Mayor and Council Session

700 Doug Davis Drive
Hapeville, GA 30354

June 4, 2019 6:00PM

Agenda

1. Call To Order

2. Roll Call
   Mayor Alan Hallman
   Alderman Mike Rast
   Councilman at Large Travis Horsley
   Councilman Ward I Mark Adams
   Councilman Ward II Chloe Alexander

3. Welcome

4. Pledge Of Allegiance

5. Invocation

6. Presentations

6.I. Recognition Of Service Award By Mayor Hallman
Background:

Mayor Hallman will recognize Adrienne Senter for 20 years of service.

6.II. Splash Pad Presentation By Dustin Graham From Great Southern Recreation
Background:

Earlier this spring, the Tourism Product Development Committee invited Dustin Graham from Great Southern Recreation, a developer of recreational spaces with particular interest in the potential for a possible splash pad in Hapeville. With cutting edge and high tech designs, they can create spaces to fit most budgets and tastes. As we prepare for the 2019-20 budget year, the Committee has invited Mr. Dustin Graham to provide a presentation to Mayor and Council and take questions on their offerings.

7. Public Hearing

7.I. Consideration And Action On A 2019 Alcohol Beverage License For Lickety Split Casual Dining, LLC
Background:

Lickety Split Casual Dining, LLC has completed all the necessary steps in the alcohol license application process, and therefore, are requesting approval from Mayor and Council. All departmental reports have been received and staff recommends approval.

Staff Comments:
Applicant:
Public Comments:

Documents:

REDACTED APPLICATION_REDACTED.PDF

7.II. Consideration And Action On A 2019 Alcohol Beverage License For Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Andiamo)

Background:

All departmental reports have been received and advertising has been completed. However, staff is waiting to receive applicant's fully executed lease agreement and fingerprint results. Staff currently has a draft copy of the lease agreement included in the attached packet. For this reason, staff recommends provisionally approving the alcohol license for the Hilton Atlanta Airport - Andiamo.

Staff Comments:
Applicant:
Public Comments:

Documents:

ANDIAMO ALCOHOL APPLICATION.PDF

7.III. Consideration And Action On A 2019 Alcohol Beverage License For Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Finish Line)

Background:

All departmental reports have been received and advertising has been completed. However, staff is waiting to receive applicant's fully executed lease agreement and fingerprint results. Staff currently has a draft copy of the lease agreement included in the attached packet. For this reason, staff recommends provisionally approving the alcohol license for the Hilton Atlanta Airport - Finish Line.

Staff Comments:
Applicant:
Public Comments:

Documents:

FINISH LINE ALCOHOL APPLICATION.PDF

7.IV. Consideration And Action On A 2019 Alcohol Beverage License For Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Herb N' Kitchen)

Background:

All departmental reports have been received and advertising has been completed. However, staff is waiting to receive applicant's fully executed lease agreement and fingerprint results. Staff currently has a draft copy of the lease agreement included in the attached packet. For this reason, staff recommends provisionally approving the alcohol license for the Hilton Atlanta Airport - Herb N' Kitchen.

Staff Comments:
Applicant:
Public Comments:

Documents:

HERB N KITCHEN ALCOHOL APPLICATION.PDF

7.V. Consideration And Action On A 2019 Alcohol Beverage License For Merritt Hospitality, LLC DBA Hilton Atlanta Airport (In-Room Service)

Background:

All departmental reports have been received and advertising has been completed. However, staff is waiting to receive applicant's fully executed lease agreement and fingerprint results. Staff currently has a draft copy of the lease agreement included in the attached packet. For this reason, staff recommends provisionally approving the alcohol license for the Hilton Atlanta Airport - In-Room Service.

Staff Comments:
Applicant:
Public Comments:

Documents:

IN-ROOM SERVICE ALCOHOL APPLICATION.PDF

7.VI. Consideration And Action On A 2019 Alcohol Beverage License For Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Magnolia Grill)

Background:

All departmental reports have been received and advertising has been completed. However, staff is waiting to receive applicant's fully executed lease agreement and fingerprint results. Staff currently has a draft copy of the lease agreement included in the attached packet. For this reason, staff recommends provisionally approving the alcohol license for the Hilton Atlanta Airport - Magnolia Grill.

Staff Comments:
Applicant:
Public Comments:

Documents:

MAGNOLIA GRILL ALCOHOL APPLICATION.PDF

7.VII. Consideration On Budget Ordinance - 1st Reading

Background:

On May 15, 2019, the City made available the initial draft Fiscal 2019-20 Hapeville Proposed Budget. The City advertised the public hearing in the South Fulton Neighbor newspaper. A copy of the draft line item detail budget is posted to the City website along with a copy of the detailed line items supporting the budget proposal. The FY2020 budget calls for approximately $13.8M in General Fund cash inflows and Expenditures. In comparison, the 2018-19 original budget called for $12.5M in revenues and $12.35M in expenditures. At present, the budget is at a break-even status with no significant planned add to the General Fund net fund

balance. This budget is meant to be conservative, to best ensure the City will meet it's obligations. There are opportunities that may lessen the impact of General Fund cash expenditures and City Manager and staff continue to work toward improving the net financial condition of the City.

Of significant note for this upcoming fiscal year is a focus on strengthening the position of Public Safety in both staffing and equipment investments. To keep up with the current market conditions for First Responders, this budget call for investment in personnel with staffing increases and pay adjustments of approximately $700K. Capital investments for equipment approximates $800K, including a replacement fire engine and the replacement of several police and fire vehicles. Other particular highlights expected in the coming year are the completion of the Theater restoration, continued completion of railway beatification, new construction along Virginia Avenue, continued investments in the arts - all contributing to Hapeville being a desired destination for people to both play and stay.

The budget is an estimate and our projection of the next 12 months. As assumptions or actual circumstances significantly change, Mayor, Council and staff will revisit our plans to best steward the resources of the City.

The updated budget detail and budget draft document will be uploaded on the City's website on Monday.

Documents:

BUDGET BACKGROND - PACKET.PDF
BUDGET SUMMARY - COUNCIL.PDF
ORDINANCE - BUDGET FY 2020.PDF

8. Questions On Agenda Items

The public is encouraged to communicate their questions, concerns, and suggestions during Public Comments. The Council does listen to your concerns and will have Staff follow-up on any questions you raise. Any and all comments should be addressed to the Governing Body, not to the general public and delivered in a civil manner in keeping with common courtesy and decorum.

9. Consent Agenda

9.I. Approval Of Minutes

- May 7, 2019
- May 21, 2019

9.II. Approval Of Executive Session Minutes

- May 7, 2019
- May 21, 2019

9.III. Consideration And Action To Provide An Extra Holiday For Employees On July 5th

Background:

July 4th falls on Thursday and staff is requesting that July 5th be given as an extra holiday. This extra holiday will reduce absenteeism and boost employee morale and will have no budget impact.

9.IV. Consideration And Action On 2019 Aerotropolis Atlanta Alliance Membership Dues In The Amount Of $10,000

Background:

Attached for Council's consideration is the 2019 Aerotropolis Atlanta Alliance Gold Membership dues invoice. Staff will need approval from Council before making payment.

Documents:

CITY OF HAPEVILLE 2019 INVOICE.PDF

9.V. Consideration And Action On Resolution To Extend Gravel Moratorium

Background:

At the March 5 Council meeting, Mayor and Council discussed a gravel moratorium extension for residential properties and possibly grandfathering in permanently. Attached for consideration and action is a resolution to extend the moratorium.

Documents:

RESOLUTION - EXTEND GRAVEL MORATORIUM.PDF

9.VI. Consideration And Action To Enter Into An Agreement With CivicPlus For Agenda Management Software And Video Streaming And On-Demand Services

Background:

In March, staff advertised a Request for Proposal for Agenda Management Software (AMS) and Video Services. Staff received six proposals which were narrowed down to the attached three. Determining factors in the selection process included pricing, experience, technical features, references, and support.

Staff is requesting to enter into a three year term agreement with CivicPlus for the advertised RFP. The initial investment for year one is $10,300, the amount goes to $8,040 in year two and $8,442 in year three (includes a 5% technology fee uplift). Staff selected this provider because of its advanced features and compatibility with the CivicPlus website (if approved). CivicPlus is the lowest bidder of the three proposals received.

Documents:

AGENDA MANAGEMENT PROPOSAL SUMMARY.PDF
CIVICCLERK - AGENDA MANAGEMENT SOFTWARE RESPONSE.PDF
GRANICUS - AGENDA MANAGEMENT SOFTWARE - RFP RESPONSE 1.PDF
PROVOX - AGENDA MANAGEMENT SOFTWARE - RFP RESPONSE.PDF

9.VII. Consideration And Action To Renew Agreement With CivicPlus For Website Redesign Services

Background:

In March, staff advertised a Request for Proposal for Website Design and Implementation Services. Staff received ten proposals which were narrowed down to the attached three. Determining factors in the selection process included pricing, experience, website security, aesthetics, references, and support.

Staff is requesting to renew the City's current contract with CivicPlus. The initial investment for year one is $5,770. In year two and beyond, the amount goes to

$4,275. At the end of the fourth year of continuous service, the City will be eligible to receive a website redesign with no out-of-pocket expense.

Documents:

CIVICENGAGE - WEBSITE RFP RESPONSE.PDF
GRANICUS - WEBSITE RFP RESPONSE.PDF
MUNICODE - WEBSITE RFP RESPONSE.PDF
WEBSITE PROPOSAL SUMMARY.PDF

9.VIII. Consideration And Action To Adjust Emergency Medical Service Rates

Background:

Hapeville Fire and EMS staff has been reviewing the billing structure for EMS services. The Fire Department has held the same ambulance billing rates since 2003. The City rates are well below national and local averages, while costs of medications and services have continued to increase. Fire Department staff has worked closely with EMS Management & Consultants to propose rates mirroring those of our neighboring jurisdictions.

The City staff requests Council approve the recommended billing rates for the services per the attached schedule effective July 1 or as soon thereafter as practical.

Documents:

2019 HFD BILLING REQUEST FOR INCREASE (003).PDF

10. Old Business

10.I. Consideration And Action On Optotraffic Ordinance - 2nd Reading

Background:

At the May 7 Council meeting, it was the consensus of Mayor and Council to have legal draft an ordinance pertaining to Optotraffic. Attached for a second reading is the Optotraffic Ordinance.

Documents:

ORDINANCE - AUTOMATED TRAFFIC SAFETY DEVICE.PDF

11. New Business

11.I. Consideration And Action On ATL Airport District Destination Marketing Agreement

Background:

On April 2, Mayor and Council discussed the representation breakdown of the Destination Marketing Organization (DMO) and adding specific metrics in the DMO contract. Mayor and Council agreed to email specifics over to Councilman Adams in order to compile a list. Attached for consideration and action is the updated contract with the added specifics.

Documents:

ATL AIRPORT DISTRICT MARKETING SERVICE AGREEMENT.PDF

12. City Manager Report

13. Public Comments
    Members of the public wishing to speak shall sign in with the City Clerk prior to the start of the meeting. Time limitations for Registered Comments are three (3) minutes per person. The total Registered Comment session shall not last more than fifteen (15) minutes unless extended by Council. Each member of the public, who fails to sign up with the City Clerk prior to the start of the meeting, wishing to address Mayor and Council shall have a total of two (2) minutes. The entire general comment session for Unregistered Comments shall not last more than ten (10) minutes unless extended by Council.

14. Mayor And Council Comments

15. Executive Session
    When Executive Session is Required one will be called for the following issues: 1) Litigation O.C.G.A. §50-14-2; 2) Real Estate O.C.G.A. §50-14-3(b)(1); or 3) Personnel O.C.G.A. §50-14-3(b)(2).

16. Adjourn

Public involvement and citizen engagement is welcome as Hapeville operates a very open, accessible and transparent government. We do however remind our attendees/residents that there are times allocated for public comments on the agenda. In order for council to conduct their necessary business at each meeting, we respectfully ask that side-bar conversations and comments be reserved for the appropriate time during the meeting. This will allow the City Council to conduct the business at hand and afford our meeting attendees ample time for comments at the appropriate time during the meeting.

Administrative Services Department
3468 North Fulton Avenue
Hapeville, GA 30354
Phone: (404) 766-3004
Fax: (404) 669-3302

Alcohol Beverage License Application

Instructions: This application must be typed or printed legibly and executed under oath. Each question must be fully answered. If space provided is not sufficient to answer the question please use a separate sheet of paper.

Holding an alcohol beverage license with the City of Hapeville is a privilege.

Date: April 11, 2019 ☐ New ☐ Amended

Contact Name: Melissa Harris Phone: 678-438-4604

Business/Trade Name: Lickety Split Casual Dining LLC

D/B/A: Lickety split Southern Kitchen & Bar

Email: mylicketysplit@gmail.com

Emergency Contact Name: Melissa Harris Phone: 678-438 4604

Business Address: 1155 Virginia Avenue, Ste. F

TYPE OF BUSINESS

- ☐ Convenience Store
- ☐ Grocery Store
- ☐ Hotel/Motel
- ☐ Package Store
- ☐ Manufacturer
- ☐ Specialty Beverage Store
- ☑ Restaurant
- ☐ Restaurant under 2,000 Sq. Ft.
- ☐ Wholesale
- ☐ Other: _____

TYPE OF LICENSE AND FEES

Retail		On-Premise Consumption		Wholesale/Manufacturer	
☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00
☐ Package	$5,000.00	☑ Beer/Wine/Liquor	$5,000.00	☐ Beer/Wine/Liquor	$5,000.00

On-Premise Consumption below 2,000 Sq. Ft.

☐ Beer	$750.00
☐ Wine	$750.00
☐ Liquor	$1600.00

APPLICANT INFORMATION

Please submit a passport photograph of owner(s) with completed application.

Full Name: Melissa Gale Harris Date of Birth: [redacted]-1961

Current Address: 4484 Mill Water Crossing, Douglasville Ga. 30135

N/A Spouse Name: _____

Address of Applicant (if different for the past 5 years):

_____

_____

_____

_____

_____

Name and Location of Employers for the last five years: KFC - Yumbrands Inc.
8765 Tara Blvd.
Hampton Ga

_____

_____

Have you been arrested in the last five years? ☐ Yes ☑ No (If yes, explain)

_____

_____

N/A Has your spouse been arrested in the last five years? ☐ Yes ☐ No (If yes, explain) _____

_____

_____

BUSINESS INFORMATION

Type of business entity: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☒ Other LLC

Has an Occupational Tax Certificate been obtained and paid for said business? ☑ Yes ☐ No (If not issued by the City of Hapeville please include a copy with application.)

Federal Tax ID Number: 831557109 State Tax ID Number: 202564 39128

Do you own the property? ☒ Yes ☐ No (If no, please provide name, address, and contact number for the landlord. A copy of the Lease must be attached to this application.) _____

3350 - Riverwood Pkwy # 450 Atlanta Ga. 30339

Name each person(s) having a financial interest in the Establishment.

Full Name	Position	Social Security Number	Address	% of Interest
Melissa Harris	OWNER	[redacted]	4484 Mill Water xx	50%
Nadia Harris	Co-Owner		4484 Mill Water xx	50%

Have you or anyone with interest in the establishment ever or do you currently hold an alcohol beverage license with any other municipality, county, or state? ☐ Yes ☑ No

If so, have you or anyone holding interest in the establishment ever been placed on probation or had your license revoked? ☐ Yes ☐ No (If yes, please explain on separate sheet of paper and attach hereto.)

Provide name, address, Social Security Number, and phone number for each Manager if different from owner. A passport photograph, Personnel Statement, and Background Check must be submitted for each manager.

Full Name	Social Security Number	Address	Phone Number

BUSINESS SPECIFIC INFORMATION

County Tax Parcel ID _____ Zoning District U-V Urban Village

Nearest Intersection: Norman Berry

Building Square Footage: 2200 Business Square Footage (if not using entire building): _____

Patio/Outdoor Dining Square Footage (if applicable): _____

Number of Parking Spaces for business? (Attach site plan showing designated, striped parking and lighting)

If shared parking, detail of how many are dedicated to the business and details of other businesses sharing parking (addresses). 8 parking spaces

Hours/days of operation: 11AM - 10pm Sun - Thursday
10AM - 12pm Friday - Saturday

Description of adjacent properties (residential/commercial)
Smoothie King

If application is for Retail Sale, attach a surveyor's certificate containing the following information:

- A scale drawing of the building and/or proposed building
- The proposed off-street parking facilities available to the building and all outdoor lighting on the premises
- The exact location of the business, including street address, ward, and county tax map number
- Current zoning classification of the location
- The distance from the business to each of the following: the nearest school, church building, and the nearest alcoholic treatment center owned and operated by state, county or municipality.

VERIFICATION OF APPLICATION

I hereby make application for an Alcohol Beverage License for the City of Hapeville. I understand that holding this license is a privilege. I do hereby affirm and swear that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this application and any action taken on this application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fee and further that it is my/our responsibility to conform with said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can

read the English language and I freely and voluntarily have completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. §16-10-20.

Signature of Applicant or Agent

Melissa Gale Harris

Print or Type Name

I certify that MelissaGale Harris (name of applicant) personally appeared before me, and that he signed his name to the foregoing statements and answers made therein, and under oath, has sworn that said statements and answers are true.

This 11th day of April, 2019.

Notary Public

My commission expires on: ADRIENNE FAYSON SENTER NOTARY PUBLIC HENRY COUNTY, GEORGIA MY COMMISSION EXPIRES MARCH 05, 2023

Administrative Fee (applicable to all Licenses) $200.00

FOR OFFICE USE ONLY

Department	Date	Approve	Deny	Comments
Code Enforcement	5-30-19	✓		RAL
Fire Department	5-30-2019	✓		BV
Planning & Zoning				
Police Department	5-30-19	✓		CM
Alcohol Review Board				

Finance 5-30-19 ✓

City Manager 5/30/19 ✓

Alcoholic Beverage Personnel Statement

For Official Use Only
Type of License: Beer/Wine/Liquor

Business: Lickety Split Casual Dining LLC

Address: 1155 Virginia Avenue Ste. F Hapeville

Telephone: 678-438-4604

Instructions: This personnel statement must be executed under oath or affirmation by every person having any ownership or profit sharing interest in, or managing any place of business applying for license from the City of Hapeville, Georgia to sell or deal in alcoholic beverages or liquors. Please type or print clearly in ink. If not legible, Statement will not be accepted. Each question must be fully answered. If the space provided is not sufficient, answer the question on a separate sheet and indicate in the space provided that such separate sheet is attached. A personnel statement, including two (2) passport-size photographs and two (2) fingerprint cards are required by Questions 35 and 36, for all owners/managers/assistant managers and must be submitted with every license application.

1. Melissa Gale Harris 4484 Mill Water Crossing Douglasville Ga. 30135
   Full Name of Applicant Address of Applicant

2. Social Security Number [redacted]

3. Driver's License Number [redacted]

4. Date of Birth [redacted] - 1961 Place of Birth Jackson Mississippi

5. U.S. Citizen
   (a.) ( ) By Birth
   b. ( ) Naturalized
   Date, Place and Court
   Petition Number
   Certificate Number
   Derived Parent Certificate Number(s)
   Alien Registration Number
   Native Country
   Date of Port Entry

6. How long have you been a legal resident of Georgia? 20 Years ____ Months

7. Marital Status (X) Single ( ) Married ( ) Widowed ( ) Divorced ( ) Separated

8. If married, give Spouse's full name _____

9. Physical Description of Applicant _____ Race _____ Sex F Height 5'7

Weight 200 Age 57 Hair Color BLK Eyes BLK

10. Education and training specific to restaurant/alcohol field.

Licensed Mixologist

11. Have you ever used or been known by any other name ( ) Yes (X) No

12. List maiden name, names by former marriages, former names changed legally or otherwise, aliases or nicknames. For each, list the period during which you were known by this name.

Melissa Harris SCOTT - 1982 - 1990

Melissa Harris Burnett 1997 - 1998

13. Are you a registered voter in the State of Georgia (✓) Yes ( ) No

County registered

Number of years registered

3

14. For the last calendar year, did you file and pay any County property tax ( ) Yes ( ) No
Name of County

Douglas

15. For the last calendar year, did you file and pay any City property tax ( ) Yes (✓) No
Name of City

16. Employment record for the past ten (10) years (Give most recent experience first, if self-employed give details)

	From	To	Employer	Occupation Duties	Reason for leaving
(a)	2016	2019	(KFC)	Area Coach General Mgr-	Retired
(b)	1998	2015	(KFC)	General Mgr -	changed to a Transisk
(c)					
(d)					
(e)					
(f)					
(g)					
(h)					

17. List, with your most recent place of residence first, all of your residences for the past ten (10) years

	Date From/To	Street	City	State
(a)	2017-	4484 Mill Water	Douglasville	Ga.
(b)	2015 - 2017	218 Acorn Hill	Villa Rica	Ga.
(c)	2010 - 2015	651 - Steel Creek	Charlotte	NC.
(d)				
(e)				

20. Military Service ◯ Yes (✓) No

List Serial Number _____ Branch of Service _____
Period of Service _____ Date of Discharge _____
Type of Discharge received _____

21. Have you ever been convicted of a felony relating to violence, illegal substances, gambling, theft or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city or any other city or county relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of

malt beverages, wine or intoxicating liquors, or the taxability thereof within five (5) years preceding this application? ___ Yes ___ No

22. Full name of dealer and trade name, if any, submitting application of which this personnel statement is a part. N/A

23. Position of applicant in dealer's business. N/A

24. Does applicant have any ownership/profit sharing interest in business? ○Yes ○No Describe.

State annual salary of applicant or the estimated annual profit or compensation derived from this business. $ 40,000

25. Do you have any financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverages are sold and consumed on the business premises? ○ Yes ◉ No If Yes, explain.

26. Do you have any financial interest or are you employed in any wholesale or retail liquor business other than the business submitting the license application of which this personnel statement is a part? ○Yes ○No If Yes, give names and locations and amount of interest in each.

27. Do you have any financial interest or are you employed in any business engaged in distilling, bottling, rectifying or selling (wholesale, retail or manufacturing) alcoholic beverages in this State or outside this State which has not otherwise been disclosed in this statement. ○ Yes ○ No If yes, explain.

28. Have you ever had any financial interest in an Alcoholic Beverage business which was denied a liquor permit ○ Yes ○ No If yes, explain.

29. Has any Alcoholic Beverage business in which you hold or have held any financial interest or have been employed, ever been cited for any violation for the rules and regulations of the State Revenue Commissioner relating to the sale and distribution of distilled spirits. ○ Yes ○ If yes, explain.

30. Have you ever been denied a bond by a commercial surety company? ○Yes ✓No
If yes, explain.

31. Are you related by blood, marriage or adoption to any persons engaged in any business handling alcoholic beverages, whiskeys or liquors in the State of Georgia.
○Yes ✓No

32. Personal References. Give three (3) personal references, not relatives (i.e., former employers, fellow employees or school teachers who are responsible adults, business or professional men or women) who have known you well during the past five (5) years.

Name Gloria Cooper
Residence 6745 India Trail Norcross Ga.
Business Address
Telephone Number [redacted]
Number of Years Known 15 years

Name Roxann Morris
Residence 2536 Old Bay Road
Business Address Biloxi, Ms. 39531
Telephone Number [redacted]
Number of Years Known 29 years

Name Kevin Spann
Residence 4148 Mill Water Crossing Douglasville Ga
Business Address
Telephone Number [redacted]
Number of Years Known 12

33. Attach two (2) passport-size photographs (front view). Write name on back of photographs and also the name of dealer submitting a license application. Initial here if such photographs are attached. MH

34. There must be submitted with this personnel statement the fingerprints of applicant on two (2) fingerprint cards, which will be furnished by the City of Hapeville. Initial here that such fingerprint cards are attached. _____

NOTE: Before signing this statement, check all answers and explanations to see that you have answered all questions fully and correctly. This statement is to be executed under oath or affirmation and subject to the penalties of false swearing and it includes all attached sheets submitted herewith.

Verification

I, Melissa Gale Harris, applicant, do solemnly swear, subject to criminal penalties for false swearing, that the statements and answers made by me to the foregoing questions in this application for a City of Hapeville license as a dealer in alcoholic beverage and liquors are true, and no false or fraudulent statement or answer is made therein to procure the granting of such license. I hereby submit for an Alcoholic Beverage Privilege License Personnel Statement for the City of Hapeville. I do hereby swear or affirm that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this statement and any related application and any action taken on this statement and any related application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fees and further that it is my/our responsibility to conform to said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can read the English language and I freely and voluntarily have completed this statement. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. § 16-10-20.

Melissa Gale Harris
Applicant's Signature
(Full name in ink)

MELissa Gale Harris
Applicant's Name
(Print or Type)

I certify that Melissa Gale Harris
(the above named applicant)

is personally known to me, and that he signed his name to the foregoing statements and answers made therein, and, under oath, has sworn that said statements and answers are true.

This 11th day of April, 2019.

Notary Public

ADRIENNE FAYSON SENTER NOTARY PUBLIC HENRY COUNTY, GEORGIA MY COMMISSION EXPIRES MARCH 05, 2023

Seal:

RIVERWOOD PROPERTIES, LLC

March 7, 2019

Melissa G. Harris
4484 Mill Water Crossing
Douglasville, GA 30153

Re: Lease agreement by and between **MNG MANAGEMENT, LLC and LICKETY SPLIT CASUAL DINING LLC. dated October 1, 2016.**

Dear Melissa,

Enclosed please find one (1) each of the executed Assignment of Tenant's Interest in Lease and Assumption Agreement and Exhibit "N" for the above referenced Lease Agreement. Please keep these originals for your records.

Let me know if you have any questions or concerns.

Thank you,

Joy Griffin

GUARANTY

Atlanta, Georgia

Date: Feb 9, 2019

FOR VALUE RECEIVED, the receipt, adequacy and sufficiency of which are hereby acknowledged, and in consideration of a lease dated **October 1, 2016**, between **LICKETY SPLIT CASUAL DINING LLC,** as Tenant (hereinafter called the "Debtor"), and **MNG MANAGEMENT, LLC** as Landlord (hereinafter, together with his heirs, successors and assigns, called the "Lender"), for that certain location known as **GATEWAY CENTER** and situated in 1155 Virginia Ave, Hapeville, Georgia, Suite F-G, in Fulton County, Georgia (the "Lease") with the undersigned, **MELISSA G. HARRIS** hereby, unconditionally guarantees the full and prompt payment when due, whether by acceleration or otherwise, and at all times hereafter, of (a) all obligations, liabilities and indebtedness of the Debtor to the Lender, however and whenever incurred or evidenced, whether direct or indirect, absolute or contingent, or due or to become due under the Lease or otherwise; (b) any and all extensions, renewals, modifications, or substitutions of the foregoing, and all expenses, including without limitation attorneys' fees sought to be collected if the Lender endeavors to collect from the Debtor by law or through an attorney at law; (c) all other charges and expenses, including without limitation late charges, and the payment of all costs, expenses, charges and other expenditures required to be made by Debtor including without limitation any liabilities caused under the Lease, or which Debtor agrees to make, under the terms and provisions of any other Documents (as that term is hereinafter defined). All such items (a), (b) and (c) are herein collectively referred to as the "Liabilities."

In the event that Debtor fails to perform any of his obligations under the Lease or to pay any of the Liabilities, the undersigned shall, upon the demand of Lender, promptly and with due diligence pay all Liabilities and perform and satisfy for the benefit of Lender all obligations.

The undertakings of the undersigned hereunder are independent of the Liabilities and obligations of Debtor, and a separate action or actions for payment, damages, or performance may be brought or prosecuted against the undersigned whether or not an action is brought against the Debtor and whether or not Debtor is joined in any such action or actions, and whether or not notice is given or demand is made upon Debtor.

The undersigned hereby represents that the execution of the Lease by the Lender and the Debtor will be to the direct interest and advantage of the undersigned.

This guaranty shall be continuing, absolute and unconditional and shall remain in full force and effect so long as the Lease or any obligations under the Lease are in effect.

The Lender may, from time to time, without notice to the undersigned (or any of

dotloop signature verification:

IN WITNESS THEREOF, the undersigned have set their hands and affixed their seals the day and year above written.

Signed, sealed and delivered in the presence of:

Official Witness

MELISSA G. HARRIS

Social Security Number: [redacted]

Address: 4484 Mill Water Crossing
Douglasville, GA 30135-4191

Notary Public

AMBER HUGHES
NOTARY
PUBLIC
Exp. May 31, 2022
DOUGLAS COUNTY, GA

CONSENT TO ASSIGNMENT

MNG MANAGEMENT, LLC a limited liability company, ("Lessor"), Lessor under that certain Lease Agreement (the "Lease") dated October 1, 2016 by and between Lessor and **LA VITA PIZZA I, LLC** a Domestic Limited Liability Company as Lessee (the "Lease"), hereby consents to the transfer and assignment of the Lease to **LICKETY SPLIT CASUAL DINING LLC** a Domestic Limited Liability Company ("Assignee"). By consenting to the assignment of the Lease as set forth herein, Lessor does not release Assignor from, and Assignor shall continue to remain liable and responsible for, the payment of all rental due under the Lease and for compliance with all of the terms, provisions, covenants and conditions of the Lease through the end of the Lease term.

Furthermore, this agreement is contingent upon Lessor's receipt of proof of business insurance coverage for the Assignee as stipulated in the Lease. Additionally, as consideration for the processing of this lease assignment, Lessor is due a nonrefundable assignment fee of Two Thousand Five Hundred & NO/00 Dollars ($2,500.00) upon execution of this Consent to Assignment agreement.

This 10 day of February, 2019.

LESSOR:

MNG MANAGEMENT, LLC

By: _____

Its: **Manager**

Date: 2/21/19

ACKNOWLEDGEMENT OF CONTINUING LIABILITY:

GUARANTOR:

By: _____

Jiri Matousek


USA
Georgia
DRIVER'S LICENSE
DL NO [redacted]
CLASS C
DOB [redacted]
EXP
MELISSA GALE
HARRIS
4484 MILL WATER XING
DOUGLASVILLE, GA 30135-4191
DOUGLAS
Restrictions A
Iss 11/29/2017
End NONE
Sex F
Hgt 5'-08"
Eyes BRO
Wgt 190 lb
DD1327814562390044127

Rev 07/01/2015

3278145823900401

www.dds.ga.gov
(678) 413-8400

MEDICAL
INFORMATION:
None

CLASS: C-≤ 26,000 lbs. GVWR and Trailer ≤ 10,000 lbs. All recreational vehicles included

ENDORSEMENTS: None

RESTRICTIONS: A-None



08/18/1961

City of Hapeville 1891 GEORGIA

Georgia Bureau of Investigation
Georgia Crime Information Center

Consent Form

I hereby authorize **HAPEVILLE POLICE DEPARTMENT** to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Melissa Harris
Full Name (print)

[redacted]
Driver's License Number and State

4484 Mill Water Crossing
Address

Lickety Split Casual Dining
Company Name

Female
Sex

Black
Race

[redacted]-1961
Date of Birth

[redacted]
Social Security Number

Signature

April 11, 2019
Date

Purpose Codes Used (check appropriate one)

____ Employment (Licensing, Public/Private employment, Firefighter employment Adoptions, Education employment, and Military Recruitment) (E)
____ Employment with mentally disabled (M)
____ Employment with elder care (N)
____ Employment with children (W)
____ Criminal Justice Employment (J)
____ Public Access (GA Felonies Only) (P)
____ Used by Law Enforcement Only (C) _____ Case Number
____ Pre-employment or Employment of Police Officers (Z)

Inquiry ran by: _____
If ran Purpose Code C Officer Signature: _____

LSTCN:5489000913 GBITCN:91161685089997 DATE/TIME:2019-04-26 22:34:18 NAME:HARRIS, MELISSA GALE

Georgia Bureau of Investigation
3121 Panthersville Road
Decatur, Georgia 30034
404-244-2639

LSTCN:5489000913
GBITCN:91161685089997
DATE/TIME:2019-04-26 22:34:18
NAME:HARRIS, MELISSA GALE
PHOTO:PHOTO NOT AVAILABLE

NO GEORGIA OR FBI NATIONAL CRIMINAL HISTORY RECORD FOUND

Employee List

List ALL employees. Use full complete names (No initials). Attach additional pages if needed.

Business Name & Address: Licketi Split Southern Kitchen and Bar

Date and Signature of Owner Melissa Hamm April 12, 2019

Name	Address/Phone	DOB	SSN	Employment Date	Position
Kevin Spann	4484 Mill Water Crossing	[redacted]	[redacted]	April 10th 2019	COOK
James Shields	3284 Creekwood dr Rex, GA. 30273			April 16th 2019	Cook
Monterio Williams	6407 Grey Fox Way Riverdale, GA 30296			April 16th 2019	Cook
Kiera Peterson	2328 Campbellton Rd SW Atlanta Ga 30311 Apt K4			April 16, 2019	Dishwasher
Jasmine Sims	8050 Taylor rd Apt. 1206 Riverdale, Ga 30274			April 2019	Bartender
Reginald Ropey	4051 Seven Oaks Lane East Point, GA 30344			April 11 2019	Cook

LICKETY SPLIT

SOUTHERN KITCHEN & BAR

CAIN'T HOL' YOUR HORSES:
(STARTERS)

FRIED GREEN TOMATOES **$5**
3 crispy fried to perfection tomatoes w/ a tangy remoulade sauce

DEVILED EGGS **$4**
Includes order of 3

SPLIT WING DECISION **$6**
5 pc wings either Smoked, Ginger LemonPepper, Buffalo, or Sweet Thai Chili

SALMON CROQUETTES **$6**
Includes order of 2

KICK'N CHICKEN & SHRIMP KABOBS **$7**
2 kabobs marinated in spices giving a nice kick of flavor

BREAD BASKET **$4**
Choose 3: hoecakes, cornbread, or dinner rolls

SOUPS **Cup** **$4**
Bowl **$6**
Choose between our signature Lickety Split Soups (chicken and vegetable) or our Taco Chili

SALADS **$5**
Garden, Cobb, or Caesar
Add a protein **$3-5**

JUST A LICK'
(SMALL PLATES)

SLIDERS **$7**
Choose between 2 slow roasted beef brisket or Southern Smoked Red Hots on a sweet bun w/ a side of creamy house made slaw

IT'S A PICNIC **$7**
Juicy Grilled Hot Dog & a Slider choice w/ a side item

MINI KABOBS **$8**
3 charred chicken kabobs w/ pineapples and yellow rice
**JUMBO shrimp substitute $2 up-charge*

CATFISH 'N' CHIPS **$8**
Bite size fish tenders w/ homemade fries

COME 'N GET IT
(ENTREES)

JUICY CHICKEN **$7**
3 pc Grilled, Fried, or Smothered

JUICY SMOKED TURKEY **$9**
2 herb battered turkey wings slowly smoked and smothered in gravy w/ a side of dressing

GLAZED RIBS **$9**
Half rack of smoked ribs topped with our signature Sweet Heat Maple Ginger BBQ sauce

TENDER CATFISH FILETS **$8**
2 farm raised filets grilled or fried w/ tartar sauce

JUMBO SHRIMP **$12**
10 pc w/ your choice of grilled or fried

SMOKED SALMON **$9**
Topped with a bourbon glaze

CHICKEN TENDER BASKET **$7**
Basket of 5 grilled or fried tenders

PORK CHOPS **$8**
2 pc juicy seasoned chops grilled, fried, or smothered

HOMESTYLE BURGER **$8**
Momma's homemade angus beef burger served on thick toast w/ mayo, tomatoes, lettuce, & cheese

KIDS' MEALS
(UNDER 10)

1 KABOB SKEWER	**$3**	**2 CHICKEN TENDERS**	**$3**
3 PC CATFISH NIPS	**$5**	**1 PC LEG OR WING OR 1 PC CHOP**	**$2**
HOT DOG OR SLIDER	**$4**		

Capri Suns and Milk Available

FIXIN'S
(SIDES $3)

Kick'n Collard Greens
Homemade Mashed Taters
Sautéed Green Beans
Blackeye Peas
Candied Yams
Fried Okra
Homestyle Slaw
Yellow Rice
Smoked Turkey Cabbage
Steamed Spinach
Parmesan Corn on the Cob
Mixed Vegetables
Steamed Broccoli
Hoecakes
Homestyle Fries
1 Bread [$1.50]
S'mack 'N Cheese [$4]

AIN'T FULL AS A TICK
(DESSERTS)

STRAWBERRY 'NANA PUDDING $5
A twist on the traditional southern fave w/ strawberries, bananas, classic vanilla wafers, and whipped cream

SWEET POTATO PIE SLICE $4
Made with love 'bout sums it up

HOMEMADE COBBLER $5
Peach Cobbler w/ vanilla ice cream

SLICED CAKE $4
Moist pound cake

FRESH CUT FRUIT MEDLEY $3
Cup of season's best fruit assortment

DRANKS

COKE PRODUCTS $1.50
Coca-Cola, Diet Coke, Sprite, Ginger Ale, Orange Fanta, and Root Beer

HOMEMADE SPECIALTIES $3
Strawberry Lemonade, Lemonade, Peach Sweet Tea, & Red Kool-Aid

SWEET/UNSWEETENED TEA $2

BOTTLED WATER $2
Dasani

ENERGY DRINKS $3

ROOT BEER FLOAT $4

SMOOTHIES $6
Strawberry Banana, Orange Mango, Green, & Tropical

JOIN US FOR BRUNCH ON SAT/SUN FROM 10-3

LICKETY SPLIT

SOUTHERN KITCHEN & BAR

JUST IN TIME FOR BRUNCH

OMELET **$9**
Build your own 3-egg omelet with your choice of 1 meat and veggies

BREAKFAST BOWL **$8**
Mixed bowl of scrambled eggs, creamy grits, sharp cheddar, grilled peppers and onions, hash brown potatoes, mushrooms, and Pico de Gallo

BUTTERMILK PANCAKES **$7**
Stack of 3 fluffy pancakes served with sweet cream butter and warm syrup

PEACH WALNUT FRENCH TOAST **$10**
2 Brioche French toasts topped with sweet Georgia peaches, crumbled walnuts, melted butter, and cinnamon sugar

SOUTHERN BREAKFAST **$11**
2 eggs any style, with your choice of a meat, grits, or hash browns, and the option of a biscuit or toast

CHICKEN & WAFFLES **$13**
3 juicy chicken wings fried with a light fluffy homemade waffle. Ask us about additional toppings.

SHRIMP & GRITS **$15**
Classic southern dish w/ tenderized jumbo shrimp seasoned w/ spices, bell peppers, green onions, and pork bacon over slow cooked buttery & triple cheese grits.

ADD-ONS

CHICKEN' N WAFFLE POPS **$7**
2 Southern or Buffalo Chicken flavor cooked in a fluffy waffle on a stick

SHRIMP' N GRITS COCKTAIL **$7**

FRESH CUT FRUIT MEDLEY **$7**
Bowl of season's best fruit assortment

BREAD BASKET **$6**
Choose 5: Biscuit, Grill Cheese, Hoecake, or Muffins

A LA CARTE

Hash browns	**$3**
Eggs (2 any style)	**$2.50**
Creamy Grits	**$3**
Oatmeal	**$3**
Bacon (3 pork or turkey)	**$3**
Sausage (2 pork or turkey)	**$3**
Fried Green Tomatoes	**$5**
Salmon Croquettes	**$6**

DRANKS

COKE PRODUCTS **$1.50**
Coca-Cola, Diet Coke, Sprite, Ginger Ale, Orange Fanta, and Root Beer

HOMEMADE SPECIALTIES **$3**
Strawberry Lemonade, Lemonade, Peach Sweet Tea, & Red Kool-Aid

SWEET/UNSWEETENED TEA **$2**

BOTTLED WATER **$2**
Dasani

ENERGY DRINKS **$3**

ROOT BEER FLOAT **$4**

SMOOTHIES **$6**
Strawberry Banana, Orange Mango, Green, & Tropical

ASK US ABOUT OUR BOTTOMLESS MIMOSAS

LICKETY SPLIT

SOUTHERN KITCHEN & BAR

COCKTAILS & BEERS

SPLIT SECOND (A signature cocktail) **$8**
Ketel One Vodka, peach schnapps, fresh lime juice

SOUTHERN ROYAL LEMONADE **$9**
Crown Royal or Hennessy with homemade lemonade and a splash of fresh pineapple juice

THE COTTON GIN **$8**
Gin, fresh lime juice, club soda, topped w/ cotton candy

FIG MOJITO (A southern favorite) **$8**
Blend of Rum, lime juice, simple syrup, club soda, w/ sliced figs

SOUTHERN TEA TIME **$11**
Gin, Silver Tequila, Vodka, White Rum, triple sec w/ a hint of lemon juice
Who says you have to go to Long Island to have Tea the way you like?

"HOT" DAMN **$8**
Captain Morgan Spiced Rum, Spiced Schnapps, Dark Rum, sweet/sour, lime juice, passion fruit, and grenadine

MELON BALL **$8**
The boss' favorite. Vodka, Midori, Cranberry Juice, topped w/fresh cold melon balls

WATERMELON MARGARITA **$9**
Cool sassy spin on margarita made from fresh watermelon w/ silver tequila, agave, & tangy lime juice

BOTTLED BEER AND WINE

Bud light, Corona, Heineken, Budweiser, Michelob, Stella, Coors Light, Estrella Jalisco, Sweetwater, Blue Moon **$3-6**

WINES

White Wines Assortment	**$5/22**
Red Wines Assortment	**$5/30**
Mimosa	**$6**

FULL BAR AVAILABLE

MUST BE 21 TO DRINK


LICKETY SPLIT
SOUTHERN KITCHEN
& BAR
F
LICKETY SPLIT
& BAR
Monday - Thursday 11 - 10
Friday - Saturday 11 - 11
Sunday 12 - 9
NO PARKING
FIRE LANE


F
LICKETY SPLIT
& BAR
Friday - Saturday 11-11
Sunday 12 - 9

Control Number : 18103221

STATE OF GEORGIA

Secretary of State

Corporations Division
313 West Tower
2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF ORGANIZATION

I, **Brian P. Kemp**, the Secretary of State and the Corporation Commissioner of the State of Georgia, hereby certify under the seal of my office that

Lickety Split Casual Dining, LLC
a **Domestic Limited Liability Company**

has been duly organized under the laws of the State of Georgia on **08/16/2018** by the filing of articles of organization in the Office of the Secretary of State and by the paying of fees as provided by Title 14 of the Official Code of Georgia Annotated.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on **08/28/2018**.

Brian P. Kemp
Secretary of State

Printed 04/17/19 11:47

TIMES JOURNAL, INC.

P.O. BOX 1633
ROME GA 30161-1633

PHONE: 770-428-9411
FAX: 1888

Advertising Payment Receipt

Account number:	226532	Credit Card #:	**********[redacted]
Account name:	LICKETY SPLIT SOUTHERN KI MELISSA HARRIS 1155 VIRGINIA AVE ATLANTA GA 30354	Approval Code:	05736G[259375323]
		Credit Holder Name:	
Phone number:	[redacted]		
Payment number:	182103		
Payment date:	04/16/19		
Amount:	180.18		
Payment description:	CREDIT CARD PAYMENTS LICKETY SPLIT SOUTHERN KI		

Ad Number:	167373	Class Code:	A
Ad Taker:	treev	Salesperson:	R913
First Words:	OPEN LEGAL RATE		

PUBLIC NOTICE

Application has been made by Lickety Split Southern Kitchen and Bar, Owner Melissa Harris at 1155 Virginia Avenue Ste. F Hapeville GA. 30354 FOR THE ISSUANCE OF A 2019 Alcohol Beverage on premise Consumption of beer, wine and liquor.





WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Effective Date: April 18, 2019

Western Surety Company

LICENSE AND PERMIT BOND

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 72149365

That we, Licketysplit Casual Dining, LLC dba Licketysplit Southern Kitchen & Bar

of Hapeville, State of Georgia, as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do surety business in the State of Georgia, as Surety, are held and firmly bound unto the City of Hapeville, State of Georgia, as Obligee, in the penal sum of Five Thousand and 00/100 DOLLARS ($5,000.00), lawful money of the United States, to be paid to the Obligee, for which payment well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal has been licensed Liquor

by the Obligee.

NOW THEREFORE, if the Principal shall faithfully perform the duties and in all things comply with the laws and ordinances, including all amendments thereto, pertaining to the license or permit applied for, then this obligation to be void, otherwise to remain in full force and effect until April 18th, 2020, unless renewed by Continuation Certificate.

This bond may be terminated at any time by the Surety upon sending notice in writing, by First Class U.S. Mail, to the Obligee and to the Principal at the address last known to the Surety, and at the expiration of thirty-five (35) days from the mailing of said notice, this bond shall ipso facto terminate and the Surety shall thereupon be relieved from any liability for any acts or omissions of the Principal subsequent to said date. Regardless of the number of years this bond shall continue in force, the number of claims made against this bond, and the number of premiums which shall be payable or paid, the Surety's total limit of liability shall not be cumulative from year to year or period to period, and in no event shall the Surety's total liability for all claims exceed the amount set forth above. Any revision of the bond amount shall not be cumulative.

Dated this 18th day of April, 2019.

LICKETYSPLIT CASUAL DINING, LLC DBA
LICKETYSPLIT SOUTHERN KITCHEN & BAR

Principal

Melissa Hall Harris

Principal

WESTERN SURETY COMPANY

By Paul T. Bruflat

Paul T. Bruflat, Vice President

Form 532-12-2015

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 18th day of April, 2019, before me, the undersigned officer, personally appeared Paul T. Bruflat, who acknowledged himself to be the aforesaid officer of WESTERN SURETY COMPANY, a corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

M. Bent
Notary Public — South Dakota

My Commission Expires March 2, 2020

ACKNOWLEDGMENT OF PRINCIPAL
(Individual or Partners)

STATE OF Georgia }
COUNTY OF Fulton } ss

On this 24th day of April, 2019, before me personally appeared Melissa Harris,
known to me to be the individual 1 described in and who executed the foregoing instrument and acknowledged to me that she executed the same.

CRYSTAL M GRIGGS
NOTARY PUBLIC
Exp. Mar. 11, 2022
JASPER COUNTY, GA

My commission expires
3/22, 2019

Crystal M Griggs Epps
Notary Public

ACKNOWLEDGMENT OF PRINCIPAL
(Corporate Officer)

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, _____, before me personally appeared _____,
who acknowledged himself/herself to be the _____
of _____, a corporation, and that he/she as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

My commission expires
_____, _____

_____
Notary Public

Western Surety Company

License or Permit No. _____

LICENSE AND PERMIT BOND
As _____

of _____

State of _____

Name of Applicant _____

Address _____

Filed _____, _____

Approved this _____

day of _____, _____

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Liquor City of Hapeville

bond with bond number 72149365

for Licketysplit Casual Dining, LLC dba Licketysplit Southern Kitchen & Bar
as Principal in the penalty amount not to exceed: $5,000.00.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 18th day of April, 2019.

ATTEST

L. Nelson
L. Nelson, Assistant Secretary

WESTERN SURETY COMPANY

By Paul T. Bruflat
Paul T. Bruflat, Vice President

WESTERN SURETY COMPANY CORPORATE SEAL SOUTH DAKOTA

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 18th day of April, 2019, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.

J. MOHR
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

My Commission Expires June 23, 2021

J Mohr
Notary Public

Form F1975-1-2016

Alcohol License Establishment Planning & Zoning Form

Date: May 17, 2019

Business Name: Lickety Split Casual Dining, LLC

Business Address: 1155 Virginia Avenue, Suite F

Business Owner: Melissa Harris

Business Owner Address: 4484 Mill Water Crossing, Douglasville, GA 30135

Business Owner Phone 678-438-4604 Business Owner Email: mylicketysplit@gmail.com

Building Square Footage: 2200 SF

Square footage of Business Unit: Not provided

Will the establishment provide patio/outdoor dining? No outdoor seating has been proposed. Should alcohol service be proposed for outdoor dining, all applicable regulations must be met

Number of Parking Spaces Provided: Eight parking spaces dedicated out of a shared lot

STAFF USE ONLY

Zoning Classification: U-V, Urban Village

Sec. 93-11.2-3. Permitted uses.
Restaurants, grills, cafes, taverns and similar eating and drinking establishments with a maximum size of 6,000 square feet, but excluding drive-in restaurants, fast food restaurants, or restaurants in which patrons are not served exclusively seated or standing at a counter. Such restaurants, grills, cafes, taverns and similar eating and drinking establishments shall be allowed to operate no more than six billiard tables upon the premises.

Does the proposed use require a Conditional Use Permit? No.

Number of parking spaces required by zoning: Nine, which will be met by shared parking.

Outdoor dining: Not applicable at this time.

Staff Recommendation: The proposed location complies with zoning. The application may be approved.

Zoning Compliance

Zoning Classification: U-V, Urban Village. The business is a restaurant which has an approved occupational tax permit in the U-V, Urban Village Zoning district.

Alcoholic Beverage Ordinance Compliance

Sec. 5-3-4. – Standards for approval, denial, renewal, suspension or revocation.

(1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
The proposed location is in a commercial area of Hapeville. There are other restaurants in the same property that have received alcohol licenses.

(2) The proximity of churches, school buildings, school grounds, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
There is no minimum distance required for on-site premises consumption from the nearest churches, school/school grounds, college campuses, or alcoholic treatment centers.

(3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
Parking is adequate per site plan, however, there are ongoing concerns regarding parking given the number of establishments.

(4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
This area is in an existing shopping center. No additional traffic is expected.

Sec. 5-6-3. - On-premises consumption regulations generally.

The following regulations shall apply to licensed on-premises consumption establishments:

(2) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. for licensed establishments whose property lines abut an area zoned residential, and 2:00 a.m. and 8:00 a.m. for all others. Except for bed and breakfasts and hotels, all patrons shall vacate such licensed establishments whose property lines abut an area zoned residential no later than 12:45 a.m., and 2:45 a.m. for all others. For purposes of this subsection, "residential" shall mean any parcel of land designated for use as a single or multifamily dwelling and duplexes.
There are no residential properties abutting the proposed location.

700 Doug Davis Drive
Hapeville, GA 30354

Ph: 404-669-2111
Fax 404-669-2140

City of Hapeville 1891 GEORGIA
A Community with a Heart

Police, Code Enforcement, & Traffic Alcohol Establishment Inspection Report

Date: April 29, 2019
Business Name: Lickety Spilt
Address: 1155 Virginia Avenue, Ste F, Atlanta, GA 30054

Exterior Observations:
Condition of Signage: Satisfactory

Window Signage & Visibility: Satisfactory

Condition of Property: Satisfactory

Exterior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level

Employee ID Badges: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Interior Observations:
Interior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level
☐ Unknown

Cameras: ☐ In Compliance ☐ Non-Compliant ☑ N/A
Broken Packages: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Traffic Considerations:
Private Property Accidents 0 Notes:

COMPLIANCE: To resolve this issue please N/A from premises within N/A days from receipt of this notice to be considered for an Alcohol License.

RIGHT TO APPEAL: Appeals are made thru the ARB, City of Hapeville Mayor and Council by contacting City Hall at 404-669-2100. Non-compliance may result in a Court Citation.

Additional Violations Noted:

History:
Law Enforcement: 0 calls Code Enforcement: 0 calls

Inspector's Signature

04/29/2019

Inspection No: IAL 19 - 005
Inspection Date: 4/29/2019
Inspection Time:
Inspector: Brian Eskew

Inspection Report

Inspection and Compliance Orders

Facility:	Lickety Split	**Address:**	1155 Virginia AVE		
Phone:					
Fax:		**City:**	Hapeville		
Email:		**State:**	GA	**Postal Code:**	30354
Contact:	Melissa Harris	**Work:**			
Email:	mylicketysplit@gmail.com	**Cell:**	(678) 438-4604		

Inspection Type:	Inspection General

Violation Code	Days to Correct *	Violation/Notes	Location

Inspection Notes

Approved For Alcohol License

Owner/Representative:

Inspector: B. C Cl

A variance procedure is available. Please contact the inspector named for further assistance with this or any other matter.

* Number of days to correct from date inspected.

Administrative Services Department
3468 North Fulton Avenue
Hapeville, GA 30354
Phone: (404) 766-3004
Fax: (404) 669-3302

Alcohol Beverage License Application

Instructions: This application must be typed or printed legibly and executed under oath. Each question must be fully answered. If space provided is not sufficient to answer the question please use a separate sheet of paper.

Holding an alcohol beverage license with the City of Hapeville is a privilege.

☒ New ☐ Amended

Date: 05/22/2019

Contact Name: Mindy L. Thompson, Esq. Sard & Leff, LLC Phone: (770) 644-0800

Business/Trade Name: Merritt Hospitality, LLC

D/B/A: Hilton Atlanta Airport (Andiamo)

Email: mthompson@sardandleff.com

Emergency Contact Name: Edward M. Walls Phone: (678) 425-6091

Business Address: 1031 Virginia Avenue, Atlanta, GA 30354

TYPE OF BUSINESS

- ☐ Convenience Store
- ☐ Grocery Store
- ☒ Hotel/Motel
- ☐ Package Store
- ☐ Manufacturer
- ☐ Specialty Beverage Store
- ☐ Restaurant
- ☐ Restaurant under 2,000 Sq. Ft.
- ☐ Wholesale
- ☐ Other: _____

TYPE OF LICENSE AND FEES

Retail		On-Premise Consumption		Wholesale/Manufacturer	
☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00
☐ Package	$5,000.00	☒ Beer/Wine/Liquor	$5,000.00	☐ Beer/Wine/Liquor	$5,000.00

On-Premise Consumption below 2,000 Sq. Ft.

☐ Beer	$750.00
☐ Wine	$750.00
☐ Liquor	$1600.00

APPLICANT INFORMATION

Please submit a passport photograph of owner(s) with completed application.

Full Name: Anthony R. Rutledge on behalf of Merritt Hospitality, LLC Date of Birth: [redacted]1971

Current Address: 530 Main Street North, Southbury, CT 06488

Spouse Name: Valerie T. Rutledge

Address of Applicant (if different for the past 5 years):
N/A

Name and Location of Employers for the last five years: 05/2005 - Present: Merritt Hospitality, LLC - Norwalk, CT

Have you been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

Has your spouse been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

BUSINESS INFORMATION

Type of business entity: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☒ Other
Limited Liability Company

Has an Occupational Tax Certificate been obtained and paid for said business? ☐ Yes ☒ No (If not issued by the City of Hapeville please include a copy with application.) Applied for.

Federal Tax ID Number: 52-2353526 State Tax ID Number: Applied for

Do you own the property? ☐ Yes ☒ No (If no, please provide name, address, and contact number for the landlord. A copy of the Lease must be attached to this application.) WS HAA Owner, LLC

Name each person(s) having a financial interest in the Establishment.

Full Name	Position	Social Security Number	Address	% of Interest
Merritt Hospitality, LLC*	Hotel Management	52-2353526	101 Merritt - 7 Corporate	
	Company		Park, Norwalk, CT 06851	
WS HAA Owner, LLC*				100%

Have you or anyone with interest in the establishment ever or do you currently hold an alcohol beverage license with any other municipality, county, or state? ☒ Yes ☐ No

If so, have you or anyone holding interest in the establishment ever been placed on probation or had your license revoked? ☐ Yes ☒ No (If yes, please explain on separate sheet of paper and attach hereto.)

*At time of closing, scheduled for 06/21/2019

Provide name, address, Social Security Number, and phone number for each Manager if different from owner. A passport photograph, Personnel Statement, and Background Check must be submitted for each manager.

Full Name	Social Security Number	Address	Phone Number
Edward M. Walls	xxx-xx-[redacted]	2605 Shumard Oak Drive, Braselton, GA 30517	(678) 425-6091

BUSINESS SPECIFIC INFORMATION On File.

County Tax Parcel ID _____ Zoning District _____

Nearest Intersection: _____

Building Square Footage: _____ Business Square Footage (if not using entire building): _____

Patio/Outdoor Dining Square Footage (if applicable): _____

Number of Parking Spaces for business? (Attach site plan showing designated, striped parking and lighting)

_____

If shared parking, detail of how many are dedicated to the business and details of other businesses sharing parking (addresses).

