and consider the terms and provisions of this Agreement and to consult with counsel of its choice, and to suggest changes to the structure and terms of this Agreement.

6. Illinois Law. This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois.

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7. Venue. Venue for any action arising pursuant to or to enforce any provision of this Agreement shall be exclusively found in the Circuit Court of Kane County, Illinois. Grantor hereby submits to the jurisdiction of the Circuit Court of Kane County, Illinois.

8. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

9. Recording. This Agreement shall be recorded with the Kane County Recorder of deeds as part of the closing on the purchase and sale of the Hotel and Hotel Property, at ENCORE's expense.

10. Effective Date. This Effective Date of this Agreement shall be the date that it is approved and executed by the last of the parties hereto, with said date being written in the space provided in the introductory paragraph above.

11. Amendment to Economic Incentive Agreement. Pursuant to Section 5.02 of the Economic Incentive Agreement, subject to the provisions of Section 4 above, this Agreement amends the Economic Incentive Agreement by (1) replacing MIDWEST with ENCORE; (2) obligating ENCORE to all terms, conditions and provisions of the Economic Incentive Agreement, including, without limitation, the City's default remedies; and (3) releasing MIDWEST from any and all liability under the Economic Incentive Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date of this Agreement.

**MIDWEST MANAGEMENT II,
INC.**

ENCORE HOSPITALITY, LLC

By _____
Name: _____
Title: President

By _____
Name: _____
Title: Manager

CITY OF AURORA

By _____
Name: Richard C. Irvin
Title: Mayor

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Exhibit "A"

Legal Description of the Property

PARCEL ONE:

LOT 2 IN ROUNDHOUSE SUBDIVISION IN THE CITY OF AURORA,
KANE COUNTY ILLINOIS.

PARCEL TWO:

NON-EXCLUSIVE EASEMENTS FOR INGRESS AND EGRESS FOR THE
BENEFIT OF PARCEL ONE, AS CREATED BY DECLARATION OF
EASEMENTS RECORDED SEPTEMBER 14, 1994, AS DOCUMENT
94K071180 RE-RECORDED JULY 31, 1996 AS DOCUMENT 96K054780
OVER, UPON AND ACROSS EASEMENT AREA TWO, AS THEREIN
DESCRIBED, IN KANE COUNTY, ILLINOIS.

PIN: 15-22-409-001

Common Address: 111 S. Broadway, Aurora, IL 60505