_____

_____

_____

Hours/days of operation: _____

_____

Description of adjacent properties (residential/commercial) _____

_____

_____

_____

If application is for Retail Sale, attach a surveyor's certificate containing the following information:

- A scale drawing of the building and/or proposed building
- The proposed off-street parking facilities available to the building and all outdoor lighting on the premises
- The exact location of the business, including street address, ward, and county tax map number
- Current zoning classification of the location
- The distance from the business to each of the following: the nearest school, church building, and the nearest alcoholic treatment center owned and operated by state, county or municipality.

VERIFICATION OF APPLICATION

I hereby make application for an Alcohol Beverage License for the City of Hapeville. I understand that holding this license is a privilege. I do hereby affirm and swear that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this application and any action taken on this application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fee and further that it is my/our responsibility to conform with said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can

read the English language and I freely and voluntarily have completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. §16-10-20.

Signature of Applicant or Agent

Anthony R. Rutledge

Print or Type Name

I certify that Anthony R. Rutledge (name of applicant) personally appeared before me, and that he signed his name to the foregoing statements and answers made therein, and under oath, has sworn that said statements and answers are true.

This 20th day of May, 2019.

Notary Public

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

My commission expires on: 9/30/2021

Alcoholic Beverage Personnel Statement

For Official Use Only
Type of License: Beer/ Wine/ Liquor

Business: Merritt Hospitality, LLC

Address: 1031 Virginia Avenue, Hapeville

Telephone: _____

Instructions: This personnel statement must be executed under oath or affirmation by every person having any ownership or profit sharing interest in, or managing any place of business applying for license from the City of Hapeville, Georgia to sell or deal in alcoholic beverages or liquors. Please type or print clearly in ink. If not legible, Statement will not be accepted. Each question must be fully answered. If the space provided is not sufficient, answer the question on a separate sheet and indicate in the space provided that such separate sheet is attached. A personnel statement, including two (2) passport-size photographs and two (2) fingerprint cards are required by Questions 35 and 36, for all owners/managers/assistant managers and must be submitted with every license application.

1. Edward Marion Walls 2605 Shumard Oak Drive Braselton, GA 30517
   Full Name of Applicant Address of Applicant

2. Social Security Number
   [redacted]

3. Driver's License Number
   [redacted] GA

4. Date of Birth Place of Birth
   [redacted]/1953 Lodi, Ohio

5. U.S. Citizen
   a. (●) By Birth
   b. ( ) Naturalized
   Date, Place and Court — By birth
   Petition Number
   Certificate Number
   Derived Parent Certificate Number(s)
   Alien Registration Number
   Native Country
   Date of Port Entry

6. How long have you been a legal resident of Georgia? 0 Years 5 Months

7. Marital Status ◯ Single ◯ Married ◯ Widowed ◉ Divorced ◯ Separated

8. If married, give Spouse's full name N/A

9. Physical Description of Applicant _____ Race W Sex M Height 6'4"

Weight 225 Age 65 Hair Color Grey Eyes Blue

10. Education and training specific to restaurant/alcohol field.

TIPS training and has more than twenty-five (25) years of hotel management experience.

11. Have you ever used or been known by any other name ◯ Yes ◉ No

12. List maiden name, names by former marriages, former names changed legally or otherwise, aliases or nicknames. For each, list the period during which you were known by this name. Ed Walls

13. Are you a registered voter in the State of Georgia ◉ Yes ◯ No

County registered: Gwinnett

Number of years registered: 3 Months

14. For the last calendar year, did you file and pay any County property tax ◉ Yes ◯ No

Name of County

Gwinnett and Broward (Florida)Counties

15. For the last calendar year, did you file and pay any City property tax ◯ Yes ◉ No

Name of City

16. Employment record for the past ten (10) years (Give most recent experience first, if self-employed give details)

	From	To	Employer	Occupation Duties	Reason for leaving
(a)	7/1996	9/27/2014	Starwood Hotels and resorts	General Manager;	Hotel sold
(b)	9/28/2014	7/13/2018	Hilton	General manager	New Job
(c)	7/30/2018	-Present	HEI hotels (chateau elan)	General Manager	
(d)					
(e)					
(f)					
(g)					
(h)					

17. List, with your most recent place of residence first, all of your residences for the past ten (10) years

	Date From/To	Street	City	State
(a)	7/1997-10/2011	345 Quiet Water Lane	Atlanta	GA
(b)	10/2011-5/2017	4218 N Ocean Drive	Hollywood	FL
(c)	5/2017- 11/2018	916 Polk Street	Hollywood	FL
(d)	11/2018- present	2605 Shumard Oak Drive	Braselton	GA
(e)				

20. Military Service ◯ Yes ◉ No

List Serial Number _____ Branch of Service _____
Period of Service _____ Date of Discharge _____
Type of Discharge received _____

21. Have you ever been convicted of a felony relating to violence, illegal substances, gambling, theft or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city or any other city or county relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of

malt beverages, wine or intoxicating liquors, or the taxability thereof within five (5) years preceding this application? ___ Yes ___ No

22. Full name of dealer and trade name, if any, submitting application of which this personnel statement is a part.
Merritt Hospitality LLC

23. Position of applicant in dealer's business.
General Manager

24. Does applicant have any ownership/profit sharing interest in business? ○Yes ◉No
Describe.

State annual salary of applicant or the estimated annual profit or compensation derived from this business. $
Salary

25. Do you have any financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverages are sold and consumed on the business premises? ○ Yes ◉ No If Yes, explain.

26. Do you have any financial interest or are you employed in any wholesale or retail liquor business other than the business submitting the license application of which this personnel statement is a part? ◉Yes○No If Yes, give names and locations and amount of interest in each.
General Manger of the Chateau Elan Winery and Resort, Braselton GA

27. Do you have any financial interest or are you employed in any business engaged in distilling, bottling, rectifying or selling (wholesale, retail or manufacturing) alcoholic beverages in this State or outside this State which has not otherwise been disclosed in this statement. ○ Yes ◉ No If yes, explain.

28. Have you ever had any financial interest in an Alcoholic Beverage business which was denied a liquor permit ○ Yes ◉ No If yes, explain.

29. Has any Alcoholic Beverage business in which you hold or have held any financial interest or have been employed, ever been cited for any violation for the rules and regulations of the State Revenue Commissioner relating to the sale and distribution of distilled spirits. ○ Yes (◉) If yes, explain.

30. Have you ever been denied a bond by a commercial surety company? ○Yes ◉No
If yes, explain.

31. Are you related by blood, marriage or adoption to any persons engaged in any business handling alcoholic beverages, whiskeys or liquors in the State of Georgia. ○Yes ◉No

32. Personal References. Give three (3) personal references, not relatives (i.e., former employers, fellow employees or school teachers who are responsible adults, business or professional men or women) who have known you well during the past five (5) years.

Name
Anne Hotte

Residence
2831 NE 40th Ct. Ft Lauderdale Florida 33308

Business Address
330 N Federal Hwy Hollywood FL 33020

Telephone Number
[redacted]

Number of Years Known
8 years

Name
Marty Shuham

Residence
4201 North Ocean Drive# 401 Hollywood Florida 33019

Business Address
1930 Harrison St # 208, Hollywood, FL 33020

Telephone Number
[redacted]

Number of Years Known
7 years

Name
Judge Daniel Casey

Residence
4730 Pierce St, Hollywood FL 33021

Business Address
Broward County 17th Circuit Court, 201 SE 6th St, Fort Lauderdale, FL 33301

Telephone Number
[redacted]

Number of Years Known
8 years

33. Attach two (2) passport-size photographs (front view). Write name on back of photographs and also the name of dealer submitting a license application. Initial here if such photographs are attached. _____

34. There must be submitted with this personnel statement the fingerprints of applicant on two (2) fingerprint cards, which will be furnished by the City of Hapeville. Initial here that such fingerprint cards are attached. _____

NOTE: Before signing this statement, check all answers and explanations to see that you have answered all questions fully and correctly. This statement is to be executed under oath or affirmation and subject to the penalties of false swearing and it includes all attached sheets submitted herewith.

Verification

I, Edward M. Walls, applicant, do solemnly swear, subject to criminal penalties for false swearing, that the statements and answers made by me to the foregoing questions in this application for a City of Hapeville license as a dealer in alcoholic beverage and liquors are true, and no false or fraudulent statement or answer is made therein to procure the granting of such license. I hereby submit for an Alcoholic Beverage Privilege License Personnel Statement for the City of Hapeville. I do hereby swear or affirm that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this statement and any related application and any action taken on this statement and any related application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fees and further that it is my/our responsibility to conform to said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can read the English language and I freely and voluntarily have completed this statement. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. § 16-10-20.

Edward M Walls
Applicant's Signature
(Full name in ink)

Edward M Walls
Applicant's Name
(Print or Type)

I certify that
Edward M. Walls
(the above named applicant)

is personally known to me, and that he signed his name to the foregoing statements and answers made therein, and, under oath, has sworn that said statements and answers are true.

This 15th day of May, 2019.

Steve Lamurey
Notary Public

STARR LAMUREY NOTARY PUBLIC BARROW COUNTY, GEORGIA

Seal:

City of Hapeville 1891 GEORGIA

Georgia Bureau of Investigation
Georgia Crime Information Center

Consent Form

I hereby authorize **HAPEVILLE POLICE DEPARTMENT** to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Edward Marion Walls
Full Name (print)

[redacted] GA.
Driver's License Number and State

7605 Shumard Oak Drive Braselton GA 30517
Address

Merritt Hospitality LLC
Company Name

M
Sex

W
Race

[redacted]/1953
Date of Birth

[redacted]
Social Security Number

Signature

5/16/19
Date

Purpose Codes Used (check appropriate one)

X Employment (Licensing, Public/Private employment, Firefighter employment Adoptions, Education employment, and Military Recruitment) (E)
___ Employment with mentally disabled (M)
___ Employment with elder care (N)
___ Employment with children (W)
___ Criminal Justice Employment (J)
___ Public Access (GA Felonies Only) (P)
___ Used by Law Enforcement Only (C) _____ Case Number
___ Pre-employment or Employment of Police Officers (Z)

Inquiry ran by: _____
If ran Purpose Code C Officer Signature: _____

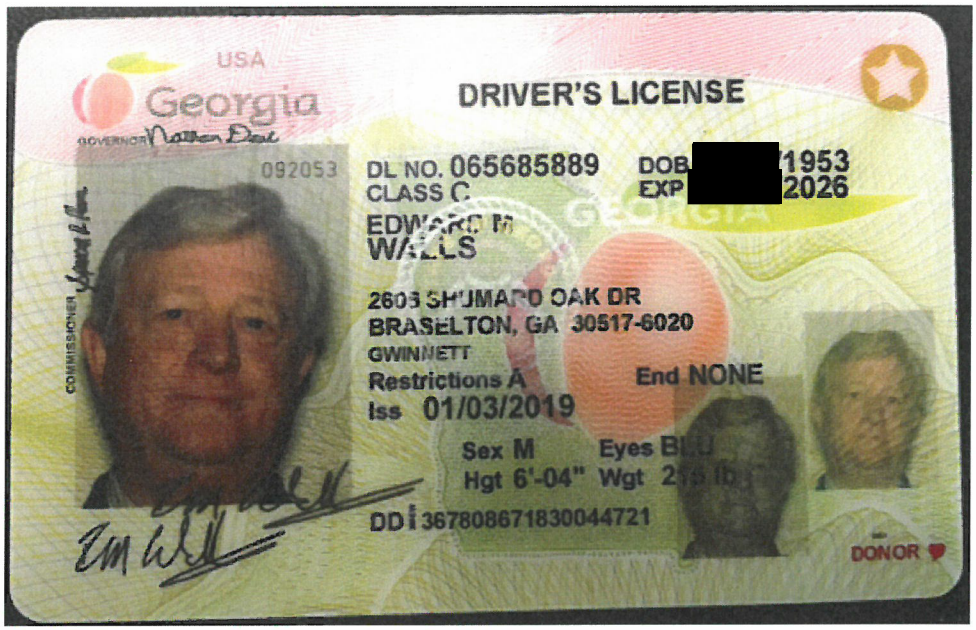


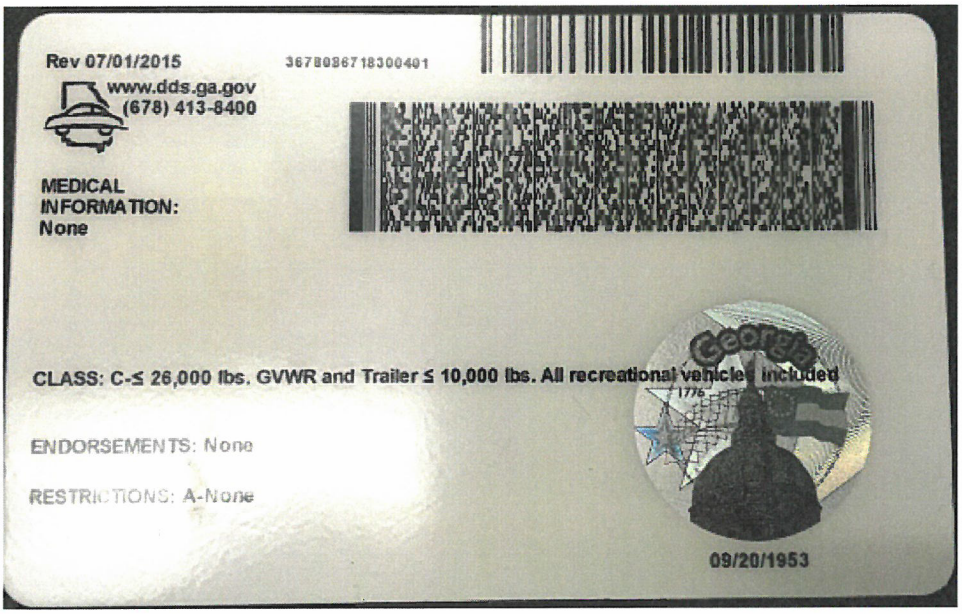
Mr. Edward M. Walls, Agent

City of Hapeville Alcoholic Beverage License Applications (Change of Ownership)

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

1031 Virginia Avenue, Atlanta, GA 30354


USA
Georgia
GOVERNOR Nathan Deal
DRIVER'S LICENSE
092053
DL NO. 065685889
CLASS C
DOB [redacted]1953
EXP [redacted]2026
EDWARD M
WALLS
2603 SHUMARD OAK DR
BRASELTON, GA 30517-6020
GWINNETT
Restrictions A
End NONE
Iss 01/03/2019
Sex M
Eyes BLU
Hgt 6'-04"
Wgt 215 lb
DD 367808671830044721
DONOR
COMMISSIONER


Rev 07/01/2015
367808671830044O1
www.dds.ga.gov
(678) 413-8400
MEDICAL
INFORMATION:
None
CLASS: C-≤ 26,000 lbs. GVWR and Trailer ≤ 10,000 lbs. All recreational vehicles included
ENDORSEMENTS: None
RESTRICTIONS: A-None
Georgia
1776
09/20/1953

MANAGEMENT AGREEMENT

between

WS HAA Owner, LLC

and

MERRITT HOSPITALITY, LLC

for the

HILTON ATLANTA AIRPORT HOTEL

[_____], 2019

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 1
1.1 Definitions 1
1.2 Terminology 10
1.3 Exhibits 10
ARTICLE 2 ENGAGEMENT OF OPERATOR 10
2.1 Engagement and Duties of Operator 10
ARTICLE 3 TERM 11
3.1 Term 11
ARTICLE 4 USE AND OPERATION OF THE HOTEL 11
4.1 Hotel Employees 11
4.2 Annual Plan 13
4.3 Labor Relations 15
4.4 Liquor License 15
4.5 Notice of Violations 15
4.6 Centralized Services 15
4.7 Multi-Property Programs 15
ARTICLE 5 USE OF NAME 16
5.1 Name 16
ARTICLE 6 ADVERTISING 16
ARTICLE 7 RESERVE FOR FF&E 16
7.1 Reserve for Replacement of FF&E 16
7.2 Transfers to Reserve for FF&E 16
7.3 Annual Adjustment 16
7.4 Maintenance of Reserve 17
7.5 Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements 17
ARTICLE 8 REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS 17
8.1 Repairs and Maintenance 17
8.2 Capital Improvements 17
8.3 Liens 18
8.4 Notice of Force Majeure Event 18
ARTICLE 9 WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH 18

9.1 Working Capital 18
9.2 Depository Account 18
9.3 Operating Account 18
9.4 Distribution of Excess Cash 19
9.5 Lender Requirements 19
ARTICLE 10 BOOKS, RECORDS AND STATEMENTS 19
10.1 Books and Records 19
10.2 Financial Reports 19
10.3 Audits by Owner 20
10.4 Accounting Services 20
ARTICLE 11 MANAGEMENT FEES AND OTHER PAYMENTS 21
11.1 Management Fee 21
11.2 Payment of Management Fee 21
11.3 Other Payments 22
11.4 Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards 22
ARTICLE 12 INSURANCE 22
12.1 Insurance Requirements 22
12.2 General Insurance Requirements. 25
ARTICLE 13 REAL AND PERSONAL PROPERTY TAXES; UTILITIES 27
13.1 Taxes 27
13.2 Utilities, Etc 27
ARTICLE 14 DAMAGE OR DESTRUCTION; CONDEMNATION 27
14.1 Damage or Destruction 27
14.2 Condemnation 28
14.3 Reinstatement 28
14.4 Mortgage Requirements 28
ARTICLE 15 EVENTS OF DEFAULT 29
15.1 Operator Defaults 29
15.2 Owner Defaults 29
ARTICLE 16 TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES 30
16.1 Termination 30
16.2 Operator's Rights to Perform 31
ARTICLE 17 OWNER'S ADDITIONAL TERMINATION RIGHTS 31
17.1 Termination on Sale 31

17.2 Performance Termination....32
ARTICLE 18 TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION....32
18.1 Transfer to Owner....32
18.2 Remittance to Owner....33
ARTICLE 19 NOTICES....33
ARTICLE 20 CONSENT AND APPROVAL....34
ARTICLE 21 TRANSFERS....34
21.1 Transfers....34
21.2 Assignability upon Sale....35
21.3 Prohibited Sale....35
ARTICLE 22 INDEMNITY....35
22.1 Indemnity by Owner....35
22.2 Indemnity by Operator....35
22.3 Indemnification Procedure....36
22.4 Survival/Miscellaneous....36
ARTICLE 23 MISCELLANEOUS....36
23.1 Further Assurances....36
23.2 Waiver....36
23.3 Successors and Assigns....36
23.4 Governing Law....37
23.5 Compliance with Mortgage and License Agreement....37
23.6 Amendments....37
23.7 Estoppel Certificates....37
23.8 Inspection Rights....37
23.9 Subordination....37
23.10 Effect of Approval of Plans and Specifications....37
23.11 Entire Agreement....38
23.12 Time is of the Essence....38
23.13 Interpretation....38
23.14 Counterparts....38
23.15 Partial Invalidity....38
23.16 Confidentiality....38
23.17 No Third Party Rights....38
ARTICLE 24 NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL....38

ARTICLE 25 REPRESENTATIONS OF OPERATOR 39
ARTICLE 26 REPRESENTATIONS OF OWNER 39
ARTICLE 27 DISPUTE RESOLUTION 40
27.1 Expert Determination 40
27.2 Mediation/Arbitration 40
27.3 Survival 42
ARTICLE 28 TERMINATION OF THE LICENSE AGREEMENT 42
ARTICLE 29 RELATIONSHIP OF PARTIES 42

EXHIBITS:

SCHEDULE 1 Hotel Components
EXHIBIT A Description of Premises
EXHIBIT B Centralized Services
EXHIBIT C Sample Incentive Fee Calculation
EXHIBIT D Transition Budget

MANAGEMENT AGREEMENT

This Management Agreement (the "**Agreement**") is made and entered into as of this [__] day of [_____], 2019 (the "**Effective Date**") by and between WS HAA Owner, LLC, a Delaware limited liability company] ("**Owner**"), and **MERRITT HOSPITALITY, LLC**, a Delaware limited liability company ("**Operator**").

RECITALS:

A. Owner is, or shall become prior to the Commencement Date, the fee owner of the Premises, which, together with associated improvements, parking areas and personal property, is presently known as the "Hilton Atlanta Airport Hotel" and is defined herein as the "**Hotel**".

B. Operator is engaged in the business of managing and operating hotels.

C. Owner and Operator desire to enter into this Agreement for the management and operation of the Hotel in accordance with the terms and conditions and subject to the limitations contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator covenant and agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Definitions**. In this Agreement and any Exhibits, the following terms shall have the following meanings:

"**Accounting Period**" shall mean each calendar month during each Fiscal Year.

"**Accounting Services**" shall have the meaning set forth in Section 10.4.

"**Accounting Services Fee**" shall mean an annual amount equal to $30,000, payable monthly as provided in Section 11.3.

"**Adjusted GOP**" shall mean, for any Fiscal Year, Gross Operating Profit less the sum of: (i) Management Fees (excluding the Incentive Fee), (ii) Taxes, (iii) Insurance Costs, (iv) Equipment Lease Costs, (v) the Reserve; and (vi) Owner's Priority Return.

"**ADR Provider**" shall have the meaning set forth in Section 27.2(a).

"**Affiliate**" shall mean any person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another person or entity. The term "**control**" (and correlative terms) shall mean the power, whether by contract, equity ownership or otherwise, to direct the policies or management of a person or entity. A natural person is related to another natural person if he or she is a spouse, parent, or lineal descendant of the other person.

"**Agreement**" shall have the meaning set forth in the introductory section of this Agreement.

"**Annual Operating Budget**" shall mean an annual operating projection for the Hotel prepared and submitted by Operator to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(a).

"**Annual Plan**" shall mean an annual business plan for the operation of the Hotel prepared by Operator and approved by Owner, which shall include the Annual Operating Budget and the Capital Budget, and any other material included therein by Operator as provided in Section 4.2.

"**Arbitrator**" shall have the meaning set forth in Section 27.2(c).

"**Base Fee**" shall have the meaning set forth in ARTICLE 11.

"**Building**" shall mean, collectively, the buildings (including all roof coverings and exterior facades and any walkways and bridges) and all structural elements of such buildings, all of which are a part of the Hotel, together with such elements servicing and/or supporting the Hotel.

"**Building Systems**" shall mean any mechanical, electrical, plumbing, heating, ventilating, air conditioning, sanitation, water treatment, sewer treatment and disposal, life safety systems, vertical transportation systems and other similar operating and monitoring systems and items of equipment installed in or upon, and affixed to, the Hotel.

"**Capital Budget**" shall mean a proposed estimate of FF&E Expenditures and Capital Improvements prepared by Operator and submitted to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(b).

"**Capital Improvements**" shall mean any expenditures properly categorized under GAAP as capital in nature, for any alterations, improvements, replacements, and additions to the Building, the Building Systems or FF&E.

"**Centralized Services**" shall have the meaning set forth in Section 4.6.

"**Centralized Services Charge**" shall have the meaning set forth in Section 4.6.

"**Claims**" shall have the meaning set forth in Section 22.1.

"**Commencement Date**" shall mean the date on which Operator assumes the management and operation of the Hotel and all or substantially all of the Hotel is open for business to the general public.

"**Competitive Set**" shall mean initially, the following list of hotels: (i) [_____], subject to any revisions to such list agreed upon by Owner and Operator from time to time, which revisions, to the extent applicable, will occur during the Annual Plan process.

"**Corporate Personnel**" shall mean any of Operator's executive level personnel holding a position of Vice President or higher from Operator's corporate headquarters who perform activities

at or on behalf of the Hotel in connection with the services provided by Operator under this Agreement.

"**CPI**" shall mean the Consumer Price Index for All Urban Consumers, United States City Average, All Items (1982-84=100), issued by the Bureau of Labor Statistics of the United States Department of Labor.

"**Default Rate**" shall mean the lesser of (i) the Prime Rate plus five percent (5%) per annum or (ii) the highest lawful rate permitted by applicable Legal Requirements from time to time.

"**Depository Account**" shall have the meaning set forth in Section 9.2.

"**Effective Date**" shall mean the date of this Agreement as set forth in the introductory paragraph.

"**Equipment Lease Costs**" shall mean costs and expenses incurred by Owner in connection with the leasing or financing of equipment used in the operation and maintenance of the Hotel.

"**Event of Default**" shall mean any of the events described in ARTICLE 15, provided that any condition contained therein for the giving of notice or the lapse of time, or both, has been satisfied.

"**Expert**" shall mean an independent, neutral and impartial individual having not less than ten (10) years of experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels) and shall not have any conflict of interest with either party.

"**Fiscal Year**" shall mean the fiscal year that ends on the last day of each calendar year. The first Fiscal Year shall be the period commencing on the Commencement Date and ending on December 31st of the same calendar year in which the Commencement Date occurs. Except as otherwise expressly set forth in this Agreement, the words "full Fiscal Year" shall mean any Fiscal Year containing not fewer than three hundred sixty five (365) days. A partial Fiscal Year after the end of the last full Fiscal Year and ending with the expiration or earlier termination of the Term shall constitute a separate Fiscal Year.

"**Force Majeure Event**" shall mean any one or more of the following events or circumstances that, alone or in combination, directly or indirectly, materially and adversely affect the operation of the Hotel: (i) fire, earthquake, hurricane, tornado, flood, storm or other casualty; (ii) epidemics, quarantine restrictions or other public health restrictions or advisories; (iii) performance of Capital Improvements reasonably required to maintain the Hotel in accordance with the Operating Standards which materially and adversely affect the income generating areas of the Hotel or any other area material to the operation of the Hotel; (iv) strikes, lockouts, or other labor interruptions generally (as opposed to any such events directed specifically against Operator or its Affiliates not involving or related to the Hotel); (v) war, rebellion, riots, acts of terrorism, or other civil unrest or commotion; shortage of critical materials or supplies; (vi) disruption to local,

national or international transport services; (vii) embargoes, lack of materials, water, power or telephone transmissions necessary for the operation of the Hotel in accordance with this Agreement; (viii) action or inaction of governmental authorities having jurisdiction over the Hotel; or (ix) any other event beyond the reasonable control of Owner or Operator, but in all instances excluding the financial inability of either party to perform or otherwise meet its obligations.

"**Furniture, Fixtures and Equipment**" **or** "**FF&E**" shall mean all furniture, furnishings, wall coverings, fixtures, carpeting, rugs, fine arts, paintings, statuary, decorations, and hotel equipment and systems located at, or used in connection with, the operation of the Premises as a hotel, including without limitation, major equipment and systems required for the operation of kitchens, bars, laundry and dry cleaning facilities, office equipment, dining room wagons, major material handling equipment, major cleaning and engineering equipment, telephone systems, computerized accounting and vehicles (including the costs associated with the purchase, installation and delivery thereof) together with all replacements therefor and additions thereto, but in all events excluding Operating Equipment and Supplies.

"**FF&E Expenditures**" shall mean any expenditures pertaining to FF&E and not constituting Capital Improvements.

"**GAAP"** shall mean those conventions, rules, procedures and practices, consistently applied, affecting all aspects of recording and reporting financial transactions which are generally accepted by major independent accounting firms in the United States. Any financial or accounting terms not otherwise defined herein shall be construed and applied according to GAAP.

"**GOP Test**" shall have the meaning set forth in Section 17.2.

"**Gross Operating Profit**" or "**GOP**" shall mean the amount by which Gross Revenues of the Hotel exceed Operating Expenses of the Hotel.

"**Gross Revenues**" shall mean all revenues and receipts of every kind derived from the Hotel and all departments and parts thereof, as finally determined on an accrual basis in accordance with the Uniform System of Accounts, including, but not limited to, revenues and income (both cash and credit transactions) before commissions and discounts for prompt or cash payments, from (a) the rental of rooms and lobby space; (b) exhibit or sales space of any kind, including without limitation, charges for reservations, deposits and cancellation fees not refunded to guests; (c) income from vending machines, health club membership fees, wholesale and retail sales of merchandise, service fees and charges; (d) business interruption insurance claims in respect of the Hotel, (e) condemnation awards for temporary use of the Hotel; (f) license, lease and concession fees and rentals or other management income received by Owner (but not including the gross receipts of any licensees, lessees and concessionaires); (g) food and beverages sales, and (h) other sales of every kind conducted by, through or under Operator in connection with the Hotel. Gross Revenues shall not include (i) federal, state and municipal excise, sales and use taxes or similar impositions collected directly from patrons or guests or included as part of the sales price of any goods or services; (ii) proceeds arising from the sale or other disposition of property described in Section 1231 of the Internal Revenue Code or of capital assets; (iii) proceeds from condemnation and payments received on account of insurance policies (other than the proceeds from business interruption insurance and from condemnation awards for temporary use of the Hotel when

received); (iv) proceeds from claims for damages suffered by Operator or Owner, unless in recompense for a lost revenue item; (v) interest earned on the Reserve; or on any funds in the Operating Accounts; (vi) gratuities, including tips and service charges which are paid to the Hotel Employees by third parties; (vii) gross receipts received by licensees, lessees and concessionaires at the Hotel; (viii) proceeds from any sale, financing or refinancing of the Hotel or any interest therein; and (ix) any funds supplied by Owner to the reserve or to provide Working Capital, or which otherwise is defined as Owner's Invested Capital or Owner's Additional Invested Capital.

"**Guest Data**" shall mean all guest profiles, contact information, histories, preferences, and other information obtained in the ordinary course of business from guests of the Hotel during such guests' stay at the Hotel, or during such guests' use of the facilities associated with the Hotel.

"**Hotel**" shall have the meaning set forth in Recital A of this Agreement, as further described on Schedule 1 attached hereto.

"**Hotel Employees**" shall mean all individuals performing services in the name of the Hotel at the Hotel, in connection with the Hotel's business, whether employees of Operator or its Affiliate, but in any event, excluding the Corporate Personnel and any other personnel employed by Operator to perform services on a non-exclusive basis at other System Hotels.

"**Hotel Executive Staff Member**" shall mean each of the general manager, controller, director of revenue management, director of sales/marketing and director of food and beverage at the Hotel from time to time (or such equivalent position), to the extent such positions exist at the Hotel.

"**Implied Fiduciary Duties**" shall have the meaning set forth in Section 11.1(b).

"**Incentive Fee**" shall have the meaning set forth in Section 11.1(b).

"**Indemnified Party**" shall mean any party entitled to indemnification pursuant to ARTICLE 22.

"**Indemnifying Party**" shall mean any party required to indemnify an Indemnified Party pursuant to ARTICLE 22.

"**Insurance Costs**" shall mean all insurance premiums or other costs paid for any insurance policies (including business interruption insurance) maintained by or on behalf of Owner with respect to the Hotel.

"**Inventories**" shall mean "Inventories of Supplies" as defined in the Uniform System of Accounts, such as soap, toilet paper, stationery, writing pens, food and beverage inventories, paper products, menus, expendable office and kitchen supplies, fuel, supplies and items similar to any of the foregoing.

"**Legal Proceedings**" shall mean all complaints, counterclaims or cross-claims filed in a court of competent jurisdiction, any notice of any claim of violation of any legal requirement by any governmental agency or authority, or any summons or other legal process, in each instance by or against the Hotel or by or against Owner, or Operator in connection with the Hotel.

"**Legal Requirements**" shall mean (a) all laws, ordinances, statutes, regulations and orders relating to the Hotel and the Premises now or hereafter in effect, including but not limited to, environmental laws and (b) all terms, conditions, requirements and provisions of (i) all Permits; (ii) all leases; and (iii) all liens, restrictive covenants and encumbrances affecting the Hotel or the Premises or any part thereof.

"**Lender**" shall mean the holder of any Mortgage.

"**License Agreement**" shall mean the applicable franchise or license agreement issued to Owner by Hilton Franchise Holding LLC (or any successor thereto); should for any reason the License Agreement as above defined terminate or cease to exist, then the term "**License Agreement**" shall thereafter mean the franchise or license agreement from time to time entered into by Owner with respect to the branding and operation of the Hotel.

"**Licensor**" shall mean the "Franchisor" under the License Agreement.

"**Litigation Claims**" shall have the meaning set forth in Section 27.2(a).

"**Major Renovations**" shall mean a contemporaneously made set or series of alterations, additions and/or improvements to the Hotel or any material renovation, remodeling or refurbishing of the Hotel (or any portion thereof) implemented by Owner or required under a so-called "property improvement plan" imposed under a License Agreement, which customarily would be managed by a third party project manager, but which shall not include any routine Repairs and Maintenance with respect to Capital Improvements or FF&E.

"**Management Fee**" shall mean collectively the Base Fee and Incentive Fee, all as set forth in ARTICLE 11 hereof.

"**Measurement Year**" shall have the meaning set forth in Section 17.2(a).

"**Mediator**" shall have the meaning set forth in Section 27.2(a).

"**Mortgage**" shall mean, collectively, each of the documents evidencing or securing current or future indebtedness on the Hotel in favor of any Lender.

"**Multi-Property Programs**" shall have the meaning set forth in Section 4.7.

"**Notice**" shall have the meaning set forth in ARTICLE 19.

"**Notice of Proposed Sale**" shall have the meaning set forth in Section 21.2.

"**OFAC**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Operating Account**" shall mean an account or accounts, bearing the name of the Hotel and owned by Owner, established by Operator in a federally insured bank or trust company selected by Owner.

"**Operating Equipment and Supplies**" shall mean supply items which constitute "Operating Equipment and Supplies" under the Uniform System of Accounts, all miscellaneous serving equipment, linen, towels, uniforms, silver, glassware, china and similar items.

"**Operating Expenses**" shall mean all those ordinary and necessary expenses incurred in the operation of the Hotel determined in accordance with GAAP and the Uniform System of Accounts.

"**Operating Standards**" shall mean the operation of the Hotel in a first class manner in accordance with (i) the requirements under the applicable License Agreement; (ii) this Agreement; (iii) Legal Requirements; and (iv) the standards, policies and programs in effect from time to time that Operator reasonably determines are applicable to the operation, maintenance and repair of comparable hotels within the System Hotels.

"**Operator**" shall have the meaning set forth in the introductory section of this Agreement.

"**Operator Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Operator Rebates**" shall have the meaning set forth in Section 4.7.

"**Operator's Grossly Negligent or Willful Acts**" shall mean any gross negligence, willful misconduct, or fraud committed by Operator or the Corporate Personnel in the performance of Operator's duties under this Agreement. The acts or omissions (including gross negligence, willful misconduct or fraudulent acts or omissions) of the Hotel Employees (excluding the general manager and the controller) shall not be imputed to Operator or to the Corporate Personnel, or be deemed to constitute Operator's Grossly Negligent or Willful Acts, unless such acts or omissions resulted directly from the gross negligence, willful misconduct or fraudulent acts of Operator, the Corporate Personnel, the general manager and/or the controller in directing the Hotel Employees.

"**Owner**" shall have the meaning set forth in the introductory section of this Agreement.

"**Owner Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Owner's Additional Invested Capital**" shall mean any additional amounts advanced by Owner for Working Capital and for Capital Improvements in excess of the Reserve, calculated on a cumulative basis.

"**Owner's Annual Plan Objections**" shall have the meaning set forth in Section 4.2.

"**Owner's Invested Capital**" shall mean an amount equal to the purchase price paid by Owner for the Hotel, plus Owner's due diligence and related costs (including closing costs) in connection with Owner's acquisition of the Hotel, and Working Capital, subject to an adjustment by Owner by written notice to Operator within sixty (60) days of the closing of the acquisition of the Hotel.

"**Owner's Priority Return**" shall mean an amount equal to a nine and one half percent (9.5%) unlevered cash on cash return of: (i) Owner's Invested Capital; and (ii) Owner's Additional Invested Capital.

"**Performance Test**" shall have the meaning set forth in Section 17.2.

"**Permits**" shall mean all governmental or quasi-governmental licenses and permits, including but not limited to any certificate of occupancy, business licenses and liquor licenses.

"**Premises**" shall mean the land on which the Hotel is located, which land is described in Exhibit A attached hereto.

"**Prime Rate**" shall mean the rate per annum announced, designated or published from time to time by JP Morgan Chase Bank N.A. as its "prime", "reference" or "base" rate of interest for commercial loans.

"**Privileged Information**" shall have the meaning set forth in Section 23.16.

"**Prohibited Persons**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Reimbursable Expenses**" shall mean all reasonable travel, lodging, entertainment, telephone, facsimile, postage, courier, delivery, employee training and other expenses reasonably incurred by Operator in accordance with the standard policies for expenses reasonably incurred by Operator on its own behalf and which are directly related to its performance of this Agreement, but in no event will Reimbursable Expenses include or duplicate expenses for Operator's overhead or Centralized Services.

"**Repairs and Maintenance**" shall have the meaning set forth in Section 8.1.

"**Reserve**" shall mean an account maintained as a reserve for FF&E Expenditures and Capital Improvements.

"**Revenue Data Publication**" shall mean Smith's STR Report, a monthly publication distributed by STR, Inc., or an alternative source, reasonably satisfactory to both parties, of data regarding the average daily rate, occupancy and RevPAR of hotels in the general area of the Hotel, including, without limitation, the Competitive Set.

"**Revenue Per Available Room**" or "**RevPAR**" shall mean for any Fiscal Year the number derived by dividing (i) net room revenue (in accordance with the Uniform System of Accounts), by (ii) the number of available guest rooms in the Hotel.

"**RevPAR Test**" shall have the meaning set forth in Section 17.2.

"**Rules**" shall have the meaning set forth in Section 27.2(c).

"**Sale of the Hotel**" shall mean any voluntary sale, assignment, transfer or other disposition, for value or otherwise, of the fee simple title to the site and/or all or substantially all of the assets comprising the Hotel other than through foreclosure or deed in lieu of foreclosure or other similar procedure of financing permitted by this Agreement. For purposes of this Agreement, a Sale of the Hotel shall also include: (i) a lease (or sublease) of all or substantially all of the Hotel or site; or (ii) any sale, assignment, transfer or other disposition, for value or otherwise, voluntary

or involuntary, in a single transaction or a series of related transactions, of the controlling interest in Owner.

"**Sale Termination Notice**" shall have the meaning set forth in Section 17.1.

"**State**" shall mean the State in which the Hotel is located or other as designated.

"**System Hotels**" shall mean all or substantially all hotels operated by Operator or its Affiliates from time to time within the United States

"**Taxes**" shall mean all real and personal property taxes and other governmental impositions. Notwithstanding the foregoing, the term "Taxes" as used in this Agreement shall specifically exclude (a) all sales, use, excise, and hotel occupancy taxes collected directly from patrons and guests or as part of the sales price of any goods, services or displays and paid over to federal, state or municipal governments, (b) all income, franchise and municipal licenses or similar taxes of Owner or Operator or their respective Affiliates, and (c) any and all utility consumption costs.

"**Term**" shall have the meaning set forth in Section 3.1.

"**Termination Fee**" shall mean an amount determined as follows:

(a) From and after the Commencement Date until the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to (I) the product of (A) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (B) the quotient of (i) the Base Fee payable for the twelve (12) full calendar months immediately preceding the date of a termination of this Agreement, divided by (ii) twelve (12). If at the time of termination of this Agreement the Base Fee shall have been payable for less than twelve (12) full calendar months, then the Termination Fee shall equal the product of (X) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (Y) the quotient of (i) the Base Fee paid for each full calendar month following the Commencement Date plus the Base Fee payable under Operator's proforma for each additional month up to and including the twelfth (12^{th}) full calendar month following the Commencement Date, divided by (ii) twelve (12).

(b) From and after the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to zero.

"**Threshold Adjustment Event**" shall mean the occurrence of a Force Majeure Event, a material casualty or condemnation of all or any portion of the Hotel, Capital Improvements that result in displacement of rooms or amenities for in excess of a total of [___] room nights in any calendar month or negatively impact the average daily rate of a Hotel, an adjustment to the Competitive Set, including any rebranding occurring at one or more of the Competitive Set hotels, or an Owner Event of Default.

"**Transfer**" any assignment of this Agreement, transfer of any direct or indirect ownership interest in Owner, or Sale of the Hotel.

"**Transition Budget**" shall have the meaning set forth in Section 11.3.

"**Uniform System of Accounts**" shall mean the Uniform System of Accounts for the Lodging Industry, 11th Revised Edition, 2014, as published by the Hotel Association of New York City, Inc. or any later edition thereof.

"**WARN Act**" shall have the meaning set forth in Section 18.1.

"**Working Capital**" shall mean and refer to the funds which are reasonably necessary for the day-to-day operation of the Hotel's business, including, without limitation, amounts sufficient for the maintenance of petty cash funds, operating bank accounts, receivables, payrolls, prepaid expenses, advance deposits, funds required to maintain Inventories, amounts due to/or from Operator and/or Owner less accounts payable and accrued current liabilities, and all other costs and expenses incurred in connection with the Hotel pursuant to this Agreement and the performance by Operator of its obligations under this Agreement.

1.2 **Terminology**. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all genders; the singular shall include the plural, and the plural shall include the singular. The titles of Articles, Sections and Subsections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement, and all references in this Agreement to Articles, Sections, Subsections, paragraphs, clauses, sub-clauses or exhibits shall refer to the corresponding Article, Section, Subsection, paragraph, clause or sub-clause of, or exhibit attached to, this Agreement, unless specific reference is made to the articles, sections or other subdivisions of, or exhibits to, another document or instrument.

1.3 **Exhibits**. All exhibits and schedules and other attachments attached hereto are by this reference made a part of this Agreement.

ARTICLE 2
ENGAGEMENT OF OPERATOR

2.1 **Engagement and Duties of Operator**. Owner hereby engages and appoints Operator, pursuant to the terms of this Agreement, to operate and manage the Hotel, and Operator hereby agrees and contracts to operate**,** manage and supervise the Hotel pursuant to the terms of this Agreement and the Operating Standards (including the then-applicable Annual Plan). Subject to the terms of this Agreement, Hotel operations shall be under the exclusive supervision and control of Operator, which, except as otherwise specifically provided in this Agreement, shall be responsible for the proper and efficient operation, maintenance and repair of the Hotel in accordance with the terms of this Agreement. Except as specifically set forth in this Agreement, Operator shall have full discretion and control respecting matters relating to management and operation of the Hotel, including, without limitation, charges for rooms and commercial space, credit policies, food and beverage services, other Hotel services, employment policies, granting of concessions or leasing of space within the Hotel, receipt, holding and disbursement of funds, maintenance of bank accounts, procurement of Inventories, supplies and services, promotion and publicity, retain and direct legal counsel for the Hotel in the name of and as agent for Owner with respect to any matter regarding the operation of the Hotel; and, in general, all activities necessary

for operation of the Hotel. Operator shall devote its knowledge, experience and efforts to operate and manage the Hotel pursuant to this Agreement and in accordance with the Operating Standards.

Notwithstanding the foregoing grant of authority to Operator, Owner's prior written approval (not to be unreasonably delayed, conditioned or withheld (except as otherwise provided in Section 4.3 with respect to subparagraph (d))) shall be required for the following:

(a) the execution of (and provide Owner with a true and complete copy of) any contract (i) requiring total annual payments in excess of $25,000, as adjusted for increases in CPI every Fiscal Year after the initial Fiscal Year, or (ii) which has a term in excess of one (1) year (unless such agreement is terminable by Owner or Operator upon not more than thirty (30) days' notice without fee or penalty);

(b) with respect to claims asserted against Owner and/or the Hotel, for any matter for which aggregate legal fees, liabilities and/or out of pocket settlement amounts are anticipated to exceed $50,000; provided, however, Operator shall have the right to control the defense, including settlement, of any Legal Proceeding involving claims which are covered by Operator procured insurance programs (so long as Owner shall have no liability with respect to such claims, including any obligation to indemnify Operator under this Agreement);

(c) tenant leases of any space at the Premises (including rooftop leases) other than as provided in the Annual Plan (and which shall not include ordinary guest room and banquet space operations); and

(d) the negotiation and execution of any union, collective bargaining or similar agreements affecting the Hotel.

ARTICLE 3
TERM

3.1 **Term**. The operating term shall commence on the Effective Date and expire on the tenth (10th) anniversary of the Commencement Date (the "**Term**"), unless sooner terminated pursuant to the terms of this Agreement. In the event the Commencement Date does not occur by September 30, 2019, then either party shall have the option, in its sole and absolute discretion and without penalty or liability, to terminate this Agreement by delivery of written notice to the other party. If either party exercises its termination right in accordance with this Section 3.1, then all sums then due and payable to Operator and its Affiliates under this Agreement for the period of time prior to the date of termination shall be immediately due and payable. Owner and Operator shall confirm the Commencement Date in writing within ten (10) days after the Commencement Date occurs upon request of either party.

ARTICLE 4
USE AND OPERATION OF THE HOTEL

4.1 **Hotel Employees**.

(a) Operator shall have the sole right, as Operator reasonably deems appropriate for the proper operation, maintenance and security of the Hotel, to: (i) select, appoint, hire, promote, direct, supervise, train and discharge all Hotel Employees; and (ii) establish and maintain all policies relating to the employment of the Hotel Employees. Operator shall use commercially reasonable efforts and exercise reasonable care to select qualified and competent employees. Operator shall use commercially reasonable efforts to cause Operator's employment practices to comply with all Legal Requirements. All Hotel Employees shall be solely employees of Operator; provided, however, all of the costs, expenses and liabilities associated with the Hotel Employees shall be Operating Expenses, and shall include, by way of example and not limitation, all costs and expenses (including, without limitation, all employment and benefit related expenses incurred by Operator with respect to the Hotel Employees), such as severance pay, unemployment compensation and health insurance and related costs (i.e., in order to comply with COBRA-type regulations) as a result of the termination of Hotel Employees. Notwithstanding anything to the contrary contained herein, Owner shall have the right to interview and approve each individual selected by Operator to hold a position as a Hotel Executive Staff Member prior to his or her appointment, which approval shall not be unreasonably withheld or delayed. Prior to appointing an individual to a Hotel Executive Staff Member position, Operator shall provide Owner with a written summary of such individual's professional experience and qualifications and shall offer Owner the opportunity to interview the candidate at the Hotel or another mutually acceptable location. Owner will forego its right to interview any such individual if Owner or its authorized representative is unwilling or unable to participate in the interview within ten (10) days following Operator's offer. Owner shall be deemed to have approved the appointment of any such individual unless Owner delivers notice of its disapproval of such appointment within ten (10) days after Operator's offer to Owner to interview the candidate. Owner acknowledges that it may not reject more than three (3) qualified candidates proposed by Operator for any Hotel Executive Staff Member position. Owner further acknowledges that, notwithstanding Owner's right to interview and approve the hiring of each individual to hold a position as a Hotel Executive Staff Member, Operator shall have sole discretion to remove or replace any such individual (with such replacement subject to the approval rights set forth herein) (provided Operator shall not relocate the general manager or director of sales to any other System Hotel without the prior consent of Owner within thirty-six (36) months of such individual's hire).

(b) Operator may, from time to time, assign one or more of its corporate employees to the staff of the Hotel on a full-time, part-time or temporary basis, and the pro-rata share of the costs, expense and liabilities of such corporate employee of Operator shall be fairly and equitably allocated as an Operating Expense of the Hotel.

(c) Operator may elect to use the services of its Affiliates in fulfilling its obligations under this Agreement. If an Affiliate of Operator performs services Operator is required to provide, Operator shall be ultimately responsible to Owner, and Owner shall not pay more for the Affiliate's services and expenses than Operator would have been entitled to receive under this Agreement had Operator performed the services. If an Affiliate of Operator provides goods to the Hotel, such goods shall be supplied at prices and on terms at least as favorable to the Hotel as generally available in the relevant market.

(d) Any Hotel Employees who are not then represented by a collective bargaining representative shall be entitled to participate in the incentive programs, profit sharing and/or other

employee retirement, disability, health, welfare or other benefit plan or plans then made available by Operator to similarly situated employees of other System Hotels, in accordance with their respective terms. Operator will have the right to charge the Hotel with its allocable share of the cost of any such plan or plans and any contributions to be made thereunder provided that such charges and contributions shall be determined by Operator in good faith on a fair and equitable basis with respect to charges and contributions imposed for the same or similar plans at other hotels then managed by Operator, subject to Legal Requirements, and to the extent set forth in the Annual Operating Budget. Operator's rights under this Subsection (d) shall be subject to the condition that Operator shall not put into effect any amendment to any existing plan, or adopt any additional plan, which is not imposed upon all other similarly situated System Hotels.

(e) During the Term of this Agreement and for a period of twelve (12) months following termination, Owner shall not, and shall use reasonable efforts to ensure that its Affiliates do not, hire, solicit for hire, make any referrals for employment, retain as a consultant, or use the services of, any person who is employed at the Hotel as a Hotel Executive Staff Member and any Corporate Personnel, and Owner shall use reasonable efforts to prevent any other company (and any Affiliate of such other company) working on behalf of Owner or its Affiliates (including, without limitation, companies that operate or manage hotels for Owner or its Affiliates) from hiring, retaining as a consultant or using the services of any such person. The foregoing shall not prohibit Owner, any Owner Affiliate or any other company working on behalf of Owner or its Affiliates from hiring, retaining as a consultant or using the services of any such person to the extent such person is responding to a general advertisement or other solicitation of employment not specifically directed towards any Hotel Executive Staff Member or Corporate Personnel. The provisions of this section shall survive expiration or termination of this Agreement.

4.2 **Annual Plan**. [Operator shall use the existing Fiscal Year 2019 budget prepared by the existing Hotel manager as a guide to operate the Hotel pending delivery of Operator's Fiscal Year 2019 Annual Plan. On or before the date that is ninety (90) days following the Commencement Date, Operator shall submit to Owner an Annual Plan ("**Annual Plan**") for the remaining portion of the 2019 Fiscal Year and Owner either shall accept the initial Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan. Owner and Operator shall meet and discuss Owner's Annual Plan objections and shall coordinate expeditiously and in good faith to agree upon an Annual Plan for the 2019 Fiscal Year. On or before November 1st of each year following the Commencement Date, Operator shall submit to Owner an Annual Plan for the next Fiscal Year and on or before December 1st of each year following the Commencement Date, Owner either shall accept the Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan ("**Owner's Annual Plan Objections**"). Within seven (7) days after Operator's receipt of Owner's Annual Plan Objections, Owner and Operator shall agree upon a date to meet and discuss Owner's Annual Plan Objections with the goal of agreeing upon an Annual Plan for the subject Fiscal Year. In the event Owner objects to the Annual Plan or any specific items expense in the Annual Plan and Owner and Operator are unable to reach agreement thereon as provided above prior to commencement of the Fiscal Year in question, pending such agreement, the Annual Plan or the specific item or items of expense (not revenue) in question shall be suspended and replaced for such period of disagreement by an amount equal to the actual Operating Expenses for the immediately preceding Fiscal Year subject to an adjustment equal to the percentage increase in the CPI over the last twelve (12) month period

immediately preceding the start of the Fiscal Year in question. Notwithstanding anything to the contrary contained herein, Owner shall not have the right to withhold its approval with respect to the following aspects of the Annual Plan: (i) employee wages, compensation, and benefit programs to the extent applied on a system-wide basis to the other hotels managed by Operator, taking into account fluctuation for local market conditions; (ii) the Centralized Services Charge, and (iii) costs over which Operator has no reasonable control, including, without limitation, taxes, insurance, utility rates, payments due under Mortgages and Legal Requirements.

(a) The proposed Annual Operating Budget shall incorporate Operator's good faith reasonable estimates of the items of revenue and expense contained therein and shall contain the proposed budget for operations for the succeeding Fiscal Year. When approved by Owner, the proposed Annual Operating Budget shall become the approved Annual Operating Budget. Any revisions, substitutions or additions to the Annual Operating Budget must be approved by Owner in writing.

(b) The Capital Budget shall contain the proposed budget for FF&E Expenditures from the Reserve and the budget for Capital Improvements for the succeeding Fiscal Year. Operator shall submit good faith reasonable estimates for Capital Improvements and for FF&E Expenditures for such succeeding Fiscal Year. When approved by Owner, the proposed Capital Budget shall become the approved Capital Budget. Approval of the Capital Budget constitutes an authorization for Operator to expend money for Capital Improvements and for FF&E as provided in the Capital Budget, unless Owner's approval thereof specifically requires Operator to obtain additional approvals prior to commencing such work. Any revisions, substitutions or additions to the approved Capital Budget must be approved by Owner in writing.

(c) Operator shall use commercially reasonable efforts to operate the Hotel in accordance with the approved Annual Plan. The parties acknowledge that: (i) the approved Annual Plan is an estimate only; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the approved Annual Plan impracticable or impossible; and (iii) Operator shall be entitled to depart therefrom due to causes of the foregoing nature. Operator may (w) incur variable expenses directly attributable to occupancy or revenues above forecasted levels; (x) pay all taxes, utilities, insurance premiums and charges provided for in contracts and leases entered into pursuant to this Agreement that are not within Operator's ability to control; (y) make any expenditures reasonably required on an emergency basis to avoid or mitigate damage to the Hotel or injury to persons or property, provided that Operator notify Owner as promptly as reasonably possible; and (z) make any expenditures necessary to comply with, or to cure or prevent any violation of any Mortgage and Legal Requirements. In addition to, and without limiting the foregoing, Operator shall be permitted, in its discretion and without the approval of Owner, to deviate from the approved Annual Operating Budget as follows: by up to ten percent (10%) of the approved department expense line item, or by up to five percent (5%) of the aggregate total expenditures in the approved Annual Operating Budget. If Operator determines that circumstances will result in material changes between actual results and the approved Annual Plan during the course of the Fiscal Year, Operator shall, within thirty (30) days of such determination, notify Owner, which shall include a reforecast of revenues and expenses through the remainder of the Fiscal Year. Unless otherwise specified, all references to the Annual Plan in this Agreement shall be deemed to refer to the Annual Plan approved by Owner, subject to Operator's right to depart therefrom pursuant to this Section 4.2(c).

4.3 **Labor Relations**. Operator may negotiate with any union lawfully entitled to represent the Hotel Employees and may execute collective bargaining agreements or labor contracts resulting therefrom that have been approved by Owner in Owner's sole and absolute discretion, as provided in Section 2.1(d). Owner shall have the right to have one or more representatives attend and participate in all such negotiations.

4.4 **Liquor License**. Operator shall obtain all alcoholic beverage licenses either in its name or its designee and shall maintain the alcoholic beverage licenses in good standing and effect, free of all liens (with the exception of any lien granted to Owner herein) and in compliance with the conditions imposed upon such alcoholic beverage licenses by any alcoholic beverage control commission or other governmental authority or agency, pursuant to the License Agreement. Operator further covenants and agrees that upon termination of this Agreement, whether upon its expiration or at any sooner termination thereof, it shall execute any documentation and perform any other acts which may be reasonably necessary or appropriate to effect the transfer or issuance of an alcoholic beverage license to the subsequent owner or Operator of the Hotel, provided that Operator shall not incur liability or cost in connection with such transfer or issuance. Owner covenants and agrees to pay any and all costs (including reasonable attorney's fees) incurred by Operator or its designee in effecting the transfer or obtaining such licenses and such covenant and agreement shall survive the expiration or termination of this Agreement.

4.5 **Notice of Violations**. Operator shall promptly notify Owner in writing of any written notice received from any regulatory or governmental body regarding an actual or perceived violation of any Legal Requirements.

4.6 **Centralized Services**. To the extent not otherwise provided by Licensor pursuant to the terms and conditions of the License Agreement, Operator may provide or cause its affiliated companies to provide for the Hotel the benefit of certain reservation systems, centralized accounting services, IT services, purchasing services, revenue management services, training, satisfaction surveys, and/or other centralized services as may be made available generally to similar properties managed by Operator from time to time (individually and collectively, the "**Centralized Services**"). The cost of all Centralized Services ("**Centralized Services Charge**") shall be (a) set forth in the applicable Annual Operating Budget, (b) allocated to the Hotel on an equitable basis with all other hotels utilizing the Centralized Services of Operator or its Affiliates, (c) reimbursed to Operator on a cost reimbursement basis and without mark-up or profit to Operator, and (d) shall not exceed the costs which Owner otherwise would have incurred if such services otherwise were provided on-site at the Hotel, which costs may include, without limitation, salaries (including payroll taxes and employee benefits) of employees and officers of Operator and its Affiliates engaged in the provision of the Centralized Services, costs of all equipment employed in the provision of such Centralized Services, and a reasonable charge for the development costs of Operator or its Affiliates. The Centralized Services currently provided by Operator, along with the Centralized Services Charge as of the Effective Date, are described in Exhibit B attached hereto. The Centralized Services and the Centralized Services Charge shall be subject to change from time to time, subject to clauses (a)-(d) above.

4.7 **Multi-Property Programs**. Owner acknowledges and agrees that, subject to the applicable Annual Operating Budget, Operator may, in Operator's reasonable discretion, enter into certain purchasing, maintenance, service or other contracts with respect to the operation of

the Hotel and other hotels operated by Operator (collectively, "**Multi-Property Programs**") pursuant to which Operator or its Affiliates may receive rebates, discounts, cash or other incentives, administration fees, concessions, profit participations, stock or stock options, investment rights or similar payments or economic considerations (collectively, "**Operator Rebates**") from the vendors or suppliers of goods or services provided under such Multi-Property Programs. When taking bids or issuing purchase orders, Operator shall secure for, and shall credit to, Owner any Operator Rebates (less Operator's expenses related thereto) in connection with such purchase. Operator shall promptly remit to Owner's benefit in the Operating Account the value of all Operator Rebates (less Operator's expenses related thereto) received by Operator or any of its affiliates in connection with any purchases described herein.

ARTICLE 5
USE OF NAME

5.1 **Name**. During the Term of this Agreement, the Hotel shall at all times be known and designated by the name set forth in the applicable License Agreement or by such other name as from time to time may be approved by Owner. Operator shall make or cause to be made any fictitious name filings or disclosures required by the laws of the State with respect to the use of such name for or in connection with the Hotel.

ARTICLE 6
ADVERTISING

Subject to the provisions of the License Agreement, Operator shall arrange and contract for all advertising, which Operator may reasonably deem necessary, in accordance with Section 4.2, for the operation of the Hotel. So long as the License Agreement may be in effect, Operator generally shall advertise the Hotel under the name required by the License Agreement for the Hotel.

ARTICLE 7
RESERVE FOR FF&E

7.1 **Reserve for Replacement of FF&E**. The Reserve shall be funded pursuant to Section 7.2, and Operator shall be authorized to use amounts in the Reserve to pay for the cost of FF&E Expenditures and Capital Improvements.

7.2 **Transfers to Reserve for FF&E**. Commencing on the Commencement Date and continuing thereafter during the remainder of the Term, Operator shall deposit monthly into the Reserve for FF&E and Capital Improvements an amount equal to the amounts required by Lender and/or by Licensor; provided that in no event will the amounts to be deposited monthly into the Reserve be less than an amount equal to four percent (4%) of Gross Revenues throughout the Term.

7.3 **Annual Adjustment**. At the end of each Fiscal Year and following receipt by Operator of the annual accounting referred to in ARTICLE 10, an adjustment will be made if necessary and if available, so that the appropriate amount shall have been deposited in the Reserve for such Fiscal Year.

7.4 **Maintenance of Reserve**. The proceeds from the sale of FF&E no longer needed for the operation of the Hotel shall be deposited in the Reserve, but not credited against the obligation to deposit cash in such fund for the then current Fiscal Year. All interest earned or accrued on amounts invested from the Reserve shall be added to the Reserve (but shall not be credited against Owner's obligations to fund the Reserve), and shall not constitute Gross Revenues or be included therein.

7.5 **Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements**. Owner and Operator acknowledge and agree that portions of the Reserve may, from time to time in accordance with the then-current Annual Plan, be used for more significant expenditures than could be reserved for in a single year. Accordingly, at the end of each Fiscal Year, any amounts remaining in the Reserve shall be carried forward to the next Fiscal Year, and shall be in addition to the amount to be reserved in the next Fiscal Year. In the event at any time there are insufficient funds in the Reserve for any Fiscal Year to pay the cost of FF&E Expenditures in accordance with the Annual Plan, then Owner will, within thirty (30) days after request therefor by Operator, provide the additional funds to Operator to pay for such excess.

ARTICLE 8
REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS

8.1 **Repairs and Maintenance**. Operator shall, from time to time, make such expenditures from the Reserve (or, to the extent insufficient, from funds otherwise provided by Owner) for (a) FF&E Expenditures and (b) repairs and maintenance of HVAC, mechanical and electrical systems, exterior and interior repainting; resurfacing building walls and floors; resurfacing parking areas; replacing folding walls; and miscellaneous similar expenditures (collectively, "**Repairs and Maintenance**") as required by the License Agreement, any Mortgage, Legal Requirements, Annual Plan and otherwise in the condition required by this Agreement. Except in the event of an emergency, Force Majeure Event or otherwise under circumstances in which it would be unreasonable to seek to obtain prior approval (and provided that Operator shall notify Owner of any such expenditure within a reasonable time given the nature and scope of the emergency), all expenditures for the foregoing shall be as provided in the Annual Plan. If any such Repairs and Maintenance shall be made necessary by any condition against the occurrence of which Owner has received the guaranty or warranty of the builder of the Hotel or of any supplier of labor or materials for the Hotel or of any supplier of labor or materials for the construction of the Hotel, then Operator shall, at Owner's direction, invoke said guarantees or warranties in Owner's or Operator's name and Owner shall cooperate in all reasonable respects with Operator in the enforcement thereof.

8.2 **Capital Improvements**. Owner shall, from time to time, at its sole expense (which may include funds deposited in the Reserve), make such Capital Improvements in or to the Hotel as Owner shall determine are necessary to comply with the Operating Standards. If Capital Improvements shall be required at any time during the Term by the terms of the License Agreement, to maintain the Hotel in accordance with the Operating Standards or Legal Requirements, or because Operator and Owner jointly agree upon the desirability thereof, then in such event all such Capital Improvements shall be made with as little hindrance to the operation of the Hotel as reasonably possible. Notwithstanding the foregoing, as long as the Hotel can continue to operate without interruption, Owner shall have the right to contest the need for any

such Capital Improvements required by any Legal Requirements and may postpone compliance therewith, if so permitted by law and if such postponement will not expose Operator to any civil or criminal liability. All recommendations by Operator of Capital Improvements shall be submitted in conjunction with the Capital Budget for the Fiscal Year described in Section 4.2(b). In the event that Owner elects to perform Major Renovations to the Hotel, Owner may request Operator to oversee the performance of the Major Renovations, in which case the parties shall enter into an agreement for project management services in a form and on such terms and conditions (including the amount of any project management fees) mutually acceptable to both parties.

8.3 **Liens**. Owner and Operator shall cooperate and use all commercially reasonable efforts to prevent any liens from being filed against the Hotel that arise from any maintenance, changes, repairs, alterations, improvements, renewals or replacements in or to the Hotel.

8.4 **Notice of Force Majeure Event**. In the event of any occurrence constituting a Force Majeure Event, Operator shall promptly notify Owner of such occurrence and shall keep Owner informed as to the extent and impact thereof on the Hotel.

ARTICLE 9
WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH

9.1 **Working Capital**. Owner shall provide initial Working Capital in an amount equal to $1,000 per guest room at the Hotel. Owner shall at all times cause sufficient Working Capital to be on hand in the Operating Account. In no event shall Owner permit the Working Capital in the Operating Accounts to be less than an amount equal to the estimated monthly operating expenses of the Hotel for the ensuing sixty (60) day period, as reflected in the then current Annual Operating Budget. From time to time, upon fifteen (15) days prior written notice from Operator that such funds are required, Owner shall furnish to Operator funds that Operator deems reasonably necessary to assure that the Hotel shall have adequate Working Capital as herein provided.

9.2 **Depository Account**. All monies received by Operator in the operation of the Hotel shall be received in trust by Operator for the benefit of Owner and shall be deposited in a "**Depository Account**" in Owner's name, with certain of Owner's employees as authorized signatories, in a bank or trust company selected by Owner. Such monies shall not be commingled with other funds belonging to Operator and shall be swept on a daily basis into the Operating Account.

9.3 **Operating Account**. Owner and Operator shall also establish an Operating Account for paying the Hotel's expenses permitted herein to be charged to the Hotel and/or Owner. The Operating Account shall be in Owner's name, with Operator's employees as the authorized signatories, in a bank or trust company selected by Owner. Operator shall pay all Operating Expenses of the Hotel and amounts owed Operator and its Affiliates hereunder (including the Management Fee and Centralized Services Charges) out of the Operating Account. Checks drawn on the Operating Account or other documents of withdrawal from such accounts shall be signed by a designated representative of Operator approved by Owner. The Operating Account shall provide that, upon Owner's written direction, Operator and its representatives may be removed

as authorized signatories of such account but only upon termination of this Agreement. Owner shall make arrangements to deposit from the Depository Account into the Operating Account on a daily basis any money which is required to cover payments from the Operating Account permitted herein, including any payments for capital expenditures permitted herein. If Owner fails to do so and such failure continues for three (3) business days after notice from Operator, such failure shall be deemed an Owner Event of Default and Owner shall indemnify and hold Operator harmless from any loss or expense Operator might incur as a result of such deposit not having been made, and Operator may exercise its right to terminate pursuant to Section 15.2. All risk of loss with respect to funds in the Operating Account shall be borne by Owner.

9.4 **Distribution of Excess Cash**. Within twenty-five (25) days of the close of each Accounting Period, Operator shall distribute to Owner all sums remaining in the Operating Account in excess of the then Working Capital requirements of the Hotel determined in accordance with Section 9.1 of this Agreement.

9.5 **Lender Requirements**. The provisions of this ARTICLE 9 shall be subject to the requirements of any Lender. Operator will cooperate with all cash management and other similar requirements reasonably imposed by any Lender, provided such cash management or other requirements acknowledge that so long as Operator is managing the Hotel, Operator shall continue to receive payment of Management Fees, Reimbursable Expenses and payroll expenses as contemplated herein.

ARTICLE 10
BOOKS, RECORDS AND STATEMENTS

10.1 **Books and Records**. Operator shall keep full and adequate books of account and other records reflecting the results of operation of the Hotel in accordance with the Uniform System of Accounts and GAAP. The books of account and all other records relating to or reflecting the operation of the Hotel shall be kept either at the Hotel or at Operator's corporate offices and shall be available to Owner and its representatives and its auditors or accountants, at all reasonable times for examination, audit, inspection and transcription at Owner's sole cost and expense. All of such books and records pertaining to the Hotel shall be the property of Owner. Upon any termination of this Agreement, all of such books and records forthwith shall be turned over to Owner at a location designated by Owner so as to insure the orderly continuance of the operation of the Hotel, but such books and records shall thereafter be available to Operator at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years. In addition to the Hotel's books and records, Operator shall maintain Guest Data in accordance with its privacy policy and the License Agreement; provided, however, Owner and Operator shall jointly own all Guest Data, and each may use such Guest Data in any commercially reasonable manner that: (a) does not violate the terms of this Agreement, (b) during the Term of this Agreement, does not interfere with and/or is not detrimental to the operation or financial performance of the Hotel, and (c) does not violate any Legal Requirements applicable to the use of Guest Data.

10.2 **Financial Reports**.

(a) Operator shall deliver to Owner within twenty (20) days following the close of each Accounting Period a monthly profit and loss statement reflecting a comparison of periodic and year-to-date actual revenues and expenses with the Annual Operating Budget as well as a periodic and year-to-date comparison of such actual revenues and expenses with those of the prior Fiscal Year.

(b) Within seventy-five (75) days after the end of each Fiscal Year, Operator shall deliver to Owner an annual accounting, showing the results of operation of the Hotel during the Fiscal Year and a computation of Gross Revenues, Operating Expenses, and Gross Operating Profit, if any, and any other information necessary to make the computations required hereby or which may be requested by Owner, all for such Fiscal Year. The annual accounting for any Fiscal Year shall be controlling over the interim accountings for such Fiscal Year.

(c) Operator shall prepare and deliver any additional reports or information as Owner is required to provide under the License Agreement.

10.3 **Audits by Owner**. Owner shall have the right to audit, conducted either by Owner's internal personnel or by a third party auditor retained by Owner, at its expense and not as an Operating Expense of the Hotel (except as provided below), all items of expense and revenue under this Agreement including, but not limited to, Gross Revenues, Operating Expenses, depreciation, the Management Fee and the Reserve. Operator shall cooperate and assist with such audit. In the event that an audit reflects an underpayment to Owner or Operator or an overpayment to Operator or Owner, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the audit results to Operator, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. In the event any audit establishes that Operator has overstated or understated Gross Revenues or Operating Expenses by more than five percent (5%), the costs of such audit shall be paid for by Operator (and shall not be an Operating Expense of the Hotel).

10.4 **Accounting Services**. Subject to the provision of sufficient input, review, approval and signoff by Owner, during the Term, Operator (or its Affiliate) shall render certain accounting services to and on behalf of Owner, which shall include:

(a) separate from the Hotel books and records, the maintenance of Owner's corporate books of account, including without limitation capital accounting (to be performed under Operator's capitalization policy) and check cutting services with respect to Owner's FF&E account for the payment of FF&E Expenditures;

(b) the provision of financial reporting services, utilizing Operator's standard reports, which shall be delivered within the reporting deadlines required by Lender, but in no event less than twenty (20) days monthly, forty five (45) days quarterly and ninety (90) days annually;

(c) the making of all of Owner's required payments with respect to (i) any Mortgage (on behalf of Owner in satisfaction of Owner's obligations under Section 23.5), (ii) Taxes (as set forth in Section 13.1) and (iii) Insurance Costs (as set forth in Section 12.1);

(d) if applicable, the processing of Lender requisitions from the Reserve;

(e) coordination of deliverables for Lender reporting requirements;

(f) cooperation with an independent accounting firm approved in Owner's sole discretion in connection with securitization vehicle reporting deadlines and audit procedures under Regulation AB; and

(g) other related services as mutually agreed by Owner and Operator from time to time (collectively, the "**Accounting Services**").

In consideration for its provision of the Accounting Services hereunder, Operator shall receive the Accounting Services Fee, which amount shall be payable pursuant to Section **Error! Reference source not found.**, and which reflects Operator's cost reimbursement only, without mark-up or profit to Operator. In the event the scope of the Accounting Services is materially increased (including through use of reports other than Operator's standard forms), the Accounting Services Fee may be increased as mutually determined by the parties. Owner may elect at any time to terminate the Accounting Services by delivery of seventy five (75) days' prior written notice to Operator, in which event the date of termination of the Accounting Services will be the last day of the calendar quarter following the month in which Operator receives Owner's written notice of termination, and the Accounting Services Fee shall cease to be due from and after the date of such termination.

ARTICLE 11
MANAGEMENT FEES AND OTHER PAYMENTS

11.1 **Management Fee**. For each Fiscal Year or portion thereof, Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, subject to delivery of the monthly reports described in Section 10.2(a) (except with respect to the Incentive Fee, which, if due, shall be paid at the end of each calendar quarter upon the submission of the reports described in Section 10.2(b) with respect to such calendar quarter) in respect of its management services hereunder, a management fee calculated as follows (collectively, the "**Management Fee**"):

(a) a base fee (the "**Base Fee**") in an amount equal to two and one half percent (2.5%) of Gross Revenues in respect of any applicable period; plus

(b) an incentive fee (the "**Incentive Fee**") in an amount equal to fifteen percent (15%) of Adjusted GOP for such Fiscal Year. A sample calculation of the Incentive Fee is attached hereto as Exhibit C.

(c) Notwithstanding the forgoing, the aggregate Management Fee payable in any given Fiscal Year shall not exceed four percent (4%) of Gross Revenues for such Fiscal Year.

11.2 **Payment of Management Fee**. The Incentive Fee shall be computed separately for each Fiscal Year and shall not be accumulated from Fiscal Year to Fiscal Year. The Incentive Fee shall be prorated for any partial Fiscal Year (provided that in the event this Agreement is terminated due to an Event of Default by Operator, no Incentive Fee shall be payable with respect to the Fiscal Year in which such termination occurs). The Incentive Fee shall be adjusted, if necessary, within sixty (60) days after receipt by Owner of the annual accounting for such Fiscal

Year or receipt by Operator of Owner's documentation supporting the calculation of Owner's Priority Return. Upon request by Operator, Owner shall provide sufficient evidence and back up documentation to support Owner's calculation of Owner's Priority Return, including without limitation sufficient evidence and back up documentation to allow Operator to properly verify Owner's Invested Capital and Owner's Additional Invested Capital. Owner or Operator shall be entitled to audit the determination and calculation of the Management Fee. In the event that an audit reflects an underpayment or overpayment of the Management Fee to Operator, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the results of such audit to the other party, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. The calculation and payment of the Incentive Fee shall survive the termination of this Agreement.

11.3 **Other Payments**. Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, the Centralized Services Charges and Accounting Services Fee for each Accounting Period concurrently with the payment of the Base Fee at the end of each Accounting Period. Operator shall also receive reimbursement from Owner for those reasonable out of pocket costs actually incurred by Operator which are or were directly and exclusively related to transitional management services provided by Operator prior to the Commencement Date, as outlined in the Transition Budget attached hereto as Exhibit D (the "**Transition Budget**"). Additionally, Operator shall, in accordance with the Annual Plan, be entitled to reimburse itself directly from the Operating Account for all Reimbursable Expenses incurred by it in connection with the performance of this Agreement. If requested by Owner, Operator shall provide a statement showing in reasonable detail the nature and amount of such expenses, together with supporting documentation reasonably requested by Owner.

11.4 **Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards**. In the event of a casualty or condemnation for temporary use resulting in the payment of business interruption insurance (with respect to such casualty) or a condemnation award (with respect to such condemnation for temporary use), the amount of such proceeds shall be considered a part of Gross Revenues for the purpose of computing Operator's Management Fee, unless such Management Fees are paid directly to Operator by way of receipt of business interruption proceeds.

ARTICLE 12
INSURANCE

12.1 **Insurance Requirements**. Owner shall retain the right, upon written notice to Operator, to procure and maintain, as an Operating Expense of the Hotel, the policies required in subsections (a), (b), (c), (d), (e), (f), (g) or (l) of this Section 12.1 given, however, that such policies shall be placed with responsible and properly authorized companies, meet the minimum requirements as contained in this ARTICLE 12, the coverage provisions provided shall apply to Operator's benefit as provided in this Agreement, and with respect to subsection (l) of this Section 12.1, if there is a deficiency in the coverage of the Cyber Liability Insurance policy procured or maintained by Owner, Operator shall have the right to elect to procure Cyber Liability Insurance coverage addressing any such deficiency, as an Operating Expense of the Hotel. Operator will procure and maintain, as an Operating Expense of the Hotel, the policy required in subsection (h) of this

Section 12.1 with a responsible and properly authorized company that meets the minimum standards contained in this ARTICLE 12. Operator will procure and maintain, at Operator's sole cost and not as an Operating Expense of the Hotel, the policies required in subsections (i), (j) and (k) of this Section 12.1 with responsible and properly authorized companies that meet the minimum standards contained in this ARTICLE 12; provided, however, Operator shall only be responsible for the payment of the premiums for such policies as procured by Operator, and any deductibles payable in connection with any claim or loss, any losses suffered under such policies, or any other claims, costs or expenses associated with such policies, shall be borne by Owner. Notwithstanding Operator's agreement to pay the cost of the premiums associated with the policies required in subsections (i), (j) and (k), in the event Owner elects to modify the deductibles under such policies or otherwise adjust coverage under such policies and such modifications result in an increase in premium, Owner shall be responsible for any increase in premium associated with such modification. All policies evidencing such insurance in this ARTICLE 12 shall name both Owner and Operator as named or additional insureds as their interests may appear, and may, at Owner's election, name any mortgagee, lien holder or other security interest holder of all or any part of the Hotel as an additional insured thereunder, as its interest may appear. The party which procures the insurance required under subsections (d) and (e) of this Section 12.1 will procure such coverage on a primary and non-contributory basis to the other party.

(a) An "all risk" policy (including, at Owner's option, Difference in Conditions coverage which shall include earthquake, windstorm and flood) insuring all real and personal property, in an amount Owner and Operator shall mutually deem advisable.

(b) Insurance on the Hotel against loss or damage from an accident to and/or caused by boilers, heating apparatus, pressure vessels, pressure pipes, electrical or air conditioning equipment, in an amount as Owner shall deem advisable.

(c) Business interruption and extra expense insurance, on a loss sustained basis, against the perils enumerated in subsections (a) and (b) above, including Operator's Management Fees and the Centralized Services Charges as provided under this Agreement.

(d) Commercial General Liability Insurance, including coverage for bodily injury (including coverage for death, mental anguish), full liquor liability, inn keepers legal liability (this coverage can be provided through a 3rd party crime policy upon Owner consent), personal injury and advertising liability including premises-operations, independent contractors' protective, products-completed operations, broad form property damage (including coverage for explosion, collapse and underground hazards), and including cross liability and severability of interests, blanket contractual liability for liability and claims occurring upon, in on or about the Hotel and, without exclusion for assault, battery or sexual molestation. Coverage shall be extended to include liability arising out of spas, treatments, massages as applicable, with the following minimum limits:

(i) $1,000,000 Each Occurrence;
(ii) $2,000,000 General Aggregate;
(iii) $1,000,000 Personal and Advertising Injury; and
(iv) $2,000,000 Products-Completed Operations Aggregate.

Such policy shall provide coverage on a on a per occurrence basis and be endorsed to have the General Aggregate apply on a per location/ per project basis. The Contractual Liability Insurance shall include coverage sufficient to meet the indemnity obligations in this Agreement.

(e) Umbrella/Excess Liability Insurance on a follow form basis with a per occurrence and annual aggregate limit of $100,000,000 per location / project. Coverage shall be excess of Commercial General Liability Insurance, Auto Liability and Employers Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

(f) Comprehensive Automobile Liability Insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage for automobiles used in the performance of Operator's obligations hereunder.

(g) Such additional insurance as may be required by any mortgagee or lessor of the Hotel or any part thereof, together with insurance against such other risks as Owner deems necessary and that is now, or hereafter is, customary to insure against in the operation of similar properties, considering the nature of the business and the geographic and climatic nature of the Hotel's location.

(h) Worker's Compensation coverage with statutory limits and employer's liability with limits not less $1,000,000 and similar insurance as may be required by law or as Operator shall deem advisable.

(i) Employment Practices Liability Insurance in amounts not less than $2,000,000 covering employee harassment, discrimination, retaliation, wrongful termination. Such policy shall contain an endorsement to provide for coverage relating to claims from third parties, with coverage including but not limited to third party discrimination.

(j) Fidelity or Crime insurance in such reasonable amounts as Owner and Operator shall deem advisable but not less than $1,000,000, which policy shall specify that any loss involving funds of Owner shall be payable to both Operator and Owner with Owner as primary loss payee. A contracting services endorsement or other endorsement to provide for coverage of employees of Operator taking money or property of Owner or guests shall be attached to said policy.

(k) Professional Liability (Errors and Omissions) Insurance in amount not less than $2,000,000 covering the management, marketing, and hospitality services provided on behalf of the Hotel by Corporate Personnel.

(l) Cyber Liability Insurance with limits of not less than $2,000,000 each claim and $2,000,000 general aggregate covering liabilities for financial loss resulting or arising from website media content liability, breaches of security, and damage, destruction or theft of data. If Operator shall have access to personally identifiable information, such insurance shall also cover liabilities for the failure to prevent unauthorized access to data containing such information including violations of privacy laws and regulations. Furthermore, the insurance shall cover data breach expenses, including but not limited to consumer notification, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring

or remediation services. The coverage shall be written on a claims made and reported basis. Operator's insurance shall be primary and required to respond to and pay prior to any other available coverage of Owner.

Owner and Operator may agree for Operator to procure and maintain the policies required in subsections (a), (b), (c), (d), (e), (f) or (g) of this Section 12.1, as an Operating Expense to the Hotel, on Owner's behalf and upon Owner's approval. Operator shall cause each contractor employed at the Hotel to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Commercial General Liability Insurance and Worker's Compensation limits required above. Operator shall cause each contractor to include the same additional insured requirements and certificates of insurance as noted above for Operator.

12.2 **General Insurance Requirements.**

(a) Certificates of insurance, containing all conditions applying to the Hotel, shall be delivered to Owner or Operator, as applicable, upon renewal of all policies of insurance that must be maintained under the terms of this Agreement. All policies shall contain an endorsement providing a thirty (30) day written notice of cancellation, material change, or non-renewal to Owner and Operator.

(b) Each policy of insurance shall provide that the carrier shall have no right of subrogation against either party hereto, their agents or employees by separate endorsement.

(c) No deductible or self-insured retention required by Operator hereunder shall exceed $25,000 unless written consent is provided by Owner; provided, however, that:

(i) those policies associated with Sections 12.1(h) or (k) shall be excluded;

(ii) with respect to the policy associated with Section 12.1(j), the deductible or self-insured retention required by Operator hereunder shall not exceed $50,000 unless written consent is provided by Owner;

(iii) with respect to the policy associated with Section 12.1(l), the deductible or self-insured retention required by Operator hereunder shall not exceed $150,000 unless written consent is provided by Owner;

(iv) with respect to the policy associated with Section 12.1(i), the deductible or self-insured retention required by Operator hereunder shall not exceed $250,000 unless written consent is provided by Owner; and

(v) in the event Owner elects to modify the deductibles of those policies associated with Section 12.1(i), (j), or (l), or otherwise adjust the coverage under such policies, and such modifications or adjustments result in an increase in the premium, Owner shall be responsible for any increase in the premium associated with such modification or adjustment.

(d) All insurance shall be written with companies approved by Owner, licensed in the state in which the Hotel is located and having a Best's Rating of not less than A-XI, unless otherwise approved by Owner.

(e) At Owner's request, Operator shall provide information pertaining to Operator's policies and procedures governing claims, emergency preparedness, and loss prevention. This is to include regular reports on claim and insurance litigation activity at the Hotel.

(f) Any insurance required to be provided pursuant to this ARTICLE 12 may be provided under policies of blanket insurance which cover other properties and activities of Owner or Operator, as applicable. The cost of any blanket coverage shall be equitably prorated among the properties and activities covered, provided that the portion of such cost allocated to the Hotel shall be no greater than if the same insurance coverage were written separately. Upon request, any such proration by Owner or Operator of blanket coverage shall be subject to the reasonable approval of the other party.

(g) The parties acknowledge that, as of the Effective Date, Operator will not provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program; provided, however, that Owner may elect to have Operator provide such insurance at any time during the Term, in which case the provisions of this Section 12.2(g) shall apply. If at any time during the Term, Owner elects to have Operator provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program, certain coverage limits will be shared with other properties owned and/or managed by Affiliates of Operator. Owner agrees that if there is a loss at the Hotel that results in a reduction of the amount of insurance coverage with respect to other properties covered by such master property insurance program, all costs of reinstating the full amount of coverage with respect to such other properties to the coverage that was available for such other properties under such master property insurance program immediately prior to such loss at the Hotel shall be borne by Owner as an expense of the Hotel. Conversely, if there is a loss at another property covered by such master insurance program that results in a reduction of the amount of insurance coverage with respect to the Hotel, all costs of reinstating the full amount of coverage with respect to the Hotel shall not be borne by Owner as an expense of the Hotel, but shall be borne by Operator or the owner of the applicable property that suffered such loss. The obligations of Owner and/or Operator pursuant to this Section 12.2(g) shall survive (i) the expiration or termination of this Agreement or termination of similar agreements, if any, related to Operator's affiliated properties on the shared program; and (ii) any election of Owner or Operator to remove the Hotel from the master insurance program and/or the removal of any of Operator's affiliated properties from the shared master insurance program. Owner and Operator agree to use commercially reasonable efforts in reinstating the coverage limits to the amount of coverage available immediately prior to such loss; provided, however, Owner and Operator shall be required, at a minimum, to reinstate the amounts of coverage necessary to comply with the requirements of any third party mortgagee or franchisor of the properties covered by the master insurance program. Notwithstanding the foregoing, (A) after a loss the relevant party will only be required to reinstate coverage, if any, up to an amount that results in a total amount of coverage that is sufficient for all properties under the program that are also obligated to a reinstatement provision, if Owner and Operator mutually agree at their sole discretion that the remaining amount of coverage is sufficient; provided if Owner and Operator do not mutually agree, an independent third-party consultant (i.e., a consultant who has not had any

direct relationship with either party in the preceding twenty-four (24) month period) selected by Operator will make such determination, (B) the amount of coverage to be reinstated by the relevant party will be limited to what is sufficient only for the properties in Operator's master shared insurance program that are obligated by the same reinstatement provisions per this Section 12.2(g) and (C) the maximum amount of lost shared limit to be reinstated by the relevant party after a loss will be equal to the amount of lost shared limit that was lost due to a loss at the relevant party's property. Owner also agrees that it shall bear as an expense of the Hotel all costs for any additional limits or coverages that may be requested by Owner that are above the limits in such master insurance program. Owner may elect to remove the Hotel from Operator's master insurance program upon thirty (30) days prior written notice (or upon three (3) business days prior written notice if such termination is effective on the annual renewal date of such master insurance program). Any premium prepaid by Owner for such terminated coverage shall be credited to Owner in an amount calculated by the insurance carrier in its sole and absolute discretion. Operator will use reasonable efforts to give written notice to Owner within ten (10) business days after any property is added or removed from Operator's shared master insurance program and will confirm the same upon request by Owner.

ARTICLE 13
REAL AND PERSONAL PROPERTY TAXES; UTILITIES

13.1 **Taxes**. Operator shall pay, for and on behalf of Owner from funds of the Hotel, all real estate taxes, all personal property taxes and all betterment assessments levied against the Hotel or any of its component parts. Operator shall promptly deliver to Owner all notices of assessments, valuations and similar documents to be filed by Owner, which are received from taxing authorities by Operator.

13.2 **Utilities, Etc**. To the extent sufficient funds are available in the Operating Account or otherwise made available in a timely manner by Owner, Operator shall promptly pay all fuel, gas, light, power, water, sewage, garbage disposal, telephone and other utility bills currently as they are incurred in connection with the Hotel from the Gross Revenues or Working Capital.

ARTICLE 14
DAMAGE OR DESTRUCTION; CONDEMNATION

14.1 **Damage or Destruction**.

(a) If the Hotel or any portion thereof shall be damaged or destroyed at any time or times during the Term by fire, casualty or any other cause commonly covered by fire and extended coverage insurance, to the extent required or permitted by any Lender and to the extent insurance proceeds are made available by Lender for such purpose, Owner will at its own cost and expense and with due diligence, repair and/or restore the Hotel so that after such repair and/or restoration, the Hotel shall be in substantially the same condition as it was immediately prior to such damage or destruction.

(b) Owner shall notify Operator within thirty (30) days after Owner determines whether or not Lender will permit, and make insurance proceeds available to carry out, such repair and/or

restoration, in which case Owner shall complete such repair and/or restoration pursuant to the last sentence of Section 14.1(a).

(c) If Owner advises Operator as provided in clause (b) above that Lender will not permit, and make insurance proceeds available to carry out, such repair and/or restoration, or fails to advise Operator as provided in clause (b) above, Operator may terminate this Agreement by written notice to Owner, within one hundred fifty (150) days after such damage or destruction, in which case, Owner shall pay to Operator the Termination Fee (provided Owner's obligation to pay the Termination Fee shall be limited to the extent of insurance proceeds which are made available to pay such Termination Fee).

14.2 **Condemnation**. If the whole of the Hotel shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition or like proceeding by any competent authority or if such a portion thereof shall be taken or condemned as to make it imprudent or unreasonable, in the sole opinion of Owner, to use the remaining portion as a hotel of the type and class immediately preceding such taking or condemnation, then this Agreement shall terminate as of the date title vests in the condemning authority. Operator has no interest in any award paid to Owner; however, Operator shall have the right, in the case of a condemnation that results in the termination of this Agreement, to institute a separately available administrative proceeding or judicial action intended to determine just compensation in connection with the condemnation, for the purpose of representing Operator's compensable interest in this Agreement. If only a part of the Hotel shall be taken or condemned and the taking or condemnation of such part does not, in the opinion of Owner, make it unreasonable or imprudent to operate the remainder as a hotel of the type and class immediately preceding such taking or condemnation, this Agreement shall not terminate, and so much of any award to Owner shall be made available as shall be reasonably necessary for making alterations or modifications of the Hotel, or any part thereof, so as to make it a satisfactory architectural unit as a hotel of similar type and class as prior to the taking or condemnation.

14.3 **Reinstatement**. If within twelve (12) months following any termination of this Agreement pursuant to Section 14.1 or 14.2, Owner or any of its Affiliates intends to commence repair and/or restoration of the Hotel, Owner shall promptly give notice to Operator in writing of such intention, and at Operator's election (exercisable by giving written notice to Owner within thirty (30) days of the date upon which Operator receives such notice from Owner), this Agreement shall be deemed reinstated in accordance with all the terms and conditions hereof (and Operator shall repay to Owner any Termination Fee received by Operator within ten (10) days after the Hotel is substantially re-opened). Operator's duties shall be suspended until the Hotel is substantially reopened and the termination date (and Term) shall be extended to reflect the period of time the Hotel is closed. The provisions of this Section 14.3 shall survive the expiration or termination of this Agreement.

14.4 **Mortgage Requirements**. Actions as to damage or destruction and condemnation shall be taken only in a manner that is consistent with the terms and conditions of any Mortgage and any conflict between those terms and conditions and the provisions of this Agreement shall be resolved in favor of such Mortgage.

ARTICLE 15
EVENTS OF DEFAULT

15.1 **Operator Defaults**. Each of the following shall constitute an Event of Default by Operator:

(a) The failure of Operator to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions to be kept, observed or performed by Operator and such failure shall continue for a period of (i) ten (10) days after written notice from Owner to Operator with respect to payment of any funds or delivery of any of the financial reports required under Section 10.2, or (ii) thirty (30) days after written notice from Owner to Operator with respect to any other obligations of Operator under this Agreement; provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Operator commenced the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion, not to exceed in any event ninety (90) days after Owner's delivery of such notice.

(b) If Operator shall apply for or consent to the appointment of a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Operator in any bankruptcy, reorganization or judgment or decree shall be entered by any court of competition jurisdiction, on the application of a creditor, adjudicating Operator bankrupt or insolvent or approving a petition seeking reorganization of Operator or appointing a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets or a decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(c) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Operator, or Operator shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(d) The filing against Operator of a petition seeking adjudication of Operator as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Operator's assets, if such petition is not dismissed within ninety (90) days.

(e) Failure of Operator to maintain at all times throughout the term hereof all of the insurance required to be maintained by Operator under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Owner to Operator.

15.2 **Owner Defaults**. Each of the following shall constitute an Event of Default by Owner:

(a) The failure of Owner to pay or furnish to Operator any money Owner is required to pay or furnish to Operator in accordance with the terms hereof on the date the same is payable, if such failure is not cured within ten (10) days after written notice specifying such failure is given by Operator to Owner. If any sum of money is not paid within ten (10) days following the date the same becomes due and payable under this Agreement, and Operator has advanced such sum on behalf of Owner, such sum shall bear interest at the Default Rate from the date Operator advanced

such sum on behalf of Owner until the date Owner actually pays such sum. If the failure to pay relates to the Management Fee, such sum shall bear interest at the Default Rate from the date due until the date actually paid.

(b) The failure of Owner to perform, keep or fulfill any of the other covenants, undertakings, obligations or conditions set forth in this Agreement (other than a failure to pay or furnish to Operator any money Owner is required to pay or furnish to Operator), including without limitation, the failure of Owner to respond to written requests by Operator to approve expenditures or to authorize procedures necessary to maintain the standards of the Hotel in accordance with the Operating Standards, if such failure shall continue for a period of thirty (30) days after written notice by Operator or Licensor to Owner specifying the matters or conditions which constitute the basis for such Event of Default, provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Owner commences the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion.

(c) If Owner shall apply for or consent to the appointment of a receiver, trustee or liquidator of Owner of all or a substantial part of its assets, or admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Owner in any bankruptcy, reorganization or insolvency proceeding, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating Owner a bankrupt or insolvent or approving a petition seeking reorganization of Owner or appointing a receiver, trustee or liquidator of Owner or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(d) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Owner, or Owner shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(e) The filing against Owner of a petition seeking adjudication of Owner as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Owner's assets, if such petition is not dismissed within ninety (90) days.

(f) Failure of Owner to maintain at all times throughout the term hereof all of the insurance required to be maintained by Owner under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Operator to Owner.

ARTICLE 16
TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES

16.1 **Termination**. Upon the occurrence of an Event of Default, in addition to and cumulative of any and all rights and remedies available to the non-defaulting party under this Agreement, at law or in equity, the non-defaulting party may: (a) terminate this Agreement without penalty, effective upon receipt of written notice of termination by the defaulting party; and (b) pursue any

and all other remedies available to the non-defaulting party at law or in equity. In addition to and cumulative of the foregoing, upon the occurrence of any Event of Default on the part of Owner, all Management Fees, Reimbursable Expenses, Accounting Services Fees and all other sums then due and payable to Operator under this Agreement shall be immediately due and payable without notice. In no event shall the provisions of this Agreement with respect to the payment of a Termination Fee upon the termination of this Agreement under certain circumstances be construed as defining or limiting the amount recoverable by Operator from Owner by reason of any Event of Default on the part of Owner.

16.2 **Operator's Rights to Perform**.

(a) If Owner shall fail to make any payment or to perform any act required of Owner pursuant to this Agreement, Operator may (but shall not be obligated to), without further notice to, or demand upon, Owner and without waiving or releasing Owner from any obligations under this Agreement, make such payment (either with its own funds or with funds withdrawn for such purpose from the Operating Accounts) or perform such act. All sums so paid by Operator from its own funds, together with interest thereon at the Default Rate from the date of making such expenditure by Operator, shall be payable to Operator on demand.

(b) Operator shall have the right to set-off against any payments to be made to Owner by Operator under any provision of this Agreement and against all funds from time to time in the Operating Accounts any and all liabilities of Owner to Operator. Operator may withdraw from the Operating Accounts from time to time such amounts as Operator deems desirable in partial or full payment of all or any portion of said liabilities, the amount of such withdrawals to be paid by Owner to Operator on demand and to be replaced in the respective account and fund.

(c) Owner shall have the right to set-off against any payments to be made to Operator by Owner any amounts owed by Operator to Owner under this Agreement.

ARTICLE 17
OWNER'S ADDITIONAL TERMINATION RIGHTS

17.1 **Termination on Sale**. If at any time during the Term, Owner sells, leases or otherwise transfers or conveys (a) the Hotel, or (b) seventy-five percent (75%) or more of the direct or indirect interests in Owner, in each case to a person or entity which is not an Affiliate of Owner in a bona fide arm's length transaction, Owner shall have the right to terminate this Agreement by giving prior written notice (the "**Sale Termination Notice**") to Operator; provided that if such transfer shall occur at any time prior to the third (3rd) anniversary of the Commencement Date, Owner shall pay to Operator, as a condition of such termination, the Termination Fee, subject to Section 21.2. The Sale Termination Notice shall set forth an estimate of the effective termination date of this Agreement, which date shall not be less than sixty (60) days subsequent to the date of the Sale Termination Notice. The actual termination shall be effective as of the closing of the sale, regardless of the estimate provided in the Sale Termination Notice. Accordingly, Owner shall, upon reasonable notice, have the right to extend the effective date of such termination for a reasonable period of time based on delays in the closing, provided that Owner shall pay all actual costs reasonably incurred by Operator in postponing the effectiveness of such termination. As a further condition of any termination of this Agreement by Owner under this Section 17.1, Owner

shall pay to Operator, on or before the effective date of such termination all amounts due Operator and its Affiliates under this Agreement for the period of time prior to the date of termination.

17.2 **Performance Termination**.

(a) Subject to the provisions of this Section 17.2, Owner may terminate this Agreement in accordance with the procedure described below, if for any full Fiscal Year from and after the expiration of Fiscal Year 2019 (i.e., commencing with Fiscal Year 2020) (each a "**Measurement Year**"), subsections (i) and (ii) below are applicable for such Measurement Year (collectively, the "**Performance Test**"):

(i) the Gross Operating Profit for such Measurement Year is less than ninety percent (90%) of the budgeted Gross Operating Profit set forth in the approved Annual Operating Budget for such Measurement Year (the "**GOP Test**"); and

(ii) the RevPAR of the Hotel for such Measurement Year is less than the following percentage of the annualized RevPAR for the Competitive Set (the "**RevPAR Test**"): (A) for Fiscal Year 2020, one hundred and ten percent percent (110%); (B) for Fiscal Year 2021, one hundred and fifteen percent (115%); (C) for Fiscal Year 2022, and every Fiscal Year thereafter for the remainder of the Term, one hundred and twenty percent (120%).

(b) If the Performance Test is not satisfied and Owner elects to exercise its right to terminate this Agreement pursuant to this Section, (i) Owner shall give written notice to Operator of such election within sixty (60) days after the receipt by Owner of the annual accounting (as set forth in Section 10.2) for such Measurement Year; and (ii) the notice shall specify a termination date no sooner than ninety (90) days after the giving of such notice. No Termination Fee shall be payable upon any termination of this Agreement pursuant to this Section 17.2. Within sixty (60) days following its receipt of Owner's notice of termination, Operator may elect, which election may be exercised only once during the Term, to pay to Owner an amount which, when added to the actual aggregate amount of the Gross Operating Profit for the Measurement Year in question, equals the amount of Gross Operating Profit that would have been necessary to satisfy the GOP Test for such Measurement Year. Upon such payment, the Performance Test shall be deemed to have been satisfied for such Measurement Year, Owner shall not have a right to terminate this Agreement based upon such Measurement Year and Owner's election to do so shall be of no further force and effect.

(c) In the event that there is a Threshold Adjustment Event, Owner and Operator will reasonably cooperate to equitably adjust the GOP Test and the RevPAR Test, as applicable. If the parties cannot agree as to the equitable adjustment within thirty (30) days following written request for adjustment by either party, the matter will be submitted to an Expert, as provided and in accordance with the procedures set forth in Section 27.1.

ARTICLE 18
TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION

18.1 **Transfer to Owner**. Upon any termination of this Agreement, whether due to the occurrence of an Event of Default or otherwise, Operator shall cooperate with Owner and shall execute all documents or instruments requested by Owner in connection with the transfer to

Owner or its nominee of the Permits and the License Agreement used or useful in connection with the operation of the Hotel (including without limitation executing any interim beverage agreement or similar agreement reasonably required to allow alcoholic beverages to continue to be sold at the Hotel after such termination in accordance with Legal Requirements pending issuance of temporary or new Permits with respect to such sales to Owner or its designee, so long as such successor Owner provides Operator with an indemnity, in form and substance reasonably acceptable to Operator, indemnifying Operator from any and all claims and liability associated with such interim agreements and continued use of such Permits); provided, however, if such termination is due to a reason other than a default by Operator under this Agreement, Owner will reimburse Operator for Operator's reasonable expenses to effect such transfer, or the imposition of liability by Operator. Without limiting the generality of the foregoing, Operator shall cause its officials to execute any necessary documents to effectuate the orderly transfer to Owner or its designee of the Permits and the License Agreement or the renewal thereof to Owner or Owner's designee if appropriate. In the event that this Agreement terminates for any reason, a sufficient number of Hotel Employees will be hired by Owner or its successor, assign or designee, so as not to cause a "mass layoff" or "plant closing", as defined in the Workers Adjustment and Retraining Act, 29 USC, sec 2101 et seq. (the "**WARN Act**"). Owner hereby agrees to indemnify, defend and hold Operator harmless from and against any and all claims asserted against or incurred by Operator related to: (a) hiring, discharging, offering to hire or failing to hire any of the Hotel Employees; (b) termination of the Hotel Employees by reason of the termination of this Agreement; or (c) Owner's failure to take, or cause to be taken, the action necessary with respect to Hotel Employees so that Operator will not be required to comply with the WARN Act or any other similar Legal Requirements.

18.2 **Remittance to Owner**. Upon the expiration or termination of this Agreement, after payment of all Operating Expenses for which bills were received to such date, Operator's Management Fee, Reimbursable Expenses, Accounting Services Fee, any Termination Fee and any other amounts then due and payable to Operator, and after withholding a reasonable amount determined by Operator to be necessary to pay for any continuing liabilities or payables that may become due following such termination, all remaining amounts in: (a) the Reserve and (b) the Operating Account, shall be transferred by Operator to Owner.

ARTICLE 19
NOTICES

All notices, elections, acceptances, demands, consents and reports (collectively "**notice**") provided for in this Agreement shall be in writing and shall be given to the other party at the address set forth below or at such other address as any of the parties hereto may hereafter specify in writing.

To Owner: c/o Wheelock Street Capital LLC
660 Steamboat Road, 3rd Floor
Greenwich, CT 06830
Attention: Lawrence Settanni
Email: settanni@wheelockst.com

With a copy to:

Goodwin Procter LLP
601 S. Figueroa Street, 41st Floor
Los Angeles, CA 90017
Attention: Chauncey Swalwell
Email: cswalwell@goodwinprocter.com

To Operator: Merritt Hospitality, LLC
101 Merritt 7 Corporate Park
1st Floor
Norwalk, Connecticut 06851
Attention: Clark W. Hanrattie
Email: chanrattie@heihotels.com

With a copy to:

Dentons LLP
2398 East Camelback Road, Suite 850
Phoenix, Arizona 85016
Attn: Rick Ross and Meghan Cocci
Phone: (602) 508-3900
Email: rick.ross@dentons.com and meghan.cocci@dentons.com

Such notice or other communication may be given by personal delivery, by Federal Express or other nationally recognized overnight carrier, by electronic mail, or by United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office. All notices, demands, consents and reports shall be deemed received upon acceptance or rejection of delivery.

ARTICLE 20
CONSENT AND APPROVAL

Except as herein otherwise provided, whenever in this Agreement the consent or approval of Operator or Owner is required, such consent or approval shall not be unreasonably withheld or delayed. Such consent or approval shall also be in writing only and shall be executed only by an authorized officer or agent of the party granting such consent or approval.

ARTICLE 21
TRANSFERS

21.1 **Transfers**. Except as herein otherwise provided, neither party may cause or permit a Transfer without the prior written consent of the other party (which consent may be withheld or conditioned in such other party's sole discretion); provided however, that either party shall be entitled to assign this Agreement (a) to an Affiliate of such party and (b) in connection with a corporate transaction involving such party in which all or substantially all of such party's assets are transferred to an Affiliate of such party. Operator shall have the right to assign its economic rights to receive payments under this Agreement (as opposed to a pledge of the ownership interests in Operator) as security for indebtedness or other obligations. Additionally, Operator

may transfer this Agreement and its rights hereunder to a successor by merger, sale of all or substantially all of its assets or interest in Operator, as applicable, or otherwise by operation of law.

21.2 **Assignability upon Sale**. Notwithstanding anything to the contrary in Section 21.1, if Owner decides to enter into a Sale of the Hotel with a third party, then at such time as Owner enters into a firm commitment for the Sale of the Hotel, Owner shall deliver a written notice (the "**Notice of Proposed Sale**") of the proposed Sale of the Hotel to Operator stating the name of the prospective purchaser or tenant, as the case may be, and, thereafter shall provide all other information concerning the proposed purchaser or tenant reasonably requested by Operator and which such purchaser or tenant has provided to Owner or Owner's Affiliates. Within fifteen (15) days of Operator's receipt of the Notice of Proposed Sale, Operator shall notify Owner of its election to either: (a) continue operating the Hotel following such Sale of the Hotel, or (b) terminate this Agreement. In the event Operator enters into an agreement to operate the Hotel following such Sale of the Hotel, Operator shall not have the right to receive the Termination Fee in connection with such Sale of the Hotel. In the event Operator does not enter into an agreement to operate the Hotel following the closing of the Sale of the Hotel Operator shall have the right to receive the Termination Fee.

21.3 **Prohibited Sale**. Notwithstanding anything to the contrary in Section 21.2, Owner may not cause or permit a Transfer to any Prohibited Person.

ARTICLE 22
INDEMNITY

22.1 **Indemnity by Owner**. Owner shall indemnify, defend and hold Operator, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Operator Indemnified Parties**") harmless for, from and against any and all third-party liabilities, claims, demands, actions, causes of action, judgments, orders, damages, costs, expenses, and losses (including reasonable attorney's fees and costs) (collectively, "**Claims**") which Operator Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from: (a) this Agreement, including the negotiation of or entering into this Agreement; (b) the development, construction, ownership and/or operation of the Hotel from and after the Effective Date, (c) any reporting to the IRS, Owner's lenders or any party relying on Owner's books and records by Owner or by Operator (on behalf of and as directed by Owner, in connection with Operator's provision of the Accounting Services pursuant to Section 10.4 of this Agreement); and (d) other activities relating to the Hotel, except to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.2 **Indemnity by Operator**. Operator shall indemnify, defend and hold Owner, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Owner Indemnified Parties**") harmless for, from and against any and all Claims which Owner Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from this Agreement, to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.3 **Indemnification Procedure**. Any Indemnified Party shall be entitled, upon written notice to the Indemnifying Party, to the timely appointment of counsel by the Indemnifying Party for the defense of any claim, which counsel shall be subject to the approval of the Indemnified Party. If, in the Indemnified Party's reasonable judgment, a material conflict of interest exists between the Indemnified Party and the Indemnifying Party at any time during the defense of the Indemnified Party, the Indemnified Party may appoint independent counsel of its choice for the defense of the Indemnified Party as to such claim. Additionally, regardless of whether the Indemnified Party is appointed counsel or selects independent counsel (a) the Indemnified Party shall have the right to participate in the defense of any claim and approve any proposed settlement of such claim, such approval to be in such party's sole and absolute discretion, and (b) all costs, expenses and attorneys' fees of the Indemnified Party shall be borne by the Indemnifying Party. If the Indemnifying Party fails to timely pay such costs, expenses and reasonable attorneys' fees, the Indemnified Party may, but shall not be obligated to, pay such amounts and be reimbursed by the Indemnifying Party for the same, which amounts shall bear interest at the Default Rate until paid in full. The parties hereby acknowledge that it shall not be a defense to a demand for indemnity that less than all claims asserted against the Indemnified Party are subject to indemnification. If a claim is covered by the Indemnifying Party's liability insurance, the Indemnified Party shall not take or omit to take any action that would cause the insurer not to defend such claim or to disclaim liability in respect thereof. Further, the Indemnified Party shall cooperate with the Indemnifying Party in the defense of the claim (at the Indemnifying Party's cost), shall not settle the claim without the consent of the Indemnifying Party, and shall not take any action which prejudices the defense of the claim.

22.4 **Survival/Miscellaneous**. The provisions of this ARTICLE 22 shall survive the expiration or earlier termination of this Agreement. Owner and Operator mutually agree for the benefit of each other to look first to the appropriate insurance coverages in effect pursuant to this Agreement in the event any claim or liability occurs as a result of injury to person or damage to property, regardless of the cause of such claim or liability. In no event shall the settlement by either party of any claim brought by a third party (including Hotel Employees) in connection with the ownership or operation of the Hotel be deemed to create any presumption of the validity of the claim, nor shall any such settlement be deemed to create any presumption that the acts or omissions giving rise to such claim constituted Operator's Grossly Negligent or Willful Acts.

ARTICLE 23
MISCELLANEOUS

23.1 **Further Assurances**. Owner and Operator shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding and enforceable as between them and as against third parties.

23.2 **Waiver**. The waiver of any of the terms and conditions of this Agreement on any occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasion.

23.3 **Successors and Assigns**. Subject to and limited by ARTICLE 21, this Agreement shall be binding upon and inure to the benefit of Owner, its successors and permitted assigns, and shall be binding upon and inure to the benefit of Operator, its successors and permitted assigns.

23.4 **Governing Law**. This Agreement shall be construed, both as to its validity and as to the performance of the parties, in accordance with the laws of the State of New York.

23.5 **Compliance with Mortgage and License Agreement**. In carrying out their respective duties and obligations under the terms of this Agreement, Owner and Operator shall take no action that could reasonably be expected to constitute a material default under any Mortgage or the License Agreement and will take such actions as are reasonably necessary to comply therewith. Owner shall be responsible for making all payments under any Mortgage.

23.6 **Amendments**. This Agreement may not be modified, amended, surrendered or changed, except by a written document signed by Owner and Operator agreeing to be bound thereby.

23.7 **Estoppel Certificates**. Owner and Operator agree, at any time and from time to time, as requested by the other party, upon not less than ten (10) days' prior written notice, to execute and deliver to the other a written statement (a) certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), (b) certifying the dates to which required payments have been paid, and (c) stating whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Agreement, and if so, specifying each such default of which the signer may have knowledge, it being intended that such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing.

23.8 **Inspection Rights**. Owner shall have the right to inspect the Hotel and examine the books and records of Operator pertaining to the Hotel at all reasonable times during the Term upon reasonable notice to Operator, and Owner and the holder of any Mortgage shall have access to the Hotel and the books and records pertaining thereto at all times during the Term to the extent necessary to comply with the terms of any Mortgage, all to the extent consistent with applicable Legal Requirements and the rights of guests, tenants and concessionaires of the Hotel, and all to the extent the same will not interfere with the operation and management of the Hotel.

23.9 **Subordination**. This Agreement, any extension hereof and any modification hereof shall be subject and subordinate to a Mortgage as provided therein. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, Operator will execute and return to Owner (or to Lender, as designated by Owner) such documentation as Owner or Lender may reasonably request to evidence the subordination of this Agreement to the Mortgage (and, if required by a Lender, the assignment of this Agreement to such Lender as additional security in connection with such Mortgage).

23.10 **Effect of Approval of Plans and Specifications**. Owner and Operator agree that in each instance in this Agreement or elsewhere wherein Operator is required to give its approval of plans, specifications, budgets and/or financing, no such approval shall imply or be deemed to constitute an opinion by Operator, nor impose upon Operator any responsibility for the design or construction of additions to or improvements of the Hotel, including but not limited to structural integrity or life/safety requirements or adequacy of budgets and/or financing. The scope of Operator's review and approval of plans and specifications is limited solely to the adequacy and relationship of spaces and aesthetics of the Hotel in order to comply with the Operating Standards.

23.11 **Entire Agreement**. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, superseding all prior agreements or undertakings, oral or written.

23.12 **Time is of the Essence**. Time is of the essence in this Agreement.

23.13 **Interpretation**. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

23.14 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement. Counterparts of this Agreement received by electronic transmission shall be deemed originals for all purposes.

23.15 **Partial Invalidity**. In the event that any one or more of the phrases, sentences, clauses or paragraphs contained in this Agreement shall be declared invalid by the final and unappealable order, decree or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses or paragraphs had not been inserted, unless such construction would substantially destroy the benefit of the bargain of this Agreement to either of the parties hereto.

23.16 **Confidentiality**. The parties agree that the terms, conditions and provisions set forth in this Agreement are strictly confidential and the parties agree to keep strictly confidential any information of a confidential nature about or belonging to a party or to any Affiliate of a party to which the other party gains or has access by virtue of the relationship between the parties (collectively, "**Privileged Information**"). Except as disclosure may be required to obtain the advice of professionals or consultants, or financing for the Hotel from a Lender, or in furtherance of a permitted assignment of this Agreement, or as may be required to comply with Legal Requirements (including reporting requirements applicable to public companies), each party shall make commercially reasonable efforts to ensure that Privileged Information is not disclosed to the press or to any other third party without the prior consent of the other party. Notwithstanding the foregoing, the parties hereby acknowledge that Operator shall have the authority to release information regarding the Hotel to STR, Inc. (or a similar organization mutually agreed upon by the parties). The obligations set forth in this Section shall survive any termination or expiration of this Agreement. The parties shall cooperate with one another on all public statements, whether written or oral and no matter how disseminated, regarding their contractual relationship as set forth in this Agreement or the performance of their respective obligations under this Agreement.

23.17 **No Third Party Rights**. This Agreement shall inure solely to the parties hereto. Notwithstanding any other provision of this Agreement, no third party shall have any rights pursuant to the terms of this Agreement.

ARTICLE 24
NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL

In entering into this Agreement, Operator and Owner acknowledge that neither Owner nor Operator has made any representation to the other regarding projected earnings, the possibility of future success or any other similar matter respecting the Hotel, and that Operator and Owner

understand that no guarantee is made to the other as to any specific amount of income to be received by Operator or Owner or as to the future financial success of the Hotel.

ARTICLE 25
REPRESENTATIONS OF OPERATOR

In order to induce Owner to enter into this Agreement, Operator does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Operator enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Operator, threatened, against or relating to Operator, the properties or business of Operator or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Operator to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Owner;

(c) neither the consummation of the transactions contemplated by this Agreement on the part of Operator or to be performed, nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Operator is a party or by which it is bound; and

(d) Operator is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action (such persons and entities being "**Prohibited Persons**").

ARTICLE 26
REPRESENTATIONS OF OWNER

In order to induce Operator to enter into this Agreement, Owner does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Owner enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Owner, threatened, against or relating to Owner, the properties or business of Owner or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Owner to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Operator;

(c) neither the consummation of the transactions contemplated by this Agreement by this Agreement on the part of Owner to be performed nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Owner is a party or by which it is bound; and

(d) Owner is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action.

ARTICLE 27
DISPUTE RESOLUTION

27.1 **Expert Determination**. Notwithstanding anything to the contrary in Section 27.2, any dispute, claim or issue arising under this Agreement with respect to: (a) the proper inclusion or exclusion of items in revenues, expenses and other financial computations contemplated herein, (b) the proper computation of the Base Fee, Incentive Fee, charges for Centralized Services, Accounting Services or Reimbursable Expenses, (c) disputes relating to the Annual Plan, including expenses related to satisfying Operating Standards, (d) disputes as to the Performance Test or changes in the Competitive Set, or (e) other matters as to which this Agreement expressly provides for dispute resolution by an Expert, shall be resolved in accordance with this Section by one Expert. Notwithstanding the foregoing, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The decision of the Expert shall be final and binding on the parties and shall not be capable of challenge, whether by arbitration, in court or otherwise, except to the extent of any manifest error in such Expert's determination. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. In the event the parties are unable to agree on an Expert or otherwise disagree as to whether the disputed matter qualifies for Expert determination, either party shall have the right, prior to submitting such matter to an Expert, to initiate the mediation and arbitration procedures contemplated below.

27.2 **Mediation/Arbitration**. Except with respect to the matters described in Section 27.1 above, if any claim, dispute or difference of any kind whatsoever (a "**Dispute**") shall arise out of or in connection with or in relation to this Agreement whether in contract, tort, statutory, or otherwise, and including any questions regarding the existence, scope, validity, breach or termination of this Agreement, the following procedures shall apply:

(a) The parties shall first attempt to settle such Dispute by participating in at least ten (10) hours of mediation, which mediation shall be administered by JAMS (or if JAMS no longer exists, another mutually acceptable alternative dispute resolution provider) (the "**ADR Provider**"). A designated individual mediator who is a member in good standing of the ADR Provider will then be mutually selected by the parties to conduct the mediation; provided that such mediator must have at least ten (10) years' experience as a mediator and must not have any conflict of interest with either party (the "**Mediator**"). If the parties are unable to agree upon the identity of the

Mediator within five (5) days after the complaining party has notified the other party that a Dispute exists, then, subject to the requirements of this Section, the ADR Provider shall select a qualified Mediator of its choosing who shall act as the Mediator of the Dispute. The mediation will be a nonbinding conference between the parties conducted in accordance with the applicable rules and procedures of the ADR Provider. The mediation shall take place in New York, New York. Neither party may initiate litigation or arbitration proceedings with respect to any Dispute until the mediation of such Dispute is complete; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any claims solely relating to: (i) preserving or protecting proprietary information, (ii) emergency or injunctive relief, (iii) enforcement of the dispute resolution provisions of this Agreement, or (iv) enforcement of the decision and/or award by any Expert or Arbitrator hereunder ("**Litigation Claims**"). Any mediation will be considered complete: (a) if the parties enter into an agreement to resolve the Dispute; or (b) if the Dispute is not resolved after completion of ten (10) hours of such mediation. The parties shall share equally in the cost of the mediation.

(b) If any Dispute remains between the parties after the mediation is complete, then the Dispute shall be submitted to final and binding arbitration pursuant to the procedures set forth in this Section; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The parties agree that the Arbitrator shall have the power to order equitable remedies, including specific performance and injunctive relief.

(c) An arbitral tribunal of one arbitrator (the "**Arbitrator**") shall be established in conformity with the Comprehensive Arbitration Rules and Procedures of JAMS or such other rules of a successor ADR Provider mutually agreed upon by the parties (the "**Rules**") in effect at the time such arbitration is commenced; provided, however, the parties agree that such Arbitrator shall have not less than ten (10) years' experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels). Each party shall appoint a person to appoint the Arbitrator within five (5) days of the date of a request to initiate arbitration, and the two appointed persons will then jointly appoint the Arbitrator (provided that the Arbitrator shall not be the same person as the Mediator) within ten (10) days thereafter. If the appointed persons or the Arbitrator is not appointed within the time limits set forth in the preceding sentence, such person(s) or Arbitrator shall be appointed by the ADR Provider (subject to the hospitality qualification standards set forth above). In rendering a decision hereunder, the Arbitrator shall take into account the Operating Standards of the Hotel and other applicable provisions of this Agreement.

(d) The arbitration, regardless of the amount in dispute, shall be conducted in accordance with the Rules. Any arbitration shall take place in New York, New York. The Arbitrator shall apply the substantive law of the State of New York. No party to any Dispute shall be required to join any other party as a party to the Dispute pursuant to the arbitration provisions set forth in this ARTICLE 27.

(e) The Arbitrator's monetary awards may include a requirement that the losing party bear reasonable attorneys' fees and costs of the arbitration proceeding, but, in no event shall award punitive or exemplary damages of any kind. Unless the Arbitrator determines otherwise, each

party to an arbitration proceeding shall be responsible for all fees and expenses of such party's attorneys, witnesses, and other representatives, and one-half of the other fees and expenses of the Arbitrator, and the other costs of the arbitration shall be allocated to and paid by (a) the party or parties initiating the respective arbitration proceeding, and (b) the party or parties against whom the respective arbitration proceeding is brought. The award rendered in any arbitration commenced hereunder shall be final and binding upon the parties, and each party hereby waives any claim or appeal whatsoever against it or any defense against its enforcement.

(f) The obligation to arbitrate under this Section is binding on the parties and their respective successors and assigns.

Until such time as a final determination of any Dispute is obtained pursuant to this Section and, notwithstanding any termination of or default under, or alleged termination of or default under, this Agreement, all parties to this Agreement involved in such Dispute shall remain liable for, and shall be required to continue to satisfy, their respective obligations under this Agreement.

27.3 **Survival**. This Section shall survive the expiration or termination of this Agreement.

ARTICLE 28
TERMINATION OF THE LICENSE AGREEMENT

Owner reserves and shall have the right in its sole discretion, at any time and without the consent or approval of (but with notice to) Operator, to terminate the License Agreement, provided, however, that Owner shall have no such right in order to establish its own independent operations, such as an operation without a franchise or license or in its own hotel name.

ARTICLE 29
RELATIONSHIP OF PARTIES

29.1 Owner and Operator acknowledge and agree that in operating the Hotel, entering into contracts, accepting reservations, and conducting financial transactions for the Hotel, Operator acts on behalf of and as agent for Owner with respect to the rights and obligations contemplated by this Agreement and assumes no independent contractual liability nor shall Operator be obligated to extend its own credit with respect to any obligation incurred in operating the Hotel or performing its obligations under this Agreement.

29.2 The relationship between the parties hereto shall be that of principal, in the case of Owner, and agent, in the case of Operator, with respect to the rights and obligations contemplated by this Agreement. Nothing contained in this Agreement shall constitute, or be construed to constitute or create, a partnership, joint venture or lease between Owner and Operator with respect to the Hotel. This Agreement is for the benefit of Owner and Operator and shall not create third-party beneficiary rights.

29.3 This Agreement shall be interpreted in accordance with general principles of contract interpretation without regard to the common law principles of agency (except as expressly provided for in this Agreement), and any liability between the parties shall be based solely on principles of contract law and the express provisions of this Agreement. To the extent any duties,

fiduciary or otherwise, that exist or may be implied for any reason whatsoever, including without limitation those resulting from the relationship between the parties, and including without limitation all duties of loyalty, good faith, fair dealing, care, full disclosure, or any other duty deemed to exist under the common law principles of agency or otherwise (collectively, the "**Implied Fiduciary Duties**"), are inconsistent with, or would have the effect of modifying, limiting or restricting the express provisions of this Agreement, the terms of this Agreement shall prevail.

29.4 For purposes of assessing Operator's duties and obligations under this Agreement, the parties acknowledge that the terms and provisions of this Agreement and the duties and obligations set forth herein are intended to satisfy any fiduciary duties which may exist between the parties. The parties also hereby unconditionally and irrevocably waive and release any right, power or privilege either may have to claim or receive from the other party any punitive, exemplary, statutory, or treble damages or any incidental or consequential damages with respect to any breach of the Implied Fiduciary Duties. Furthermore, Owner specifically consents to all transactions and conduct by Operator and its Affiliates described in this Agreement, including those set forth below, and waives any Implied Fiduciary Duties which Operator may owe to Owner now, or which may arise in the future, in connection with such transactions or conduct. Owner acknowledges and agrees that its consent to the transactions and conduct by Operator described in this Agreement, and its waiver of any Implied Fiduciary Duties otherwise owed by Operator: (a) has been obtained by Operator in good faith; (b) is made knowingly by Owner based on its adequate informed judgment as a sophisticated party after seeking the advice of competent and informed counsel; and (c) arises from Owner's knowledge and understanding of the specific transactions and actions or inactions of operators that are normal, customary, and reasonably expected in the hotel industry generally for this segment of the hotel industry.

The rest of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OWNER:

WS HAA Owner, LLC a Delaware limited liability company

By:_____
Name: _____
Title: _____

OPERATOR:

MERRITT HOSPITALITY, LLC, a Delaware limited liability company

By:_____
Name: _____
Title: _____

SCHEDULE 1

HOTEL COMPONENTS

1. Total Guest Rooms - approximately 507

2. Meeting Space - approximately 34,000 square feet and 11,000 square feet of pre-function space across 16 meeting rooms, including the 10,000 square foot grand ballroom and a 7,200 square foot junior ballroom

3. Food and Beverage Facilities - four (4) food and beverage outlets, which are, as of the Effective Date, known as Andiamo, Finish Line Sports Bar, Herb N' Kitchen, and Magnolia Grill, and in-room dining

4. Other Facilities - indoor and outdoor pools, fitness center, business center, private club level lounge

5. Parking - valet and paid self-parking

EXHIBIT A

DESCRIPTION OF PREMISES

[*Attached*]

EXHIBIT B

CENTRALIZED SERVICES

[*Attached*]

EXHIBIT C

SAMPLE INCENTIVE FEE CALCULATION

EXHIBIT D

TRANSITION BUDGET

Stock Inventory List

Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner/Manager_____

Name of Product	Number of Cases/Bottles in stock or in store as of date above	Price (i.e. $2.00/glass; $15.00/case)
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.		

Employee List

List ALL employees. Use full complete names (No initials). Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner _____

Name	Address/Phone	DOB	SSN	Employment Date	Position
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.					

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Effective Date: May 14th, 2019

Western Surety Company

LICENSE AND PERMIT BOND

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 64642660

That we, Merritt Hospitality, LLC dba Hilton Atlanta Airport

of Atlanta, State of Georgia, as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do surety business in the State of Georgia, as Surety, are held and firmly bound unto the City of Hapeville, State of Georgia, as Obligee, in the penal sum of Five Thousand and 00/100 DOLLARS ($5,000.00), lawful money of the United States, to be paid to the Obligee, for which payment well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal has been licensed Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City o

by the Obligee.

NOW THEREFORE, if the Principal shall faithfully perform the duties and in all things comply with the laws and ordinances, including all amendments thereto, pertaining to the license or permit applied for, then this obligation to be void, otherwise to remain in full force and effect until May 14th, 2020, unless renewed by Continuation Certificate.

This bond may be terminated at any time by the Surety upon sending notice in writing, by First Class U.S. Mail, to the Obligee and to the Principal at the address last known to the Surety, and at the expiration of thirty five (35) days from the mailing of said notice, this bond shall ipso facto terminate and the Surety shall thereupon be relieved from any liability for any acts or omissions of the Principal subsequent to said date. Regardless of the number of years this bond shall continue in force, the number of claims made against this bond and the number of premiums which shall be payable or paid, the Surety's total limit of liability shall not be cumulative from year to year or period to period, and in no event shall the Surety's total liability for all claims exceed the amount set forth above. Any revision of the bond amount shall not be cumulative.

Dated this 15th day of May, 2019.

Merritt Hospitality, LLC DBA Hilton Atlanta Airport
Principal

Principal

WESTERN SURETY COMPANY

By
Paul T. Bruflat, Vice President

Form 532-12-2015

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City of Hapeville

bond with bond number 64642660

for Merritt Hospitality, LLC dba Hilton Atlanta Airport
as Principal in the penalty amount not to exceed: $ 5,000.00.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

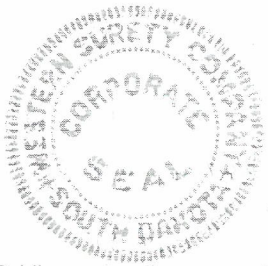
In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 15th day of May, 2019.

ATTEST

L. Nelson
L. Nelson, Assistant Secretary

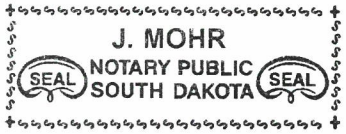
WESTERN SURETY COMPANY

By Paul T. Bruflat
Paul T. Bruflat, Vice President



STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires June 23, 2021

J. Mohr
Notary Public

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.

Form F1975-1-2016

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, the undersigned officer, personally appeared Paul T. Bruflat, who acknowledged himself to be the aforesaid officer of WESTERN SURETY COMPANY, a corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

M. Bent
Notary Public — South Dakota

My Commission Expires March 2, 2020

ACKNOWLEDGMENT OF PRINCIPAL
(Individual or Partners)

STATE OF Connecticut }
COUNTY OF Fairfield } ss

On this 20th day of May, 2019, before me personally appeared Anthony Rutledge, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

My commission expires September 30, 2012

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL
(Corporate Officer)

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, _____, before me personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

My commission expires

_____, _____

Notary Public

Western Surety Company

License or Permit No. _____

LICENSE AND PERMIT BOND

As _____ of _____

State of _____

Name of Applicant

Address

Filed _____, _____

Approved this _____ day of _____, _____

Control No. 11028875

STATE OF GEORGIA

Secretary of State

Corporations Division
315 West Tower
#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF AUTHORITY

I, **Brian P. Kemp**, the Secretary of State and the Corporations Commissioner of the State of Georgia, hereby certify under the seal of my office that

MERRITT HOSPITALITY, LLC
a Foreign Limited Liability Company

has been duly formed under the laws of Delaware and has filed an application meeting the requirements of Georgia law to transact business as a foreign Limited Liability Company in this state.

WHEREFORE, by the authority vested in me as Secretary of State, the above Limited Liability Company is hereby granted, on **04/08/2011**, a certificate of authority to transact business in the State of Georgia as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said application.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on April 8, 2011

Brian P. Kemp
Secretary of State

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SMILEZZZZ, LLC", CHANGING ITS NAME FROM "SMILEZZZZ, LLC" TO "MERRITT HOSPITALITY, LLC", FILED IN THIS OFFICE ON THE TWELFTH DAY OF FEBRUARY, A.D. 2004, AT 4:23 O'CLOCK P.M.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3448162 8100

040101165

AUTHENTICATION: 2929713

DATE: 02-13-04

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF FORMATION

OF

SMILEZZZZ, LLC

Smilezzzz, LLC (the "LLC") is a limited liability company organized under the Delaware Limited Liability Company Act, 6 Del. C. §§18-101 et seq. (the "Act") on October 19, 2001. This Certificate of Amendment to the Certificate of Formation of the LLC, dated as of February 12, 2004, is duly executed and filed by the undersigned, as a duly authorized person, for the purpose of amending the Certificate of Formation of the LLC pursuant to Section 18-202 of the Act.

FIRST, the name of the LLC as set forth on the first Certificate of Amendment of the Certificate of Formation of the LLC is "Smilezzzz, LLC"

SECOND, the Certificate of Formation of the LLC is hereby amended to reflect that the name of the LLC shall now be "Merritt Hospitality, LLC."

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of the date first written above.

David McCaslin,
Authorized Person

LIBC/1025382.2

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:34 PM 02/12/2004
FILED 04:23 PM 02/12/2004
SRV 040101165 – 3448162 FILE

Printed 05/15/19 13:35

TIMES JOURNAL, INC.

P.O. BOX 1633
ROME GA 30161-1633

PHONE: 770-428-9411
FAX: 1888

Advertising Payment Receipt

Account number:	200382	**Credit Card #:**	**********6000
Account name:	SARD & LEFF LLC 3789 ROSWELL ROAD ATLANTA GA 30342	**Approval Code:**	180878[264451343]
		Credit Holder Name:	
Phone number:	770-644-0800		
Payment number:	184457		
Payment date:	05/15/19		
Amount:	240.24		
Payment description:	CREDIT CARD PAYMENTS		

Ad Number:	171911	**Class Code:**	A
Ad Taker:	jdoll	**Salesperson:**	M208
First Words:	MERRITT		

Legal Advertisement

On Premise Consumption

Applications have been made by Merritt Hospitality, LLC at 1031 Virginia Avenue, Atlanta, GA 30354 for the issuance of 2019 Alcohol Beverage On-Premise Consumption of Beer, Wine and Liquor. WS HAA Owner, LLC (hotel owner) and Edward M. Walls (hotel manager).

☐ **PROOF O.K. BY:** _____ ☐ **O.K. WITH CORRECTIONS BY:** _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

MA-171911 (100%)

ADVERTISER: SARD & LEFF LLC
SALES PERSON: MAM208
SIZE: 2X2
PUBLICATION: MA-SOUTH FULTON

PROOF CREATED AT: 5/16/2019 12:59:37 PM
NEXT RUN DATE: 05/22/19
PROOF DUE: 05/22/19 19:00:00

Inspection No:	IAL 19 - 003
Inspection Date:	5/23/2019
Inspection Time:	
Inspector:	Brian Eskew

Inspection Report

Inspection and Compliance Orders

Facility:	Hilton Andiamo	**Address:**	1031 A Virginia AVE		
Phone:					
Fax:		**City:**	Hapeville		
Email:		**State:**	GA	**Postal Code:**	30354
Contact:	Mindy Thompson	**Work:**			
Email:	mthompson@sardandjeff.com	**Cell:**	(770) 644-0800		

Inspection Type:	Inspection Business License

Violation Code	Days to Correct *	Violation/Notes	Location

Inspection Notes

Approved For Alcohol License

Owner/Representative:

Inspector:

A variance procedure is available. Please contact the inspector named for further assistance with this or any other matter.

* Number of days to correct from date inspected.

Alcohol License Establishment Planning & Zoning Form

Date: May 28, 2019

Business Name: Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Andiamo)

Business Address: 1031 Virginia Avenue

Business Owner: Anthony R. Rutledge

Business Owner Address: 530 Main Street North, Southbury, CT 06488

Contact: Mindy L. Thompson, Esq. (Sard & Leff, LLC)

Contact Phone (770) 644-0800 Contact Email: mthompson@sardandleff.com

Building Square Footage: 505,000 SF Square footage of Business Unit: Not provided

Will the establishment provide patio/outdoor dining? No

Number of Parking Spaces Provided: 526

STAFF USE ONLY

Zoning Classification: C-2, General Commercial

Sec. 93-14-3. - Permitted uses.
The following uses are permitted within any C-2 zone:
(24) Hotels and Motels
(36) Restaurants, carry-out restaurants, drive-in restaurants or drive-through restaurants.

Does the proposed use require a Conditional Use Permit? No.

Number of parking spaces required by zoning: 507

Outdoor dining: Not applicable.

Staff Recommendation: The proposed location complies with zoning. The application may be approved.

Zoning Compliance

Zoning Classification: C-2, General Commercial. The business is a hotel restaurant which previously had an approved occupational tax permit in the C-2 district under the prior owner.

Alcoholic Beverage Ordinance Compliance

Sec. 5-3-4. – Standards for approval, denial, renewal, suspension or revocation.

(1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
Property is located in a commercial district.

Sec. 5-6-3. - On-premises consumption regulations generally.

The following regulations shall apply to licensed on-premises consumption establishments:
(b)No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this article. (b) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. for licensed establishments whose property lines abut an area zoned residential, and 2:00 a.m. and 8 :00 a.m. for all others. Except for bed and breakfasts and hotels, all patrons shall vacate such licensed establishments whose property lines abut an area zoned residential no later than 12:45 a.m., and 2:45 a.m. for all others. For purposes of this subsection, "residential" shall mean any parcel of land designated for use as a single or multifamily dwelling and duplexes.
There are no residential properties abutting the proposed location.

(2) The proximity of churches, school buildings, school grounds, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
There is no minimum distance required for on-site premises consumption from the nearest school/school grounds.

(3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
Adequate parking exists.

(4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
There is no anticipated increase in traffic or concerns regarding congestion.

700 Doug Davis Drive
Hapeville, GA 30354

Ph: 404-669-2111
Fax 404-669-2140

City of Hapeville 1891 GEORGIA
A Community with a Heart

Police, Code Enforcement, & Traffic Alcohol Establishment Inspection Report

Date: May 29, 2019
Business Name: Atlanta Airport Hilton Hotel-Andiamo Restaurant
Address: 1155 Virginia Avenue, Ste F, Atlanta, GA 30054

Exterior Observations:
Condition of Signage: Satisfactory

Window Signage & Visibility: Satisfactory

Condition of Property: Satisfactory

Exterior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level

Employee ID Badges: ☑ In Compliance ☐ Non-Compliant ☐ N/A

Interior Observations:
Interior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level ☐ Unknown

Cameras: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Broken Packages: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Traffic Considerations:
Private Property Accidents 0 Notes:

COMPLIANCE: To resolve this issue please N/A from premises within N/A days from receipt of this notice to be considered for an Alcohol License.

RIGHT TO APPEAL: Appeals are made thru the ARB, City of Hapeville Mayor and Council by contacting City Hall at 404-669-2100. Non-compliance may result in a Court Citation.

Additional Violations Noted:

History:
Law Enforcement: 33 calls Code Enforcement: 1 calls

Inspector's Signature

05/29/18

Administrative Services Department
3468 North Fulton Avenue
Hapeville, GA 30354
Phone: (404) 766-3004
Fax: (404) 669-3302

Alcohol Beverage License Application

Instructions: This application must be typed or printed legibly and executed under oath. Each question must be fully answered. If space provided is not sufficient to answer the question please use a separate sheet of paper.

Holding an alcohol beverage license with the City of Hapeville is a privilege.

☐ New ☒ Amended

Date: 05/22/2019

Contact Name: Mindy L. Thompson, Esq. Sard & Leff, LLC Phone: (770) 644-0800

Business/Trade Name: Merritt Hospitality, LLC

D/B/A: Hilton Atlanta Airport (Finish Line)

Email: mthompson@sardandleff.com

Emergency Contact Name: Edward M. Walls Phone: (678) 425-6091

Business Address: 1031 Virginia Avenue, Atlanta, GA 30354

TYPE OF BUSINESS

- ☐ Convenience Store
- ☐ Grocery Store
- ☒ Hotel/Motel
- ☐ Package Store
- ☐ Manufacturer
- ☐ Specialty Beverage Store
- ☐ Restaurant
- ☐ Restaurant under 2,000 Sq. Ft.
- ☐ Wholesale
- ☐ Other: _____

TYPE OF LICENSE AND FEES

Retail		On-Premise Consumption		Wholesale/Manufacturer	
☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00
☐ Package	$5,000.00	☒ Beer/Wine/Liquor	$5,000.00	☐ Beer/Wine/Liquor	$5,000.00

On-Premise Consumption below 2,000 Sq. Ft.

☐ Beer	$750.00
☐ Wine	$750.00
☐ Liquor	$1600.00

APPLICANT INFORMATION

Please submit a passport photograph of owner(s) with completed application.

Full Name: Anthony R. Rutledge on behalf of Merritt Hospitality, LLC Date of Birth: [redacted]1971

Current Address: 530 Main Street North, Southbury, CT 06488

Spouse Name: Valerie T. Rutledge

Address of Applicant (if different for the past 5 years):
N/A

Name and Location of Employers for the last five years: 05/2005 - Present: Merritt Hospitality, LLC - Norwalk, CT

Have you been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

Has your spouse been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

BUSINESS INFORMATION

Type of business entity: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☒ Other
Limited Liability Company

Has an Occupational Tax Certificate been obtained and paid for said business? ☐ Yes ☒ No (If not issued by the City of Hapeville please include a copy with application.) Applied for.

Federal Tax ID Number: 52-2353526 State Tax ID Number: Applied for

Do you own the property? ☐ Yes ☒ No (If no, please provide name, address, and contact number for the landlord. A copy of the Lease must be attached to this application.) WS HAA Owner, LLC

Name each person(s) having a financial interest in the Establishment.

Full Name	Position	Social Security Number	Address	% of Interest
Merritt Hospitality, LLC*	Hotel Management	52-2353526	101 Merritt - 7 Corporate	
	Company		Park, Norwalk, CT 06851	
WS HAA Owner, LLC*				100%

Have you or anyone with interest in the establishment ever or do you currently hold an alcohol beverage license with any other municipality, county, or state? ☒ Yes ☐ No

If so, have you or anyone holding interest in the establishment ever been placed on probation or had your license revoked? ☐ Yes ☒ No (If yes, please explain on separate sheet of paper and attach hereto.)

*At time of closing, scheduled for 06/21/2019

Provide name, address, Social Security Number, and phone number for each Manager if different from owner. A passport photograph, Personnel Statement, and Background Check must be submitted for each manager.

Full Name	Social Security Number	Address	Phone Number
Edward M. Walls	xxx-xx-[redacted]	2605 Shumard Oak Drive, Braselton, GA 30517	(678) 425-6091

BUSINESS SPECIFIC INFORMATION On File.

County Tax Parcel ID _____ Zoning District _____

Nearest Intersection: _____

Building Square Footage: _____ Business Square Footage (if not using entire building): _____

Patio/Outdoor Dining Square Footage (if applicable): _____

Number of Parking Spaces for business? (Attach site plan showing designated, striped parking and lighting)

_____

If shared parking, detail of how many are dedicated to the business and details of other businesses sharing parking (addresses).

_____

_____

_____

Hours/days of operation: _____

_____

Description of adjacent properties (residential/commercial) _____

_____

_____

_____

If application is for Retail Sale, attach a surveyor's certificate containing the following information:

- A scale drawing of the building and/or proposed building
- The proposed off-street parking facilities available to the building and all outdoor lighting on the premises
- The exact location of the business, including street address, ward, and county tax map number
- Current zoning classification of the location
- The distance from the business to each of the following: the nearest school, church building, and the nearest alcoholic treatment center owned and operated by state, county or municipality.

VERIFICATION OF APPLICATION

I hereby make application for an Alcohol Beverage License for the City of Hapeville. I understand that holding this license is a privilege. I do hereby affirm and swear that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this application and any action taken on this application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fee and further that it is my/our responsibility to conform with said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can

read the English language and I freely and voluntarily have completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. §16-10-20.

Signature of Applicant or Agent

Anthony R. Rutledge

Print or Type Name

I certify that Anthony R. Rutledge (name of applicant) personally appeared before me, and that he signed his name to the foregoing statements and answers made therein, and under oath, has sworn that said statements and answers are true.

This 20th day of May, 2021.

Notary Public

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

My commission expires on: 9/30/2021

Alcoholic Beverage Personnel Statement

For Official Use Only
Type of License: Beer/Wine/Liquor

Business: Merritt Hospitality, LLC

Address: 1031 Virginia Avenue, Hapeville

Telephone: _____

Instructions: This personnel statement must be executed under oath or affirmation by every person having any ownership or profit sharing interest in, or managing any place of business applying for license from the City of Hapeville, Georgia to sell or deal in alcoholic beverages or liquors. Please type or print clearly in ink. If not legible, Statement will not be accepted. Each question must be fully answered. If the space provided is not sufficient, answer the question on a separate sheet and indicate in the space provided that such separate sheet is attached. A personnel statement, including two (2) passport-size photographs and two (2) fingerprint cards are required by Questions 35 and 36, for all owners/managers/assistant managers and must be submitted with every license application.

1. Anthony ReJean Rutledge - 530 Main Street, North, Southbury, CT 06488

Full Name of Applicant Address of Applicant

2. Social Security Number
[redacted]

3. Driver's License Number
[redacted] CT

4. Date of Birth Place of Birth
[redacted]71 Bronxville, NY

5. U.S. Citizen

a. (X) By Birth
b. ( ) Naturalized
Date, Place and Court _____
Petition Number _____
Certificate Number _____
Derived Parent Certificate Number(s) _____
Alien Registration Number _____
Native Country _____
Date of Port Entry _____

6. How long have you been a legal resident of Georgia? N/A Years _____Months

7. Marital Status () Single (⊗) Married () Widowed () Divorced () Separated

8. If married, give Spouse's full name Valerie Teresa Rutledge (Kuehn)

9. Physical Description of Applicant _____ Race Caucasian Sex Male Height 6'2"

Weight 200 Age 47 Hair Color Black Eyes Brown

10. Education and training specific to restaurant/alcohol field.

More than fourteen (14) years of hotel management experience.

11. Have you ever used or been known by any other name () Yes (⊗) No

12. List maiden name, names by former marriages, former names changed legally or otherwise, aliases or nicknames. For each, list the period during which you were known by this name. N/A

13. Are you a registered voter in the State of Georgia () Yes (⊗) No

County registered Number of years registered

N/A

14. For the last calendar year, did you file and pay any County property tax (⊗) Yes () No
Name of County

New Haven County, CT

15. For the last calendar year, did you file and pay any City property tax (⊗) Yes () No
Name of City

Southbury, CT

16. Employment record for the past ten (10) years (Give most recent experience first, if self-employed give details)

	From	To	Employer	Occupation Duties	Reason for leaving
(a)	05/2005	Present	Merritt Hospitality, LLC	Vice President	N/A
(b)					
(c)					
(d)					
(e)					
(f)					
(g)					
(h)					

17. List, with your most recent place of residence first, all of your residences for the past ten (10) years

	Date From/To	Street	City	State
(a)	09/2003 - Present	530 Main Street, North	Southbury	CT
(b)				
(c)				
(d)				
(e)				

20. Military Service () Yes (⊗) No

List Serial Number _____ Branch of Service _____
Period of Service _____ Date of Discharge _____
Type of Discharge received _____

21. Have you ever been convicted of a felony relating to violence, illegal substances, gambling, theft or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city or any other city or county relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of

malt beverages, wine or intoxicating liquors, or the taxability thereof within five (5) years preceding this application? _____ Yes __X__ No

22. Full name of dealer and trade name, if any, submitting application of which this personnel statement is a part.

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

23. Position of applicant in dealer's business.

Secretary

24. Does applicant have any ownership/profit sharing interest in business? () Yes (X) No Describe.

State annual salary of applicant or the estimated annual profit or compensation derived from this business. $

Salary

25. Do you have any financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverages are sold and consumed on the business premises? (X) Yes () No If Yes, explain.

Please see attached Exhibit "A"

26. Do you have any financial interest or are you employed in any wholesale or retail liquor business other than the business submitting the license application of which this personnel statement is a part? (X) Yes () No If Yes, give names and locations and amount of interest in each.

Please see attached Exhibit "A"

27. Do you have any financial interest or are you employed in any business engaged in distilling, bottling, rectifying or selling (wholesale, retail or manufacturing) alcoholic beverages in this State or outside this State which has not otherwise been disclosed in this statement. () Yes (X) No If yes, explain.

N/A

28. Have you ever had any financial interest in an Alcoholic Beverage business which was denied a liquor permit () Yes (X) No If yes, explain.

N/A

29. Has any Alcoholic Beverage business in which you hold or have held any financial interest or have been employed, ever been cited for any violation for the rules and regulations of the State Revenue Commissioner relating to the sale and distribution of distilled spirits. () Yes X (No) If yes, explain.

To Applicant's best knowledge, information and belief, Merritt Hospitality, LLC has never been cited in the state of Georgia.

City of Hapeville Alcoholic Beverage License Applications of
Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport
1031 Virginia Avenue, Atlanta, GA 30354

EXHIBIT "A"

Georgia Liquor Licenses
Merritt Hospitality, LLC
May 2019

ST	City	Licensee	Property	Agency	License Nbr
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Georgia DOR	0087490, 0087897
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Alpharetta Code Enforcement Office	8573, 9034
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Georgia DOR	0084699, 0084714, 0084730, 0085573
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Atlanta Police Dept.	177369 A20, A21, A22, A23
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0087325, 0087802, 0087782, 0091598, 0067930 (Tobacco)
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	182036, A20, A22, A1H
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	Georgia DOR	0087739, 0087888
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	City of Sandy Springs	19-58286
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0086266, 0086173,
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	179163 A20, A34
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Georgia DOR	0089468, 0089303, 0089611, 0089632, 0089484, 0089455
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Braselton	12642, 12644, 12643, 12641, 12645

Merritt Hospitality, LLC and some of its related businesses (collectively, "Merritt") hold numerous alcoholic beverage licenses throughout the United States in connection with their various hotel operations. A complete list of alcoholic beverage licenses held by Merritt will be provided upon request.

30. Have you ever been denied a bond by a commercial surety company? () Yes (x) No
If yes, explain.
N/A

31. Are you related by blood, marriage or adoption to any persons engaged in any business handling alcoholic beverages, whiskeys or liquors in the State of Georgia.
() Yes (x) No

32. Personal References. Give three (3) personal references, not relatives (i.e., former employers, fellow employees or school teachers who are responsible adults, business or professional men or women) who have known you well during the past five (5) years.

Name
Clark Hanrattie
Residence
36 Chichester Road, New Canaan, CT 06840
Business Address
101 Merritt - 7 Corporate Park, Norwalk, CT 06851
Telephone Number
[redacted]
Number of Years Known
14 years

Name
Marcus Harris
Residence
317 Ashborough Place. Stockbridge GA 30281
Business Address
101 Merritt - 7 Corporate Park, Norwalk, CT 06851
Telephone Number
[redacted]
Number of Years Known
10 years

Name
Jacqueline Mychajluk
Residence
35 Ridge Street, Milford, CT 06460
Business Address
101 Merritt - 7 Corporate Park, Norwalk, CT 06851
Telephone Number
[redacted]
Number of Years Known
14 years

33. Attach two (2) passport-size photographs (front view). Write name on back of photographs and also the name of dealer submitting a license application. Initial here if such photographs are attached. _____

34. There must be submitted with this personnel statement the fingerprints of applicant on two (2) fingerprint cards, which will be furnished by the City of Hapeville. Initial here that such fingerprint cards are attached. _____

NOTE: Before signing this statement, check all answers and explanations to see that you have answered all questions fully and correctly. This statement is to be executed under oath or affirmation and subject to the penalties of false swearing and it includes all attached sheets submitted herewith.

Verification

I, Anthony R. Rutledge, applicant, do solemnly swear, subject to criminal penalties for false swearing, that the statements and answers made by me to the foregoing questions in this application for a City of Hapeville license as a dealer in alcoholic beverage and liquors are true, and no false or fraudulent statement or answer is made therein to procure the granting of such license. I hereby submit for an Alcoholic Beverage Privilege License Personnel Statement for the City of Hapeville. I do hereby swear or affirm that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this statement and any related application and any action taken on this statement and any related application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fees and further that it is my/our responsibility to conform to said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can read the English language and I freely and voluntarily have completed this statement. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. § 16-10-20.

_____
Applicant's Signature
(Full name in ink)

Anthony R. Rutledge
_____
Applicant's Name
(Print or Type)

I certify that

Anthony R. Rutledge
_____
(the above named applicant)

is personally known to me, and that he signed his name to the foregoing statements and answers made therein, and, under oath, has sworn that said statements and answers are true.

This 20th day of May, 2019.

_____
Notary Public

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

Seal:

City of Hapeville 1891 GEORGIA

Georgia Bureau of Investigation
Georgia Crime Information Center

Consent Form

I hereby authorize **HAPEVILLE POLICE DEPARTMENT** to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Anthony ReJean Rutledge
Full Name (print)

[redacted] CT
Driver's License Number and State

530 Main Street, North, Southbury CT 06488
Address

Merritt Hospitality, LLC
Company Name

M
Sex

W
Race

[redacted]1971
Date of Birth

[redacted]
Social Security Number

Signature

05/20/2019
Date

Purpose Codes Used (check appropriate one)

X Employment (Licensing, Public/Private employment, Firefighter employment Adoptions, Education employment, and Military Recruitment) (E)
___ Employment with mentally disabled (M)
___ Employment with elder care (N)
___ Employment with children (W)
___ Criminal Justice Employment (J)
___ Public Access (GA Felonies Only) (P)
___ Used by Law Enforcement Only (C) _____ Case Number
___ Pre-employment or Employment of Police Officers (Z)

Inquiry ran by: _____
If ran Purpose Code C Officer Signature: _____

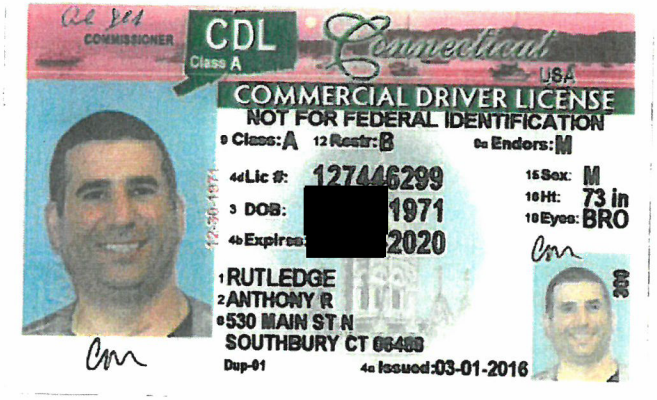


Mr. Anthony Rutledge

City of Hapeville Alcoholic Beverage License Applications (Change of Ownership)

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

1031 Virginia Avenue, Atlanta, GA 30354


COMMISSIONER
CDL
Class A
Connecticut
USA
COMMERCIAL DRIVER LICENSE
NOT FOR FEDERAL IDENTIFICATION
9 Class: A
12 Restr: B
9a Endors: M
4d Lic #: 127446299
3 DOB: [redacted]1971
4b Expires: [redacted]2020
15 Sex: M
16 Ht: 73 in
18 Eyes: BRO
1 RUTLEDGE
2 ANTHONY R
8 530 MAIN ST N
SOUTHBURY CT 06488
Dup-01
4a Issued: 03-01-2016
12-30-1971

MANAGEMENT AGREEMENT

between

WS HAA Owner, LLC

and

MERRITT HOSPITALITY, LLC

for the

HILTON ATLANTA AIRPORT HOTEL

[_____], 2019

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 1
1.1 Definitions 1
1.2 Terminology 10
1.3 Exhibits 10
ARTICLE 2 ENGAGEMENT OF OPERATOR 10
2.1 Engagement and Duties of Operator 10
ARTICLE 3 TERM 11
3.1 Term 11
ARTICLE 4 USE AND OPERATION OF THE HOTEL 11
4.1 Hotel Employees 11
4.2 Annual Plan 13
4.3 Labor Relations 15
4.4 Liquor License 15
4.5 Notice of Violations 15
4.6 Centralized Services 15
4.7 Multi-Property Programs 15
ARTICLE 5 USE OF NAME 16
5.1 Name 16
ARTICLE 6 ADVERTISING 16
ARTICLE 7 RESERVE FOR FF&E 16
7.1 Reserve for Replacement of FF&E 16
7.2 Transfers to Reserve for FF&E 16
7.3 Annual Adjustment 16
7.4 Maintenance of Reserve 17
7.5 Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements 17
ARTICLE 8 REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS 17
8.1 Repairs and Maintenance 17
8.2 Capital Improvements 17
8.3 Liens 18
8.4 Notice of Force Majeure Event 18
ARTICLE 9 WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH 18

9.1 Working Capital 18
9.2 Depository Account 18
9.3 Operating Account 18
9.4 Distribution of Excess Cash 19
9.5 Lender Requirements 19
ARTICLE 10 BOOKS, RECORDS AND STATEMENTS 19
10.1 Books and Records 19
10.2 Financial Reports 19
10.3 Audits by Owner 20
10.4 Accounting Services 20
ARTICLE 11 MANAGEMENT FEES AND OTHER PAYMENTS 21
11.1 Management Fee 21
11.2 Payment of Management Fee 21
11.3 Other Payments 22
11.4 Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards 22
ARTICLE 12 INSURANCE 22
12.1 Insurance Requirements 22
12.2 General Insurance Requirements. 25
ARTICLE 13 REAL AND PERSONAL PROPERTY TAXES; UTILITIES 27
13.1 Taxes 27
13.2 Utilities, Etc 27
ARTICLE 14 DAMAGE OR DESTRUCTION; CONDEMNATION 27
14.1 Damage or Destruction 27
14.2 Condemnation 28
14.3 Reinstatement 28
14.4 Mortgage Requirements 28
ARTICLE 15 EVENTS OF DEFAULT 29
15.1 Operator Defaults 29
15.2 Owner Defaults 29
ARTICLE 16 TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES 30
16.1 Termination 30
16.2 Operator's Rights to Perform 31
ARTICLE 17 OWNER'S ADDITIONAL TERMINATION RIGHTS 31
17.1 Termination on Sale 31

17.2 Performance Termination....32
ARTICLE 18 TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION....32
18.1 Transfer to Owner....32
18.2 Remittance to Owner....33
ARTICLE 19 NOTICES....33
ARTICLE 20 CONSENT AND APPROVAL....34
ARTICLE 21 TRANSFERS....34
21.1 Transfers....34
21.2 Assignability upon Sale....35
21.3 Prohibited Sale....35
ARTICLE 22 INDEMNITY....35
22.1 Indemnity by Owner....35
22.2 Indemnity by Operator....35
22.3 Indemnification Procedure....36
22.4 Survival/Miscellaneous....36
ARTICLE 23 MISCELLANEOUS....36
23.1 Further Assurances....36
23.2 Waiver....36
23.3 Successors and Assigns....36
23.4 Governing Law....37
23.5 Compliance with Mortgage and License Agreement....37
23.6 Amendments....37
23.7 Estoppel Certificates....37
23.8 Inspection Rights....37
23.9 Subordination....37
23.10 Effect of Approval of Plans and Specifications....37
23.11 Entire Agreement....38
23.12 Time is of the Essence....38
23.13 Interpretation....38
23.14 Counterparts....38
23.15 Partial Invalidity....38
23.16 Confidentiality....38
23.17 No Third Party Rights....38
ARTICLE 24 NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL....38

ARTICLE 25 REPRESENTATIONS OF OPERATOR 39
ARTICLE 26 REPRESENTATIONS OF OWNER 39
ARTICLE 27 DISPUTE RESOLUTION 40
27.1 Expert Determination 40
27.2 Mediation/Arbitration 40
27.3 Survival 42
ARTICLE 28 TERMINATION OF THE LICENSE AGREEMENT 42
ARTICLE 29 RELATIONSHIP OF PARTIES 42

EXHIBITS:

SCHEDULE 1 Hotel Components
EXHIBIT A Description of Premises
EXHIBIT B Centralized Services
EXHIBIT C Sample Incentive Fee Calculation
EXHIBIT D Transition Budget

MANAGEMENT AGREEMENT

This Management Agreement (the "**Agreement**") is made and entered into as of this [__] day of [_____], 2019 (the "**Effective Date**") by and between WS HAA Owner, LLC, a Delaware limited liability company] ("**Owner**"), and **MERRITT HOSPITALITY, LLC**, a Delaware limited liability company ("**Operator**").

RECITALS:

A. Owner is, or shall become prior to the Commencement Date, the fee owner of the Premises, which, together with associated improvements, parking areas and personal property, is presently known as the "Hilton Atlanta Airport Hotel" and is defined herein as the "**Hotel**".

B. Operator is engaged in the business of managing and operating hotels.

C. Owner and Operator desire to enter into this Agreement for the management and operation of the Hotel in accordance with the terms and conditions and subject to the limitations contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator covenant and agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Definitions**. In this Agreement and any Exhibits, the following terms shall have the following meanings:

"**Accounting Period**" shall mean each calendar month during each Fiscal Year.

"**Accounting Services**" shall have the meaning set forth in Section 10.4.

"**Accounting Services Fee**" shall mean an annual amount equal to $30,000, payable monthly as provided in Section 11.3.

"**Adjusted GOP**" shall mean, for any Fiscal Year, Gross Operating Profit less the sum of: (i) Management Fees (excluding the Incentive Fee), (ii) Taxes, (iii) Insurance Costs, (iv) Equipment Lease Costs, (v) the Reserve; and (vi) Owner's Priority Return.

"**ADR Provider**" shall have the meaning set forth in Section 27.2(a).

"**Affiliate**" shall mean any person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another person or entity. The term "**control**" (and correlative terms) shall mean the power, whether by contract, equity ownership or otherwise, to direct the policies or management of a person or entity. A natural person is related to another natural person if he or she is a spouse, parent, or lineal descendant of the other person.

"**Agreement**" shall have the meaning set forth in the introductory section of this Agreement.

"**Annual Operating Budget**" shall mean an annual operating projection for the Hotel prepared and submitted by Operator to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(a).

"**Annual Plan**" shall mean an annual business plan for the operation of the Hotel prepared by Operator and approved by Owner, which shall include the Annual Operating Budget and the Capital Budget, and any other material included therein by Operator as provided in Section 4.2.

"**Arbitrator**" shall have the meaning set forth in Section 27.2(c).

"**Base Fee**" shall have the meaning set forth in ARTICLE 11.

"**Building**" shall mean, collectively, the buildings (including all roof coverings and exterior facades and any walkways and bridges) and all structural elements of such buildings, all of which are a part of the Hotel, together with such elements servicing and/or supporting the Hotel.

"**Building Systems**" shall mean any mechanical, electrical, plumbing, heating, ventilating, air conditioning, sanitation, water treatment, sewer treatment and disposal, life safety systems, vertical transportation systems and other similar operating and monitoring systems and items of equipment installed in or upon, and affixed to, the Hotel.

"**Capital Budget**" shall mean a proposed estimate of FF&E Expenditures and Capital Improvements prepared by Operator and submitted to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(b).

"**Capital Improvements**" shall mean any expenditures properly categorized under GAAP as capital in nature, for any alterations, improvements, replacements, and additions to the Building, the Building Systems or FF&E.

"**Centralized Services**" shall have the meaning set forth in Section 4.6.

"**Centralized Services Charge**" shall have the meaning set forth in Section 4.6.

"**Claims**" shall have the meaning set forth in Section 22.1.

"**Commencement Date**" shall mean the date on which Operator assumes the management and operation of the Hotel and all or substantially all of the Hotel is open for business to the general public.

"**Competitive Set**" shall mean initially, the following list of hotels: (i) [_____], subject to any revisions to such list agreed upon by Owner and Operator from time to time, which revisions, to the extent applicable, will occur during the Annual Plan process.

"**Corporate Personnel**" shall mean any of Operator's executive level personnel holding a position of Vice President or higher from Operator's corporate headquarters who perform activities

at or on behalf of the Hotel in connection with the services provided by Operator under this Agreement.

"**CPI**" shall mean the Consumer Price Index for All Urban Consumers, United States City Average, All Items (1982-84=100), issued by the Bureau of Labor Statistics of the United States Department of Labor.

"**Default Rate**" shall mean the lesser of (i) the Prime Rate plus five percent (5%) per annum or (ii) the highest lawful rate permitted by applicable Legal Requirements from time to time.

"**Depository Account**" shall have the meaning set forth in Section 9.2.

"**Effective Date**" shall mean the date of this Agreement as set forth in the introductory paragraph.

"**Equipment Lease Costs**" shall mean costs and expenses incurred by Owner in connection with the leasing or financing of equipment used in the operation and maintenance of the Hotel.

"**Event of Default**" shall mean any of the events described in ARTICLE 15, provided that any condition contained therein for the giving of notice or the lapse of time, or both, has been satisfied.

"**Expert**" shall mean an independent, neutral and impartial individual having not less than ten (10) years of experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels) and shall not have any conflict of interest with either party.

"**Fiscal Year**" shall mean the fiscal year that ends on the last day of each calendar year. The first Fiscal Year shall be the period commencing on the Commencement Date and ending on December 31st of the same calendar year in which the Commencement Date occurs. Except as otherwise expressly set forth in this Agreement, the words "full Fiscal Year" shall mean any Fiscal Year containing not fewer than three hundred sixty five (365) days. A partial Fiscal Year after the end of the last full Fiscal Year and ending with the expiration or earlier termination of the Term shall constitute a separate Fiscal Year.

"**Force Majeure Event**" shall mean any one or more of the following events or circumstances that, alone or in combination, directly or indirectly, materially and adversely affect the operation of the Hotel: (i) fire, earthquake, hurricane, tornado, flood, storm or other casualty; (ii) epidemics, quarantine restrictions or other public health restrictions or advisories; (iii) performance of Capital Improvements reasonably required to maintain the Hotel in accordance with the Operating Standards which materially and adversely affect the income generating areas of the Hotel or any other area material to the operation of the Hotel; (iv) strikes, lockouts, or other labor interruptions generally (as opposed to any such events directed specifically against Operator or its Affiliates not involving or related to the Hotel); (v) war, rebellion, riots, acts of terrorism, or other civil unrest or commotion; shortage of critical materials or supplies; (vi) disruption to local,

national or international transport services; (vii) embargoes, lack of materials, water, power or telephone transmissions necessary for the operation of the Hotel in accordance with this Agreement; (viii) action or inaction of governmental authorities having jurisdiction over the Hotel; or (ix) any other event beyond the reasonable control of Owner or Operator, but in all instances excluding the financial inability of either party to perform or otherwise meet its obligations.

"**Furniture, Fixtures and Equipment**" **or** "**FF&E**" shall mean all furniture, furnishings, wall coverings, fixtures, carpeting, rugs, fine arts, paintings, statuary, decorations, and hotel equipment and systems located at, or used in connection with, the operation of the Premises as a hotel, including without limitation, major equipment and systems required for the operation of kitchens, bars, laundry and dry cleaning facilities, office equipment, dining room wagons, major material handling equipment, major cleaning and engineering equipment, telephone systems, computerized accounting and vehicles (including the costs associated with the purchase, installation and delivery thereof) together with all replacements therefor and additions thereto, but in all events excluding Operating Equipment and Supplies.

"**FF&E Expenditures**" shall mean any expenditures pertaining to FF&E and not constituting Capital Improvements.

"**GAAP"** shall mean those conventions, rules, procedures and practices, consistently applied, affecting all aspects of recording and reporting financial transactions which are generally accepted by major independent accounting firms in the United States. Any financial or accounting terms not otherwise defined herein shall be construed and applied according to GAAP.

"**GOP Test**" shall have the meaning set forth in Section 17.2.

"**Gross Operating Profit**" or "**GOP**" shall mean the amount by which Gross Revenues of the Hotel exceed Operating Expenses of the Hotel.

"**Gross Revenues**" shall mean all revenues and receipts of every kind derived from the Hotel and all departments and parts thereof, as finally determined on an accrual basis in accordance with the Uniform System of Accounts, including, but not limited to, revenues and income (both cash and credit transactions) before commissions and discounts for prompt or cash payments, from (a) the rental of rooms and lobby space; (b) exhibit or sales space of any kind, including without limitation, charges for reservations, deposits and cancellation fees not refunded to guests; (c) income from vending machines, health club membership fees, wholesale and retail sales of merchandise, service fees and charges; (d) business interruption insurance claims in respect of the Hotel, (e) condemnation awards for temporary use of the Hotel; (f) license, lease and concession fees and rentals or other management income received by Owner (but not including the gross receipts of any licensees, lessees and concessionaires); (g) food and beverages sales, and (h) other sales of every kind conducted by, through or under Operator in connection with the Hotel. Gross Revenues shall not include (i) federal, state and municipal excise, sales and use taxes or similar impositions collected directly from patrons or guests or included as part of the sales price of any goods or services; (ii) proceeds arising from the sale or other disposition of property described in Section 1231 of the Internal Revenue Code or of capital assets; (iii) proceeds from condemnation and payments received on account of insurance policies (other than the proceeds from business interruption insurance and from condemnation awards for temporary use of the Hotel when

received); (iv) proceeds from claims for damages suffered by Operator or Owner, unless in recompense for a lost revenue item; (v) interest earned on the Reserve; or on any funds in the Operating Accounts; (vi) gratuities, including tips and service charges which are paid to the Hotel Employees by third parties; (vii) gross receipts received by licensees, lessees and concessionaires at the Hotel; (viii) proceeds from any sale, financing or refinancing of the Hotel or any interest therein; and (ix) any funds supplied by Owner to the reserve or to provide Working Capital, or which otherwise is defined as Owner's Invested Capital or Owner's Additional Invested Capital.

"**Guest Data**" shall mean all guest profiles, contact information, histories, preferences, and other information obtained in the ordinary course of business from guests of the Hotel during such guests' stay at the Hotel, or during such guests' use of the facilities associated with the Hotel.

"**Hotel**" shall have the meaning set forth in Recital A of this Agreement, as further described on Schedule 1 attached hereto.

"**Hotel Employees**" shall mean all individuals performing services in the name of the Hotel at the Hotel, in connection with the Hotel's business, whether employees of Operator or its Affiliate, but in any event, excluding the Corporate Personnel and any other personnel employed by Operator to perform services on a non-exclusive basis at other System Hotels.

"**Hotel Executive Staff Member**" shall mean each of the general manager, controller, director of revenue management, director of sales/marketing and director of food and beverage at the Hotel from time to time (or such equivalent position), to the extent such positions exist at the Hotel.

"**Implied Fiduciary Duties**" shall have the meaning set forth in Section 11.1(b).

"**Incentive Fee**" shall have the meaning set forth in Section 11.1(b).

"**Indemnified Party**" shall mean any party entitled to indemnification pursuant to ARTICLE 22.

"**Indemnifying Party**" shall mean any party required to indemnify an Indemnified Party pursuant to ARTICLE 22.

"**Insurance Costs**" shall mean all insurance premiums or other costs paid for any insurance policies (including business interruption insurance) maintained by or on behalf of Owner with respect to the Hotel.

"**Inventories**" shall mean "Inventories of Supplies" as defined in the Uniform System of Accounts, such as soap, toilet paper, stationery, writing pens, food and beverage inventories, paper products, menus, expendable office and kitchen supplies, fuel, supplies and items similar to any of the foregoing.

"**Legal Proceedings**" shall mean all complaints, counterclaims or cross-claims filed in a court of competent jurisdiction, any notice of any claim of violation of any legal requirement by any governmental agency or authority, or any summons or other legal process, in each instance by or against the Hotel or by or against Owner, or Operator in connection with the Hotel.

"**Legal Requirements**" shall mean (a) all laws, ordinances, statutes, regulations and orders relating to the Hotel and the Premises now or hereafter in effect, including but not limited to, environmental laws and (b) all terms, conditions, requirements and provisions of (i) all Permits; (ii) all leases; and (iii) all liens, restrictive covenants and encumbrances affecting the Hotel or the Premises or any part thereof.

"**Lender**" shall mean the holder of any Mortgage.

"**License Agreement**" shall mean the applicable franchise or license agreement issued to Owner by Hilton Franchise Holding LLC (or any successor thereto); should for any reason the License Agreement as above defined terminate or cease to exist, then the term "**License Agreement**" shall thereafter mean the franchise or license agreement from time to time entered into by Owner with respect to the branding and operation of the Hotel.

"**Licensor**" shall mean the "Franchisor" under the License Agreement.

"**Litigation Claims**" shall have the meaning set forth in Section 27.2(a).

"**Major Renovations**" shall mean a contemporaneously made set or series of alterations, additions and/or improvements to the Hotel or any material renovation, remodeling or refurbishing of the Hotel (or any portion thereof) implemented by Owner or required under a so-called "property improvement plan" imposed under a License Agreement, which customarily would be managed by a third party project manager, but which shall not include any routine Repairs and Maintenance with respect to Capital Improvements or FF&E.

"**Management Fee**" shall mean collectively the Base Fee and Incentive Fee, all as set forth in ARTICLE 11 hereof.

"**Measurement Year**" shall have the meaning set forth in Section 17.2(a).

"**Mediator**" shall have the meaning set forth in Section 27.2(a).

"**Mortgage**" shall mean, collectively, each of the documents evidencing or securing current or future indebtedness on the Hotel in favor of any Lender.

"**Multi-Property Programs**" shall have the meaning set forth in Section 4.7.

"**Notice**" shall have the meaning set forth in ARTICLE 19.

"**Notice of Proposed Sale**" shall have the meaning set forth in Section 21.2.

"**OFAC**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Operating Account**" shall mean an account or accounts, bearing the name of the Hotel and owned by Owner, established by Operator in a federally insured bank or trust company selected by Owner.

"**Operating Equipment and Supplies**" shall mean supply items which constitute "Operating Equipment and Supplies" under the Uniform System of Accounts, all miscellaneous serving equipment, linen, towels, uniforms, silver, glassware, china and similar items.

"**Operating Expenses**" shall mean all those ordinary and necessary expenses incurred in the operation of the Hotel determined in accordance with GAAP and the Uniform System of Accounts.

"**Operating Standards**" shall mean the operation of the Hotel in a first class manner in accordance with (i) the requirements under the applicable License Agreement; (ii) this Agreement; (iii) Legal Requirements; and (iv) the standards, policies and programs in effect from time to time that Operator reasonably determines are applicable to the operation, maintenance and repair of comparable hotels within the System Hotels.

"**Operator**" shall have the meaning set forth in the introductory section of this Agreement.

"**Operator Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Operator Rebates**" shall have the meaning set forth in Section 4.7.

"**Operator's Grossly Negligent or Willful Acts**" shall mean any gross negligence, willful misconduct, or fraud committed by Operator or the Corporate Personnel in the performance of Operator's duties under this Agreement. The acts or omissions (including gross negligence, willful misconduct or fraudulent acts or omissions) of the Hotel Employees (excluding the general manager and the controller) shall not be imputed to Operator or to the Corporate Personnel, or be deemed to constitute Operator's Grossly Negligent or Willful Acts, unless such acts or omissions resulted directly from the gross negligence, willful misconduct or fraudulent acts of Operator, the Corporate Personnel, the general manager and/or the controller in directing the Hotel Employees.

"**Owner**" shall have the meaning set forth in the introductory section of this Agreement.

"**Owner Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Owner's Additional Invested Capital**" shall mean any additional amounts advanced by Owner for Working Capital and for Capital Improvements in excess of the Reserve, calculated on a cumulative basis.

"**Owner's Annual Plan Objections**" shall have the meaning set forth in Section 4.2.

"**Owner's Invested Capital**" shall mean an amount equal to the purchase price paid by Owner for the Hotel, plus Owner's due diligence and related costs (including closing costs) in connection with Owner's acquisition of the Hotel, and Working Capital, subject to an adjustment by Owner by written notice to Operator within sixty (60) days of the closing of the acquisition of the Hotel.

"**Owner's Priority Return**" shall mean an amount equal to a nine and one half percent (9.5%) unlevered cash on cash return of: (i) Owner's Invested Capital; and (ii) Owner's Additional Invested Capital.

"**Performance Test**" shall have the meaning set forth in Section 17.2.

"**Permits**" shall mean all governmental or quasi-governmental licenses and permits, including but not limited to any certificate of occupancy, business licenses and liquor licenses.

"**Premises**" shall mean the land on which the Hotel is located, which land is described in Exhibit A attached hereto.

"**Prime Rate**" shall mean the rate per annum announced, designated or published from time to time by JP Morgan Chase Bank N.A. as its "prime", "reference" or "base" rate of interest for commercial loans.

"**Privileged Information**" shall have the meaning set forth in Section 23.16.

"**Prohibited Persons**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Reimbursable Expenses**" shall mean all reasonable travel, lodging, entertainment, telephone, facsimile, postage, courier, delivery, employee training and other expenses reasonably incurred by Operator in accordance with the standard policies for expenses reasonably incurred by Operator on its own behalf and which are directly related to its performance of this Agreement, but in no event will Reimbursable Expenses include or duplicate expenses for Operator's overhead or Centralized Services.

"**Repairs and Maintenance**" shall have the meaning set forth in Section 8.1.

"**Reserve**" shall mean an account maintained as a reserve for FF&E Expenditures and Capital Improvements.

"**Revenue Data Publication**" shall mean Smith's STR Report, a monthly publication distributed by STR, Inc., or an alternative source, reasonably satisfactory to both parties, of data regarding the average daily rate, occupancy and RevPAR of hotels in the general area of the Hotel, including, without limitation, the Competitive Set.

"**Revenue Per Available Room**" or "**RevPAR**" shall mean for any Fiscal Year the number derived by dividing (i) net room revenue (in accordance with the Uniform System of Accounts), by (ii) the number of available guest rooms in the Hotel.

"**RevPAR Test**" shall have the meaning set forth in Section 17.2.

"**Rules**" shall have the meaning set forth in Section 27.2(c).

"**Sale of the Hotel**" shall mean any voluntary sale, assignment, transfer or other disposition, for value or otherwise, of the fee simple title to the site and/or all or substantially all of the assets comprising the Hotel other than through foreclosure or deed in lieu of foreclosure or other similar procedure of financing permitted by this Agreement. For purposes of this Agreement, a Sale of the Hotel shall also include: (i) a lease (or sublease) of all or substantially all of the Hotel or site; or (ii) any sale, assignment, transfer or other disposition, for value or otherwise, voluntary

or involuntary, in a single transaction or a series of related transactions, of the controlling interest in Owner.

"**Sale Termination Notice**" shall have the meaning set forth in Section 17.1.

"**State**" shall mean the State in which the Hotel is located or other as designated.

"**System Hotels**" shall mean all or substantially all hotels operated by Operator or its Affiliates from time to time within the United States

"**Taxes**" shall mean all real and personal property taxes and other governmental impositions. Notwithstanding the foregoing, the term "Taxes" as used in this Agreement shall specifically exclude (a) all sales, use, excise, and hotel occupancy taxes collected directly from patrons and guests or as part of the sales price of any goods, services or displays and paid over to federal, state or municipal governments, (b) all income, franchise and municipal licenses or similar taxes of Owner or Operator or their respective Affiliates, and (c) any and all utility consumption costs.

"**Term**" shall have the meaning set forth in Section 3.1.

"**Termination Fee**" shall mean an amount determined as follows:

(a) From and after the Commencement Date until the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to (I) the product of (A) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (B) the quotient of (i) the Base Fee payable for the twelve (12) full calendar months immediately preceding the date of a termination of this Agreement, divided by (ii) twelve (12). If at the time of termination of this Agreement the Base Fee shall have been payable for less than twelve (12) full calendar months, then the Termination Fee shall equal the product of (X) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (Y) the quotient of (i) the Base Fee paid for each full calendar month following the Commencement Date plus the Base Fee payable under Operator's proforma for each additional month up to and including the twelfth (12^{th}) full calendar month following the Commencement Date, divided by (ii) twelve (12).

(b) From and after the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to zero.

"**Threshold Adjustment Event**" shall mean the occurrence of a Force Majeure Event, a material casualty or condemnation of all or any portion of the Hotel, Capital Improvements that result in displacement of rooms or amenities for in excess of a total of [___] room nights in any calendar month or negatively impact the average daily rate of a Hotel, an adjustment to the Competitive Set, including any rebranding occurring at one or more of the Competitive Set hotels, or an Owner Event of Default.

"**Transfer**" any assignment of this Agreement, transfer of any direct or indirect ownership interest in Owner, or Sale of the Hotel.

"**Transition Budget**" shall have the meaning set forth in Section 11.3.

"**Uniform System of Accounts**" shall mean the Uniform System of Accounts for the Lodging Industry, 11th Revised Edition, 2014, as published by the Hotel Association of New York City, Inc. or any later edition thereof.

"**WARN Act**" shall have the meaning set forth in Section 18.1.

"**Working Capital**" shall mean and refer to the funds which are reasonably necessary for the day-to-day operation of the Hotel's business, including, without limitation, amounts sufficient for the maintenance of petty cash funds, operating bank accounts, receivables, payrolls, prepaid expenses, advance deposits, funds required to maintain Inventories, amounts due to/or from Operator and/or Owner less accounts payable and accrued current liabilities, and all other costs and expenses incurred in connection with the Hotel pursuant to this Agreement and the performance by Operator of its obligations under this Agreement.

1.2 **Terminology**. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all genders; the singular shall include the plural, and the plural shall include the singular. The titles of Articles, Sections and Subsections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement, and all references in this Agreement to Articles, Sections, Subsections, paragraphs, clauses, sub-clauses or exhibits shall refer to the corresponding Article, Section, Subsection, paragraph, clause or sub-clause of, or exhibit attached to, this Agreement, unless specific reference is made to the articles, sections or other subdivisions of, or exhibits to, another document or instrument.

1.3 **Exhibits**. All exhibits and schedules and other attachments attached hereto are by this reference made a part of this Agreement.

ARTICLE 2
ENGAGEMENT OF OPERATOR

2.1 **Engagement and Duties of Operator**. Owner hereby engages and appoints Operator, pursuant to the terms of this Agreement, to operate and manage the Hotel, and Operator hereby agrees and contracts to operate**,** manage and supervise the Hotel pursuant to the terms of this Agreement and the Operating Standards (including the then-applicable Annual Plan). Subject to the terms of this Agreement, Hotel operations shall be under the exclusive supervision and control of Operator, which, except as otherwise specifically provided in this Agreement, shall be responsible for the proper and efficient operation, maintenance and repair of the Hotel in accordance with the terms of this Agreement. Except as specifically set forth in this Agreement, Operator shall have full discretion and control respecting matters relating to management and operation of the Hotel, including, without limitation, charges for rooms and commercial space, credit policies, food and beverage services, other Hotel services, employment policies, granting of concessions or leasing of space within the Hotel, receipt, holding and disbursement of funds, maintenance of bank accounts, procurement of Inventories, supplies and services, promotion and publicity, retain and direct legal counsel for the Hotel in the name of and as agent for Owner with respect to any matter regarding the operation of the Hotel; and, in general, all activities necessary

for operation of the Hotel. Operator shall devote its knowledge, experience and efforts to operate and manage the Hotel pursuant to this Agreement and in accordance with the Operating Standards.

Notwithstanding the foregoing grant of authority to Operator, Owner's prior written approval (not to be unreasonably delayed, conditioned or withheld (except as otherwise provided in Section 4.3 with respect to subparagraph (d))) shall be required for the following:

(a) the execution of (and provide Owner with a true and complete copy of) any contract (i) requiring total annual payments in excess of $25,000, as adjusted for increases in CPI every Fiscal Year after the initial Fiscal Year, or (ii) which has a term in excess of one (1) year (unless such agreement is terminable by Owner or Operator upon not more than thirty (30) days' notice without fee or penalty);

(b) with respect to claims asserted against Owner and/or the Hotel, for any matter for which aggregate legal fees, liabilities and/or out of pocket settlement amounts are anticipated to exceed $50,000; provided, however, Operator shall have the right to control the defense, including settlement, of any Legal Proceeding involving claims which are covered by Operator procured insurance programs (so long as Owner shall have no liability with respect to such claims, including any obligation to indemnify Operator under this Agreement);

(c) tenant leases of any space at the Premises (including rooftop leases) other than as provided in the Annual Plan (and which shall not include ordinary guest room and banquet space operations); and

(d) the negotiation and execution of any union, collective bargaining or similar agreements affecting the Hotel.

ARTICLE 3
TERM

3.1 **Term**. The operating term shall commence on the Effective Date and expire on the tenth (10th) anniversary of the Commencement Date (the "**Term**"), unless sooner terminated pursuant to the terms of this Agreement. In the event the Commencement Date does not occur by September 30, 2019, then either party shall have the option, in its sole and absolute discretion and without penalty or liability, to terminate this Agreement by delivery of written notice to the other party. If either party exercises its termination right in accordance with this Section 3.1, then all sums then due and payable to Operator and its Affiliates under this Agreement for the period of time prior to the date of termination shall be immediately due and payable. Owner and Operator shall confirm the Commencement Date in writing within ten (10) days after the Commencement Date occurs upon request of either party.

ARTICLE 4
USE AND OPERATION OF THE HOTEL

4.1 **Hotel Employees**.

(a) Operator shall have the sole right, as Operator reasonably deems appropriate for the proper operation, maintenance and security of the Hotel, to: (i) select, appoint, hire, promote, direct, supervise, train and discharge all Hotel Employees; and (ii) establish and maintain all policies relating to the employment of the Hotel Employees. Operator shall use commercially reasonable efforts and exercise reasonable care to select qualified and competent employees. Operator shall use commercially reasonable efforts to cause Operator's employment practices to comply with all Legal Requirements. All Hotel Employees shall be solely employees of Operator; provided, however, all of the costs, expenses and liabilities associated with the Hotel Employees shall be Operating Expenses, and shall include, by way of example and not limitation, all costs and expenses (including, without limitation, all employment and benefit related expenses incurred by Operator with respect to the Hotel Employees), such as severance pay, unemployment compensation and health insurance and related costs (i.e., in order to comply with COBRA-type regulations) as a result of the termination of Hotel Employees. Notwithstanding anything to the contrary contained herein, Owner shall have the right to interview and approve each individual selected by Operator to hold a position as a Hotel Executive Staff Member prior to his or her appointment, which approval shall not be unreasonably withheld or delayed. Prior to appointing an individual to a Hotel Executive Staff Member position, Operator shall provide Owner with a written summary of such individual's professional experience and qualifications and shall offer Owner the opportunity to interview the candidate at the Hotel or another mutually acceptable location. Owner will forego its right to interview any such individual if Owner or its authorized representative is unwilling or unable to participate in the interview within ten (10) days following Operator's offer. Owner shall be deemed to have approved the appointment of any such individual unless Owner delivers notice of its disapproval of such appointment within ten (10) days after Operator's offer to Owner to interview the candidate. Owner acknowledges that it may not reject more than three (3) qualified candidates proposed by Operator for any Hotel Executive Staff Member position. Owner further acknowledges that, notwithstanding Owner's right to interview and approve the hiring of each individual to hold a position as a Hotel Executive Staff Member, Operator shall have sole discretion to remove or replace any such individual (with such replacement subject to the approval rights set forth herein) (provided Operator shall not relocate the general manager or director of sales to any other System Hotel without the prior consent of Owner within thirty-six (36) months of such individual's hire).

(b) Operator may, from time to time, assign one or more of its corporate employees to the staff of the Hotel on a full-time, part-time or temporary basis, and the pro-rata share of the costs, expense and liabilities of such corporate employee of Operator shall be fairly and equitably allocated as an Operating Expense of the Hotel.

(c) Operator may elect to use the services of its Affiliates in fulfilling its obligations under this Agreement. If an Affiliate of Operator performs services Operator is required to provide, Operator shall be ultimately responsible to Owner, and Owner shall not pay more for the Affiliate's services and expenses than Operator would have been entitled to receive under this Agreement had Operator performed the services. If an Affiliate of Operator provides goods to the Hotel, such goods shall be supplied at prices and on terms at least as favorable to the Hotel as generally available in the relevant market.

(d) Any Hotel Employees who are not then represented by a collective bargaining representative shall be entitled to participate in the incentive programs, profit sharing and/or other

employee retirement, disability, health, welfare or other benefit plan or plans then made available by Operator to similarly situated employees of other System Hotels, in accordance with their respective terms. Operator will have the right to charge the Hotel with its allocable share of the cost of any such plan or plans and any contributions to be made thereunder provided that such charges and contributions shall be determined by Operator in good faith on a fair and equitable basis with respect to charges and contributions imposed for the same or similar plans at other hotels then managed by Operator, subject to Legal Requirements, and to the extent set forth in the Annual Operating Budget. Operator's rights under this Subsection (d) shall be subject to the condition that Operator shall not put into effect any amendment to any existing plan, or adopt any additional plan, which is not imposed upon all other similarly situated System Hotels.

(e) During the Term of this Agreement and for a period of twelve (12) months following termination, Owner shall not, and shall use reasonable efforts to ensure that its Affiliates do not, hire, solicit for hire, make any referrals for employment, retain as a consultant, or use the services of, any person who is employed at the Hotel as a Hotel Executive Staff Member and any Corporate Personnel, and Owner shall use reasonable efforts to prevent any other company (and any Affiliate of such other company) working on behalf of Owner or its Affiliates (including, without limitation, companies that operate or manage hotels for Owner or its Affiliates) from hiring, retaining as a consultant or using the services of any such person. The foregoing shall not prohibit Owner, any Owner Affiliate or any other company working on behalf of Owner or its Affiliates from hiring, retaining as a consultant or using the services of any such person to the extent such person is responding to a general advertisement or other solicitation of employment not specifically directed towards any Hotel Executive Staff Member or Corporate Personnel. The provisions of this section shall survive expiration or termination of this Agreement.

4.2 **Annual Plan**. [Operator shall use the existing Fiscal Year 2019 budget prepared by the existing Hotel manager as a guide to operate the Hotel pending delivery of Operator's Fiscal Year 2019 Annual Plan. On or before the date that is ninety (90) days following the Commencement Date, Operator shall submit to Owner an Annual Plan ("**Annual Plan**") for the remaining portion of the 2019 Fiscal Year and Owner either shall accept the initial Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan. Owner and Operator shall meet and discuss Owner's Annual Plan objections and shall coordinate expeditiously and in good faith to agree upon an Annual Plan for the 2019 Fiscal Year. On or before November 1st of each year following the Commencement Date, Operator shall submit to Owner an Annual Plan for the next Fiscal Year and on or before December 1st of each year following the Commencement Date, Owner either shall accept the Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan ("**Owner's Annual Plan Objections**"). Within seven (7) days after Operator's receipt of Owner's Annual Plan Objections, Owner and Operator shall agree upon a date to meet and discuss Owner's Annual Plan Objections with the goal of agreeing upon an Annual Plan for the subject Fiscal Year. In the event Owner objects to the Annual Plan or any specific items expense in the Annual Plan and Owner and Operator are unable to reach agreement thereon as provided above prior to commencement of the Fiscal Year in question, pending such agreement, the Annual Plan or the specific item or items of expense (not revenue) in question shall be suspended and replaced for such period of disagreement by an amount equal to the actual Operating Expenses for the immediately preceding Fiscal Year subject to an adjustment equal to the percentage increase in the CPI over the last twelve (12) month period

immediately preceding the start of the Fiscal Year in question. Notwithstanding anything to the contrary contained herein, Owner shall not have the right to withhold its approval with respect to the following aspects of the Annual Plan: (i) employee wages, compensation, and benefit programs to the extent applied on a system-wide basis to the other hotels managed by Operator, taking into account fluctuation for local market conditions; (ii) the Centralized Services Charge, and (iii) costs over which Operator has no reasonable control, including, without limitation, taxes, insurance, utility rates, payments due under Mortgages and Legal Requirements.

(a) The proposed Annual Operating Budget shall incorporate Operator's good faith reasonable estimates of the items of revenue and expense contained therein and shall contain the proposed budget for operations for the succeeding Fiscal Year. When approved by Owner, the proposed Annual Operating Budget shall become the approved Annual Operating Budget. Any revisions, substitutions or additions to the Annual Operating Budget must be approved by Owner in writing.

(b) The Capital Budget shall contain the proposed budget for FF&E Expenditures from the Reserve and the budget for Capital Improvements for the succeeding Fiscal Year. Operator shall submit good faith reasonable estimates for Capital Improvements and for FF&E Expenditures for such succeeding Fiscal Year. When approved by Owner, the proposed Capital Budget shall become the approved Capital Budget. Approval of the Capital Budget constitutes an authorization for Operator to expend money for Capital Improvements and for FF&E as provided in the Capital Budget, unless Owner's approval thereof specifically requires Operator to obtain additional approvals prior to commencing such work. Any revisions, substitutions or additions to the approved Capital Budget must be approved by Owner in writing.

(c) Operator shall use commercially reasonable efforts to operate the Hotel in accordance with the approved Annual Plan. The parties acknowledge that: (i) the approved Annual Plan is an estimate only; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the approved Annual Plan impracticable or impossible; and (iii) Operator shall be entitled to depart therefrom due to causes of the foregoing nature. Operator may (w) incur variable expenses directly attributable to occupancy or revenues above forecasted levels; (x) pay all taxes, utilities, insurance premiums and charges provided for in contracts and leases entered into pursuant to this Agreement that are not within Operator's ability to control; (y) make any expenditures reasonably required on an emergency basis to avoid or mitigate damage to the Hotel or injury to persons or property, provided that Operator notify Owner as promptly as reasonably possible; and (z) make any expenditures necessary to comply with, or to cure or prevent any violation of any Mortgage and Legal Requirements. In addition to, and without limiting the foregoing, Operator shall be permitted, in its discretion and without the approval of Owner, to deviate from the approved Annual Operating Budget as follows: by up to ten percent (10%) of the approved department expense line item, or by up to five percent (5%) of the aggregate total expenditures in the approved Annual Operating Budget. If Operator determines that circumstances will result in material changes between actual results and the approved Annual Plan during the course of the Fiscal Year, Operator shall, within thirty (30) days of such determination, notify Owner, which shall include a reforecast of revenues and expenses through the remainder of the Fiscal Year. Unless otherwise specified, all references to the Annual Plan in this Agreement shall be deemed to refer to the Annual Plan approved by Owner, subject to Operator's right to depart therefrom pursuant to this Section 4.2(c).

4.3 **Labor Relations**. Operator may negotiate with any union lawfully entitled to represent the Hotel Employees and may execute collective bargaining agreements or labor contracts resulting therefrom that have been approved by Owner in Owner's sole and absolute discretion, as provided in Section 2.1(d). Owner shall have the right to have one or more representatives attend and participate in all such negotiations.

4.4 **Liquor License**. Operator shall obtain all alcoholic beverage licenses either in its name or its designee and shall maintain the alcoholic beverage licenses in good standing and effect, free of all liens (with the exception of any lien granted to Owner herein) and in compliance with the conditions imposed upon such alcoholic beverage licenses by any alcoholic beverage control commission or other governmental authority or agency, pursuant to the License Agreement. Operator further covenants and agrees that upon termination of this Agreement, whether upon its expiration or at any sooner termination thereof, it shall execute any documentation and perform any other acts which may be reasonably necessary or appropriate to effect the transfer or issuance of an alcoholic beverage license to the subsequent owner or Operator of the Hotel, provided that Operator shall not incur liability or cost in connection with such transfer or issuance. Owner covenants and agrees to pay any and all costs (including reasonable attorney's fees) incurred by Operator or its designee in effecting the transfer or obtaining such licenses and such covenant and agreement shall survive the expiration or termination of this Agreement.

4.5 **Notice of Violations**. Operator shall promptly notify Owner in writing of any written notice received from any regulatory or governmental body regarding an actual or perceived violation of any Legal Requirements.

4.6 **Centralized Services**. To the extent not otherwise provided by Licensor pursuant to the terms and conditions of the License Agreement, Operator may provide or cause its affiliated companies to provide for the Hotel the benefit of certain reservation systems, centralized accounting services, IT services, purchasing services, revenue management services, training, satisfaction surveys, and/or other centralized services as may be made available generally to similar properties managed by Operator from time to time (individually and collectively, the "**Centralized Services**"). The cost of all Centralized Services ("**Centralized Services Charge**") shall be (a) set forth in the applicable Annual Operating Budget, (b) allocated to the Hotel on an equitable basis with all other hotels utilizing the Centralized Services of Operator or its Affiliates, (c) reimbursed to Operator on a cost reimbursement basis and without mark-up or profit to Operator, and (d) shall not exceed the costs which Owner otherwise would have incurred if such services otherwise were provided on-site at the Hotel, which costs may include, without limitation, salaries (including payroll taxes and employee benefits) of employees and officers of Operator and its Affiliates engaged in the provision of the Centralized Services, costs of all equipment employed in the provision of such Centralized Services, and a reasonable charge for the development costs of Operator or its Affiliates. The Centralized Services currently provided by Operator, along with the Centralized Services Charge as of the Effective Date, are described in Exhibit B attached hereto. The Centralized Services and the Centralized Services Charge shall be subject to change from time to time, subject to clauses (a)-(d) above.

4.7 **Multi-Property Programs**. Owner acknowledges and agrees that, subject to the applicable Annual Operating Budget, Operator may, in Operator's reasonable discretion, enter into certain purchasing, maintenance, service or other contracts with respect to the operation of

the Hotel and other hotels operated by Operator (collectively, "**Multi-Property Programs**") pursuant to which Operator or its Affiliates may receive rebates, discounts, cash or other incentives, administration fees, concessions, profit participations, stock or stock options, investment rights or similar payments or economic considerations (collectively, "**Operator Rebates**") from the vendors or suppliers of goods or services provided under such Multi-Property Programs. When taking bids or issuing purchase orders, Operator shall secure for, and shall credit to, Owner any Operator Rebates (less Operator's expenses related thereto) in connection with such purchase. Operator shall promptly remit to Owner's benefit in the Operating Account the value of all Operator Rebates (less Operator's expenses related thereto) received by Operator or any of its affiliates in connection with any purchases described herein.

ARTICLE 5
USE OF NAME

5.1 **Name**. During the Term of this Agreement, the Hotel shall at all times be known and designated by the name set forth in the applicable License Agreement or by such other name as from time to time may be approved by Owner. Operator shall make or cause to be made any fictitious name filings or disclosures required by the laws of the State with respect to the use of such name for or in connection with the Hotel.

ARTICLE 6
ADVERTISING

Subject to the provisions of the License Agreement, Operator shall arrange and contract for all advertising, which Operator may reasonably deem necessary, in accordance with Section 4.2, for the operation of the Hotel. So long as the License Agreement may be in effect, Operator generally shall advertise the Hotel under the name required by the License Agreement for the Hotel.

ARTICLE 7
RESERVE FOR FF&E

7.1 **Reserve for Replacement of FF&E**. The Reserve shall be funded pursuant to Section 7.2, and Operator shall be authorized to use amounts in the Reserve to pay for the cost of FF&E Expenditures and Capital Improvements.

7.2 **Transfers to Reserve for FF&E**. Commencing on the Commencement Date and continuing thereafter during the remainder of the Term, Operator shall deposit monthly into the Reserve for FF&E and Capital Improvements an amount equal to the amounts required by Lender and/or by Licensor; provided that in no event will the amounts to be deposited monthly into the Reserve be less than an amount equal to four percent (4%) of Gross Revenues throughout the Term.

7.3 **Annual Adjustment**. At the end of each Fiscal Year and following receipt by Operator of the annual accounting referred to in ARTICLE 10, an adjustment will be made if necessary and if available, so that the appropriate amount shall have been deposited in the Reserve for such Fiscal Year.

7.4 **Maintenance of Reserve**. The proceeds from the sale of FF&E no longer needed for the operation of the Hotel shall be deposited in the Reserve, but not credited against the obligation to deposit cash in such fund for the then current Fiscal Year. All interest earned or accrued on amounts invested from the Reserve shall be added to the Reserve (but shall not be credited against Owner's obligations to fund the Reserve), and shall not constitute Gross Revenues or be included therein.

7.5 **Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements**. Owner and Operator acknowledge and agree that portions of the Reserve may, from time to time in accordance with the then-current Annual Plan, be used for more significant expenditures than could be reserved for in a single year. Accordingly, at the end of each Fiscal Year, any amounts remaining in the Reserve shall be carried forward to the next Fiscal Year, and shall be in addition to the amount to be reserved in the next Fiscal Year. In the event at any time there are insufficient funds in the Reserve for any Fiscal Year to pay the cost of FF&E Expenditures in accordance with the Annual Plan, then Owner will, within thirty (30) days after request therefor by Operator, provide the additional funds to Operator to pay for such excess.

ARTICLE 8
REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS

8.1 **Repairs and Maintenance**. Operator shall, from time to time, make such expenditures from the Reserve (or, to the extent insufficient, from funds otherwise provided by Owner) for (a) FF&E Expenditures and (b) repairs and maintenance of HVAC, mechanical and electrical systems, exterior and interior repainting; resurfacing building walls and floors; resurfacing parking areas; replacing folding walls; and miscellaneous similar expenditures (collectively, "**Repairs and Maintenance**") as required by the License Agreement, any Mortgage, Legal Requirements, Annual Plan and otherwise in the condition required by this Agreement. Except in the event of an emergency, Force Majeure Event or otherwise under circumstances in which it would be unreasonable to seek to obtain prior approval (and provided that Operator shall notify Owner of any such expenditure within a reasonable time given the nature and scope of the emergency), all expenditures for the foregoing shall be as provided in the Annual Plan. If any such Repairs and Maintenance shall be made necessary by any condition against the occurrence of which Owner has received the guaranty or warranty of the builder of the Hotel or of any supplier of labor or materials for the Hotel or of any supplier of labor or materials for the construction of the Hotel, then Operator shall, at Owner's direction, invoke said guarantees or warranties in Owner's or Operator's name and Owner shall cooperate in all reasonable respects with Operator in the enforcement thereof.

8.2 **Capital Improvements**. Owner shall, from time to time, at its sole expense (which may include funds deposited in the Reserve), make such Capital Improvements in or to the Hotel as Owner shall determine are necessary to comply with the Operating Standards. If Capital Improvements shall be required at any time during the Term by the terms of the License Agreement, to maintain the Hotel in accordance with the Operating Standards or Legal Requirements, or because Operator and Owner jointly agree upon the desirability thereof, then in such event all such Capital Improvements shall be made with as little hindrance to the operation of the Hotel as reasonably possible. Notwithstanding the foregoing, as long as the Hotel can continue to operate without interruption, Owner shall have the right to contest the need for any

such Capital Improvements required by any Legal Requirements and may postpone compliance therewith, if so permitted by law and if such postponement will not expose Operator to any civil or criminal liability. All recommendations by Operator of Capital Improvements shall be submitted in conjunction with the Capital Budget for the Fiscal Year described in Section 4.2(b). In the event that Owner elects to perform Major Renovations to the Hotel, Owner may request Operator to oversee the performance of the Major Renovations, in which case the parties shall enter into an agreement for project management services in a form and on such terms and conditions (including the amount of any project management fees) mutually acceptable to both parties.

8.3 **Liens**. Owner and Operator shall cooperate and use all commercially reasonable efforts to prevent any liens from being filed against the Hotel that arise from any maintenance, changes, repairs, alterations, improvements, renewals or replacements in or to the Hotel.

8.4 **Notice of Force Majeure Event**. In the event of any occurrence constituting a Force Majeure Event, Operator shall promptly notify Owner of such occurrence and shall keep Owner informed as to the extent and impact thereof on the Hotel.

ARTICLE 9
WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH

9.1 **Working Capital**. Owner shall provide initial Working Capital in an amount equal to $1,000 per guest room at the Hotel. Owner shall at all times cause sufficient Working Capital to be on hand in the Operating Account. In no event shall Owner permit the Working Capital in the Operating Accounts to be less than an amount equal to the estimated monthly operating expenses of the Hotel for the ensuing sixty (60) day period, as reflected in the then current Annual Operating Budget. From time to time, upon fifteen (15) days prior written notice from Operator that such funds are required, Owner shall furnish to Operator funds that Operator deems reasonably necessary to assure that the Hotel shall have adequate Working Capital as herein provided.

9.2 **Depository Account**. All monies received by Operator in the operation of the Hotel shall be received in trust by Operator for the benefit of Owner and shall be deposited in a "**Depository Account**" in Owner's name, with certain of Owner's employees as authorized signatories, in a bank or trust company selected by Owner. Such monies shall not be commingled with other funds belonging to Operator and shall be swept on a daily basis into the Operating Account.

9.3 **Operating Account**. Owner and Operator shall also establish an Operating Account for paying the Hotel's expenses permitted herein to be charged to the Hotel and/or Owner. The Operating Account shall be in Owner's name, with Operator's employees as the authorized signatories, in a bank or trust company selected by Owner. Operator shall pay all Operating Expenses of the Hotel and amounts owed Operator and its Affiliates hereunder (including the Management Fee and Centralized Services Charges) out of the Operating Account. Checks drawn on the Operating Account or other documents of withdrawal from such accounts shall be signed by a designated representative of Operator approved by Owner. The Operating Account shall provide that, upon Owner's written direction, Operator and its representatives may be removed

as authorized signatories of such account but only upon termination of this Agreement. Owner shall make arrangements to deposit from the Depository Account into the Operating Account on a daily basis any money which is required to cover payments from the Operating Account permitted herein, including any payments for capital expenditures permitted herein. If Owner fails to do so and such failure continues for three (3) business days after notice from Operator, such failure shall be deemed an Owner Event of Default and Owner shall indemnify and hold Operator harmless from any loss or expense Operator might incur as a result of such deposit not having been made, and Operator may exercise its right to terminate pursuant to Section 15.2. All risk of loss with respect to funds in the Operating Account shall be borne by Owner.

9.4 **Distribution of Excess Cash**. Within twenty-five (25) days of the close of each Accounting Period, Operator shall distribute to Owner all sums remaining in the Operating Account in excess of the then Working Capital requirements of the Hotel determined in accordance with Section 9.1 of this Agreement.

9.5 **Lender Requirements**. The provisions of this ARTICLE 9 shall be subject to the requirements of any Lender. Operator will cooperate with all cash management and other similar requirements reasonably imposed by any Lender, provided such cash management or other requirements acknowledge that so long as Operator is managing the Hotel, Operator shall continue to receive payment of Management Fees, Reimbursable Expenses and payroll expenses as contemplated herein.

ARTICLE 10
BOOKS, RECORDS AND STATEMENTS

10.1 **Books and Records**. Operator shall keep full and adequate books of account and other records reflecting the results of operation of the Hotel in accordance with the Uniform System of Accounts and GAAP. The books of account and all other records relating to or reflecting the operation of the Hotel shall be kept either at the Hotel or at Operator's corporate offices and shall be available to Owner and its representatives and its auditors or accountants, at all reasonable times for examination, audit, inspection and transcription at Owner's sole cost and expense. All of such books and records pertaining to the Hotel shall be the property of Owner. Upon any termination of this Agreement, all of such books and records forthwith shall be turned over to Owner at a location designated by Owner so as to insure the orderly continuance of the operation of the Hotel, but such books and records shall thereafter be available to Operator at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years. In addition to the Hotel's books and records, Operator shall maintain Guest Data in accordance with its privacy policy and the License Agreement; provided, however, Owner and Operator shall jointly own all Guest Data, and each may use such Guest Data in any commercially reasonable manner that: (a) does not violate the terms of this Agreement, (b) during the Term of this Agreement, does not interfere with and/or is not detrimental to the operation or financial performance of the Hotel, and (c) does not violate any Legal Requirements applicable to the use of Guest Data.

10.2 **Financial Reports**.

(a) Operator shall deliver to Owner within twenty (20) days following the close of each Accounting Period a monthly profit and loss statement reflecting a comparison of periodic and year-to-date actual revenues and expenses with the Annual Operating Budget as well as a periodic and year-to-date comparison of such actual revenues and expenses with those of the prior Fiscal Year.

(b) Within seventy-five (75) days after the end of each Fiscal Year, Operator shall deliver to Owner an annual accounting, showing the results of operation of the Hotel during the Fiscal Year and a computation of Gross Revenues, Operating Expenses, and Gross Operating Profit, if any, and any other information necessary to make the computations required hereby or which may be requested by Owner, all for such Fiscal Year. The annual accounting for any Fiscal Year shall be controlling over the interim accountings for such Fiscal Year.

(c) Operator shall prepare and deliver any additional reports or information as Owner is required to provide under the License Agreement.

10.3 **Audits by Owner**. Owner shall have the right to audit, conducted either by Owner's internal personnel or by a third party auditor retained by Owner, at its expense and not as an Operating Expense of the Hotel (except as provided below), all items of expense and revenue under this Agreement including, but not limited to, Gross Revenues, Operating Expenses, depreciation, the Management Fee and the Reserve. Operator shall cooperate and assist with such audit. In the event that an audit reflects an underpayment to Owner or Operator or an overpayment to Operator or Owner, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the audit results to Operator, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. In the event any audit establishes that Operator has overstated or understated Gross Revenues or Operating Expenses by more than five percent (5%), the costs of such audit shall be paid for by Operator (and shall not be an Operating Expense of the Hotel).

10.4 **Accounting Services**. Subject to the provision of sufficient input, review, approval and signoff by Owner, during the Term, Operator (or its Affiliate) shall render certain accounting services to and on behalf of Owner, which shall include:

(a) separate from the Hotel books and records, the maintenance of Owner's corporate books of account, including without limitation capital accounting (to be performed under Operator's capitalization policy) and check cutting services with respect to Owner's FF&E account for the payment of FF&E Expenditures;

(b) the provision of financial reporting services, utilizing Operator's standard reports, which shall be delivered within the reporting deadlines required by Lender, but in no event less than twenty (20) days monthly, forty five (45) days quarterly and ninety (90) days annually;

(c) the making of all of Owner's required payments with respect to (i) any Mortgage (on behalf of Owner in satisfaction of Owner's obligations under Section 23.5), (ii) Taxes (as set forth in Section 13.1) and (iii) Insurance Costs (as set forth in Section 12.1);

(d) if applicable, the processing of Lender requisitions from the Reserve;

(e) coordination of deliverables for Lender reporting requirements;

(f) cooperation with an independent accounting firm approved in Owner's sole discretion in connection with securitization vehicle reporting deadlines and audit procedures under Regulation AB; and

(g) other related services as mutually agreed by Owner and Operator from time to time (collectively, the "**Accounting Services**").

In consideration for its provision of the Accounting Services hereunder, Operator shall receive the Accounting Services Fee, which amount shall be payable pursuant to Section **Error! Reference source not found.**, and which reflects Operator's cost reimbursement only, without mark-up or profit to Operator. In the event the scope of the Accounting Services is materially increased (including through use of reports other than Operator's standard forms), the Accounting Services Fee may be increased as mutually determined by the parties. Owner may elect at any time to terminate the Accounting Services by delivery of seventy five (75) days' prior written notice to Operator, in which event the date of termination of the Accounting Services will be the last day of the calendar quarter following the month in which Operator receives Owner's written notice of termination, and the Accounting Services Fee shall cease to be due from and after the date of such termination.

ARTICLE 11
MANAGEMENT FEES AND OTHER PAYMENTS

11.1 **Management Fee**. For each Fiscal Year or portion thereof, Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, subject to delivery of the monthly reports described in Section 10.2(a) (except with respect to the Incentive Fee, which, if due, shall be paid at the end of each calendar quarter upon the submission of the reports described in Section 10.2(b) with respect to such calendar quarter) in respect of its management services hereunder, a management fee calculated as follows (collectively, the "**Management Fee**"):

(a) a base fee (the "**Base Fee**") in an amount equal to two and one half percent (2.5%) of Gross Revenues in respect of any applicable period; plus

(b) an incentive fee (the "**Incentive Fee**") in an amount equal to fifteen percent (15%) of Adjusted GOP for such Fiscal Year. A sample calculation of the Incentive Fee is attached hereto as Exhibit C.

(c) Notwithstanding the forgoing, the aggregate Management Fee payable in any given Fiscal Year shall not exceed four percent (4%) of Gross Revenues for such Fiscal Year.

11.2 **Payment of Management Fee**. The Incentive Fee shall be computed separately for each Fiscal Year and shall not be accumulated from Fiscal Year to Fiscal Year. The Incentive Fee shall be prorated for any partial Fiscal Year (provided that in the event this Agreement is terminated due to an Event of Default by Operator, no Incentive Fee shall be payable with respect to the Fiscal Year in which such termination occurs). The Incentive Fee shall be adjusted, if necessary, within sixty (60) days after receipt by Owner of the annual accounting for such Fiscal

Year or receipt by Operator of Owner's documentation supporting the calculation of Owner's Priority Return. Upon request by Operator, Owner shall provide sufficient evidence and back up documentation to support Owner's calculation of Owner's Priority Return, including without limitation sufficient evidence and back up documentation to allow Operator to properly verify Owner's Invested Capital and Owner's Additional Invested Capital. Owner or Operator shall be entitled to audit the determination and calculation of the Management Fee. In the event that an audit reflects an underpayment or overpayment of the Management Fee to Operator, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the results of such audit to the other party, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. The calculation and payment of the Incentive Fee shall survive the termination of this Agreement.

11.3 **Other Payments**. Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, the Centralized Services Charges and Accounting Services Fee for each Accounting Period concurrently with the payment of the Base Fee at the end of each Accounting Period. Operator shall also receive reimbursement from Owner for those reasonable out of pocket costs actually incurred by Operator which are or were directly and exclusively related to transitional management services provided by Operator prior to the Commencement Date, as outlined in the Transition Budget attached hereto as Exhibit D (the "**Transition Budget**"). Additionally, Operator shall, in accordance with the Annual Plan, be entitled to reimburse itself directly from the Operating Account for all Reimbursable Expenses incurred by it in connection with the performance of this Agreement. If requested by Owner, Operator shall provide a statement showing in reasonable detail the nature and amount of such expenses, together with supporting documentation reasonably requested by Owner.

11.4 **Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards**. In the event of a casualty or condemnation for temporary use resulting in the payment of business interruption insurance (with respect to such casualty) or a condemnation award (with respect to such condemnation for temporary use), the amount of such proceeds shall be considered a part of Gross Revenues for the purpose of computing Operator's Management Fee, unless such Management Fees are paid directly to Operator by way of receipt of business interruption proceeds.

ARTICLE 12
INSURANCE

12.1 **Insurance Requirements**. Owner shall retain the right, upon written notice to Operator, to procure and maintain, as an Operating Expense of the Hotel, the policies required in subsections (a), (b), (c), (d), (e), (f), (g) or (l) of this Section 12.1 given, however, that such policies shall be placed with responsible and properly authorized companies, meet the minimum requirements as contained in this ARTICLE 12, the coverage provisions provided shall apply to Operator's benefit as provided in this Agreement, and with respect to subsection (l) of this Section 12.1, if there is a deficiency in the coverage of the Cyber Liability Insurance policy procured or maintained by Owner, Operator shall have the right to elect to procure Cyber Liability Insurance coverage addressing any such deficiency, as an Operating Expense of the Hotel. Operator will procure and maintain, as an Operating Expense of the Hotel, the policy required in subsection (h) of this

Section 12.1 with a responsible and properly authorized company that meets the minimum standards contained in this ARTICLE 12. Operator will procure and maintain, at Operator's sole cost and not as an Operating Expense of the Hotel, the policies required in subsections (i), (j) and (k) of this Section 12.1 with responsible and properly authorized companies that meet the minimum standards contained in this ARTICLE 12; provided, however, Operator shall only be responsible for the payment of the premiums for such policies as procured by Operator, and any deductibles payable in connection with any claim or loss, any losses suffered under such policies, or any other claims, costs or expenses associated with such policies, shall be borne by Owner. Notwithstanding Operator's agreement to pay the cost of the premiums associated with the policies required in subsections (i), (j) and (k), in the event Owner elects to modify the deductibles under such policies or otherwise adjust coverage under such policies and such modifications result in an increase in premium, Owner shall be responsible for any increase in premium associated with such modification. All policies evidencing such insurance in this ARTICLE 12 shall name both Owner and Operator as named or additional insureds as their interests may appear, and may, at Owner's election, name any mortgagee, lien holder or other security interest holder of all or any part of the Hotel as an additional insured thereunder, as its interest may appear. The party which procures the insurance required under subsections (d) and (e) of this Section 12.1 will procure such coverage on a primary and non-contributory basis to the other party.

(a) An "all risk" policy (including, at Owner's option, Difference in Conditions coverage which shall include earthquake, windstorm and flood) insuring all real and personal property, in an amount Owner and Operator shall mutually deem advisable.

(b) Insurance on the Hotel against loss or damage from an accident to and/or caused by boilers, heating apparatus, pressure vessels, pressure pipes, electrical or air conditioning equipment, in an amount as Owner shall deem advisable.

(c) Business interruption and extra expense insurance, on a loss sustained basis, against the perils enumerated in subsections (a) and (b) above, including Operator's Management Fees and the Centralized Services Charges as provided under this Agreement.

(d) Commercial General Liability Insurance, including coverage for bodily injury (including coverage for death, mental anguish), full liquor liability, inn keepers legal liability (this coverage can be provided through a 3rd party crime policy upon Owner consent), personal injury and advertising liability including premises-operations, independent contractors' protective, products-completed operations, broad form property damage (including coverage for explosion, collapse and underground hazards), and including cross liability and severability of interests, blanket contractual liability for liability and claims occurring upon, in on or about the Hotel and, without exclusion for assault, battery or sexual molestation. Coverage shall be extended to include liability arising out of spas, treatments, massages as applicable, with the following minimum limits:

(i) $1,000,000 Each Occurrence;
(ii) $2,000,000 General Aggregate;
(iii) $1,000,000 Personal and Advertising Injury; and
(iv) $2,000,000 Products-Completed Operations Aggregate.

Such policy shall provide coverage on a on a per occurrence basis and be endorsed to have the General Aggregate apply on a per location/ per project basis. The Contractual Liability Insurance shall include coverage sufficient to meet the indemnity obligations in this Agreement.

(e) Umbrella/Excess Liability Insurance on a follow form basis with a per occurrence and annual aggregate limit of $100,000,000 per location / project. Coverage shall be excess of Commercial General Liability Insurance, Auto Liability and Employers Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

(f) Comprehensive Automobile Liability Insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage for automobiles used in the performance of Operator's obligations hereunder.

(g) Such additional insurance as may be required by any mortgagee or lessor of the Hotel or any part thereof, together with insurance against such other risks as Owner deems necessary and that is now, or hereafter is, customary to insure against in the operation of similar properties, considering the nature of the business and the geographic and climatic nature of the Hotel's location.

(h) Worker's Compensation coverage with statutory limits and employer's liability with limits not less $1,000,000 and similar insurance as may be required by law or as Operator shall deem advisable.

(i) Employment Practices Liability Insurance in amounts not less than $2,000,000 covering employee harassment, discrimination, retaliation, wrongful termination. Such policy shall contain an endorsement to provide for coverage relating to claims from third parties, with coverage including but not limited to third party discrimination.

(j) Fidelity or Crime insurance in such reasonable amounts as Owner and Operator shall deem advisable but not less than $1,000,000, which policy shall specify that any loss involving funds of Owner shall be payable to both Operator and Owner with Owner as primary loss payee. A contracting services endorsement or other endorsement to provide for coverage of employees of Operator taking money or property of Owner or guests shall be attached to said policy.

(k) Professional Liability (Errors and Omissions) Insurance in amount not less than $2,000,000 covering the management, marketing, and hospitality services provided on behalf of the Hotel by Corporate Personnel.

(l) Cyber Liability Insurance with limits of not less than $2,000,000 each claim and $2,000,000 general aggregate covering liabilities for financial loss resulting or arising from website media content liability, breaches of security, and damage, destruction or theft of data. If Operator shall have access to personally identifiable information, such insurance shall also cover liabilities for the failure to prevent unauthorized access to data containing such information including violations of privacy laws and regulations. Furthermore, the insurance shall cover data breach expenses, including but not limited to consumer notification, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring

or remediation services. The coverage shall be written on a claims made and reported basis. Operator's insurance shall be primary and required to respond to and pay prior to any other available coverage of Owner.

Owner and Operator may agree for Operator to procure and maintain the policies required in subsections (a), (b), (c), (d), (e), (f) or (g) of this Section 12.1, as an Operating Expense to the Hotel, on Owner's behalf and upon Owner's approval. Operator shall cause each contractor employed at the Hotel to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Commercial General Liability Insurance and Worker's Compensation limits required above. Operator shall cause each contractor to include the same additional insured requirements and certificates of insurance as noted above for Operator.

12.2 **General Insurance Requirements.**

(a) Certificates of insurance, containing all conditions applying to the Hotel, shall be delivered to Owner or Operator, as applicable, upon renewal of all policies of insurance that must be maintained under the terms of this Agreement. All policies shall contain an endorsement providing a thirty (30) day written notice of cancellation, material change, or non-renewal to Owner and Operator.

(b) Each policy of insurance shall provide that the carrier shall have no right of subrogation against either party hereto, their agents or employees by separate endorsement.

(c) No deductible or self-insured retention required by Operator hereunder shall exceed $25,000 unless written consent is provided by Owner; provided, however, that:

(i) those policies associated with Sections 12.1(h) or (k) shall be excluded;

(ii) with respect to the policy associated with Section 12.1(j), the deductible or self-insured retention required by Operator hereunder shall not exceed $50,000 unless written consent is provided by Owner;

(iii) with respect to the policy associated with Section 12.1(l), the deductible or self-insured retention required by Operator hereunder shall not exceed $150,000 unless written consent is provided by Owner;

(iv) with respect to the policy associated with Section 12.1(i), the deductible or self-insured retention required by Operator hereunder shall not exceed $250,000 unless written consent is provided by Owner; and

(v) in the event Owner elects to modify the deductibles of those policies associated with Section 12.1(i), (j), or (l), or otherwise adjust the coverage under such policies, and such modifications or adjustments result in an increase in the premium, Owner shall be responsible for any increase in the premium associated with such modification or adjustment.

(d) All insurance shall be written with companies approved by Owner, licensed in the state in which the Hotel is located and having a Best's Rating of not less than A-XI, unless otherwise approved by Owner.

(e) At Owner's request, Operator shall provide information pertaining to Operator's policies and procedures governing claims, emergency preparedness, and loss prevention. This is to include regular reports on claim and insurance litigation activity at the Hotel.

(f) Any insurance required to be provided pursuant to this ARTICLE 12 may be provided under policies of blanket insurance which cover other properties and activities of Owner or Operator, as applicable. The cost of any blanket coverage shall be equitably prorated among the properties and activities covered, provided that the portion of such cost allocated to the Hotel shall be no greater than if the same insurance coverage were written separately. Upon request, any such proration by Owner or Operator of blanket coverage shall be subject to the reasonable approval of the other party.

(g) The parties acknowledge that, as of the Effective Date, Operator will not provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program; provided, however, that Owner may elect to have Operator provide such insurance at any time during the Term, in which case the provisions of this Section 12.2(g) shall apply. If at any time during the Term, Owner elects to have Operator provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program, certain coverage limits will be shared with other properties owned and/or managed by Affiliates of Operator. Owner agrees that if there is a loss at the Hotel that results in a reduction of the amount of insurance coverage with respect to other properties covered by such master property insurance program, all costs of reinstating the full amount of coverage with respect to such other properties to the coverage that was available for such other properties under such master property insurance program immediately prior to such loss at the Hotel shall be borne by Owner as an expense of the Hotel. Conversely, if there is a loss at another property covered by such master insurance program that results in a reduction of the amount of insurance coverage with respect to the Hotel, all costs of reinstating the full amount of coverage with respect to the Hotel shall not be borne by Owner as an expense of the Hotel, but shall be borne by Operator or the owner of the applicable property that suffered such loss. The obligations of Owner and/or Operator pursuant to this Section 12.2(g) shall survive (i) the expiration or termination of this Agreement or termination of similar agreements, if any, related to Operator's affiliated properties on the shared program; and (ii) any election of Owner or Operator to remove the Hotel from the master insurance program and/or the removal of any of Operator's affiliated properties from the shared master insurance program. Owner and Operator agree to use commercially reasonable efforts in reinstating the coverage limits to the amount of coverage available immediately prior to such loss; provided, however, Owner and Operator shall be required, at a minimum, to reinstate the amounts of coverage necessary to comply with the requirements of any third party mortgagee or franchisor of the properties covered by the master insurance program. Notwithstanding the foregoing, (A) after a loss the relevant party will only be required to reinstate coverage, if any, up to an amount that results in a total amount of coverage that is sufficient for all properties under the program that are also obligated to a reinstatement provision, if Owner and Operator mutually agree at their sole discretion that the remaining amount of coverage is sufficient; provided if Owner and Operator do not mutually agree, an independent third-party consultant (i.e., a consultant who has not had any

direct relationship with either party in the preceding twenty-four (24) month period) selected by Operator will make such determination, (B) the amount of coverage to be reinstated by the relevant party will be limited to what is sufficient only for the properties in Operator's master shared insurance program that are obligated by the same reinstatement provisions per this Section 12.2(g) and (C) the maximum amount of lost shared limit to be reinstated by the relevant party after a loss will be equal to the amount of lost shared limit that was lost due to a loss at the relevant party's property. Owner also agrees that it shall bear as an expense of the Hotel all costs for any additional limits or coverages that may be requested by Owner that are above the limits in such master insurance program. Owner may elect to remove the Hotel from Operator's master insurance program upon thirty (30) days prior written notice (or upon three (3) business days prior written notice if such termination is effective on the annual renewal date of such master insurance program). Any premium prepaid by Owner for such terminated coverage shall be credited to Owner in an amount calculated by the insurance carrier in its sole and absolute discretion. Operator will use reasonable efforts to give written notice to Owner within ten (10) business days after any property is added or removed from Operator's shared master insurance program and will confirm the same upon request by Owner.

ARTICLE 13
REAL AND PERSONAL PROPERTY TAXES; UTILITIES

13.1 **Taxes**. Operator shall pay, for and on behalf of Owner from funds of the Hotel, all real estate taxes, all personal property taxes and all betterment assessments levied against the Hotel or any of its component parts. Operator shall promptly deliver to Owner all notices of assessments, valuations and similar documents to be filed by Owner, which are received from taxing authorities by Operator.

13.2 **Utilities, Etc**. To the extent sufficient funds are available in the Operating Account or otherwise made available in a timely manner by Owner, Operator shall promptly pay all fuel, gas, light, power, water, sewage, garbage disposal, telephone and other utility bills currently as they are incurred in connection with the Hotel from the Gross Revenues or Working Capital.

ARTICLE 14
DAMAGE OR DESTRUCTION; CONDEMNATION

14.1 **Damage or Destruction**.

(a) If the Hotel or any portion thereof shall be damaged or destroyed at any time or times during the Term by fire, casualty or any other cause commonly covered by fire and extended coverage insurance, to the extent required or permitted by any Lender and to the extent insurance proceeds are made available by Lender for such purpose, Owner will at its own cost and expense and with due diligence, repair and/or restore the Hotel so that after such repair and/or restoration, the Hotel shall be in substantially the same condition as it was immediately prior to such damage or destruction.

(b) Owner shall notify Operator within thirty (30) days after Owner determines whether or not Lender will permit, and make insurance proceeds available to carry out, such repair and/or

restoration, in which case Owner shall complete such repair and/or restoration pursuant to the last sentence of Section 14.1(a).

(c) If Owner advises Operator as provided in clause (b) above that Lender will not permit, and make insurance proceeds available to carry out, such repair and/or restoration, or fails to advise Operator as provided in clause (b) above, Operator may terminate this Agreement by written notice to Owner, within one hundred fifty (150) days after such damage or destruction, in which case, Owner shall pay to Operator the Termination Fee (provided Owner's obligation to pay the Termination Fee shall be limited to the extent of insurance proceeds which are made available to pay such Termination Fee).

14.2 **Condemnation**. If the whole of the Hotel shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition or like proceeding by any competent authority or if such a portion thereof shall be taken or condemned as to make it imprudent or unreasonable, in the sole opinion of Owner, to use the remaining portion as a hotel of the type and class immediately preceding such taking or condemnation, then this Agreement shall terminate as of the date title vests in the condemning authority. Operator has no interest in any award paid to Owner; however, Operator shall have the right, in the case of a condemnation that results in the termination of this Agreement, to institute a separately available administrative proceeding or judicial action intended to determine just compensation in connection with the condemnation, for the purpose of representing Operator's compensable interest in this Agreement. If only a part of the Hotel shall be taken or condemned and the taking or condemnation of such part does not, in the opinion of Owner, make it unreasonable or imprudent to operate the remainder as a hotel of the type and class immediately preceding such taking or condemnation, this Agreement shall not terminate, and so much of any award to Owner shall be made available as shall be reasonably necessary for making alterations or modifications of the Hotel, or any part thereof, so as to make it a satisfactory architectural unit as a hotel of similar type and class as prior to the taking or condemnation.

14.3 **Reinstatement**. If within twelve (12) months following any termination of this Agreement pursuant to Section 14.1 or 14.2, Owner or any of its Affiliates intends to commence repair and/or restoration of the Hotel, Owner shall promptly give notice to Operator in writing of such intention, and at Operator's election (exercisable by giving written notice to Owner within thirty (30) days of the date upon which Operator receives such notice from Owner), this Agreement shall be deemed reinstated in accordance with all the terms and conditions hereof (and Operator shall repay to Owner any Termination Fee received by Operator within ten (10) days after the Hotel is substantially re-opened). Operator's duties shall be suspended until the Hotel is substantially reopened and the termination date (and Term) shall be extended to reflect the period of time the Hotel is closed. The provisions of this Section 14.3 shall survive the expiration or termination of this Agreement.

14.4 **Mortgage Requirements**. Actions as to damage or destruction and condemnation shall be taken only in a manner that is consistent with the terms and conditions of any Mortgage and any conflict between those terms and conditions and the provisions of this Agreement shall be resolved in favor of such Mortgage.

ARTICLE 15
EVENTS OF DEFAULT

15.1 **Operator Defaults**. Each of the following shall constitute an Event of Default by Operator:

(a) The failure of Operator to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions to be kept, observed or performed by Operator and such failure shall continue for a period of (i) ten (10) days after written notice from Owner to Operator with respect to payment of any funds or delivery of any of the financial reports required under Section 10.2, or (ii) thirty (30) days after written notice from Owner to Operator with respect to any other obligations of Operator under this Agreement; provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Operator commenced the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion, not to exceed in any event ninety (90) days after Owner's delivery of such notice.

(b) If Operator shall apply for or consent to the appointment of a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Operator in any bankruptcy, reorganization or judgment or decree shall be entered by any court of competition jurisdiction, on the application of a creditor, adjudicating Operator bankrupt or insolvent or approving a petition seeking reorganization of Operator or appointing a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets or a decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(c) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Operator, or Operator shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(d) The filing against Operator of a petition seeking adjudication of Operator as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Operator's assets, if such petition is not dismissed within ninety (90) days.

(e) Failure of Operator to maintain at all times throughout the term hereof all of the insurance required to be maintained by Operator under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Owner to Operator.

15.2 **Owner Defaults**. Each of the following shall constitute an Event of Default by Owner:

(a) The failure of Owner to pay or furnish to Operator any money Owner is required to pay or furnish to Operator in accordance with the terms hereof on the date the same is payable, if such failure is not cured within ten (10) days after written notice specifying such failure is given by Operator to Owner. If any sum of money is not paid within ten (10) days following the date the same becomes due and payable under this Agreement, and Operator has advanced such sum on behalf of Owner, such sum shall bear interest at the Default Rate from the date Operator advanced

such sum on behalf of Owner until the date Owner actually pays such sum. If the failure to pay relates to the Management Fee, such sum shall bear interest at the Default Rate from the date due until the date actually paid.

(b) The failure of Owner to perform, keep or fulfill any of the other covenants, undertakings, obligations or conditions set forth in this Agreement (other than a failure to pay or furnish to Operator any money Owner is required to pay or furnish to Operator), including without limitation, the failure of Owner to respond to written requests by Operator to approve expenditures or to authorize procedures necessary to maintain the standards of the Hotel in accordance with the Operating Standards, if such failure shall continue for a period of thirty (30) days after written notice by Operator or Licensor to Owner specifying the matters or conditions which constitute the basis for such Event of Default, provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Owner commences the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion.

(c) If Owner shall apply for or consent to the appointment of a receiver, trustee or liquidator of Owner of all or a substantial part of its assets, or admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Owner in any bankruptcy, reorganization or insolvency proceeding, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating Owner a bankrupt or insolvent or approving a petition seeking reorganization of Owner or appointing a receiver, trustee or liquidator of Owner or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(d) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Owner, or Owner shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(e) The filing against Owner of a petition seeking adjudication of Owner as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Owner's assets, if such petition is not dismissed within ninety (90) days.

(f) Failure of Owner to maintain at all times throughout the term hereof all of the insurance required to be maintained by Owner under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Operator to Owner.

ARTICLE 16
TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES

16.1 **Termination**. Upon the occurrence of an Event of Default, in addition to and cumulative of any and all rights and remedies available to the non-defaulting party under this Agreement, at law or in equity, the non-defaulting party may: (a) terminate this Agreement without penalty, effective upon receipt of written notice of termination by the defaulting party; and (b) pursue any

and all other remedies available to the non-defaulting party at law or in equity. In addition to and cumulative of the foregoing, upon the occurrence of any Event of Default on the part of Owner, all Management Fees, Reimbursable Expenses, Accounting Services Fees and all other sums then due and payable to Operator under this Agreement shall be immediately due and payable without notice. In no event shall the provisions of this Agreement with respect to the payment of a Termination Fee upon the termination of this Agreement under certain circumstances be construed as defining or limiting the amount recoverable by Operator from Owner by reason of any Event of Default on the part of Owner.

16.2 **Operator's Rights to Perform**.

(a) If Owner shall fail to make any payment or to perform any act required of Owner pursuant to this Agreement, Operator may (but shall not be obligated to), without further notice to, or demand upon, Owner and without waiving or releasing Owner from any obligations under this Agreement, make such payment (either with its own funds or with funds withdrawn for such purpose from the Operating Accounts) or perform such act. All sums so paid by Operator from its own funds, together with interest thereon at the Default Rate from the date of making such expenditure by Operator, shall be payable to Operator on demand.

(b) Operator shall have the right to set-off against any payments to be made to Owner by Operator under any provision of this Agreement and against all funds from time to time in the Operating Accounts any and all liabilities of Owner to Operator. Operator may withdraw from the Operating Accounts from time to time such amounts as Operator deems desirable in partial or full payment of all or any portion of said liabilities, the amount of such withdrawals to be paid by Owner to Operator on demand and to be replaced in the respective account and fund.

(c) Owner shall have the right to set-off against any payments to be made to Operator by Owner any amounts owed by Operator to Owner under this Agreement.

ARTICLE 17
OWNER'S ADDITIONAL TERMINATION RIGHTS

17.1 **Termination on Sale**. If at any time during the Term, Owner sells, leases or otherwise transfers or conveys (a) the Hotel, or (b) seventy-five percent (75%) or more of the direct or indirect interests in Owner, in each case to a person or entity which is not an Affiliate of Owner in a bona fide arm's length transaction, Owner shall have the right to terminate this Agreement by giving prior written notice (the "**Sale Termination Notice**") to Operator; provided that if such transfer shall occur at any time prior to the third (3rd) anniversary of the Commencement Date, Owner shall pay to Operator, as a condition of such termination, the Termination Fee, subject to Section 21.2. The Sale Termination Notice shall set forth an estimate of the effective termination date of this Agreement, which date shall not be less than sixty (60) days subsequent to the date of the Sale Termination Notice. The actual termination shall be effective as of the closing of the sale, regardless of the estimate provided in the Sale Termination Notice. Accordingly, Owner shall, upon reasonable notice, have the right to extend the effective date of such termination for a reasonable period of time based on delays in the closing, provided that Owner shall pay all actual costs reasonably incurred by Operator in postponing the effectiveness of such termination. As a further condition of any termination of this Agreement by Owner under this Section 17.1, Owner

shall pay to Operator, on or before the effective date of such termination all amounts due Operator and its Affiliates under this Agreement for the period of time prior to the date of termination.

17.2 **Performance Termination**.

(a) Subject to the provisions of this Section 17.2, Owner may terminate this Agreement in accordance with the procedure described below, if for any full Fiscal Year from and after the expiration of Fiscal Year 2019 (i.e., commencing with Fiscal Year 2020) (each a "**Measurement Year**"), subsections (i) and (ii) below are applicable for such Measurement Year (collectively, the "**Performance Test**"):

(i) the Gross Operating Profit for such Measurement Year is less than ninety percent (90%) of the budgeted Gross Operating Profit set forth in the approved Annual Operating Budget for such Measurement Year (the "**GOP Test**"); and

(ii) the RevPAR of the Hotel for such Measurement Year is less than the following percentage of the annualized RevPAR for the Competitive Set (the "**RevPAR Test**"): (A) for Fiscal Year 2020, one hundred and ten percent percent (110%); (B) for Fiscal Year 2021, one hundred and fifteen percent (115%); (C) for Fiscal Year 2022, and every Fiscal Year thereafter for the remainder of the Term, one hundred and twenty percent (120%).

(b) If the Performance Test is not satisfied and Owner elects to exercise its right to terminate this Agreement pursuant to this Section, (i) Owner shall give written notice to Operator of such election within sixty (60) days after the receipt by Owner of the annual accounting (as set forth in Section 10.2) for such Measurement Year; and (ii) the notice shall specify a termination date no sooner than ninety (90) days after the giving of such notice. No Termination Fee shall be payable upon any termination of this Agreement pursuant to this Section 17.2. Within sixty (60) days following its receipt of Owner's notice of termination, Operator may elect, which election may be exercised only once during the Term, to pay to Owner an amount which, when added to the actual aggregate amount of the Gross Operating Profit for the Measurement Year in question, equals the amount of Gross Operating Profit that would have been necessary to satisfy the GOP Test for such Measurement Year. Upon such payment, the Performance Test shall be deemed to have been satisfied for such Measurement Year, Owner shall not have a right to terminate this Agreement based upon such Measurement Year and Owner's election to do so shall be of no further force and effect.

(c) In the event that there is a Threshold Adjustment Event, Owner and Operator will reasonably cooperate to equitably adjust the GOP Test and the RevPAR Test, as applicable. If the parties cannot agree as to the equitable adjustment within thirty (30) days following written request for adjustment by either party, the matter will be submitted to an Expert, as provided and in accordance with the procedures set forth in Section 27.1.

ARTICLE 18
TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION

18.1 **Transfer to Owner**. Upon any termination of this Agreement, whether due to the occurrence of an Event of Default or otherwise, Operator shall cooperate with Owner and shall execute all documents or instruments requested by Owner in connection with the transfer to

Owner or its nominee of the Permits and the License Agreement used or useful in connection with the operation of the Hotel (including without limitation executing any interim beverage agreement or similar agreement reasonably required to allow alcoholic beverages to continue to be sold at the Hotel after such termination in accordance with Legal Requirements pending issuance of temporary or new Permits with respect to such sales to Owner or its designee, so long as such successor Owner provides Operator with an indemnity, in form and substance reasonably acceptable to Operator, indemnifying Operator from any and all claims and liability associated with such interim agreements and continued use of such Permits); provided, however, if such termination is due to a reason other than a default by Operator under this Agreement, Owner will reimburse Operator for Operator's reasonable expenses to effect such transfer, or the imposition of liability by Operator. Without limiting the generality of the foregoing, Operator shall cause its officials to execute any necessary documents to effectuate the orderly transfer to Owner or its designee of the Permits and the License Agreement or the renewal thereof to Owner or Owner's designee if appropriate. In the event that this Agreement terminates for any reason, a sufficient number of Hotel Employees will be hired by Owner or its successor, assign or designee, so as not to cause a "mass layoff" or "plant closing", as defined in the Workers Adjustment and Retraining Act, 29 USC, sec 2101 et seq. (the "**WARN Act**"). Owner hereby agrees to indemnify, defend and hold Operator harmless from and against any and all claims asserted against or incurred by Operator related to: (a) hiring, discharging, offering to hire or failing to hire any of the Hotel Employees; (b) termination of the Hotel Employees by reason of the termination of this Agreement; or (c) Owner's failure to take, or cause to be taken, the action necessary with respect to Hotel Employees so that Operator will not be required to comply with the WARN Act or any other similar Legal Requirements.

18.2 **Remittance to Owner**. Upon the expiration or termination of this Agreement, after payment of all Operating Expenses for which bills were received to such date, Operator's Management Fee, Reimbursable Expenses, Accounting Services Fee, any Termination Fee and any other amounts then due and payable to Operator, and after withholding a reasonable amount determined by Operator to be necessary to pay for any continuing liabilities or payables that may become due following such termination, all remaining amounts in: (a) the Reserve and (b) the Operating Account, shall be transferred by Operator to Owner.

ARTICLE 19
NOTICES

All notices, elections, acceptances, demands, consents and reports (collectively "**notice**") provided for in this Agreement shall be in writing and shall be given to the other party at the address set forth below or at such other address as any of the parties hereto may hereafter specify in writing.

To Owner: c/o Wheelock Street Capital LLC
660 Steamboat Road, 3rd Floor
Greenwich, CT 06830
Attention: Lawrence Settanni
Email: settanni@wheelockst.com

With a copy to:

Goodwin Procter LLP
601 S. Figueroa Street, 41st Floor
Los Angeles, CA 90017
Attention: Chauncey Swalwell
Email: cswalwell@goodwinprocter.com

To Operator: Merritt Hospitality, LLC
101 Merritt 7 Corporate Park
1st Floor
Norwalk, Connecticut 06851
Attention: Clark W. Hanrattie
Email: chanrattie@heihotels.com

With a copy to:

Dentons LLP
2398 East Camelback Road, Suite 850
Phoenix, Arizona 85016
Attn: Rick Ross and Meghan Cocci
Phone: (602) 508-3900
Email: rick.ross@dentons.com and meghan.cocci@dentons.com

Such notice or other communication may be given by personal delivery, by Federal Express or other nationally recognized overnight carrier, by electronic mail, or by United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office. All notices, demands, consents and reports shall be deemed received upon acceptance or rejection of delivery.

ARTICLE 20
CONSENT AND APPROVAL

Except as herein otherwise provided, whenever in this Agreement the consent or approval of Operator or Owner is required, such consent or approval shall not be unreasonably withheld or delayed. Such consent or approval shall also be in writing only and shall be executed only by an authorized officer or agent of the party granting such consent or approval.

ARTICLE 21
TRANSFERS

21.1 **Transfers**. Except as herein otherwise provided, neither party may cause or permit a Transfer without the prior written consent of the other party (which consent may be withheld or conditioned in such other party's sole discretion); provided however, that either party shall be entitled to assign this Agreement (a) to an Affiliate of such party and (b) in connection with a corporate transaction involving such party in which all or substantially all of such party's assets are transferred to an Affiliate of such party. Operator shall have the right to assign its economic rights to receive payments under this Agreement (as opposed to a pledge of the ownership interests in Operator) as security for indebtedness or other obligations. Additionally, Operator

may transfer this Agreement and its rights hereunder to a successor by merger, sale of all or substantially all of its assets or interest in Operator, as applicable, or otherwise by operation of law.

21.2 **Assignability upon Sale**. Notwithstanding anything to the contrary in Section 21.1, if Owner decides to enter into a Sale of the Hotel with a third party, then at such time as Owner enters into a firm commitment for the Sale of the Hotel, Owner shall deliver a written notice (the "**Notice of Proposed Sale**") of the proposed Sale of the Hotel to Operator stating the name of the prospective purchaser or tenant, as the case may be, and, thereafter shall provide all other information concerning the proposed purchaser or tenant reasonably requested by Operator and which such purchaser or tenant has provided to Owner or Owner's Affiliates. Within fifteen (15) days of Operator's receipt of the Notice of Proposed Sale, Operator shall notify Owner of its election to either: (a) continue operating the Hotel following such Sale of the Hotel, or (b) terminate this Agreement. In the event Operator enters into an agreement to operate the Hotel following such Sale of the Hotel, Operator shall not have the right to receive the Termination Fee in connection with such Sale of the Hotel. In the event Operator does not enter into an agreement to operate the Hotel following the closing of the Sale of the Hotel Operator shall have the right to receive the Termination Fee.

21.3 **Prohibited Sale**. Notwithstanding anything to the contrary in Section 21.2, Owner may not cause or permit a Transfer to any Prohibited Person.

ARTICLE 22
INDEMNITY

22.1 **Indemnity by Owner**. Owner shall indemnify, defend and hold Operator, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Operator Indemnified Parties**") harmless for, from and against any and all third-party liabilities, claims, demands, actions, causes of action, judgments, orders, damages, costs, expenses, and losses (including reasonable attorney's fees and costs) (collectively, "**Claims**") which Operator Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from: (a) this Agreement, including the negotiation of or entering into this Agreement; (b) the development, construction, ownership and/or operation of the Hotel from and after the Effective Date, (c) any reporting to the IRS, Owner's lenders or any party relying on Owner's books and records by Owner or by Operator (on behalf of and as directed by Owner, in connection with Operator's provision of the Accounting Services pursuant to Section 10.4 of this Agreement); and (d) other activities relating to the Hotel, except to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.2 **Indemnity by Operator**. Operator shall indemnify, defend and hold Owner, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Owner Indemnified Parties**") harmless for, from and against any and all Claims which Owner Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from this Agreement, to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.3 **Indemnification Procedure**. Any Indemnified Party shall be entitled, upon written notice to the Indemnifying Party, to the timely appointment of counsel by the Indemnifying Party for the defense of any claim, which counsel shall be subject to the approval of the Indemnified Party. If, in the Indemnified Party's reasonable judgment, a material conflict of interest exists between the Indemnified Party and the Indemnifying Party at any time during the defense of the Indemnified Party, the Indemnified Party may appoint independent counsel of its choice for the defense of the Indemnified Party as to such claim. Additionally, regardless of whether the Indemnified Party is appointed counsel or selects independent counsel (a) the Indemnified Party shall have the right to participate in the defense of any claim and approve any proposed settlement of such claim, such approval to be in such party's sole and absolute discretion, and (b) all costs, expenses and attorneys' fees of the Indemnified Party shall be borne by the Indemnifying Party. If the Indemnifying Party fails to timely pay such costs, expenses and reasonable attorneys' fees, the Indemnified Party may, but shall not be obligated to, pay such amounts and be reimbursed by the Indemnifying Party for the same, which amounts shall bear interest at the Default Rate until paid in full. The parties hereby acknowledge that it shall not be a defense to a demand for indemnity that less than all claims asserted against the Indemnified Party are subject to indemnification. If a claim is covered by the Indemnifying Party's liability insurance, the Indemnified Party shall not take or omit to take any action that would cause the insurer not to defend such claim or to disclaim liability in respect thereof. Further, the Indemnified Party shall cooperate with the Indemnifying Party in the defense of the claim (at the Indemnifying Party's cost), shall not settle the claim without the consent of the Indemnifying Party, and shall not take any action which prejudices the defense of the claim.

22.4 **Survival/Miscellaneous**. The provisions of this ARTICLE 22 shall survive the expiration or earlier termination of this Agreement. Owner and Operator mutually agree for the benefit of each other to look first to the appropriate insurance coverages in effect pursuant to this Agreement in the event any claim or liability occurs as a result of injury to person or damage to property, regardless of the cause of such claim or liability. In no event shall the settlement by either party of any claim brought by a third party (including Hotel Employees) in connection with the ownership or operation of the Hotel be deemed to create any presumption of the validity of the claim, nor shall any such settlement be deemed to create any presumption that the acts or omissions giving rise to such claim constituted Operator's Grossly Negligent or Willful Acts.

ARTICLE 23
MISCELLANEOUS

23.1 **Further Assurances**. Owner and Operator shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding and enforceable as between them and as against third parties.

23.2 **Waiver**. The waiver of any of the terms and conditions of this Agreement on any occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasion.

23.3 **Successors and Assigns**. Subject to and limited by ARTICLE 21, this Agreement shall be binding upon and inure to the benefit of Owner, its successors and permitted assigns, and shall be binding upon and inure to the benefit of Operator, its successors and permitted assigns.

23.4 **Governing Law**. This Agreement shall be construed, both as to its validity and as to the performance of the parties, in accordance with the laws of the State of New York.

23.5 **Compliance with Mortgage and License Agreement**. In carrying out their respective duties and obligations under the terms of this Agreement, Owner and Operator shall take no action that could reasonably be expected to constitute a material default under any Mortgage or the License Agreement and will take such actions as are reasonably necessary to comply therewith. Owner shall be responsible for making all payments under any Mortgage.

23.6 **Amendments**. This Agreement may not be modified, amended, surrendered or changed, except by a written document signed by Owner and Operator agreeing to be bound thereby.

23.7 **Estoppel Certificates**. Owner and Operator agree, at any time and from time to time, as requested by the other party, upon not less than ten (10) days' prior written notice, to execute and deliver to the other a written statement (a) certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), (b) certifying the dates to which required payments have been paid, and (c) stating whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Agreement, and if so, specifying each such default of which the signer may have knowledge, it being intended that such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing.

23.8 **Inspection Rights**. Owner shall have the right to inspect the Hotel and examine the books and records of Operator pertaining to the Hotel at all reasonable times during the Term upon reasonable notice to Operator, and Owner and the holder of any Mortgage shall have access to the Hotel and the books and records pertaining thereto at all times during the Term to the extent necessary to comply with the terms of any Mortgage, all to the extent consistent with applicable Legal Requirements and the rights of guests, tenants and concessionaires of the Hotel, and all to the extent the same will not interfere with the operation and management of the Hotel.

23.9 **Subordination**. This Agreement, any extension hereof and any modification hereof shall be subject and subordinate to a Mortgage as provided therein. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, Operator will execute and return to Owner (or to Lender, as designated by Owner) such documentation as Owner or Lender may reasonably request to evidence the subordination of this Agreement to the Mortgage (and, if required by a Lender, the assignment of this Agreement to such Lender as additional security in connection with such Mortgage).

23.10 **Effect of Approval of Plans and Specifications**. Owner and Operator agree that in each instance in this Agreement or elsewhere wherein Operator is required to give its approval of plans, specifications, budgets and/or financing, no such approval shall imply or be deemed to constitute an opinion by Operator, nor impose upon Operator any responsibility for the design or construction of additions to or improvements of the Hotel, including but not limited to structural integrity or life/safety requirements or adequacy of budgets and/or financing. The scope of Operator's review and approval of plans and specifications is limited solely to the adequacy and relationship of spaces and aesthetics of the Hotel in order to comply with the Operating Standards.

23.11 **Entire Agreement**. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, superseding all prior agreements or undertakings, oral or written.

23.12 **Time is of the Essence**. Time is of the essence in this Agreement.

23.13 **Interpretation**. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

23.14 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement. Counterparts of this Agreement received by electronic transmission shall be deemed originals for all purposes.

23.15 **Partial Invalidity**. In the event that any one or more of the phrases, sentences, clauses or paragraphs contained in this Agreement shall be declared invalid by the final and unappealable order, decree or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses or paragraphs had not been inserted, unless such construction would substantially destroy the benefit of the bargain of this Agreement to either of the parties hereto.

23.16 **Confidentiality**. The parties agree that the terms, conditions and provisions set forth in this Agreement are strictly confidential and the parties agree to keep strictly confidential any information of a confidential nature about or belonging to a party or to any Affiliate of a party to which the other party gains or has access by virtue of the relationship between the parties (collectively, "**Privileged Information**"). Except as disclosure may be required to obtain the advice of professionals or consultants, or financing for the Hotel from a Lender, or in furtherance of a permitted assignment of this Agreement, or as may be required to comply with Legal Requirements (including reporting requirements applicable to public companies), each party shall make commercially reasonable efforts to ensure that Privileged Information is not disclosed to the press or to any other third party without the prior consent of the other party. Notwithstanding the foregoing, the parties hereby acknowledge that Operator shall have the authority to release information regarding the Hotel to STR, Inc. (or a similar organization mutually agreed upon by the parties). The obligations set forth in this Section shall survive any termination or expiration of this Agreement. The parties shall cooperate with one another on all public statements, whether written or oral and no matter how disseminated, regarding their contractual relationship as set forth in this Agreement or the performance of their respective obligations under this Agreement.

23.17 **No Third Party Rights**. This Agreement shall inure solely to the parties hereto. Notwithstanding any other provision of this Agreement, no third party shall have any rights pursuant to the terms of this Agreement.

ARTICLE 24
NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL

In entering into this Agreement, Operator and Owner acknowledge that neither Owner nor Operator has made any representation to the other regarding projected earnings, the possibility of future success or any other similar matter respecting the Hotel, and that Operator and Owner

understand that no guarantee is made to the other as to any specific amount of income to be received by Operator or Owner or as to the future financial success of the Hotel.

ARTICLE 25
REPRESENTATIONS OF OPERATOR

In order to induce Owner to enter into this Agreement, Operator does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Operator enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Operator, threatened, against or relating to Operator, the properties or business of Operator or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Operator to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Owner;

(c) neither the consummation of the transactions contemplated by this Agreement on the part of Operator or to be performed, nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Operator is a party or by which it is bound; and

(d) Operator is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action (such persons and entities being "**Prohibited Persons**").

ARTICLE 26
REPRESENTATIONS OF OWNER

In order to induce Operator to enter into this Agreement, Owner does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Owner enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Owner, threatened, against or relating to Owner, the properties or business of Owner or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Owner to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Operator;

(c) neither the consummation of the transactions contemplated by this Agreement by this Agreement on the part of Owner to be performed nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Owner is a party or by which it is bound; and

(d) Owner is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action.

ARTICLE 27
DISPUTE RESOLUTION

27.1 **Expert Determination**. Notwithstanding anything to the contrary in Section 27.2, any dispute, claim or issue arising under this Agreement with respect to: (a) the proper inclusion or exclusion of items in revenues, expenses and other financial computations contemplated herein, (b) the proper computation of the Base Fee, Incentive Fee, charges for Centralized Services, Accounting Services or Reimbursable Expenses, (c) disputes relating to the Annual Plan, including expenses related to satisfying Operating Standards, (d) disputes as to the Performance Test or changes in the Competitive Set, or (e) other matters as to which this Agreement expressly provides for dispute resolution by an Expert, shall be resolved in accordance with this Section by one Expert. Notwithstanding the foregoing, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The decision of the Expert shall be final and binding on the parties and shall not be capable of challenge, whether by arbitration, in court or otherwise, except to the extent of any manifest error in such Expert's determination. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. In the event the parties are unable to agree on an Expert or otherwise disagree as to whether the disputed matter qualifies for Expert determination, either party shall have the right, prior to submitting such matter to an Expert, to initiate the mediation and arbitration procedures contemplated below.

27.2 **Mediation/Arbitration**. Except with respect to the matters described in Section 27.1 above, if any claim, dispute or difference of any kind whatsoever (a "**Dispute**") shall arise out of or in connection with or in relation to this Agreement whether in contract, tort, statutory, or otherwise, and including any questions regarding the existence, scope, validity, breach or termination of this Agreement, the following procedures shall apply:

(a) The parties shall first attempt to settle such Dispute by participating in at least ten (10) hours of mediation, which mediation shall be administered by JAMS (or if JAMS no longer exists, another mutually acceptable alternative dispute resolution provider) (the "**ADR Provider**"). A designated individual mediator who is a member in good standing of the ADR Provider will then be mutually selected by the parties to conduct the mediation; provided that such mediator must have at least ten (10) years' experience as a mediator and must not have any conflict of interest with either party (the "**Mediator**"). If the parties are unable to agree upon the identity of the

Mediator within five (5) days after the complaining party has notified the other party that a Dispute exists, then, subject to the requirements of this Section, the ADR Provider shall select a qualified Mediator of its choosing who shall act as the Mediator of the Dispute. The mediation will be a nonbinding conference between the parties conducted in accordance with the applicable rules and procedures of the ADR Provider. The mediation shall take place in New York, New York. Neither party may initiate litigation or arbitration proceedings with respect to any Dispute until the mediation of such Dispute is complete; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any claims solely relating to: (i) preserving or protecting proprietary information, (ii) emergency or injunctive relief, (iii) enforcement of the dispute resolution provisions of this Agreement, or (iv) enforcement of the decision and/or award by any Expert or Arbitrator hereunder ("**Litigation Claims**"). Any mediation will be considered complete: (a) if the parties enter into an agreement to resolve the Dispute; or (b) if the Dispute is not resolved after completion of ten (10) hours of such mediation. The parties shall share equally in the cost of the mediation.

(b) If any Dispute remains between the parties after the mediation is complete, then the Dispute shall be submitted to final and binding arbitration pursuant to the procedures set forth in this Section; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The parties agree that the Arbitrator shall have the power to order equitable remedies, including specific performance and injunctive relief.

(c) An arbitral tribunal of one arbitrator (the "**Arbitrator**") shall be established in conformity with the Comprehensive Arbitration Rules and Procedures of JAMS or such other rules of a successor ADR Provider mutually agreed upon by the parties (the "**Rules**") in effect at the time such arbitration is commenced; provided, however, the parties agree that such Arbitrator shall have not less than ten (10) years' experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels). Each party shall appoint a person to appoint the Arbitrator within five (5) days of the date of a request to initiate arbitration, and the two appointed persons will then jointly appoint the Arbitrator (provided that the Arbitrator shall not be the same person as the Mediator) within ten (10) days thereafter. If the appointed persons or the Arbitrator is not appointed within the time limits set forth in the preceding sentence, such person(s) or Arbitrator shall be appointed by the ADR Provider (subject to the hospitality qualification standards set forth above). In rendering a decision hereunder, the Arbitrator shall take into account the Operating Standards of the Hotel and other applicable provisions of this Agreement.

(d) The arbitration, regardless of the amount in dispute, shall be conducted in accordance with the Rules. Any arbitration shall take place in New York, New York. The Arbitrator shall apply the substantive law of the State of New York. No party to any Dispute shall be required to join any other party as a party to the Dispute pursuant to the arbitration provisions set forth in this ARTICLE 27.

(e) The Arbitrator's monetary awards may include a requirement that the losing party bear reasonable attorneys' fees and costs of the arbitration proceeding, but, in no event shall award punitive or exemplary damages of any kind. Unless the Arbitrator determines otherwise, each

party to an arbitration proceeding shall be responsible for all fees and expenses of such party's attorneys, witnesses, and other representatives, and one-half of the other fees and expenses of the Arbitrator, and the other costs of the arbitration shall be allocated to and paid by (a) the party or parties initiating the respective arbitration proceeding, and (b) the party or parties against whom the respective arbitration proceeding is brought. The award rendered in any arbitration commenced hereunder shall be final and binding upon the parties, and each party hereby waives any claim or appeal whatsoever against it or any defense against its enforcement.

(f) The obligation to arbitrate under this Section is binding on the parties and their respective successors and assigns.

Until such time as a final determination of any Dispute is obtained pursuant to this Section and, notwithstanding any termination of or default under, or alleged termination of or default under, this Agreement, all parties to this Agreement involved in such Dispute shall remain liable for, and shall be required to continue to satisfy, their respective obligations under this Agreement.

27.3 **Survival**. This Section shall survive the expiration or termination of this Agreement.

ARTICLE 28
TERMINATION OF THE LICENSE AGREEMENT

Owner reserves and shall have the right in its sole discretion, at any time and without the consent or approval of (but with notice to) Operator, to terminate the License Agreement, provided, however, that Owner shall have no such right in order to establish its own independent operations, such as an operation without a franchise or license or in its own hotel name.

ARTICLE 29
RELATIONSHIP OF PARTIES

29.1 Owner and Operator acknowledge and agree that in operating the Hotel, entering into contracts, accepting reservations, and conducting financial transactions for the Hotel, Operator acts on behalf of and as agent for Owner with respect to the rights and obligations contemplated by this Agreement and assumes no independent contractual liability nor shall Operator be obligated to extend its own credit with respect to any obligation incurred in operating the Hotel or performing its obligations under this Agreement.

29.2 The relationship between the parties hereto shall be that of principal, in the case of Owner, and agent, in the case of Operator, with respect to the rights and obligations contemplated by this Agreement. Nothing contained in this Agreement shall constitute, or be construed to constitute or create, a partnership, joint venture or lease between Owner and Operator with respect to the Hotel. This Agreement is for the benefit of Owner and Operator and shall not create third-party beneficiary rights.

29.3 This Agreement shall be interpreted in accordance with general principles of contract interpretation without regard to the common law principles of agency (except as expressly provided for in this Agreement), and any liability between the parties shall be based solely on principles of contract law and the express provisions of this Agreement. To the extent any duties,

fiduciary or otherwise, that exist or may be implied for any reason whatsoever, including without limitation those resulting from the relationship between the parties, and including without limitation all duties of loyalty, good faith, fair dealing, care, full disclosure, or any other duty deemed to exist under the common law principles of agency or otherwise (collectively, the "**Implied Fiduciary Duties**"), are inconsistent with, or would have the effect of modifying, limiting or restricting the express provisions of this Agreement, the terms of this Agreement shall prevail.

29.4 For purposes of assessing Operator's duties and obligations under this Agreement, the parties acknowledge that the terms and provisions of this Agreement and the duties and obligations set forth herein are intended to satisfy any fiduciary duties which may exist between the parties. The parties also hereby unconditionally and irrevocably waive and release any right, power or privilege either may have to claim or receive from the other party any punitive, exemplary, statutory, or treble damages or any incidental or consequential damages with respect to any breach of the Implied Fiduciary Duties. Furthermore, Owner specifically consents to all transactions and conduct by Operator and its Affiliates described in this Agreement, including those set forth below, and waives any Implied Fiduciary Duties which Operator may owe to Owner now, or which may arise in the future, in connection with such transactions or conduct. Owner acknowledges and agrees that its consent to the transactions and conduct by Operator described in this Agreement, and its waiver of any Implied Fiduciary Duties otherwise owed by Operator: (a) has been obtained by Operator in good faith; (b) is made knowingly by Owner based on its adequate informed judgment as a sophisticated party after seeking the advice of competent and informed counsel; and (c) arises from Owner's knowledge and understanding of the specific transactions and actions or inactions of operators that are normal, customary, and reasonably expected in the hotel industry generally for this segment of the hotel industry.

The rest of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OWNER:

WS HAA Owner, LLC a Delaware limited liability company

By:_____
Name: _____
Title: _____

OPERATOR:

MERRITT HOSPITALITY, LLC, a Delaware limited liability company

By:_____
Name: _____
Title: _____

SCHEDULE 1

HOTEL COMPONENTS

1. Total Guest Rooms - approximately 507

2. Meeting Space - approximately 34,000 square feet and 11,000 square feet of pre-function space across 16 meeting rooms, including the 10,000 square foot grand ballroom and a 7,200 square foot junior ballroom

3. Food and Beverage Facilities - four (4) food and beverage outlets, which are, as of the Effective Date, known as Andiamo, Finish Line Sports Bar, Herb N' Kitchen, and Magnolia Grill, and in-room dining

4. Other Facilities - indoor and outdoor pools, fitness center, business center, private club level lounge

5. Parking - valet and paid self-parking

EXHIBIT A

DESCRIPTION OF PREMISES

[*Attached*]

EXHIBIT B

CENTRALIZED SERVICES

[*Attached*]

EXHIBIT C

SAMPLE INCENTIVE FEE CALCULATION

EXHIBIT D

TRANSITION BUDGET

Stock Inventory List

Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner/Manager_____

Name of Product	Number of Cases/Bottles in stock or in store as of date above	Price (i.e. $2.00/glass; $15.00/case)
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.		

Employee List

List ALL employees. Use full complete names (No initials). Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner _____

Name	Address/Phone	DOB	SSN	Employment Date	Position
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.					

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Effective Date: May 14th, 2019

Western Surety Company

LICENSE AND PERMIT BOND

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 64642660

That we, Merritt Hospitality, LLC dba Hilton Atlanta Airport

of Atlanta, State of Georgia, as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do surety business in the State of Georgia, as Surety, are held and firmly bound unto the City of Hapeville, State of Georgia, as Obligee, in the penal sum of Five Thousand and 00/100 DOLLARS ($5,000.00), lawful money of the United States, to be paid to the Obligee, for which payment well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal has been licensed Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City o

by the Obligee.

NOW THEREFORE, if the Principal shall faithfully perform the duties and in all things comply with the laws and ordinances, including all amendments thereto, pertaining to the license or permit applied for, then this obligation to be void, otherwise to remain in full force and effect until May 14th, 2020, unless renewed by Continuation Certificate.

This bond may be terminated at any time by the Surety upon sending notice in writing, by First Class U.S. Mail, to the Obligee and to the Principal at the address last known to the Surety, and at the expiration of thirty five (35) days from the mailing of said notice, this bond shall ipso facto terminate and the Surety shall thereupon be relieved from any liability for any acts or omissions of the Principal subsequent to said date. Regardless of the number of years this bond shall continue in force, the number of claims made against this bond and the number of premiums which shall be payable or paid, the Surety's total limit of liability shall not be cumulative from year to year or period to period, and in no event shall the Surety's total liability for all claims exceed the amount set forth above. Any revision of the bond amount shall not be cumulative.

Dated this 15th day of May, 2019.

Merritt Hospitality, LLC DBA Hilton Atlanta Airport
Principal

Principal

WESTERN SURETY COMPANY

By
Paul T. Bruflat, Vice President

Form 532-12-2015

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City of Hapeville

bond with bond number 64642660

for Merritt Hospitality, LLC dba Hilton Atlanta Airport
as Principal in the penalty amount not to exceed: $ 5,000.00.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

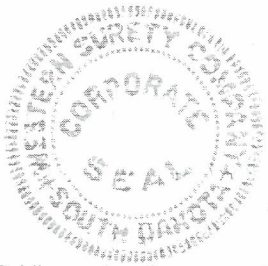
In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 15th day of May, 2019.

ATTEST

L. Nelson
L. Nelson, Assistant Secretary

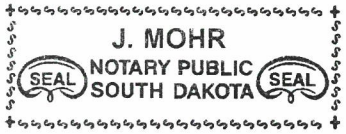
WESTERN SURETY COMPANY

By Paul T. Bruflat
Paul T. Bruflat, Vice President



STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires June 23, 2021

J. Mohr
Notary Public

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.

Form F1975-1-2016

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, the undersigned officer, personally appeared Paul T. Bruflat, who acknowledged himself to be the aforesaid officer of WESTERN SURETY COMPANY, a corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

M. Bent
Notary Public — South Dakota

My Commission Expires March 2, 2020

ACKNOWLEDGMENT OF PRINCIPAL
(Individual or Partners)

STATE OF Connecticut }
COUNTY OF Fairfield } ss

On this 20th day of May, 2019, before me personally appeared Anthony Rutledge, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

My commission expires September 30, 2012

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL
(Corporate Officer)

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, _____, before me personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

My commission expires

_____, _____

Notary Public

Western Surety Company

License or Permit No. _____

LICENSE AND PERMIT BOND

As _____ of _____

State of _____

Name of Applicant

Address

Filed _____, _____

Approved this _____ day of _____, _____

Control No. 11028875

STATE OF GEORGIA

Secretary of State

Corporations Division
315 West Tower
#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF AUTHORITY

I, **Brian P. Kemp**, the Secretary of State and the Corporations Commissioner of the State of Georgia, hereby certify under the seal of my office that

MERRITT HOSPITALITY, LLC
a Foreign Limited Liability Company

has been duly formed under the laws of Delaware and has filed an application meeting the requirements of Georgia law to transact business as a foreign Limited Liability Company in this state.

WHEREFORE, by the authority vested in me as Secretary of State, the above Limited Liability Company is hereby granted, on **04/08/2011**, a certificate of authority to transact business in the State of Georgia as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said application.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on April 8, 2011

Brian P. Kemp
Secretary of State

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SMILEZZZZ, LLC", CHANGING ITS NAME FROM "SMILEZZZZ, LLC" TO "MERRITT HOSPITALITY, LLC", FILED IN THIS OFFICE ON THE TWELFTH DAY OF FEBRUARY, A.D. 2004, AT 4:23 O'CLOCK P.M.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3448162 8100

040101165

AUTHENTICATION: 2929713

DATE: 02-13-04

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF FORMATION

OF

SMILEZZZZ, LLC

Smilezzzz, LLC (the "LLC") is a limited liability company organized under the Delaware Limited Liability Company Act, 6 Del. C. §§18-101 et seq. (the "Act") on October 19, 2001. This Certificate of Amendment to the Certificate of Formation of the LLC, dated as of February 12, 2004, is duly executed and filed by the undersigned, as a duly authorized person, for the purpose of amending the Certificate of Formation of the LLC pursuant to Section 18-202 of the Act.

FIRST, the name of the LLC as set forth on the first Certificate of Amendment of the Certificate of Formation of the LLC is "Smilezzzz, LLC"

SECOND, the Certificate of Formation of the LLC is hereby amended to reflect that the name of the LLC shall now be "Merritt Hospitality, LLC."

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of the date first written above.

David McCaslin,
Authorized Person

LIBC/1025382.2

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:34 PM 02/12/2004
FILED 04:23 PM 02/12/2004
SRV 040101165 – 3448162 FILE

Printed 05/15/19 13:35

TIMES JOURNAL, INC.

P.O. BOX 1633
ROME GA 30161-1633

PHONE: 770-428-9411
FAX: 1888

Advertising Payment Receipt

Account number:	200382	**Credit Card #:**	**********6000
Account name:	SARD & LEFF LLC 3789 ROSWELL ROAD ATLANTA GA 30342	**Approval Code:**	180878[264451343]
		Credit Holder Name:	
Phone number:	770-644-0800		
Payment number:	184457		
Payment date:	05/15/19		
Amount:	240.24		
Payment description:	CREDIT CARD PAYMENTS		

Ad Number:	171911	**Class Code:**	A
Ad Taker:	jdoll	**Salesperson:**	M208
First Words:	MERRITT		

Legal Advertisement

On Premise Consumption

Applications have been made by Merritt Hospitality, LLC at 1031 Virginia Avenue, Atlanta, GA 30354 for the issuance of 2019 Alcohol Beverage On-Premise Consumption of Beer, Wine and Liquor. WS HAA Owner, LLC (hotel owner) and Edward M. Walls (hotel manager).

☐ **PROOF O.K. BY:** _____ ☐ **O.K. WITH CORRECTIONS BY:** _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

MA-171911 (100%)

ADVERTISER: SARD & LEFF LLC
SALES PERSON: MAM208
SIZE: 2X2
PUBLICATION: MA-SOUTH FULTON

PROOF CREATED AT: 5/16/2019 12:59:37 PM
NEXT RUN DATE: 05/22/19
PROOF DUE: 05/22/19 19:00:00

Inspection No:	IAL 19 - 006
Inspection Date:	5/23/2019
Inspection Time:	
Inspector:	Brian Eskew

Inspection Report

Inspection and Compliance Orders

Facility:	Hilton Finish Line	**Address:**	1031 B Virginia AVE		
Phone:					
Fax:		**City:**	Hapeville		
Email:		**State:**	GA	**Postal Code:**	30354
Contact:	Mindy Thompson	**Work:**			
Email:	mthompson@sardandjeff.com	**Cell:**	(770) 644-0800		

Inspection Type:	Inspection Business License

Violation Code	Days to Correct *	Violation/Notes	Location

Inspection Notes

Approved For Alcohol License

Owner/Representative:

Inspector: B. C Eskew

A variance procedure is available. Please contact the inspector named for further assistance with this or any other matter.

* Number of days to correct from date inspected.

Alcohol License Establishment Planning & Zoning Form

Date: May 28, 2019

Business Name: Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Finish Line)

Business Address: 1031 Virginia Avenue

Business Owner: Anthony R. Rutledge

Business Owner Address: 530 Main Street North, Southbury, CT 06488

Contact: Mindy L. Thompson, Esq. (Sard & Leff, LLC)

Contact Phone (770) 644-0800 Contact Email: mthompson@sardandleff.com

Building Square Footage: 505,000 SF Square footage of Business Unit: Not provided

Will the establishment provide patio/outdoor dining? No

Number of Parking Spaces Provided: 526

STAFF USE ONLY

Zoning Classification: C-2, General Commercial

Sec. 93-14-3. - Permitted uses.
The following uses are permitted within any C-2 zone:
(24) Hotels and Motels
(36) Restaurants, carry-out restaurants, drive-in restaurants or drive-through restaurants.

Does the proposed use require a Conditional Use Permit? No.

Number of parking spaces required by zoning: 507

Outdoor dining: Not applicable.

Staff Recommendation: The proposed location complies with zoning. The application may be approved.

Zoning Compliance

Zoning Classification: C-2, General Commercial. The business is a hotel restaurant which previously had an approved occupational tax permit in the C-2 district under the prior owner.

Alcoholic Beverage Ordinance Compliance

Sec. 5-3-4. – Standards for approval, denial, renewal, suspension or revocation.

(1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
Property is located in a commercial district.

Sec. 5-6-3. - On-premises consumption regulations generally.

The following regulations shall apply to licensed on-premises consumption establishments:
(b)No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this article. (b) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. for licensed establishments whose property lines abut an area zoned residential, and 2:00 a.m. and 8 :00 a.m. for all others. Except for bed and breakfasts and hotels, all patrons shall vacate such licensed establishments whose property lines abut an area zoned residential no later than 12:45 a.m., and 2:45 a.m. for all others. For purposes of this subsection, "residential" shall mean any parcel of land designated for use as a single or multifamily dwelling and duplexes.
There are no residential properties abutting the proposed location.

(2) The proximity of churches, school buildings, school grounds, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
There is no minimum distance required for on-site premises consumption from the nearest school/school grounds.

(3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
Adequate parking exists.

(4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
There is no anticipated increase in traffic or concerns regarding congestion.

700 Doug Davis Drive
Hapeville, GA 30354

Ph: 404-669-2111
Fax 404-669-2140

City of Hapeville 1891 GEORGIA
A Community with a Heart

Police, Code Enforcement, & Traffic Alcohol Establishment Inspection Report

Date: May 29, 2019
Business Name: Atlanta Airport Hilton Finish Line Restaurant
Address: 1155 Virginia Avenue, Ste F, Atlanta, GA 30054

Exterior Observations:
Condition of Signage: Satisfactory

Window Signage & Visibility: Satisfactory

Condition of Property: Satisfactory

Exterior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level

Employee ID Badges: ☑ In Compliance ☐ Non-Compliant ☐ N/A

Interior Observations:
Interior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level ☐ Unknown

Cameras: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Broken Packages: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Traffic Considerations:
Private Property Accidents 0 Notes:

COMPLIANCE: To resolve this issue please N/A from premises within N/A days from receipt of this notice to be considered for an Alcohol License.

RIGHT TO APPEAL: Appeals are made thru the ARB, City of Hapeville Mayor and Council by contacting City Hall at 404-669-2100. Non-compliance may result in a Court Citation.

Additional Violations Noted:

History:
Law Enforcement: 33 calls Code Enforcement: 1 calls

Inspector's Signature

05/29/18

Administrative Services Department
3468 North Fulton Avenue
Hapeville, GA 30354
Phone: (404) 766-3004
Fax: (404) 669-3302

Alcohol Beverage License Application

Instructions: This application must be typed or printed legibly and executed under oath. Each question must be fully answered. If space provided is not sufficient to answer the question please use a separate sheet of paper.

Holding an alcohol beverage license with the City of Hapeville is a privilege.

☐ New ☒ Amended

Date: 05/22/2019

Contact Name: Mindy L. Thompson, Esq. Sard & Leff, LLC Phone: (770) 644-0800

Business/Trade Name: Merritt Hospitality, LLC

D/B/A: Hilton Atlanta Airport (Herb 'N Kitchen)

Email: mthompson@sardandleff.com

Emergency Contact Name: Edward M. Walls Phone: (678) 425-6091

Business Address: 1031 Virginia Avenue, Atlanta, GA 30354

TYPE OF BUSINESS

- ☐ Convenience Store
- ☐ Grocery Store
- ☒ Hotel/Motel
- ☐ Package Store
- ☐ Manufacturer
- ☐ Specialty Beverage Store
- ☐ Restaurant
- ☐ Restaurant under 2,000 Sq. Ft.
- ☐ Wholesale
- ☐ Other: _____

TYPE OF LICENSE AND FEES

Retail		On-Premise Consumption		Wholesale/Manufacturer	
☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00
☐ Package	$5,000.00	☒ Beer/Wine/Liquor	$5,000.00	☐ Beer/Wine/Liquor	$5,000.00

On-Premise Consumption below 2,000 Sq. Ft.

☐ Beer	$750.00
☐ Wine	$750.00
☐ Liquor	$1600.00

APPLICANT INFORMATION

Please submit a passport photograph of owner(s) with completed application.

Full Name: Anthony R. Rutledge on behalf of Merritt Hospitality, LLC Date of Birth: [redacted]/1971

Current Address: 530 Main Street North, Southbury, CT 06488

Spouse Name: Valerie T. Rutledge

Address of Applicant (if different for the past 5 years):
N/A

Name and Location of Employers for the last five years: 05/2005 - Present: Merritt Hospitality, LLC - Norwalk, CT

Have you been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

Has your spouse been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

BUSINESS INFORMATION

Type of business entity: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☒ Other
Limited Liability Company

Has an Occupational Tax Certificate been obtained and paid for said business? ☐ Yes ☒ No (If not issued by the City of Hapeville please include a copy with application.) Applied for.

Federal Tax ID Number: 52-2353526 State Tax ID Number: Applied for

Do you own the property? ☐ Yes ☒ No (If no, please provide name, address, and contact number for the landlord. A copy of the Lease must be attached to this application.) WS HAA Owner, LLC

Name each person(s) having a financial interest in the Establishment.

Full Name	Position	Social Security Number	Address	% of Interest
Merritt Hospitality, LLC*	Hotel Management	52-2353526	101 Merritt - 7 Corporate	
	Company		Park, Norwalk, CT 06851	
WS HAA Owner, LLC*				100%

Have you or anyone with interest in the establishment ever or do you currently hold an alcohol beverage license with any other municipality, county, or state? ☒ Yes ☐ No

If so, have you or anyone holding interest in the establishment ever been placed on probation or had your license revoked? ☐ Yes ☒ No (If yes, please explain on separate sheet of paper and attach hereto.)

*At time of closing, scheduled for 06/21/2019

Provide name, address, Social Security Number, and phone number for each Manager if different from owner. A passport photograph, Personnel Statement, and Background Check must be submitted for each manager.

Full Name	Social Security Number	Address	Phone Number
Edward M. Walls	xxx-xx-[redacted]	2605 Shumard Oak Drive, Braselton, GA 30517	(678) 425-6091

BUSINESS SPECIFIC INFORMATION On File.

County Tax Parcel ID _____ Zoning District _____

Nearest Intersection: _____

Building Square Footage: _____ Business Square Footage (if not using entire building): _____

Patio/Outdoor Dining Square Footage (if applicable): _____

Number of Parking Spaces for business? (Attach site plan showing designated, striped parking and lighting)

_____

If shared parking, detail of how many are dedicated to the business and details of other businesses sharing parking (addresses).

_____

_____

_____

Hours/days of operation: _____

_____

Description of adjacent properties (residential/commercial) _____

_____

_____

_____

If application is for Retail Sale, attach a surveyor's certificate containing the following information:

- A scale drawing of the building and/or proposed building
- The proposed off-street parking facilities available to the building and all outdoor lighting on the premises
- The exact location of the business, including street address, ward, and county tax map number
- Current zoning classification of the location
- The distance from the business to each of the following: the nearest school, church building, and the nearest alcoholic treatment center owned and operated by state, county or municipality.

VERIFICATION OF APPLICATION

I hereby make application for an Alcohol Beverage License for the City of Hapeville. I understand that holding this license is a privilege. I do hereby affirm and swear that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this application and any action taken on this application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fee and further that it is my/our responsibility to conform with said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can

read the English language and I freely and voluntarily have completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. §16-10-20.

Signature of Applicant or Agent

Anthony R. Rutledge

Print or Type Name

I certify that Anthony R. Rutledge (name of applicant) personally appeared before me, and that he signed his name to the foregoing statements and answers made therein, and under oath, has sworn that said statements and answers are true.

This 20th day of May, 2019.

Notary Public

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

My commission expires on: 9/30/2021

Alcoholic Beverage Personnel Statement

For Official Use Only
Type of License: Beer/Wine/Liquor

Business: Merritt Hospitality, LLC

Address: 1031 Virginia Avenue, Hapeville

Telephone: _____

Instructions: This personnel statement must be executed under oath or affirmation by every person having any ownership or profit sharing interest in, or managing any place of business applying for license from the City of Hapeville, Georgia to sell or deal in alcoholic beverages or liquors. Please type or print clearly in ink. If not legible, Statement will not be accepted. Each question must be fully answered. If the space provided is not sufficient, answer the question on a separate sheet and indicate in the space provided that such separate sheet is attached. A personnel statement, including two (2) passport-size photographs and two (2) fingerprint cards are required by Questions 35 and 36, for all owners/managers/assistant managers and must be submitted with every license application.

1. Gary Michael Mendell - 6 Bluewater Hill South, Wesport, CT 06880
   Full Name of Applicant Address of Applicant

2. Social Security Number
   [redacted]

3. Driver's License Number
   [redacted] CT

4. Date of Birth Place of Birth
   [redacted]1957 Bridgeport, CT

5. U.S. Citizen
   a. (x) By Birth
   b. ( ) Naturalized
   Date, Place and Court _____
   Petition Number _____
   Certificate Number _____
   Derived Parent Certificate Number(s) _____
   Alien Registration Number _____
   Native Country _____
   Date of Port Entry _____

6. How long have you been a legal resident of Georgia? N/A Years _____ Months

7. Marital Status () Single (x) Married () Widowed () Divorced () Separated

8. If married, give Spouse's full name Janet Beth Mendell (Brown)

9. Physical Description of Applicant _____ Race Caucasian Sex Male Height 6'0"

Weight 165 Age 62 Hair Color Brown Eyes Brown

10. Education and training specific to restaurant/alcohol field.

More than seventeen (17) years of hotel management experience.

11. Have you ever used or been known by any other name () Yes (x) No

12. List maiden name, names by former marriages, former names changed legally or otherwise, aliases or nicknames. For each, list the period during which you were known by this name. N/A

13. Are you a registered voter in the State of Georgia () Yes (x) No

County registered Number of years registered

N/A

14. For the last calendar year, did you file and pay any County property tax (x) Yes () No
Name of County

Fairfield County, CT

15. For the last calendar year, did you file and pay any City property tax (x) Yes () No
Name of City

Easton, CT

16. Employment record for the past ten (10) years (Give most recent experience first, if self-employed give details)

	From	To	Employer	Occupation Duties	Reason for leaving
(a)	01/2002	Present	Merritt Hospitality, LLC	Managing Member	N/A
(b)					
(c)					
(d)					
(e)					
(f)					
(g)					
(h)					

17. List, with your most recent place of residence first, all of your residences for the past ten (10) years

	Date From/To	Street	City	State
(a)	01/2019 - Present	6 Bluewater Hill South	Wesport	CT
(b)	01/1998 - 01/2019	58 Laurel Drive	Easton	CT
(c)				
(d)				
(e)				

20. Military Service () Yes (x) No

List Serial Number _____ Branch of Service _____
Period of Service _____ Date of Discharge _____
Type of Discharge received _____

21. Have you ever been convicted of a felony relating to violence, illegal substances, gambling, theft or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city or any other city or county relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of

malt beverages, wine or intoxicating liquors, or the taxability thereof within five (5) years preceding this application? _____ Yes __X__ No

22. Full name of dealer and trade name, if any, submitting application of which this personnel statement is a part.

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

23. Position of applicant in dealer's business.

Managing Member

24. Does applicant have any ownership/profit sharing interest in business? () Yes (X) No Describe.

State annual salary of applicant or the estimated annual profit or compensation derived from this business. $

Salary

25. Do you have any financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverages are sold and consumed on the business premises? (X) Yes () No If Yes, explain.

Please see attached Exhibit "A"

26. Do you have any financial interest or are you employed in any wholesale or retail liquor business other than the business submitting the license application of which this personnel statement is a part? (X) Yes () No If Yes, give names and locations and amount of interest in each.

Please see attached Exhibit "A"

27. Do you have any financial interest or are you employed in any business engaged in distilling, bottling, rectifying or selling (wholesale, retail or manufacturing) alcoholic beverages in this State or outside this State which has not otherwise been disclosed in this statement. () Yes (X) No If yes, explain.

N/A

28. Have you ever had any financial interest in an Alcoholic Beverage business which was denied a liquor permit () Yes (X) No If yes, explain.

N/A

29. Has any Alcoholic Beverage business in which you hold or have held any financial interest or have been employed, ever been cited for any violation for the rules and regulations of the State Revenue Commissioner relating to the sale and distribution of distilled spirits. () Yes X (No) If yes, explain.

To Applicant's best knowledge, information and belief, Merritt Hospitality, LLC has never been cited in the state of Georgia.

City of Hapeville Alcoholic Beverage License Applications of
Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport
1031 Virginia Avenue, Atlanta, GA 30354

EXHIBIT "A"

Georgia Liquor Licenses
Merritt Hospitality, LLC
May 2019

ST	City	Licensee	Property	Agency	License Nbr
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Georgia DOR	0087490, 0087897
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Alpharetta Code Enforcement Office	8573, 9034
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Georgia DOR	0084699, 0084714, 0084730, 0085573
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Atlanta Police Dept.	177369 A20, A21, A22, A23
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0087325, 0087802, 0087782, 0091598, 0067930 (Tobacco)
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	182036, A20, A22, A1H
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	Georgia DOR	0087739, 0087888
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	City of Sandy Springs	19-58286
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0086266, 0086173,
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	179163 A20, A34
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Georgia DOR	0089468, 0089303, 0089611, 0089632, 0089484, 0089455
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Braselton	12642, 12644, 12643, 12641, 12645

Merritt Hospitality, LLC and some of its related businesses (collectively, "Merritt") hold numerous alcoholic beverage licenses throughout the United States in connection with their various hotel operations. A complete list of alcoholic beverage licenses held by Merritt will be provided upon request.

30. Have you ever been denied a bond by a commercial surety company? () Yes (x) No
If yes, explain.
N/A

31. Are you related by blood, marriage or adoption to any persons engaged in any business handling alcoholic beverages, whiskeys or liquors in the State of Georgia.
() Yes (x) No

32. Personal References. Give three (3) personal references, not relatives (i.e., former employers, fellow employees or school teachers who are responsible adults, business or professional men or women) who have known you well during the past five (5) years.

Name
Gil Menna
Residence
21 Smith Street, Dover, MA 02030
Business Address
100 Northern Avenue, Boston, MA 02110
Telephone Number
[redacted]
Number of Years Known
30 years

Name
Ted Cook
Residence
35 Minute Man Hill, Westport, CT 06880
Business Address
35 Minute Man Hill, Westport, CT 06880
Telephone Number
[redacted]
Number of Years Known
10 years

Name
Tony Menchaca
Residence
7 Meadowview Circle, Westport, CT 06880
Business Address
7 Meadowview Circle, Westport, CT 06880
Telephone Number
[redacted]
Number of Years Known
20 years

33. Attach two (2) passport-size photographs (front view). Write name on back of photographs and also the name of dealer submitting a license application. Initial here if such photographs are attached. _____

34. There must be submitted with this personnel statement the fingerprints of applicant on two (2) fingerprint cards, which will be furnished by the City of Hapeville. Initial here that such fingerprint cards are attached. GM

NOTE: Before signing this statement, check all answers and explanations to see that you have answered all questions fully and correctly. This statement is to be executed under oath or affirmation and subject to the penalties of false swearing and it includes all attached sheets submitted herewith.

Verification

I, Gary M. Mendell, applicant, do solemnly swear, subject to criminal penalties for false swearing, that the statements and answers made by me to the foregoing questions in this application for a City of Hapeville license as a dealer in alcoholic beverage and liquors are true, and no false or fraudulent statement or answer is made therein to procure the granting of such license. I hereby submit for an Alcoholic Beverage Privilege License Personnel Statement for the City of Hapeville. I do hereby swear or affirm that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this statement and any related application and any action taken on this statement and any related application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fees and further that it is my/our responsibility to conform to said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can read the English language and I freely and voluntarily have completed this statement. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. § 16-10-20.

Gary M. Mendell

Applicant's Signature
(Full name in ink)

Gary M. Mendell

Applicant's Name
(Print or Type)

I certify that

Gary M. Mendell

(the above named applicant)

is personally known to me, and that he signed his name to the foregoing statements and answers made therein, and, under oath, has sworn that said statements and answers are true.

This 20 day of May, 20 19.

Notary Public

Seal:

Sue Broderick
NOTARY PUBLIC
State of Connecticut
My Commission Expires May 31, 2023

City of Hapeville 1891 GEORGIA

Georgia Bureau of Investigation
Georgia Crime Information Center

Consent Form

I hereby authorize **HAPEVILLE POLICE DEPARTMENT** to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Gary Michael Mendell
Full Name (print)

[redacted] CT
Driver's License Number and State

6 Bluewater Hill South, Wesport, CT 06880
Address

Merritt Hospitality, LLC
Company Name

M
Sex

W
Race

[redacted]1957
Date of Birth

[redacted]
Social Security Number

Signature

5.20.19
Date

Purpose Codes Used (check appropriate one)

X Employment (Licensing, Public/Private employment, Firefighter employment Adoptions, Education employment, and Military Recruitment) (E)
____ Employment with mentally disabled (M)
____ Employment with elder care (N)
____ Employment with children (W)
____ Criminal Justice Employment (J)
____ Public Access (GA Felonies Only) (P)
____ Used by Law Enforcement Only (C) _____ Case Number
____ Pre-employment or Employment of Police Officers (Z)

Inquiry ran by: _____
If ran Purpose Code C Officer Signature: _____

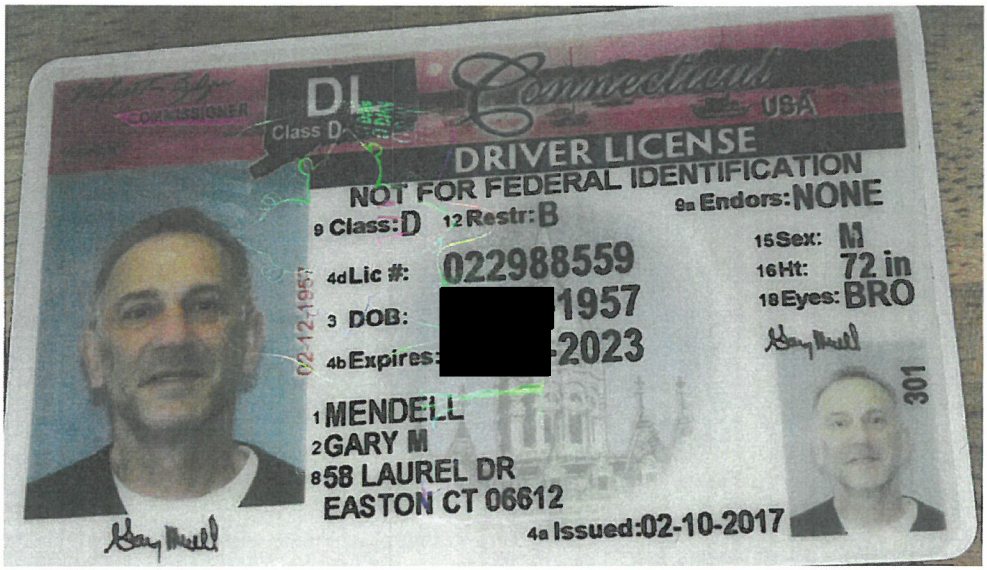


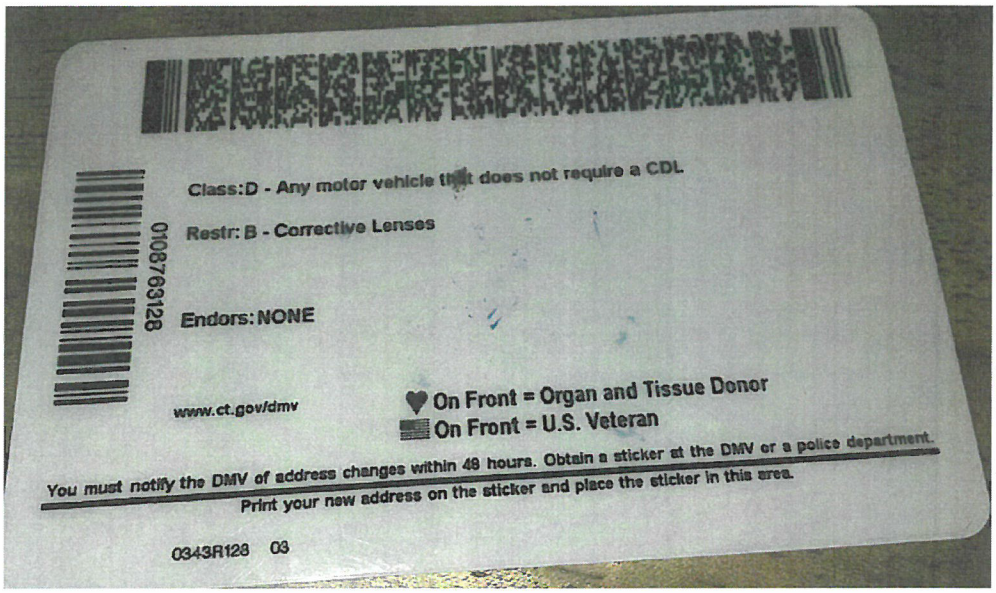
Mr. Gary Mendell

City of Hapeville Alcoholic Beverage License Applications (Change of Ownership)

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

1031 Virginia Avenue, Atlanta, GA 30354


COMMISSIONER
DL
Class D
Connecticut
USA
DRIVER LICENSE
NOT FOR FEDERAL IDENTIFICATION
9 Class: D
12 Restr: B
9a Endors: NONE
4d Lic #: 022988559
3 DOB: [redacted]1957
4b Expires: [redacted]2023
15 Sex: M
16 Ht: 72 in
18 Eyes: BRO
1 MENDELL
2 GARY M
8 58 LAUREL DR
EASTON CT 06612
4a Issued: 02-10-2017
02-12-1957
301


Class: D - Any motor vehicle that does not require a CDL
Restr: B - Corrective Lenses
Endors: NONE
0100763128
www.ct.gov/dmv
On Front = Organ and Tissue Donor
On Front = U.S. Veteran
You must notify the DMV of address changes within 48 hours. Obtain a sticker at the DMV or a police department.
Print your new address on the sticker and place the sticker in this area.
0343R128 03

MANAGEMENT AGREEMENT

between

WS HAA Owner, LLC

and

MERRITT HOSPITALITY, LLC

for the

HILTON ATLANTA AIRPORT HOTEL

[_____], 2019

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 1
1.1 Definitions 1
1.2 Terminology 10
1.3 Exhibits 10
ARTICLE 2 ENGAGEMENT OF OPERATOR 10
2.1 Engagement and Duties of Operator 10
ARTICLE 3 TERM 11
3.1 Term 11
ARTICLE 4 USE AND OPERATION OF THE HOTEL 11
4.1 Hotel Employees 11
4.2 Annual Plan 13
4.3 Labor Relations 15
4.4 Liquor License 15
4.5 Notice of Violations 15
4.6 Centralized Services 15
4.7 Multi-Property Programs 15
ARTICLE 5 USE OF NAME 16
5.1 Name 16
ARTICLE 6 ADVERTISING 16
ARTICLE 7 RESERVE FOR FF&E 16
7.1 Reserve for Replacement of FF&E 16
7.2 Transfers to Reserve for FF&E 16
7.3 Annual Adjustment 16
7.4 Maintenance of Reserve 17
7.5 Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements 17
ARTICLE 8 REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS 17
8.1 Repairs and Maintenance 17
8.2 Capital Improvements 17
8.3 Liens 18
8.4 Notice of Force Majeure Event 18
ARTICLE 9 WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH 18

9.1 Working Capital 18
9.2 Depository Account 18
9.3 Operating Account 18
9.4 Distribution of Excess Cash 19
9.5 Lender Requirements 19
ARTICLE 10 BOOKS, RECORDS AND STATEMENTS 19
10.1 Books and Records 19
10.2 Financial Reports 19
10.3 Audits by Owner 20
10.4 Accounting Services 20
ARTICLE 11 MANAGEMENT FEES AND OTHER PAYMENTS 21
11.1 Management Fee 21
11.2 Payment of Management Fee 21
11.3 Other Payments 22
11.4 Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards 22
ARTICLE 12 INSURANCE 22
12.1 Insurance Requirements 22
12.2 General Insurance Requirements. 25
ARTICLE 13 REAL AND PERSONAL PROPERTY TAXES; UTILITIES 27
13.1 Taxes 27
13.2 Utilities, Etc 27
ARTICLE 14 DAMAGE OR DESTRUCTION; CONDEMNATION 27
14.1 Damage or Destruction 27
14.2 Condemnation 28
14.3 Reinstatement 28
14.4 Mortgage Requirements 28
ARTICLE 15 EVENTS OF DEFAULT 29
15.1 Operator Defaults 29
15.2 Owner Defaults 29
ARTICLE 16 TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES 30
16.1 Termination 30
16.2 Operator's Rights to Perform 31
ARTICLE 17 OWNER'S ADDITIONAL TERMINATION RIGHTS 31
17.1 Termination on Sale 31

17.2 Performance Termination....32
ARTICLE 18 TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION....32
18.1 Transfer to Owner....32
18.2 Remittance to Owner....33
ARTICLE 19 NOTICES....33
ARTICLE 20 CONSENT AND APPROVAL....34
ARTICLE 21 TRANSFERS....34
21.1 Transfers....34
21.2 Assignability upon Sale....35
21.3 Prohibited Sale....35
ARTICLE 22 INDEMNITY....35
22.1 Indemnity by Owner....35
22.2 Indemnity by Operator....35
22.3 Indemnification Procedure....36
22.4 Survival/Miscellaneous....36
ARTICLE 23 MISCELLANEOUS....36
23.1 Further Assurances....36
23.2 Waiver....36
23.3 Successors and Assigns....36
23.4 Governing Law....37
23.5 Compliance with Mortgage and License Agreement....37
23.6 Amendments....37
23.7 Estoppel Certificates....37
23.8 Inspection Rights....37
23.9 Subordination....37
23.10 Effect of Approval of Plans and Specifications....37
23.11 Entire Agreement....38
23.12 Time is of the Essence....38
23.13 Interpretation....38
23.14 Counterparts....38
23.15 Partial Invalidity....38
23.16 Confidentiality....38
23.17 No Third Party Rights....38
ARTICLE 24 NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL....38

ARTICLE 25 REPRESENTATIONS OF OPERATOR 39
ARTICLE 26 REPRESENTATIONS OF OWNER 39
ARTICLE 27 DISPUTE RESOLUTION 40
27.1 Expert Determination 40
27.2 Mediation/Arbitration 40
27.3 Survival 42
ARTICLE 28 TERMINATION OF THE LICENSE AGREEMENT 42
ARTICLE 29 RELATIONSHIP OF PARTIES 42

EXHIBITS:

SCHEDULE 1 Hotel Components
EXHIBIT A Description of Premises
EXHIBIT B Centralized Services
EXHIBIT C Sample Incentive Fee Calculation
EXHIBIT D Transition Budget

MANAGEMENT AGREEMENT

This Management Agreement (the "**Agreement**") is made and entered into as of this [__] day of [_____], 2019 (the "**Effective Date**") by and between WS HAA Owner, LLC, a Delaware limited liability company] ("**Owner**"), and **MERRITT HOSPITALITY, LLC**, a Delaware limited liability company ("**Operator**").

RECITALS:

A. Owner is, or shall become prior to the Commencement Date, the fee owner of the Premises, which, together with associated improvements, parking areas and personal property, is presently known as the "Hilton Atlanta Airport Hotel" and is defined herein as the "**Hotel**".

B. Operator is engaged in the business of managing and operating hotels.

C. Owner and Operator desire to enter into this Agreement for the management and operation of the Hotel in accordance with the terms and conditions and subject to the limitations contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator covenant and agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Definitions**. In this Agreement and any Exhibits, the following terms shall have the following meanings:

"**Accounting Period**" shall mean each calendar month during each Fiscal Year.

"**Accounting Services**" shall have the meaning set forth in Section 10.4.

"**Accounting Services Fee**" shall mean an annual amount equal to $30,000, payable monthly as provided in Section 11.3.

"**Adjusted GOP**" shall mean, for any Fiscal Year, Gross Operating Profit less the sum of: (i) Management Fees (excluding the Incentive Fee), (ii) Taxes, (iii) Insurance Costs, (iv) Equipment Lease Costs, (v) the Reserve; and (vi) Owner's Priority Return.

"**ADR Provider**" shall have the meaning set forth in Section 27.2(a).

"**Affiliate**" shall mean any person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another person or entity. The term "**control**" (and correlative terms) shall mean the power, whether by contract, equity ownership or otherwise, to direct the policies or management of a person or entity. A natural person is related to another natural person if he or she is a spouse, parent, or lineal descendant of the other person.

"**Agreement**" shall have the meaning set forth in the introductory section of this Agreement.

"**Annual Operating Budget**" shall mean an annual operating projection for the Hotel prepared and submitted by Operator to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(a).

"**Annual Plan**" shall mean an annual business plan for the operation of the Hotel prepared by Operator and approved by Owner, which shall include the Annual Operating Budget and the Capital Budget, and any other material included therein by Operator as provided in Section 4.2.

"**Arbitrator**" shall have the meaning set forth in Section 27.2(c).

"**Base Fee**" shall have the meaning set forth in ARTICLE 11.

"**Building**" shall mean, collectively, the buildings (including all roof coverings and exterior facades and any walkways and bridges) and all structural elements of such buildings, all of which are a part of the Hotel, together with such elements servicing and/or supporting the Hotel.

"**Building Systems**" shall mean any mechanical, electrical, plumbing, heating, ventilating, air conditioning, sanitation, water treatment, sewer treatment and disposal, life safety systems, vertical transportation systems and other similar operating and monitoring systems and items of equipment installed in or upon, and affixed to, the Hotel.

"**Capital Budget**" shall mean a proposed estimate of FF&E Expenditures and Capital Improvements prepared by Operator and submitted to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(b).

"**Capital Improvements**" shall mean any expenditures properly categorized under GAAP as capital in nature, for any alterations, improvements, replacements, and additions to the Building, the Building Systems or FF&E.

"**Centralized Services**" shall have the meaning set forth in Section 4.6.

"**Centralized Services Charge**" shall have the meaning set forth in Section 4.6.

"**Claims**" shall have the meaning set forth in Section 22.1.

"**Commencement Date**" shall mean the date on which Operator assumes the management and operation of the Hotel and all or substantially all of the Hotel is open for business to the general public.

"**Competitive Set**" shall mean initially, the following list of hotels: (i) [_____], subject to any revisions to such list agreed upon by Owner and Operator from time to time, which revisions, to the extent applicable, will occur during the Annual Plan process.

"**Corporate Personnel**" shall mean any of Operator's executive level personnel holding a position of Vice President or higher from Operator's corporate headquarters who perform activities

at or on behalf of the Hotel in connection with the services provided by Operator under this Agreement.

"**CPI**" shall mean the Consumer Price Index for All Urban Consumers, United States City Average, All Items (1982-84=100), issued by the Bureau of Labor Statistics of the United States Department of Labor.

"**Default Rate**" shall mean the lesser of (i) the Prime Rate plus five percent (5%) per annum or (ii) the highest lawful rate permitted by applicable Legal Requirements from time to time.

"**Depository Account**" shall have the meaning set forth in Section 9.2.

"**Effective Date**" shall mean the date of this Agreement as set forth in the introductory paragraph.

"**Equipment Lease Costs**" shall mean costs and expenses incurred by Owner in connection with the leasing or financing of equipment used in the operation and maintenance of the Hotel.

"**Event of Default**" shall mean any of the events described in ARTICLE 15, provided that any condition contained therein for the giving of notice or the lapse of time, or both, has been satisfied.

"**Expert**" shall mean an independent, neutral and impartial individual having not less than ten (10) years of experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels) and shall not have any conflict of interest with either party.

"**Fiscal Year**" shall mean the fiscal year that ends on the last day of each calendar year. The first Fiscal Year shall be the period commencing on the Commencement Date and ending on December 31st of the same calendar year in which the Commencement Date occurs. Except as otherwise expressly set forth in this Agreement, the words "full Fiscal Year" shall mean any Fiscal Year containing not fewer than three hundred sixty five (365) days. A partial Fiscal Year after the end of the last full Fiscal Year and ending with the expiration or earlier termination of the Term shall constitute a separate Fiscal Year.

"**Force Majeure Event**" shall mean any one or more of the following events or circumstances that, alone or in combination, directly or indirectly, materially and adversely affect the operation of the Hotel: (i) fire, earthquake, hurricane, tornado, flood, storm or other casualty; (ii) epidemics, quarantine restrictions or other public health restrictions or advisories; (iii) performance of Capital Improvements reasonably required to maintain the Hotel in accordance with the Operating Standards which materially and adversely affect the income generating areas of the Hotel or any other area material to the operation of the Hotel; (iv) strikes, lockouts, or other labor interruptions generally (as opposed to any such events directed specifically against Operator or its Affiliates not involving or related to the Hotel); (v) war, rebellion, riots, acts of terrorism, or other civil unrest or commotion; shortage of critical materials or supplies; (vi) disruption to local,

national or international transport services; (vii) embargoes, lack of materials, water, power or telephone transmissions necessary for the operation of the Hotel in accordance with this Agreement; (viii) action or inaction of governmental authorities having jurisdiction over the Hotel; or (ix) any other event beyond the reasonable control of Owner or Operator, but in all instances excluding the financial inability of either party to perform or otherwise meet its obligations.

"**Furniture, Fixtures and Equipment**" **or** "**FF&E**" shall mean all furniture, furnishings, wall coverings, fixtures, carpeting, rugs, fine arts, paintings, statuary, decorations, and hotel equipment and systems located at, or used in connection with, the operation of the Premises as a hotel, including without limitation, major equipment and systems required for the operation of kitchens, bars, laundry and dry cleaning facilities, office equipment, dining room wagons, major material handling equipment, major cleaning and engineering equipment, telephone systems, computerized accounting and vehicles (including the costs associated with the purchase, installation and delivery thereof) together with all replacements therefor and additions thereto, but in all events excluding Operating Equipment and Supplies.

"**FF&E Expenditures**" shall mean any expenditures pertaining to FF&E and not constituting Capital Improvements.

"**GAAP"** shall mean those conventions, rules, procedures and practices, consistently applied, affecting all aspects of recording and reporting financial transactions which are generally accepted by major independent accounting firms in the United States. Any financial or accounting terms not otherwise defined herein shall be construed and applied according to GAAP.

"**GOP Test**" shall have the meaning set forth in Section 17.2.

"**Gross Operating Profit**" or "**GOP**" shall mean the amount by which Gross Revenues of the Hotel exceed Operating Expenses of the Hotel.

"**Gross Revenues**" shall mean all revenues and receipts of every kind derived from the Hotel and all departments and parts thereof, as finally determined on an accrual basis in accordance with the Uniform System of Accounts, including, but not limited to, revenues and income (both cash and credit transactions) before commissions and discounts for prompt or cash payments, from (a) the rental of rooms and lobby space; (b) exhibit or sales space of any kind, including without limitation, charges for reservations, deposits and cancellation fees not refunded to guests; (c) income from vending machines, health club membership fees, wholesale and retail sales of merchandise, service fees and charges; (d) business interruption insurance claims in respect of the Hotel, (e) condemnation awards for temporary use of the Hotel; (f) license, lease and concession fees and rentals or other management income received by Owner (but not including the gross receipts of any licensees, lessees and concessionaires); (g) food and beverages sales, and (h) other sales of every kind conducted by, through or under Operator in connection with the Hotel. Gross Revenues shall not include (i) federal, state and municipal excise, sales and use taxes or similar impositions collected directly from patrons or guests or included as part of the sales price of any goods or services; (ii) proceeds arising from the sale or other disposition of property described in Section 1231 of the Internal Revenue Code or of capital assets; (iii) proceeds from condemnation and payments received on account of insurance policies (other than the proceeds from business interruption insurance and from condemnation awards for temporary use of the Hotel when

received); (iv) proceeds from claims for damages suffered by Operator or Owner, unless in recompense for a lost revenue item; (v) interest earned on the Reserve; or on any funds in the Operating Accounts; (vi) gratuities, including tips and service charges which are paid to the Hotel Employees by third parties; (vii) gross receipts received by licensees, lessees and concessionaires at the Hotel; (viii) proceeds from any sale, financing or refinancing of the Hotel or any interest therein; and (ix) any funds supplied by Owner to the reserve or to provide Working Capital, or which otherwise is defined as Owner's Invested Capital or Owner's Additional Invested Capital.

"**Guest Data**" shall mean all guest profiles, contact information, histories, preferences, and other information obtained in the ordinary course of business from guests of the Hotel during such guests' stay at the Hotel, or during such guests' use of the facilities associated with the Hotel.

"**Hotel**" shall have the meaning set forth in Recital A of this Agreement, as further described on Schedule 1 attached hereto.

"**Hotel Employees**" shall mean all individuals performing services in the name of the Hotel at the Hotel, in connection with the Hotel's business, whether employees of Operator or its Affiliate, but in any event, excluding the Corporate Personnel and any other personnel employed by Operator to perform services on a non-exclusive basis at other System Hotels.

"**Hotel Executive Staff Member**" shall mean each of the general manager, controller, director of revenue management, director of sales/marketing and director of food and beverage at the Hotel from time to time (or such equivalent position), to the extent such positions exist at the Hotel.

"**Implied Fiduciary Duties**" shall have the meaning set forth in Section 11.1(b).

"**Incentive Fee**" shall have the meaning set forth in Section 11.1(b).

"**Indemnified Party**" shall mean any party entitled to indemnification pursuant to ARTICLE 22.

"**Indemnifying Party**" shall mean any party required to indemnify an Indemnified Party pursuant to ARTICLE 22.

"**Insurance Costs**" shall mean all insurance premiums or other costs paid for any insurance policies (including business interruption insurance) maintained by or on behalf of Owner with respect to the Hotel.

"**Inventories**" shall mean "Inventories of Supplies" as defined in the Uniform System of Accounts, such as soap, toilet paper, stationery, writing pens, food and beverage inventories, paper products, menus, expendable office and kitchen supplies, fuel, supplies and items similar to any of the foregoing.

"**Legal Proceedings**" shall mean all complaints, counterclaims or cross-claims filed in a court of competent jurisdiction, any notice of any claim of violation of any legal requirement by any governmental agency or authority, or any summons or other legal process, in each instance by or against the Hotel or by or against Owner, or Operator in connection with the Hotel.

"**Legal Requirements**" shall mean (a) all laws, ordinances, statutes, regulations and orders relating to the Hotel and the Premises now or hereafter in effect, including but not limited to, environmental laws and (b) all terms, conditions, requirements and provisions of (i) all Permits; (ii) all leases; and (iii) all liens, restrictive covenants and encumbrances affecting the Hotel or the Premises or any part thereof.

"**Lender**" shall mean the holder of any Mortgage.

"**License Agreement**" shall mean the applicable franchise or license agreement issued to Owner by Hilton Franchise Holding LLC (or any successor thereto); should for any reason the License Agreement as above defined terminate or cease to exist, then the term "**License Agreement**" shall thereafter mean the franchise or license agreement from time to time entered into by Owner with respect to the branding and operation of the Hotel.

"**Licensor**" shall mean the "Franchisor" under the License Agreement.

"**Litigation Claims**" shall have the meaning set forth in Section 27.2(a).

"**Major Renovations**" shall mean a contemporaneously made set or series of alterations, additions and/or improvements to the Hotel or any material renovation, remodeling or refurbishing of the Hotel (or any portion thereof) implemented by Owner or required under a so-called "property improvement plan" imposed under a License Agreement, which customarily would be managed by a third party project manager, but which shall not include any routine Repairs and Maintenance with respect to Capital Improvements or FF&E.

"**Management Fee**" shall mean collectively the Base Fee and Incentive Fee, all as set forth in ARTICLE 11 hereof.

"**Measurement Year**" shall have the meaning set forth in Section 17.2(a).

"**Mediator**" shall have the meaning set forth in Section 27.2(a).

"**Mortgage**" shall mean, collectively, each of the documents evidencing or securing current or future indebtedness on the Hotel in favor of any Lender.

"**Multi-Property Programs**" shall have the meaning set forth in Section 4.7.

"**Notice**" shall have the meaning set forth in ARTICLE 19.

"**Notice of Proposed Sale**" shall have the meaning set forth in Section 21.2.

"**OFAC**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Operating Account**" shall mean an account or accounts, bearing the name of the Hotel and owned by Owner, established by Operator in a federally insured bank or trust company selected by Owner.

"**Operating Equipment and Supplies**" shall mean supply items which constitute "Operating Equipment and Supplies" under the Uniform System of Accounts, all miscellaneous serving equipment, linen, towels, uniforms, silver, glassware, china and similar items.

"**Operating Expenses**" shall mean all those ordinary and necessary expenses incurred in the operation of the Hotel determined in accordance with GAAP and the Uniform System of Accounts.

"**Operating Standards**" shall mean the operation of the Hotel in a first class manner in accordance with (i) the requirements under the applicable License Agreement; (ii) this Agreement; (iii) Legal Requirements; and (iv) the standards, policies and programs in effect from time to time that Operator reasonably determines are applicable to the operation, maintenance and repair of comparable hotels within the System Hotels.

"**Operator**" shall have the meaning set forth in the introductory section of this Agreement.

"**Operator Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Operator Rebates**" shall have the meaning set forth in Section 4.7.

"**Operator's Grossly Negligent or Willful Acts**" shall mean any gross negligence, willful misconduct, or fraud committed by Operator or the Corporate Personnel in the performance of Operator's duties under this Agreement. The acts or omissions (including gross negligence, willful misconduct or fraudulent acts or omissions) of the Hotel Employees (excluding the general manager and the controller) shall not be imputed to Operator or to the Corporate Personnel, or be deemed to constitute Operator's Grossly Negligent or Willful Acts, unless such acts or omissions resulted directly from the gross negligence, willful misconduct or fraudulent acts of Operator, the Corporate Personnel, the general manager and/or the controller in directing the Hotel Employees.

"**Owner**" shall have the meaning set forth in the introductory section of this Agreement.

"**Owner Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Owner's Additional Invested Capital**" shall mean any additional amounts advanced by Owner for Working Capital and for Capital Improvements in excess of the Reserve, calculated on a cumulative basis.

"**Owner's Annual Plan Objections**" shall have the meaning set forth in Section 4.2.

"**Owner's Invested Capital**" shall mean an amount equal to the purchase price paid by Owner for the Hotel, plus Owner's due diligence and related costs (including closing costs) in connection with Owner's acquisition of the Hotel, and Working Capital, subject to an adjustment by Owner by written notice to Operator within sixty (60) days of the closing of the acquisition of the Hotel.

"**Owner's Priority Return**" shall mean an amount equal to a nine and one half percent (9.5%) unlevered cash on cash return of: (i) Owner's Invested Capital; and (ii) Owner's Additional Invested Capital.

"**Performance Test**" shall have the meaning set forth in Section 17.2.

"**Permits**" shall mean all governmental or quasi-governmental licenses and permits, including but not limited to any certificate of occupancy, business licenses and liquor licenses.

"**Premises**" shall mean the land on which the Hotel is located, which land is described in Exhibit A attached hereto.

"**Prime Rate**" shall mean the rate per annum announced, designated or published from time to time by JP Morgan Chase Bank N.A. as its "prime", "reference" or "base" rate of interest for commercial loans.

"**Privileged Information**" shall have the meaning set forth in Section 23.16.

"**Prohibited Persons**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Reimbursable Expenses**" shall mean all reasonable travel, lodging, entertainment, telephone, facsimile, postage, courier, delivery, employee training and other expenses reasonably incurred by Operator in accordance with the standard policies for expenses reasonably incurred by Operator on its own behalf and which are directly related to its performance of this Agreement, but in no event will Reimbursable Expenses include or duplicate expenses for Operator's overhead or Centralized Services.

"**Repairs and Maintenance**" shall have the meaning set forth in Section 8.1.

"**Reserve**" shall mean an account maintained as a reserve for FF&E Expenditures and Capital Improvements.

"**Revenue Data Publication**" shall mean Smith's STR Report, a monthly publication distributed by STR, Inc., or an alternative source, reasonably satisfactory to both parties, of data regarding the average daily rate, occupancy and RevPAR of hotels in the general area of the Hotel, including, without limitation, the Competitive Set.

"**Revenue Per Available Room**" or "**RevPAR**" shall mean for any Fiscal Year the number derived by dividing (i) net room revenue (in accordance with the Uniform System of Accounts), by (ii) the number of available guest rooms in the Hotel.

"**RevPAR Test**" shall have the meaning set forth in Section 17.2.

"**Rules**" shall have the meaning set forth in Section 27.2(c).

"**Sale of the Hotel**" shall mean any voluntary sale, assignment, transfer or other disposition, for value or otherwise, of the fee simple title to the site and/or all or substantially all of the assets comprising the Hotel other than through foreclosure or deed in lieu of foreclosure or other similar procedure of financing permitted by this Agreement. For purposes of this Agreement, a Sale of the Hotel shall also include: (i) a lease (or sublease) of all or substantially all of the Hotel or site; or (ii) any sale, assignment, transfer or other disposition, for value or otherwise, voluntary

or involuntary, in a single transaction or a series of related transactions, of the controlling interest in Owner.

"**Sale Termination Notice**" shall have the meaning set forth in Section 17.1.

"**State**" shall mean the State in which the Hotel is located or other as designated.

"**System Hotels**" shall mean all or substantially all hotels operated by Operator or its Affiliates from time to time within the United States

"**Taxes**" shall mean all real and personal property taxes and other governmental impositions. Notwithstanding the foregoing, the term "Taxes" as used in this Agreement shall specifically exclude (a) all sales, use, excise, and hotel occupancy taxes collected directly from patrons and guests or as part of the sales price of any goods, services or displays and paid over to federal, state or municipal governments, (b) all income, franchise and municipal licenses or similar taxes of Owner or Operator or their respective Affiliates, and (c) any and all utility consumption costs.

"**Term**" shall have the meaning set forth in Section 3.1.

"**Termination Fee**" shall mean an amount determined as follows:

(a) From and after the Commencement Date until the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to (I) the product of (A) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (B) the quotient of (i) the Base Fee payable for the twelve (12) full calendar months immediately preceding the date of a termination of this Agreement, divided by (ii) twelve (12). If at the time of termination of this Agreement the Base Fee shall have been payable for less than twelve (12) full calendar months, then the Termination Fee shall equal the product of (X) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (Y) the quotient of (i) the Base Fee paid for each full calendar month following the Commencement Date plus the Base Fee payable under Operator's proforma for each additional month up to and including the twelfth (12^{th}) full calendar month following the Commencement Date, divided by (ii) twelve (12).

(b) From and after the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to zero.

"**Threshold Adjustment Event**" shall mean the occurrence of a Force Majeure Event, a material casualty or condemnation of all or any portion of the Hotel, Capital Improvements that result in displacement of rooms or amenities for in excess of a total of [___] room nights in any calendar month or negatively impact the average daily rate of a Hotel, an adjustment to the Competitive Set, including any rebranding occurring at one or more of the Competitive Set hotels, or an Owner Event of Default.

"**Transfer**" any assignment of this Agreement, transfer of any direct or indirect ownership interest in Owner, or Sale of the Hotel.

"**Transition Budget**" shall have the meaning set forth in Section 11.3.

"**Uniform System of Accounts**" shall mean the Uniform System of Accounts for the Lodging Industry, 11th Revised Edition, 2014, as published by the Hotel Association of New York City, Inc. or any later edition thereof.

"**WARN Act**" shall have the meaning set forth in Section 18.1.

"**Working Capital**" shall mean and refer to the funds which are reasonably necessary for the day-to-day operation of the Hotel's business, including, without limitation, amounts sufficient for the maintenance of petty cash funds, operating bank accounts, receivables, payrolls, prepaid expenses, advance deposits, funds required to maintain Inventories, amounts due to/or from Operator and/or Owner less accounts payable and accrued current liabilities, and all other costs and expenses incurred in connection with the Hotel pursuant to this Agreement and the performance by Operator of its obligations under this Agreement.

1.2 **Terminology**. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all genders; the singular shall include the plural, and the plural shall include the singular. The titles of Articles, Sections and Subsections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement, and all references in this Agreement to Articles, Sections, Subsections, paragraphs, clauses, sub-clauses or exhibits shall refer to the corresponding Article, Section, Subsection, paragraph, clause or sub-clause of, or exhibit attached to, this Agreement, unless specific reference is made to the articles, sections or other subdivisions of, or exhibits to, another document or instrument.

1.3 **Exhibits**. All exhibits and schedules and other attachments attached hereto are by this reference made a part of this Agreement.

ARTICLE 2
ENGAGEMENT OF OPERATOR

2.1 **Engagement and Duties of Operator**. Owner hereby engages and appoints Operator, pursuant to the terms of this Agreement, to operate and manage the Hotel, and Operator hereby agrees and contracts to operate**,** manage and supervise the Hotel pursuant to the terms of this Agreement and the Operating Standards (including the then-applicable Annual Plan). Subject to the terms of this Agreement, Hotel operations shall be under the exclusive supervision and control of Operator, which, except as otherwise specifically provided in this Agreement, shall be responsible for the proper and efficient operation, maintenance and repair of the Hotel in accordance with the terms of this Agreement. Except as specifically set forth in this Agreement, Operator shall have full discretion and control respecting matters relating to management and operation of the Hotel, including, without limitation, charges for rooms and commercial space, credit policies, food and beverage services, other Hotel services, employment policies, granting of concessions or leasing of space within the Hotel, receipt, holding and disbursement of funds, maintenance of bank accounts, procurement of Inventories, supplies and services, promotion and publicity, retain and direct legal counsel for the Hotel in the name of and as agent for Owner with respect to any matter regarding the operation of the Hotel; and, in general, all activities necessary

for operation of the Hotel. Operator shall devote its knowledge, experience and efforts to operate and manage the Hotel pursuant to this Agreement and in accordance with the Operating Standards.

Notwithstanding the foregoing grant of authority to Operator, Owner's prior written approval (not to be unreasonably delayed, conditioned or withheld (except as otherwise provided in Section 4.3 with respect to subparagraph (d))) shall be required for the following:

(a) the execution of (and provide Owner with a true and complete copy of) any contract (i) requiring total annual payments in excess of $25,000, as adjusted for increases in CPI every Fiscal Year after the initial Fiscal Year, or (ii) which has a term in excess of one (1) year (unless such agreement is terminable by Owner or Operator upon not more than thirty (30) days' notice without fee or penalty);

(b) with respect to claims asserted against Owner and/or the Hotel, for any matter for which aggregate legal fees, liabilities and/or out of pocket settlement amounts are anticipated to exceed $50,000; provided, however, Operator shall have the right to control the defense, including settlement, of any Legal Proceeding involving claims which are covered by Operator procured insurance programs (so long as Owner shall have no liability with respect to such claims, including any obligation to indemnify Operator under this Agreement);

(c) tenant leases of any space at the Premises (including rooftop leases) other than as provided in the Annual Plan (and which shall not include ordinary guest room and banquet space operations); and

(d) the negotiation and execution of any union, collective bargaining or similar agreements affecting the Hotel.

ARTICLE 3
TERM

3.1 **Term**. The operating term shall commence on the Effective Date and expire on the tenth (10th) anniversary of the Commencement Date (the "**Term**"), unless sooner terminated pursuant to the terms of this Agreement. In the event the Commencement Date does not occur by September 30, 2019, then either party shall have the option, in its sole and absolute discretion and without penalty or liability, to terminate this Agreement by delivery of written notice to the other party. If either party exercises its termination right in accordance with this Section 3.1, then all sums then due and payable to Operator and its Affiliates under this Agreement for the period of time prior to the date of termination shall be immediately due and payable. Owner and Operator shall confirm the Commencement Date in writing within ten (10) days after the Commencement Date occurs upon request of either party.

ARTICLE 4
USE AND OPERATION OF THE HOTEL

4.1 **Hotel Employees**.

(a) Operator shall have the sole right, as Operator reasonably deems appropriate for the proper operation, maintenance and security of the Hotel, to: (i) select, appoint, hire, promote, direct, supervise, train and discharge all Hotel Employees; and (ii) establish and maintain all policies relating to the employment of the Hotel Employees. Operator shall use commercially reasonable efforts and exercise reasonable care to select qualified and competent employees. Operator shall use commercially reasonable efforts to cause Operator's employment practices to comply with all Legal Requirements. All Hotel Employees shall be solely employees of Operator; provided, however, all of the costs, expenses and liabilities associated with the Hotel Employees shall be Operating Expenses, and shall include, by way of example and not limitation, all costs and expenses (including, without limitation, all employment and benefit related expenses incurred by Operator with respect to the Hotel Employees), such as severance pay, unemployment compensation and health insurance and related costs (i.e., in order to comply with COBRA-type regulations) as a result of the termination of Hotel Employees. Notwithstanding anything to the contrary contained herein, Owner shall have the right to interview and approve each individual selected by Operator to hold a position as a Hotel Executive Staff Member prior to his or her appointment, which approval shall not be unreasonably withheld or delayed. Prior to appointing an individual to a Hotel Executive Staff Member position, Operator shall provide Owner with a written summary of such individual's professional experience and qualifications and shall offer Owner the opportunity to interview the candidate at the Hotel or another mutually acceptable location. Owner will forego its right to interview any such individual if Owner or its authorized representative is unwilling or unable to participate in the interview within ten (10) days following Operator's offer. Owner shall be deemed to have approved the appointment of any such individual unless Owner delivers notice of its disapproval of such appointment within ten (10) days after Operator's offer to Owner to interview the candidate. Owner acknowledges that it may not reject more than three (3) qualified candidates proposed by Operator for any Hotel Executive Staff Member position. Owner further acknowledges that, notwithstanding Owner's right to interview and approve the hiring of each individual to hold a position as a Hotel Executive Staff Member, Operator shall have sole discretion to remove or replace any such individual (with such replacement subject to the approval rights set forth herein) (provided Operator shall not relocate the general manager or director of sales to any other System Hotel without the prior consent of Owner within thirty-six (36) months of such individual's hire).

(b) Operator may, from time to time, assign one or more of its corporate employees to the staff of the Hotel on a full-time, part-time or temporary basis, and the pro-rata share of the costs, expense and liabilities of such corporate employee of Operator shall be fairly and equitably allocated as an Operating Expense of the Hotel.

(c) Operator may elect to use the services of its Affiliates in fulfilling its obligations under this Agreement. If an Affiliate of Operator performs services Operator is required to provide, Operator shall be ultimately responsible to Owner, and Owner shall not pay more for the Affiliate's services and expenses than Operator would have been entitled to receive under this Agreement had Operator performed the services. If an Affiliate of Operator provides goods to the Hotel, such goods shall be supplied at prices and on terms at least as favorable to the Hotel as generally available in the relevant market.

(d) Any Hotel Employees who are not then represented by a collective bargaining representative shall be entitled to participate in the incentive programs, profit sharing and/or other

employee retirement, disability, health, welfare or other benefit plan or plans then made available by Operator to similarly situated employees of other System Hotels, in accordance with their respective terms. Operator will have the right to charge the Hotel with its allocable share of the cost of any such plan or plans and any contributions to be made thereunder provided that such charges and contributions shall be determined by Operator in good faith on a fair and equitable basis with respect to charges and contributions imposed for the same or similar plans at other hotels then managed by Operator, subject to Legal Requirements, and to the extent set forth in the Annual Operating Budget. Operator's rights under this Subsection (d) shall be subject to the condition that Operator shall not put into effect any amendment to any existing plan, or adopt any additional plan, which is not imposed upon all other similarly situated System Hotels.

(e) During the Term of this Agreement and for a period of twelve (12) months following termination, Owner shall not, and shall use reasonable efforts to ensure that its Affiliates do not, hire, solicit for hire, make any referrals for employment, retain as a consultant, or use the services of, any person who is employed at the Hotel as a Hotel Executive Staff Member and any Corporate Personnel, and Owner shall use reasonable efforts to prevent any other company (and any Affiliate of such other company) working on behalf of Owner or its Affiliates (including, without limitation, companies that operate or manage hotels for Owner or its Affiliates) from hiring, retaining as a consultant or using the services of any such person. The foregoing shall not prohibit Owner, any Owner Affiliate or any other company working on behalf of Owner or its Affiliates from hiring, retaining as a consultant or using the services of any such person to the extent such person is responding to a general advertisement or other solicitation of employment not specifically directed towards any Hotel Executive Staff Member or Corporate Personnel. The provisions of this section shall survive expiration or termination of this Agreement.

4.2 **Annual Plan**. [Operator shall use the existing Fiscal Year 2019 budget prepared by the existing Hotel manager as a guide to operate the Hotel pending delivery of Operator's Fiscal Year 2019 Annual Plan. On or before the date that is ninety (90) days following the Commencement Date, Operator shall submit to Owner an Annual Plan ("**Annual Plan**") for the remaining portion of the 2019 Fiscal Year and Owner either shall accept the initial Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan. Owner and Operator shall meet and discuss Owner's Annual Plan objections and shall coordinate expeditiously and in good faith to agree upon an Annual Plan for the 2019 Fiscal Year. On or before November 1st of each year following the Commencement Date, Operator shall submit to Owner an Annual Plan for the next Fiscal Year and on or before December 1st of each year following the Commencement Date, Owner either shall accept the Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan ("**Owner's Annual Plan Objections**"). Within seven (7) days after Operator's receipt of Owner's Annual Plan Objections, Owner and Operator shall agree upon a date to meet and discuss Owner's Annual Plan Objections with the goal of agreeing upon an Annual Plan for the subject Fiscal Year. In the event Owner objects to the Annual Plan or any specific items expense in the Annual Plan and Owner and Operator are unable to reach agreement thereon as provided above prior to commencement of the Fiscal Year in question, pending such agreement, the Annual Plan or the specific item or items of expense (not revenue) in question shall be suspended and replaced for such period of disagreement by an amount equal to the actual Operating Expenses for the immediately preceding Fiscal Year subject to an adjustment equal to the percentage increase in the CPI over the last twelve (12) month period

immediately preceding the start of the Fiscal Year in question. Notwithstanding anything to the contrary contained herein, Owner shall not have the right to withhold its approval with respect to the following aspects of the Annual Plan: (i) employee wages, compensation, and benefit programs to the extent applied on a system-wide basis to the other hotels managed by Operator, taking into account fluctuation for local market conditions; (ii) the Centralized Services Charge, and (iii) costs over which Operator has no reasonable control, including, without limitation, taxes, insurance, utility rates, payments due under Mortgages and Legal Requirements.

(a) The proposed Annual Operating Budget shall incorporate Operator's good faith reasonable estimates of the items of revenue and expense contained therein and shall contain the proposed budget for operations for the succeeding Fiscal Year. When approved by Owner, the proposed Annual Operating Budget shall become the approved Annual Operating Budget. Any revisions, substitutions or additions to the Annual Operating Budget must be approved by Owner in writing.

(b) The Capital Budget shall contain the proposed budget for FF&E Expenditures from the Reserve and the budget for Capital Improvements for the succeeding Fiscal Year. Operator shall submit good faith reasonable estimates for Capital Improvements and for FF&E Expenditures for such succeeding Fiscal Year. When approved by Owner, the proposed Capital Budget shall become the approved Capital Budget. Approval of the Capital Budget constitutes an authorization for Operator to expend money for Capital Improvements and for FF&E as provided in the Capital Budget, unless Owner's approval thereof specifically requires Operator to obtain additional approvals prior to commencing such work. Any revisions, substitutions or additions to the approved Capital Budget must be approved by Owner in writing.

(c) Operator shall use commercially reasonable efforts to operate the Hotel in accordance with the approved Annual Plan. The parties acknowledge that: (i) the approved Annual Plan is an estimate only; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the approved Annual Plan impracticable or impossible; and (iii) Operator shall be entitled to depart therefrom due to causes of the foregoing nature. Operator may (w) incur variable expenses directly attributable to occupancy or revenues above forecasted levels; (x) pay all taxes, utilities, insurance premiums and charges provided for in contracts and leases entered into pursuant to this Agreement that are not within Operator's ability to control; (y) make any expenditures reasonably required on an emergency basis to avoid or mitigate damage to the Hotel or injury to persons or property, provided that Operator notify Owner as promptly as reasonably possible; and (z) make any expenditures necessary to comply with, or to cure or prevent any violation of any Mortgage and Legal Requirements. In addition to, and without limiting the foregoing, Operator shall be permitted, in its discretion and without the approval of Owner, to deviate from the approved Annual Operating Budget as follows: by up to ten percent (10%) of the approved department expense line item, or by up to five percent (5%) of the aggregate total expenditures in the approved Annual Operating Budget. If Operator determines that circumstances will result in material changes between actual results and the approved Annual Plan during the course of the Fiscal Year, Operator shall, within thirty (30) days of such determination, notify Owner, which shall include a reforecast of revenues and expenses through the remainder of the Fiscal Year. Unless otherwise specified, all references to the Annual Plan in this Agreement shall be deemed to refer to the Annual Plan approved by Owner, subject to Operator's right to depart therefrom pursuant to this Section 4.2(c).

4.3 **Labor Relations**. Operator may negotiate with any union lawfully entitled to represent the Hotel Employees and may execute collective bargaining agreements or labor contracts resulting therefrom that have been approved by Owner in Owner's sole and absolute discretion, as provided in Section 2.1(d). Owner shall have the right to have one or more representatives attend and participate in all such negotiations.

4.4 **Liquor License**. Operator shall obtain all alcoholic beverage licenses either in its name or its designee and shall maintain the alcoholic beverage licenses in good standing and effect, free of all liens (with the exception of any lien granted to Owner herein) and in compliance with the conditions imposed upon such alcoholic beverage licenses by any alcoholic beverage control commission or other governmental authority or agency, pursuant to the License Agreement. Operator further covenants and agrees that upon termination of this Agreement, whether upon its expiration or at any sooner termination thereof, it shall execute any documentation and perform any other acts which may be reasonably necessary or appropriate to effect the transfer or issuance of an alcoholic beverage license to the subsequent owner or Operator of the Hotel, provided that Operator shall not incur liability or cost in connection with such transfer or issuance. Owner covenants and agrees to pay any and all costs (including reasonable attorney's fees) incurred by Operator or its designee in effecting the transfer or obtaining such licenses and such covenant and agreement shall survive the expiration or termination of this Agreement.

4.5 **Notice of Violations**. Operator shall promptly notify Owner in writing of any written notice received from any regulatory or governmental body regarding an actual or perceived violation of any Legal Requirements.

4.6 **Centralized Services**. To the extent not otherwise provided by Licensor pursuant to the terms and conditions of the License Agreement, Operator may provide or cause its affiliated companies to provide for the Hotel the benefit of certain reservation systems, centralized accounting services, IT services, purchasing services, revenue management services, training, satisfaction surveys, and/or other centralized services as may be made available generally to similar properties managed by Operator from time to time (individually and collectively, the "**Centralized Services**"). The cost of all Centralized Services ("**Centralized Services Charge**") shall be (a) set forth in the applicable Annual Operating Budget, (b) allocated to the Hotel on an equitable basis with all other hotels utilizing the Centralized Services of Operator or its Affiliates, (c) reimbursed to Operator on a cost reimbursement basis and without mark-up or profit to Operator, and (d) shall not exceed the costs which Owner otherwise would have incurred if such services otherwise were provided on-site at the Hotel, which costs may include, without limitation, salaries (including payroll taxes and employee benefits) of employees and officers of Operator and its Affiliates engaged in the provision of the Centralized Services, costs of all equipment employed in the provision of such Centralized Services, and a reasonable charge for the development costs of Operator or its Affiliates. The Centralized Services currently provided by Operator, along with the Centralized Services Charge as of the Effective Date, are described in Exhibit B attached hereto. The Centralized Services and the Centralized Services Charge shall be subject to change from time to time, subject to clauses (a)-(d) above.

4.7 **Multi-Property Programs**. Owner acknowledges and agrees that, subject to the applicable Annual Operating Budget, Operator may, in Operator's reasonable discretion, enter into certain purchasing, maintenance, service or other contracts with respect to the operation of

the Hotel and other hotels operated by Operator (collectively, "**Multi-Property Programs**") pursuant to which Operator or its Affiliates may receive rebates, discounts, cash or other incentives, administration fees, concessions, profit participations, stock or stock options, investment rights or similar payments or economic considerations (collectively, "**Operator Rebates**") from the vendors or suppliers of goods or services provided under such Multi-Property Programs. When taking bids or issuing purchase orders, Operator shall secure for, and shall credit to, Owner any Operator Rebates (less Operator's expenses related thereto) in connection with such purchase. Operator shall promptly remit to Owner's benefit in the Operating Account the value of all Operator Rebates (less Operator's expenses related thereto) received by Operator or any of its affiliates in connection with any purchases described herein.

ARTICLE 5
USE OF NAME

5.1 **Name**. During the Term of this Agreement, the Hotel shall at all times be known and designated by the name set forth in the applicable License Agreement or by such other name as from time to time may be approved by Owner. Operator shall make or cause to be made any fictitious name filings or disclosures required by the laws of the State with respect to the use of such name for or in connection with the Hotel.

ARTICLE 6
ADVERTISING

Subject to the provisions of the License Agreement, Operator shall arrange and contract for all advertising, which Operator may reasonably deem necessary, in accordance with Section 4.2, for the operation of the Hotel. So long as the License Agreement may be in effect, Operator generally shall advertise the Hotel under the name required by the License Agreement for the Hotel.

ARTICLE 7
RESERVE FOR FF&E

7.1 **Reserve for Replacement of FF&E**. The Reserve shall be funded pursuant to Section 7.2, and Operator shall be authorized to use amounts in the Reserve to pay for the cost of FF&E Expenditures and Capital Improvements.

7.2 **Transfers to Reserve for FF&E**. Commencing on the Commencement Date and continuing thereafter during the remainder of the Term, Operator shall deposit monthly into the Reserve for FF&E and Capital Improvements an amount equal to the amounts required by Lender and/or by Licensor; provided that in no event will the amounts to be deposited monthly into the Reserve be less than an amount equal to four percent (4%) of Gross Revenues throughout the Term.

7.3 **Annual Adjustment**. At the end of each Fiscal Year and following receipt by Operator of the annual accounting referred to in ARTICLE 10, an adjustment will be made if necessary and if available, so that the appropriate amount shall have been deposited in the Reserve for such Fiscal Year.

7.4 **Maintenance of Reserve**. The proceeds from the sale of FF&E no longer needed for the operation of the Hotel shall be deposited in the Reserve, but not credited against the obligation to deposit cash in such fund for the then current Fiscal Year. All interest earned or accrued on amounts invested from the Reserve shall be added to the Reserve (but shall not be credited against Owner's obligations to fund the Reserve), and shall not constitute Gross Revenues or be included therein.

7.5 **Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements**. Owner and Operator acknowledge and agree that portions of the Reserve may, from time to time in accordance with the then-current Annual Plan, be used for more significant expenditures than could be reserved for in a single year. Accordingly, at the end of each Fiscal Year, any amounts remaining in the Reserve shall be carried forward to the next Fiscal Year, and shall be in addition to the amount to be reserved in the next Fiscal Year. In the event at any time there are insufficient funds in the Reserve for any Fiscal Year to pay the cost of FF&E Expenditures in accordance with the Annual Plan, then Owner will, within thirty (30) days after request therefor by Operator, provide the additional funds to Operator to pay for such excess.

ARTICLE 8
REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS

8.1 **Repairs and Maintenance**. Operator shall, from time to time, make such expenditures from the Reserve (or, to the extent insufficient, from funds otherwise provided by Owner) for (a) FF&E Expenditures and (b) repairs and maintenance of HVAC, mechanical and electrical systems, exterior and interior repainting; resurfacing building walls and floors; resurfacing parking areas; replacing folding walls; and miscellaneous similar expenditures (collectively, "**Repairs and Maintenance**") as required by the License Agreement, any Mortgage, Legal Requirements, Annual Plan and otherwise in the condition required by this Agreement. Except in the event of an emergency, Force Majeure Event or otherwise under circumstances in which it would be unreasonable to seek to obtain prior approval (and provided that Operator shall notify Owner of any such expenditure within a reasonable time given the nature and scope of the emergency), all expenditures for the foregoing shall be as provided in the Annual Plan. If any such Repairs and Maintenance shall be made necessary by any condition against the occurrence of which Owner has received the guaranty or warranty of the builder of the Hotel or of any supplier of labor or materials for the Hotel or of any supplier of labor or materials for the construction of the Hotel, then Operator shall, at Owner's direction, invoke said guarantees or warranties in Owner's or Operator's name and Owner shall cooperate in all reasonable respects with Operator in the enforcement thereof.

8.2 **Capital Improvements**. Owner shall, from time to time, at its sole expense (which may include funds deposited in the Reserve), make such Capital Improvements in or to the Hotel as Owner shall determine are necessary to comply with the Operating Standards. If Capital Improvements shall be required at any time during the Term by the terms of the License Agreement, to maintain the Hotel in accordance with the Operating Standards or Legal Requirements, or because Operator and Owner jointly agree upon the desirability thereof, then in such event all such Capital Improvements shall be made with as little hindrance to the operation of the Hotel as reasonably possible. Notwithstanding the foregoing, as long as the Hotel can continue to operate without interruption, Owner shall have the right to contest the need for any

such Capital Improvements required by any Legal Requirements and may postpone compliance therewith, if so permitted by law and if such postponement will not expose Operator to any civil or criminal liability. All recommendations by Operator of Capital Improvements shall be submitted in conjunction with the Capital Budget for the Fiscal Year described in Section 4.2(b). In the event that Owner elects to perform Major Renovations to the Hotel, Owner may request Operator to oversee the performance of the Major Renovations, in which case the parties shall enter into an agreement for project management services in a form and on such terms and conditions (including the amount of any project management fees) mutually acceptable to both parties.

8.3 **Liens**. Owner and Operator shall cooperate and use all commercially reasonable efforts to prevent any liens from being filed against the Hotel that arise from any maintenance, changes, repairs, alterations, improvements, renewals or replacements in or to the Hotel.

8.4 **Notice of Force Majeure Event**. In the event of any occurrence constituting a Force Majeure Event, Operator shall promptly notify Owner of such occurrence and shall keep Owner informed as to the extent and impact thereof on the Hotel.

ARTICLE 9
WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH

9.1 **Working Capital**. Owner shall provide initial Working Capital in an amount equal to $1,000 per guest room at the Hotel. Owner shall at all times cause sufficient Working Capital to be on hand in the Operating Account. In no event shall Owner permit the Working Capital in the Operating Accounts to be less than an amount equal to the estimated monthly operating expenses of the Hotel for the ensuing sixty (60) day period, as reflected in the then current Annual Operating Budget. From time to time, upon fifteen (15) days prior written notice from Operator that such funds are required, Owner shall furnish to Operator funds that Operator deems reasonably necessary to assure that the Hotel shall have adequate Working Capital as herein provided.

9.2 **Depository Account**. All monies received by Operator in the operation of the Hotel shall be received in trust by Operator for the benefit of Owner and shall be deposited in a "**Depository Account**" in Owner's name, with certain of Owner's employees as authorized signatories, in a bank or trust company selected by Owner. Such monies shall not be commingled with other funds belonging to Operator and shall be swept on a daily basis into the Operating Account.

9.3 **Operating Account**. Owner and Operator shall also establish an Operating Account for paying the Hotel's expenses permitted herein to be charged to the Hotel and/or Owner. The Operating Account shall be in Owner's name, with Operator's employees as the authorized signatories, in a bank or trust company selected by Owner. Operator shall pay all Operating Expenses of the Hotel and amounts owed Operator and its Affiliates hereunder (including the Management Fee and Centralized Services Charges) out of the Operating Account. Checks drawn on the Operating Account or other documents of withdrawal from such accounts shall be signed by a designated representative of Operator approved by Owner. The Operating Account shall provide that, upon Owner's written direction, Operator and its representatives may be removed

as authorized signatories of such account but only upon termination of this Agreement. Owner shall make arrangements to deposit from the Depository Account into the Operating Account on a daily basis any money which is required to cover payments from the Operating Account permitted herein, including any payments for capital expenditures permitted herein. If Owner fails to do so and such failure continues for three (3) business days after notice from Operator, such failure shall be deemed an Owner Event of Default and Owner shall indemnify and hold Operator harmless from any loss or expense Operator might incur as a result of such deposit not having been made, and Operator may exercise its right to terminate pursuant to Section 15.2. All risk of loss with respect to funds in the Operating Account shall be borne by Owner.

9.4 **Distribution of Excess Cash**. Within twenty-five (25) days of the close of each Accounting Period, Operator shall distribute to Owner all sums remaining in the Operating Account in excess of the then Working Capital requirements of the Hotel determined in accordance with Section 9.1 of this Agreement.

9.5 **Lender Requirements**. The provisions of this ARTICLE 9 shall be subject to the requirements of any Lender. Operator will cooperate with all cash management and other similar requirements reasonably imposed by any Lender, provided such cash management or other requirements acknowledge that so long as Operator is managing the Hotel, Operator shall continue to receive payment of Management Fees, Reimbursable Expenses and payroll expenses as contemplated herein.

ARTICLE 10
BOOKS, RECORDS AND STATEMENTS

10.1 **Books and Records**. Operator shall keep full and adequate books of account and other records reflecting the results of operation of the Hotel in accordance with the Uniform System of Accounts and GAAP. The books of account and all other records relating to or reflecting the operation of the Hotel shall be kept either at the Hotel or at Operator's corporate offices and shall be available to Owner and its representatives and its auditors or accountants, at all reasonable times for examination, audit, inspection and transcription at Owner's sole cost and expense. All of such books and records pertaining to the Hotel shall be the property of Owner. Upon any termination of this Agreement, all of such books and records forthwith shall be turned over to Owner at a location designated by Owner so as to insure the orderly continuance of the operation of the Hotel, but such books and records shall thereafter be available to Operator at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years. In addition to the Hotel's books and records, Operator shall maintain Guest Data in accordance with its privacy policy and the License Agreement; provided, however, Owner and Operator shall jointly own all Guest Data, and each may use such Guest Data in any commercially reasonable manner that: (a) does not violate the terms of this Agreement, (b) during the Term of this Agreement, does not interfere with and/or is not detrimental to the operation or financial performance of the Hotel, and (c) does not violate any Legal Requirements applicable to the use of Guest Data.

10.2 **Financial Reports**.

(a) Operator shall deliver to Owner within twenty (20) days following the close of each Accounting Period a monthly profit and loss statement reflecting a comparison of periodic and year-to-date actual revenues and expenses with the Annual Operating Budget as well as a periodic and year-to-date comparison of such actual revenues and expenses with those of the prior Fiscal Year.

(b) Within seventy-five (75) days after the end of each Fiscal Year, Operator shall deliver to Owner an annual accounting, showing the results of operation of the Hotel during the Fiscal Year and a computation of Gross Revenues, Operating Expenses, and Gross Operating Profit, if any, and any other information necessary to make the computations required hereby or which may be requested by Owner, all for such Fiscal Year. The annual accounting for any Fiscal Year shall be controlling over the interim accountings for such Fiscal Year.

(c) Operator shall prepare and deliver any additional reports or information as Owner is required to provide under the License Agreement.

10.3 **Audits by Owner**. Owner shall have the right to audit, conducted either by Owner's internal personnel or by a third party auditor retained by Owner, at its expense and not as an Operating Expense of the Hotel (except as provided below), all items of expense and revenue under this Agreement including, but not limited to, Gross Revenues, Operating Expenses, depreciation, the Management Fee and the Reserve. Operator shall cooperate and assist with such audit. In the event that an audit reflects an underpayment to Owner or Operator or an overpayment to Operator or Owner, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the audit results to Operator, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. In the event any audit establishes that Operator has overstated or understated Gross Revenues or Operating Expenses by more than five percent (5%), the costs of such audit shall be paid for by Operator (and shall not be an Operating Expense of the Hotel).

10.4 **Accounting Services**. Subject to the provision of sufficient input, review, approval and signoff by Owner, during the Term, Operator (or its Affiliate) shall render certain accounting services to and on behalf of Owner, which shall include:

(a) separate from the Hotel books and records, the maintenance of Owner's corporate books of account, including without limitation capital accounting (to be performed under Operator's capitalization policy) and check cutting services with respect to Owner's FF&E account for the payment of FF&E Expenditures;

(b) the provision of financial reporting services, utilizing Operator's standard reports, which shall be delivered within the reporting deadlines required by Lender, but in no event less than twenty (20) days monthly, forty five (45) days quarterly and ninety (90) days annually;

(c) the making of all of Owner's required payments with respect to (i) any Mortgage (on behalf of Owner in satisfaction of Owner's obligations under Section 23.5), (ii) Taxes (as set forth in Section 13.1) and (iii) Insurance Costs (as set forth in Section 12.1);

(d) if applicable, the processing of Lender requisitions from the Reserve;

(e) coordination of deliverables for Lender reporting requirements;

(f) cooperation with an independent accounting firm approved in Owner's sole discretion in connection with securitization vehicle reporting deadlines and audit procedures under Regulation AB; and

(g) other related services as mutually agreed by Owner and Operator from time to time (collectively, the "**Accounting Services**").

In consideration for its provision of the Accounting Services hereunder, Operator shall receive the Accounting Services Fee, which amount shall be payable pursuant to Section **Error! Reference source not found.**, and which reflects Operator's cost reimbursement only, without mark-up or profit to Operator. In the event the scope of the Accounting Services is materially increased (including through use of reports other than Operator's standard forms), the Accounting Services Fee may be increased as mutually determined by the parties. Owner may elect at any time to terminate the Accounting Services by delivery of seventy five (75) days' prior written notice to Operator, in which event the date of termination of the Accounting Services will be the last day of the calendar quarter following the month in which Operator receives Owner's written notice of termination, and the Accounting Services Fee shall cease to be due from and after the date of such termination.

ARTICLE 11
MANAGEMENT FEES AND OTHER PAYMENTS

11.1 **Management Fee**. For each Fiscal Year or portion thereof, Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, subject to delivery of the monthly reports described in Section 10.2(a) (except with respect to the Incentive Fee, which, if due, shall be paid at the end of each calendar quarter upon the submission of the reports described in Section 10.2(b) with respect to such calendar quarter) in respect of its management services hereunder, a management fee calculated as follows (collectively, the "**Management Fee**"):

(a) a base fee (the "**Base Fee**") in an amount equal to two and one half percent (2.5%) of Gross Revenues in respect of any applicable period; plus

(b) an incentive fee (the "**Incentive Fee**") in an amount equal to fifteen percent (15%) of Adjusted GOP for such Fiscal Year. A sample calculation of the Incentive Fee is attached hereto as Exhibit C.

(c) Notwithstanding the forgoing, the aggregate Management Fee payable in any given Fiscal Year shall not exceed four percent (4%) of Gross Revenues for such Fiscal Year.

11.2 **Payment of Management Fee**. The Incentive Fee shall be computed separately for each Fiscal Year and shall not be accumulated from Fiscal Year to Fiscal Year. The Incentive Fee shall be prorated for any partial Fiscal Year (provided that in the event this Agreement is terminated due to an Event of Default by Operator, no Incentive Fee shall be payable with respect to the Fiscal Year in which such termination occurs). The Incentive Fee shall be adjusted, if necessary, within sixty (60) days after receipt by Owner of the annual accounting for such Fiscal

Year or receipt by Operator of Owner's documentation supporting the calculation of Owner's Priority Return. Upon request by Operator, Owner shall provide sufficient evidence and back up documentation to support Owner's calculation of Owner's Priority Return, including without limitation sufficient evidence and back up documentation to allow Operator to properly verify Owner's Invested Capital and Owner's Additional Invested Capital. Owner or Operator shall be entitled to audit the determination and calculation of the Management Fee. In the event that an audit reflects an underpayment or overpayment of the Management Fee to Operator, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the results of such audit to the other party, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. The calculation and payment of the Incentive Fee shall survive the termination of this Agreement.

11.3 **Other Payments**. Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, the Centralized Services Charges and Accounting Services Fee for each Accounting Period concurrently with the payment of the Base Fee at the end of each Accounting Period. Operator shall also receive reimbursement from Owner for those reasonable out of pocket costs actually incurred by Operator which are or were directly and exclusively related to transitional management services provided by Operator prior to the Commencement Date, as outlined in the Transition Budget attached hereto as Exhibit D (the "**Transition Budget**"). Additionally, Operator shall, in accordance with the Annual Plan, be entitled to reimburse itself directly from the Operating Account for all Reimbursable Expenses incurred by it in connection with the performance of this Agreement. If requested by Owner, Operator shall provide a statement showing in reasonable detail the nature and amount of such expenses, together with supporting documentation reasonably requested by Owner.

11.4 **Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards**. In the event of a casualty or condemnation for temporary use resulting in the payment of business interruption insurance (with respect to such casualty) or a condemnation award (with respect to such condemnation for temporary use), the amount of such proceeds shall be considered a part of Gross Revenues for the purpose of computing Operator's Management Fee, unless such Management Fees are paid directly to Operator by way of receipt of business interruption proceeds.

ARTICLE 12
INSURANCE

12.1 **Insurance Requirements**. Owner shall retain the right, upon written notice to Operator, to procure and maintain, as an Operating Expense of the Hotel, the policies required in subsections (a), (b), (c), (d), (e), (f), (g) or (l) of this Section 12.1 given, however, that such policies shall be placed with responsible and properly authorized companies, meet the minimum requirements as contained in this ARTICLE 12, the coverage provisions provided shall apply to Operator's benefit as provided in this Agreement, and with respect to subsection (l) of this Section 12.1, if there is a deficiency in the coverage of the Cyber Liability Insurance policy procured or maintained by Owner, Operator shall have the right to elect to procure Cyber Liability Insurance coverage addressing any such deficiency, as an Operating Expense of the Hotel. Operator will procure and maintain, as an Operating Expense of the Hotel, the policy required in subsection (h) of this

Section 12.1 with a responsible and properly authorized company that meets the minimum standards contained in this ARTICLE 12. Operator will procure and maintain, at Operator's sole cost and not as an Operating Expense of the Hotel, the policies required in subsections (i), (j) and (k) of this Section 12.1 with responsible and properly authorized companies that meet the minimum standards contained in this ARTICLE 12; provided, however, Operator shall only be responsible for the payment of the premiums for such policies as procured by Operator, and any deductibles payable in connection with any claim or loss, any losses suffered under such policies, or any other claims, costs or expenses associated with such policies, shall be borne by Owner. Notwithstanding Operator's agreement to pay the cost of the premiums associated with the policies required in subsections (i), (j) and (k), in the event Owner elects to modify the deductibles under such policies or otherwise adjust coverage under such policies and such modifications result in an increase in premium, Owner shall be responsible for any increase in premium associated with such modification. All policies evidencing such insurance in this ARTICLE 12 shall name both Owner and Operator as named or additional insureds as their interests may appear, and may, at Owner's election, name any mortgagee, lien holder or other security interest holder of all or any part of the Hotel as an additional insured thereunder, as its interest may appear. The party which procures the insurance required under subsections (d) and (e) of this Section 12.1 will procure such coverage on a primary and non-contributory basis to the other party.

(a) An "all risk" policy (including, at Owner's option, Difference in Conditions coverage which shall include earthquake, windstorm and flood) insuring all real and personal property, in an amount Owner and Operator shall mutually deem advisable.

(b) Insurance on the Hotel against loss or damage from an accident to and/or caused by boilers, heating apparatus, pressure vessels, pressure pipes, electrical or air conditioning equipment, in an amount as Owner shall deem advisable.

(c) Business interruption and extra expense insurance, on a loss sustained basis, against the perils enumerated in subsections (a) and (b) above, including Operator's Management Fees and the Centralized Services Charges as provided under this Agreement.

(d) Commercial General Liability Insurance, including coverage for bodily injury (including coverage for death, mental anguish), full liquor liability, inn keepers legal liability (this coverage can be provided through a 3rd party crime policy upon Owner consent), personal injury and advertising liability including premises-operations, independent contractors' protective, products-completed operations, broad form property damage (including coverage for explosion, collapse and underground hazards), and including cross liability and severability of interests, blanket contractual liability for liability and claims occurring upon, in on or about the Hotel and, without exclusion for assault, battery or sexual molestation. Coverage shall be extended to include liability arising out of spas, treatments, massages as applicable, with the following minimum limits:

(i) $1,000,000 Each Occurrence;
(ii) $2,000,000 General Aggregate;
(iii) $1,000,000 Personal and Advertising Injury; and
(iv) $2,000,000 Products-Completed Operations Aggregate.

Such policy shall provide coverage on a on a per occurrence basis and be endorsed to have the General Aggregate apply on a per location/ per project basis. The Contractual Liability Insurance shall include coverage sufficient to meet the indemnity obligations in this Agreement.

(e) Umbrella/Excess Liability Insurance on a follow form basis with a per occurrence and annual aggregate limit of $100,000,000 per location / project. Coverage shall be excess of Commercial General Liability Insurance, Auto Liability and Employers Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

(f) Comprehensive Automobile Liability Insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage for automobiles used in the performance of Operator's obligations hereunder.

(g) Such additional insurance as may be required by any mortgagee or lessor of the Hotel or any part thereof, together with insurance against such other risks as Owner deems necessary and that is now, or hereafter is, customary to insure against in the operation of similar properties, considering the nature of the business and the geographic and climatic nature of the Hotel's location.

(h) Worker's Compensation coverage with statutory limits and employer's liability with limits not less $1,000,000 and similar insurance as may be required by law or as Operator shall deem advisable.

(i) Employment Practices Liability Insurance in amounts not less than $2,000,000 covering employee harassment, discrimination, retaliation, wrongful termination. Such policy shall contain an endorsement to provide for coverage relating to claims from third parties, with coverage including but not limited to third party discrimination.

(j) Fidelity or Crime insurance in such reasonable amounts as Owner and Operator shall deem advisable but not less than $1,000,000, which policy shall specify that any loss involving funds of Owner shall be payable to both Operator and Owner with Owner as primary loss payee. A contracting services endorsement or other endorsement to provide for coverage of employees of Operator taking money or property of Owner or guests shall be attached to said policy.

(k) Professional Liability (Errors and Omissions) Insurance in amount not less than $2,000,000 covering the management, marketing, and hospitality services provided on behalf of the Hotel by Corporate Personnel.

(l) Cyber Liability Insurance with limits of not less than $2,000,000 each claim and $2,000,000 general aggregate covering liabilities for financial loss resulting or arising from website media content liability, breaches of security, and damage, destruction or theft of data. If Operator shall have access to personally identifiable information, such insurance shall also cover liabilities for the failure to prevent unauthorized access to data containing such information including violations of privacy laws and regulations. Furthermore, the insurance shall cover data breach expenses, including but not limited to consumer notification, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring

or remediation services. The coverage shall be written on a claims made and reported basis. Operator's insurance shall be primary and required to respond to and pay prior to any other available coverage of Owner.

Owner and Operator may agree for Operator to procure and maintain the policies required in subsections (a), (b), (c), (d), (e), (f) or (g) of this Section 12.1, as an Operating Expense to the Hotel, on Owner's behalf and upon Owner's approval. Operator shall cause each contractor employed at the Hotel to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Commercial General Liability Insurance and Worker's Compensation limits required above. Operator shall cause each contractor to include the same additional insured requirements and certificates of insurance as noted above for Operator.

12.2 **General Insurance Requirements.**

(a) Certificates of insurance, containing all conditions applying to the Hotel, shall be delivered to Owner or Operator, as applicable, upon renewal of all policies of insurance that must be maintained under the terms of this Agreement. All policies shall contain an endorsement providing a thirty (30) day written notice of cancellation, material change, or non-renewal to Owner and Operator.

(b) Each policy of insurance shall provide that the carrier shall have no right of subrogation against either party hereto, their agents or employees by separate endorsement.

(c) No deductible or self-insured retention required by Operator hereunder shall exceed $25,000 unless written consent is provided by Owner; provided, however, that:

(i) those policies associated with Sections 12.1(h) or (k) shall be excluded;

(ii) with respect to the policy associated with Section 12.1(j), the deductible or self-insured retention required by Operator hereunder shall not exceed $50,000 unless written consent is provided by Owner;

(iii) with respect to the policy associated with Section 12.1(l), the deductible or self-insured retention required by Operator hereunder shall not exceed $150,000 unless written consent is provided by Owner;

(iv) with respect to the policy associated with Section 12.1(i), the deductible or self-insured retention required by Operator hereunder shall not exceed $250,000 unless written consent is provided by Owner; and

(v) in the event Owner elects to modify the deductibles of those policies associated with Section 12.1(i), (j), or (l), or otherwise adjust the coverage under such policies, and such modifications or adjustments result in an increase in the premium, Owner shall be responsible for any increase in the premium associated with such modification or adjustment.

(d) All insurance shall be written with companies approved by Owner, licensed in the state in which the Hotel is located and having a Best's Rating of not less than A-XI, unless otherwise approved by Owner.

(e) At Owner's request, Operator shall provide information pertaining to Operator's policies and procedures governing claims, emergency preparedness, and loss prevention. This is to include regular reports on claim and insurance litigation activity at the Hotel.

(f) Any insurance required to be provided pursuant to this ARTICLE 12 may be provided under policies of blanket insurance which cover other properties and activities of Owner or Operator, as applicable. The cost of any blanket coverage shall be equitably prorated among the properties and activities covered, provided that the portion of such cost allocated to the Hotel shall be no greater than if the same insurance coverage were written separately. Upon request, any such proration by Owner or Operator of blanket coverage shall be subject to the reasonable approval of the other party.

(g) The parties acknowledge that, as of the Effective Date, Operator will not provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program; provided, however, that Owner may elect to have Operator provide such insurance at any time during the Term, in which case the provisions of this Section 12.2(g) shall apply. If at any time during the Term, Owner elects to have Operator provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program, certain coverage limits will be shared with other properties owned and/or managed by Affiliates of Operator. Owner agrees that if there is a loss at the Hotel that results in a reduction of the amount of insurance coverage with respect to other properties covered by such master property insurance program, all costs of reinstating the full amount of coverage with respect to such other properties to the coverage that was available for such other properties under such master property insurance program immediately prior to such loss at the Hotel shall be borne by Owner as an expense of the Hotel. Conversely, if there is a loss at another property covered by such master insurance program that results in a reduction of the amount of insurance coverage with respect to the Hotel, all costs of reinstating the full amount of coverage with respect to the Hotel shall not be borne by Owner as an expense of the Hotel, but shall be borne by Operator or the owner of the applicable property that suffered such loss. The obligations of Owner and/or Operator pursuant to this Section 12.2(g) shall survive (i) the expiration or termination of this Agreement or termination of similar agreements, if any, related to Operator's affiliated properties on the shared program; and (ii) any election of Owner or Operator to remove the Hotel from the master insurance program and/or the removal of any of Operator's affiliated properties from the shared master insurance program. Owner and Operator agree to use commercially reasonable efforts in reinstating the coverage limits to the amount of coverage available immediately prior to such loss; provided, however, Owner and Operator shall be required, at a minimum, to reinstate the amounts of coverage necessary to comply with the requirements of any third party mortgagee or franchisor of the properties covered by the master insurance program. Notwithstanding the foregoing, (A) after a loss the relevant party will only be required to reinstate coverage, if any, up to an amount that results in a total amount of coverage that is sufficient for all properties under the program that are also obligated to a reinstatement provision, if Owner and Operator mutually agree at their sole discretion that the remaining amount of coverage is sufficient; provided if Owner and Operator do not mutually agree, an independent third-party consultant (i.e., a consultant who has not had any

direct relationship with either party in the preceding twenty-four (24) month period) selected by Operator will make such determination, (B) the amount of coverage to be reinstated by the relevant party will be limited to what is sufficient only for the properties in Operator's master shared insurance program that are obligated by the same reinstatement provisions per this Section 12.2(g) and (C) the maximum amount of lost shared limit to be reinstated by the relevant party after a loss will be equal to the amount of lost shared limit that was lost due to a loss at the relevant party's property. Owner also agrees that it shall bear as an expense of the Hotel all costs for any additional limits or coverages that may be requested by Owner that are above the limits in such master insurance program. Owner may elect to remove the Hotel from Operator's master insurance program upon thirty (30) days prior written notice (or upon three (3) business days prior written notice if such termination is effective on the annual renewal date of such master insurance program). Any premium prepaid by Owner for such terminated coverage shall be credited to Owner in an amount calculated by the insurance carrier in its sole and absolute discretion. Operator will use reasonable efforts to give written notice to Owner within ten (10) business days after any property is added or removed from Operator's shared master insurance program and will confirm the same upon request by Owner.

ARTICLE 13
REAL AND PERSONAL PROPERTY TAXES; UTILITIES

13.1 **Taxes**. Operator shall pay, for and on behalf of Owner from funds of the Hotel, all real estate taxes, all personal property taxes and all betterment assessments levied against the Hotel or any of its component parts. Operator shall promptly deliver to Owner all notices of assessments, valuations and similar documents to be filed by Owner, which are received from taxing authorities by Operator.

13.2 **Utilities, Etc**. To the extent sufficient funds are available in the Operating Account or otherwise made available in a timely manner by Owner, Operator shall promptly pay all fuel, gas, light, power, water, sewage, garbage disposal, telephone and other utility bills currently as they are incurred in connection with the Hotel from the Gross Revenues or Working Capital.

ARTICLE 14
DAMAGE OR DESTRUCTION; CONDEMNATION

14.1 **Damage or Destruction**.

(a) If the Hotel or any portion thereof shall be damaged or destroyed at any time or times during the Term by fire, casualty or any other cause commonly covered by fire and extended coverage insurance, to the extent required or permitted by any Lender and to the extent insurance proceeds are made available by Lender for such purpose, Owner will at its own cost and expense and with due diligence, repair and/or restore the Hotel so that after such repair and/or restoration, the Hotel shall be in substantially the same condition as it was immediately prior to such damage or destruction.

(b) Owner shall notify Operator within thirty (30) days after Owner determines whether or not Lender will permit, and make insurance proceeds available to carry out, such repair and/or

restoration, in which case Owner shall complete such repair and/or restoration pursuant to the last sentence of Section 14.1(a).

(c) If Owner advises Operator as provided in clause (b) above that Lender will not permit, and make insurance proceeds available to carry out, such repair and/or restoration, or fails to advise Operator as provided in clause (b) above, Operator may terminate this Agreement by written notice to Owner, within one hundred fifty (150) days after such damage or destruction, in which case, Owner shall pay to Operator the Termination Fee (provided Owner's obligation to pay the Termination Fee shall be limited to the extent of insurance proceeds which are made available to pay such Termination Fee).

14.2 **Condemnation**. If the whole of the Hotel shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition or like proceeding by any competent authority or if such a portion thereof shall be taken or condemned as to make it imprudent or unreasonable, in the sole opinion of Owner, to use the remaining portion as a hotel of the type and class immediately preceding such taking or condemnation, then this Agreement shall terminate as of the date title vests in the condemning authority. Operator has no interest in any award paid to Owner; however, Operator shall have the right, in the case of a condemnation that results in the termination of this Agreement, to institute a separately available administrative proceeding or judicial action intended to determine just compensation in connection with the condemnation, for the purpose of representing Operator's compensable interest in this Agreement. If only a part of the Hotel shall be taken or condemned and the taking or condemnation of such part does not, in the opinion of Owner, make it unreasonable or imprudent to operate the remainder as a hotel of the type and class immediately preceding such taking or condemnation, this Agreement shall not terminate, and so much of any award to Owner shall be made available as shall be reasonably necessary for making alterations or modifications of the Hotel, or any part thereof, so as to make it a satisfactory architectural unit as a hotel of similar type and class as prior to the taking or condemnation.

14.3 **Reinstatement**. If within twelve (12) months following any termination of this Agreement pursuant to Section 14.1 or 14.2, Owner or any of its Affiliates intends to commence repair and/or restoration of the Hotel, Owner shall promptly give notice to Operator in writing of such intention, and at Operator's election (exercisable by giving written notice to Owner within thirty (30) days of the date upon which Operator receives such notice from Owner), this Agreement shall be deemed reinstated in accordance with all the terms and conditions hereof (and Operator shall repay to Owner any Termination Fee received by Operator within ten (10) days after the Hotel is substantially re-opened). Operator's duties shall be suspended until the Hotel is substantially reopened and the termination date (and Term) shall be extended to reflect the period of time the Hotel is closed. The provisions of this Section 14.3 shall survive the expiration or termination of this Agreement.

14.4 **Mortgage Requirements**. Actions as to damage or destruction and condemnation shall be taken only in a manner that is consistent with the terms and conditions of any Mortgage and any conflict between those terms and conditions and the provisions of this Agreement shall be resolved in favor of such Mortgage.

ARTICLE 15
EVENTS OF DEFAULT

15.1 **Operator Defaults**. Each of the following shall constitute an Event of Default by Operator:

(a) The failure of Operator to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions to be kept, observed or performed by Operator and such failure shall continue for a period of (i) ten (10) days after written notice from Owner to Operator with respect to payment of any funds or delivery of any of the financial reports required under Section 10.2, or (ii) thirty (30) days after written notice from Owner to Operator with respect to any other obligations of Operator under this Agreement; provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Operator commenced the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion, not to exceed in any event ninety (90) days after Owner's delivery of such notice.

(b) If Operator shall apply for or consent to the appointment of a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Operator in any bankruptcy, reorganization or judgment or decree shall be entered by any court of competition jurisdiction, on the application of a creditor, adjudicating Operator bankrupt or insolvent or approving a petition seeking reorganization of Operator or appointing a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets or a decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(c) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Operator, or Operator shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(d) The filing against Operator of a petition seeking adjudication of Operator as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Operator's assets, if such petition is not dismissed within ninety (90) days.

(e) Failure of Operator to maintain at all times throughout the term hereof all of the insurance required to be maintained by Operator under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Owner to Operator.

15.2 **Owner Defaults**. Each of the following shall constitute an Event of Default by Owner:

(a) The failure of Owner to pay or furnish to Operator any money Owner is required to pay or furnish to Operator in accordance with the terms hereof on the date the same is payable, if such failure is not cured within ten (10) days after written notice specifying such failure is given by Operator to Owner. If any sum of money is not paid within ten (10) days following the date the same becomes due and payable under this Agreement, and Operator has advanced such sum on behalf of Owner, such sum shall bear interest at the Default Rate from the date Operator advanced

such sum on behalf of Owner until the date Owner actually pays such sum. If the failure to pay relates to the Management Fee, such sum shall bear interest at the Default Rate from the date due until the date actually paid.

(b) The failure of Owner to perform, keep or fulfill any of the other covenants, undertakings, obligations or conditions set forth in this Agreement (other than a failure to pay or furnish to Operator any money Owner is required to pay or furnish to Operator), including without limitation, the failure of Owner to respond to written requests by Operator to approve expenditures or to authorize procedures necessary to maintain the standards of the Hotel in accordance with the Operating Standards, if such failure shall continue for a period of thirty (30) days after written notice by Operator or Licensor to Owner specifying the matters or conditions which constitute the basis for such Event of Default, provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Owner commences the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion.

(c) If Owner shall apply for or consent to the appointment of a receiver, trustee or liquidator of Owner of all or a substantial part of its assets, or admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Owner in any bankruptcy, reorganization or insolvency proceeding, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating Owner a bankrupt or insolvent or approving a petition seeking reorganization of Owner or appointing a receiver, trustee or liquidator of Owner or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(d) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Owner, or Owner shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(e) The filing against Owner of a petition seeking adjudication of Owner as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Owner's assets, if such petition is not dismissed within ninety (90) days.

(f) Failure of Owner to maintain at all times throughout the term hereof all of the insurance required to be maintained by Owner under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Operator to Owner.

ARTICLE 16
TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES

16.1 **Termination**. Upon the occurrence of an Event of Default, in addition to and cumulative of any and all rights and remedies available to the non-defaulting party under this Agreement, at law or in equity, the non-defaulting party may: (a) terminate this Agreement without penalty, effective upon receipt of written notice of termination by the defaulting party; and (b) pursue any

and all other remedies available to the non-defaulting party at law or in equity. In addition to and cumulative of the foregoing, upon the occurrence of any Event of Default on the part of Owner, all Management Fees, Reimbursable Expenses, Accounting Services Fees and all other sums then due and payable to Operator under this Agreement shall be immediately due and payable without notice. In no event shall the provisions of this Agreement with respect to the payment of a Termination Fee upon the termination of this Agreement under certain circumstances be construed as defining or limiting the amount recoverable by Operator from Owner by reason of any Event of Default on the part of Owner.

16.2 **Operator's Rights to Perform**.

(a) If Owner shall fail to make any payment or to perform any act required of Owner pursuant to this Agreement, Operator may (but shall not be obligated to), without further notice to, or demand upon, Owner and without waiving or releasing Owner from any obligations under this Agreement, make such payment (either with its own funds or with funds withdrawn for such purpose from the Operating Accounts) or perform such act. All sums so paid by Operator from its own funds, together with interest thereon at the Default Rate from the date of making such expenditure by Operator, shall be payable to Operator on demand.

(b) Operator shall have the right to set-off against any payments to be made to Owner by Operator under any provision of this Agreement and against all funds from time to time in the Operating Accounts any and all liabilities of Owner to Operator. Operator may withdraw from the Operating Accounts from time to time such amounts as Operator deems desirable in partial or full payment of all or any portion of said liabilities, the amount of such withdrawals to be paid by Owner to Operator on demand and to be replaced in the respective account and fund.

(c) Owner shall have the right to set-off against any payments to be made to Operator by Owner any amounts owed by Operator to Owner under this Agreement.

ARTICLE 17
OWNER'S ADDITIONAL TERMINATION RIGHTS

17.1 **Termination on Sale**. If at any time during the Term, Owner sells, leases or otherwise transfers or conveys (a) the Hotel, or (b) seventy-five percent (75%) or more of the direct or indirect interests in Owner, in each case to a person or entity which is not an Affiliate of Owner in a bona fide arm's length transaction, Owner shall have the right to terminate this Agreement by giving prior written notice (the "**Sale Termination Notice**") to Operator; provided that if such transfer shall occur at any time prior to the third (3rd) anniversary of the Commencement Date, Owner shall pay to Operator, as a condition of such termination, the Termination Fee, subject to Section 21.2. The Sale Termination Notice shall set forth an estimate of the effective termination date of this Agreement, which date shall not be less than sixty (60) days subsequent to the date of the Sale Termination Notice. The actual termination shall be effective as of the closing of the sale, regardless of the estimate provided in the Sale Termination Notice. Accordingly, Owner shall, upon reasonable notice, have the right to extend the effective date of such termination for a reasonable period of time based on delays in the closing, provided that Owner shall pay all actual costs reasonably incurred by Operator in postponing the effectiveness of such termination. As a further condition of any termination of this Agreement by Owner under this Section 17.1, Owner

shall pay to Operator, on or before the effective date of such termination all amounts due Operator and its Affiliates under this Agreement for the period of time prior to the date of termination.

17.2 **Performance Termination**.

(a) Subject to the provisions of this Section 17.2, Owner may terminate this Agreement in accordance with the procedure described below, if for any full Fiscal Year from and after the expiration of Fiscal Year 2019 (i.e., commencing with Fiscal Year 2020) (each a "**Measurement Year**"), subsections (i) and (ii) below are applicable for such Measurement Year (collectively, the "**Performance Test**"):

(i) the Gross Operating Profit for such Measurement Year is less than ninety percent (90%) of the budgeted Gross Operating Profit set forth in the approved Annual Operating Budget for such Measurement Year (the "**GOP Test**"); and

(ii) the RevPAR of the Hotel for such Measurement Year is less than the following percentage of the annualized RevPAR for the Competitive Set (the "**RevPAR Test**"): (A) for Fiscal Year 2020, one hundred and ten percent percent (110%); (B) for Fiscal Year 2021, one hundred and fifteen percent (115%); (C) for Fiscal Year 2022, and every Fiscal Year thereafter for the remainder of the Term, one hundred and twenty percent (120%).

(b) If the Performance Test is not satisfied and Owner elects to exercise its right to terminate this Agreement pursuant to this Section, (i) Owner shall give written notice to Operator of such election within sixty (60) days after the receipt by Owner of the annual accounting (as set forth in Section 10.2) for such Measurement Year; and (ii) the notice shall specify a termination date no sooner than ninety (90) days after the giving of such notice. No Termination Fee shall be payable upon any termination of this Agreement pursuant to this Section 17.2. Within sixty (60) days following its receipt of Owner's notice of termination, Operator may elect, which election may be exercised only once during the Term, to pay to Owner an amount which, when added to the actual aggregate amount of the Gross Operating Profit for the Measurement Year in question, equals the amount of Gross Operating Profit that would have been necessary to satisfy the GOP Test for such Measurement Year. Upon such payment, the Performance Test shall be deemed to have been satisfied for such Measurement Year, Owner shall not have a right to terminate this Agreement based upon such Measurement Year and Owner's election to do so shall be of no further force and effect.

(c) In the event that there is a Threshold Adjustment Event, Owner and Operator will reasonably cooperate to equitably adjust the GOP Test and the RevPAR Test, as applicable. If the parties cannot agree as to the equitable adjustment within thirty (30) days following written request for adjustment by either party, the matter will be submitted to an Expert, as provided and in accordance with the procedures set forth in Section 27.1.

ARTICLE 18
TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION

18.1 **Transfer to Owner**. Upon any termination of this Agreement, whether due to the occurrence of an Event of Default or otherwise, Operator shall cooperate with Owner and shall execute all documents or instruments requested by Owner in connection with the transfer to

Owner or its nominee of the Permits and the License Agreement used or useful in connection with the operation of the Hotel (including without limitation executing any interim beverage agreement or similar agreement reasonably required to allow alcoholic beverages to continue to be sold at the Hotel after such termination in accordance with Legal Requirements pending issuance of temporary or new Permits with respect to such sales to Owner or its designee, so long as such successor Owner provides Operator with an indemnity, in form and substance reasonably acceptable to Operator, indemnifying Operator from any and all claims and liability associated with such interim agreements and continued use of such Permits); provided, however, if such termination is due to a reason other than a default by Operator under this Agreement, Owner will reimburse Operator for Operator's reasonable expenses to effect such transfer, or the imposition of liability by Operator. Without limiting the generality of the foregoing, Operator shall cause its officials to execute any necessary documents to effectuate the orderly transfer to Owner or its designee of the Permits and the License Agreement or the renewal thereof to Owner or Owner's designee if appropriate. In the event that this Agreement terminates for any reason, a sufficient number of Hotel Employees will be hired by Owner or its successor, assign or designee, so as not to cause a "mass layoff" or "plant closing", as defined in the Workers Adjustment and Retraining Act, 29 USC, sec 2101 et seq. (the "**WARN Act**"). Owner hereby agrees to indemnify, defend and hold Operator harmless from and against any and all claims asserted against or incurred by Operator related to: (a) hiring, discharging, offering to hire or failing to hire any of the Hotel Employees; (b) termination of the Hotel Employees by reason of the termination of this Agreement; or (c) Owner's failure to take, or cause to be taken, the action necessary with respect to Hotel Employees so that Operator will not be required to comply with the WARN Act or any other similar Legal Requirements.

18.2 **Remittance to Owner**. Upon the expiration or termination of this Agreement, after payment of all Operating Expenses for which bills were received to such date, Operator's Management Fee, Reimbursable Expenses, Accounting Services Fee, any Termination Fee and any other amounts then due and payable to Operator, and after withholding a reasonable amount determined by Operator to be necessary to pay for any continuing liabilities or payables that may become due following such termination, all remaining amounts in: (a) the Reserve and (b) the Operating Account, shall be transferred by Operator to Owner.

ARTICLE 19
NOTICES

All notices, elections, acceptances, demands, consents and reports (collectively "**notice**") provided for in this Agreement shall be in writing and shall be given to the other party at the address set forth below or at such other address as any of the parties hereto may hereafter specify in writing.

To Owner: c/o Wheelock Street Capital LLC
660 Steamboat Road, 3rd Floor
Greenwich, CT 06830
Attention: Lawrence Settanni
Email: settanni@wheelockst.com

With a copy to:

Goodwin Procter LLP
601 S. Figueroa Street, 41st Floor
Los Angeles, CA 90017
Attention: Chauncey Swalwell
Email: cswalwell@goodwinprocter.com

To Operator: Merritt Hospitality, LLC
101 Merritt 7 Corporate Park
1st Floor
Norwalk, Connecticut 06851
Attention: Clark W. Hanrattie
Email: chanrattie@heihotels.com

With a copy to:

Dentons LLP
2398 East Camelback Road, Suite 850
Phoenix, Arizona 85016
Attn: Rick Ross and Meghan Cocci
Phone: (602) 508-3900
Email: rick.ross@dentons.com and meghan.cocci@dentons.com

Such notice or other communication may be given by personal delivery, by Federal Express or other nationally recognized overnight carrier, by electronic mail, or by United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office. All notices, demands, consents and reports shall be deemed received upon acceptance or rejection of delivery.

ARTICLE 20
CONSENT AND APPROVAL

Except as herein otherwise provided, whenever in this Agreement the consent or approval of Operator or Owner is required, such consent or approval shall not be unreasonably withheld or delayed. Such consent or approval shall also be in writing only and shall be executed only by an authorized officer or agent of the party granting such consent or approval.

ARTICLE 21
TRANSFERS

21.1 **Transfers**. Except as herein otherwise provided, neither party may cause or permit a Transfer without the prior written consent of the other party (which consent may be withheld or conditioned in such other party's sole discretion); provided however, that either party shall be entitled to assign this Agreement (a) to an Affiliate of such party and (b) in connection with a corporate transaction involving such party in which all or substantially all of such party's assets are transferred to an Affiliate of such party. Operator shall have the right to assign its economic rights to receive payments under this Agreement (as opposed to a pledge of the ownership interests in Operator) as security for indebtedness or other obligations. Additionally, Operator

may transfer this Agreement and its rights hereunder to a successor by merger, sale of all or substantially all of its assets or interest in Operator, as applicable, or otherwise by operation of law.

21.2 **Assignability upon Sale**. Notwithstanding anything to the contrary in Section 21.1, if Owner decides to enter into a Sale of the Hotel with a third party, then at such time as Owner enters into a firm commitment for the Sale of the Hotel, Owner shall deliver a written notice (the "**Notice of Proposed Sale**") of the proposed Sale of the Hotel to Operator stating the name of the prospective purchaser or tenant, as the case may be, and, thereafter shall provide all other information concerning the proposed purchaser or tenant reasonably requested by Operator and which such purchaser or tenant has provided to Owner or Owner's Affiliates. Within fifteen (15) days of Operator's receipt of the Notice of Proposed Sale, Operator shall notify Owner of its election to either: (a) continue operating the Hotel following such Sale of the Hotel, or (b) terminate this Agreement. In the event Operator enters into an agreement to operate the Hotel following such Sale of the Hotel, Operator shall not have the right to receive the Termination Fee in connection with such Sale of the Hotel. In the event Operator does not enter into an agreement to operate the Hotel following the closing of the Sale of the Hotel Operator shall have the right to receive the Termination Fee.

21.3 **Prohibited Sale**. Notwithstanding anything to the contrary in Section 21.2, Owner may not cause or permit a Transfer to any Prohibited Person.

ARTICLE 22
INDEMNITY

22.1 **Indemnity by Owner**. Owner shall indemnify, defend and hold Operator, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Operator Indemnified Parties**") harmless for, from and against any and all third-party liabilities, claims, demands, actions, causes of action, judgments, orders, damages, costs, expenses, and losses (including reasonable attorney's fees and costs) (collectively, "**Claims**") which Operator Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from: (a) this Agreement, including the negotiation of or entering into this Agreement; (b) the development, construction, ownership and/or operation of the Hotel from and after the Effective Date, (c) any reporting to the IRS, Owner's lenders or any party relying on Owner's books and records by Owner or by Operator (on behalf of and as directed by Owner, in connection with Operator's provision of the Accounting Services pursuant to Section 10.4 of this Agreement); and (d) other activities relating to the Hotel, except to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.2 **Indemnity by Operator**. Operator shall indemnify, defend and hold Owner, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Owner Indemnified Parties**") harmless for, from and against any and all Claims which Owner Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from this Agreement, to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.3 **Indemnification Procedure**. Any Indemnified Party shall be entitled, upon written notice to the Indemnifying Party, to the timely appointment of counsel by the Indemnifying Party for the defense of any claim, which counsel shall be subject to the approval of the Indemnified Party. If, in the Indemnified Party's reasonable judgment, a material conflict of interest exists between the Indemnified Party and the Indemnifying Party at any time during the defense of the Indemnified Party, the Indemnified Party may appoint independent counsel of its choice for the defense of the Indemnified Party as to such claim. Additionally, regardless of whether the Indemnified Party is appointed counsel or selects independent counsel (a) the Indemnified Party shall have the right to participate in the defense of any claim and approve any proposed settlement of such claim, such approval to be in such party's sole and absolute discretion, and (b) all costs, expenses and attorneys' fees of the Indemnified Party shall be borne by the Indemnifying Party. If the Indemnifying Party fails to timely pay such costs, expenses and reasonable attorneys' fees, the Indemnified Party may, but shall not be obligated to, pay such amounts and be reimbursed by the Indemnifying Party for the same, which amounts shall bear interest at the Default Rate until paid in full. The parties hereby acknowledge that it shall not be a defense to a demand for indemnity that less than all claims asserted against the Indemnified Party are subject to indemnification. If a claim is covered by the Indemnifying Party's liability insurance, the Indemnified Party shall not take or omit to take any action that would cause the insurer not to defend such claim or to disclaim liability in respect thereof. Further, the Indemnified Party shall cooperate with the Indemnifying Party in the defense of the claim (at the Indemnifying Party's cost), shall not settle the claim without the consent of the Indemnifying Party, and shall not take any action which prejudices the defense of the claim.

22.4 **Survival/Miscellaneous**. The provisions of this ARTICLE 22 shall survive the expiration or earlier termination of this Agreement. Owner and Operator mutually agree for the benefit of each other to look first to the appropriate insurance coverages in effect pursuant to this Agreement in the event any claim or liability occurs as a result of injury to person or damage to property, regardless of the cause of such claim or liability. In no event shall the settlement by either party of any claim brought by a third party (including Hotel Employees) in connection with the ownership or operation of the Hotel be deemed to create any presumption of the validity of the claim, nor shall any such settlement be deemed to create any presumption that the acts or omissions giving rise to such claim constituted Operator's Grossly Negligent or Willful Acts.

ARTICLE 23
MISCELLANEOUS

23.1 **Further Assurances**. Owner and Operator shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding and enforceable as between them and as against third parties.

23.2 **Waiver**. The waiver of any of the terms and conditions of this Agreement on any occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasion.

23.3 **Successors and Assigns**. Subject to and limited by ARTICLE 21, this Agreement shall be binding upon and inure to the benefit of Owner, its successors and permitted assigns, and shall be binding upon and inure to the benefit of Operator, its successors and permitted assigns.

23.4 **Governing Law**. This Agreement shall be construed, both as to its validity and as to the performance of the parties, in accordance with the laws of the State of New York.

23.5 **Compliance with Mortgage and License Agreement**. In carrying out their respective duties and obligations under the terms of this Agreement, Owner and Operator shall take no action that could reasonably be expected to constitute a material default under any Mortgage or the License Agreement and will take such actions as are reasonably necessary to comply therewith. Owner shall be responsible for making all payments under any Mortgage.

23.6 **Amendments**. This Agreement may not be modified, amended, surrendered or changed, except by a written document signed by Owner and Operator agreeing to be bound thereby.

23.7 **Estoppel Certificates**. Owner and Operator agree, at any time and from time to time, as requested by the other party, upon not less than ten (10) days' prior written notice, to execute and deliver to the other a written statement (a) certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), (b) certifying the dates to which required payments have been paid, and (c) stating whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Agreement, and if so, specifying each such default of which the signer may have knowledge, it being intended that such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing.

23.8 **Inspection Rights**. Owner shall have the right to inspect the Hotel and examine the books and records of Operator pertaining to the Hotel at all reasonable times during the Term upon reasonable notice to Operator, and Owner and the holder of any Mortgage shall have access to the Hotel and the books and records pertaining thereto at all times during the Term to the extent necessary to comply with the terms of any Mortgage, all to the extent consistent with applicable Legal Requirements and the rights of guests, tenants and concessionaires of the Hotel, and all to the extent the same will not interfere with the operation and management of the Hotel.

23.9 **Subordination**. This Agreement, any extension hereof and any modification hereof shall be subject and subordinate to a Mortgage as provided therein. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, Operator will execute and return to Owner (or to Lender, as designated by Owner) such documentation as Owner or Lender may reasonably request to evidence the subordination of this Agreement to the Mortgage (and, if required by a Lender, the assignment of this Agreement to such Lender as additional security in connection with such Mortgage).

23.10 **Effect of Approval of Plans and Specifications**. Owner and Operator agree that in each instance in this Agreement or elsewhere wherein Operator is required to give its approval of plans, specifications, budgets and/or financing, no such approval shall imply or be deemed to constitute an opinion by Operator, nor impose upon Operator any responsibility for the design or construction of additions to or improvements of the Hotel, including but not limited to structural integrity or life/safety requirements or adequacy of budgets and/or financing. The scope of Operator's review and approval of plans and specifications is limited solely to the adequacy and relationship of spaces and aesthetics of the Hotel in order to comply with the Operating Standards.

23.11 **Entire Agreement**. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, superseding all prior agreements or undertakings, oral or written.

23.12 **Time is of the Essence**. Time is of the essence in this Agreement.

23.13 **Interpretation**. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

23.14 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement. Counterparts of this Agreement received by electronic transmission shall be deemed originals for all purposes.

23.15 **Partial Invalidity**. In the event that any one or more of the phrases, sentences, clauses or paragraphs contained in this Agreement shall be declared invalid by the final and unappealable order, decree or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses or paragraphs had not been inserted, unless such construction would substantially destroy the benefit of the bargain of this Agreement to either of the parties hereto.

23.16 **Confidentiality**. The parties agree that the terms, conditions and provisions set forth in this Agreement are strictly confidential and the parties agree to keep strictly confidential any information of a confidential nature about or belonging to a party or to any Affiliate of a party to which the other party gains or has access by virtue of the relationship between the parties (collectively, "**Privileged Information**"). Except as disclosure may be required to obtain the advice of professionals or consultants, or financing for the Hotel from a Lender, or in furtherance of a permitted assignment of this Agreement, or as may be required to comply with Legal Requirements (including reporting requirements applicable to public companies), each party shall make commercially reasonable efforts to ensure that Privileged Information is not disclosed to the press or to any other third party without the prior consent of the other party. Notwithstanding the foregoing, the parties hereby acknowledge that Operator shall have the authority to release information regarding the Hotel to STR, Inc. (or a similar organization mutually agreed upon by the parties). The obligations set forth in this Section shall survive any termination or expiration of this Agreement. The parties shall cooperate with one another on all public statements, whether written or oral and no matter how disseminated, regarding their contractual relationship as set forth in this Agreement or the performance of their respective obligations under this Agreement.

23.17 **No Third Party Rights**. This Agreement shall inure solely to the parties hereto. Notwithstanding any other provision of this Agreement, no third party shall have any rights pursuant to the terms of this Agreement.

ARTICLE 24
NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL

In entering into this Agreement, Operator and Owner acknowledge that neither Owner nor Operator has made any representation to the other regarding projected earnings, the possibility of future success or any other similar matter respecting the Hotel, and that Operator and Owner

understand that no guarantee is made to the other as to any specific amount of income to be received by Operator or Owner or as to the future financial success of the Hotel.

ARTICLE 25
REPRESENTATIONS OF OPERATOR

In order to induce Owner to enter into this Agreement, Operator does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Operator enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Operator, threatened, against or relating to Operator, the properties or business of Operator or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Operator to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Owner;

(c) neither the consummation of the transactions contemplated by this Agreement on the part of Operator or to be performed, nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Operator is a party or by which it is bound; and

(d) Operator is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action (such persons and entities being "**Prohibited Persons**").

ARTICLE 26
REPRESENTATIONS OF OWNER

In order to induce Operator to enter into this Agreement, Owner does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Owner enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Owner, threatened, against or relating to Owner, the properties or business of Owner or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Owner to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Operator;

(c) neither the consummation of the transactions contemplated by this Agreement by this Agreement on the part of Owner to be performed nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Owner is a party or by which it is bound; and

(d) Owner is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action.

ARTICLE 27
DISPUTE RESOLUTION

27.1 **Expert Determination**. Notwithstanding anything to the contrary in Section 27.2, any dispute, claim or issue arising under this Agreement with respect to: (a) the proper inclusion or exclusion of items in revenues, expenses and other financial computations contemplated herein, (b) the proper computation of the Base Fee, Incentive Fee, charges for Centralized Services, Accounting Services or Reimbursable Expenses, (c) disputes relating to the Annual Plan, including expenses related to satisfying Operating Standards, (d) disputes as to the Performance Test or changes in the Competitive Set, or (e) other matters as to which this Agreement expressly provides for dispute resolution by an Expert, shall be resolved in accordance with this Section by one Expert. Notwithstanding the foregoing, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The decision of the Expert shall be final and binding on the parties and shall not be capable of challenge, whether by arbitration, in court or otherwise, except to the extent of any manifest error in such Expert's determination. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. In the event the parties are unable to agree on an Expert or otherwise disagree as to whether the disputed matter qualifies for Expert determination, either party shall have the right, prior to submitting such matter to an Expert, to initiate the mediation and arbitration procedures contemplated below.

27.2 **Mediation/Arbitration**. Except with respect to the matters described in Section 27.1 above, if any claim, dispute or difference of any kind whatsoever (a "**Dispute**") shall arise out of or in connection with or in relation to this Agreement whether in contract, tort, statutory, or otherwise, and including any questions regarding the existence, scope, validity, breach or termination of this Agreement, the following procedures shall apply:

(a) The parties shall first attempt to settle such Dispute by participating in at least ten (10) hours of mediation, which mediation shall be administered by JAMS (or if JAMS no longer exists, another mutually acceptable alternative dispute resolution provider) (the "**ADR Provider**"). A designated individual mediator who is a member in good standing of the ADR Provider will then be mutually selected by the parties to conduct the mediation; provided that such mediator must have at least ten (10) years' experience as a mediator and must not have any conflict of interest with either party (the "**Mediator**"). If the parties are unable to agree upon the identity of the

Mediator within five (5) days after the complaining party has notified the other party that a Dispute exists, then, subject to the requirements of this Section, the ADR Provider shall select a qualified Mediator of its choosing who shall act as the Mediator of the Dispute. The mediation will be a nonbinding conference between the parties conducted in accordance with the applicable rules and procedures of the ADR Provider. The mediation shall take place in New York, New York. Neither party may initiate litigation or arbitration proceedings with respect to any Dispute until the mediation of such Dispute is complete; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any claims solely relating to: (i) preserving or protecting proprietary information, (ii) emergency or injunctive relief, (iii) enforcement of the dispute resolution provisions of this Agreement, or (iv) enforcement of the decision and/or award by any Expert or Arbitrator hereunder ("**Litigation Claims**"). Any mediation will be considered complete: (a) if the parties enter into an agreement to resolve the Dispute; or (b) if the Dispute is not resolved after completion of ten (10) hours of such mediation. The parties shall share equally in the cost of the mediation.

(b) If any Dispute remains between the parties after the mediation is complete, then the Dispute shall be submitted to final and binding arbitration pursuant to the procedures set forth in this Section; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The parties agree that the Arbitrator shall have the power to order equitable remedies, including specific performance and injunctive relief.

(c) An arbitral tribunal of one arbitrator (the "**Arbitrator**") shall be established in conformity with the Comprehensive Arbitration Rules and Procedures of JAMS or such other rules of a successor ADR Provider mutually agreed upon by the parties (the "**Rules**") in effect at the time such arbitration is commenced; provided, however, the parties agree that such Arbitrator shall have not less than ten (10) years' experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels). Each party shall appoint a person to appoint the Arbitrator within five (5) days of the date of a request to initiate arbitration, and the two appointed persons will then jointly appoint the Arbitrator (provided that the Arbitrator shall not be the same person as the Mediator) within ten (10) days thereafter. If the appointed persons or the Arbitrator is not appointed within the time limits set forth in the preceding sentence, such person(s) or Arbitrator shall be appointed by the ADR Provider (subject to the hospitality qualification standards set forth above). In rendering a decision hereunder, the Arbitrator shall take into account the Operating Standards of the Hotel and other applicable provisions of this Agreement.

(d) The arbitration, regardless of the amount in dispute, shall be conducted in accordance with the Rules. Any arbitration shall take place in New York, New York. The Arbitrator shall apply the substantive law of the State of New York. No party to any Dispute shall be required to join any other party as a party to the Dispute pursuant to the arbitration provisions set forth in this ARTICLE 27.

(e) The Arbitrator's monetary awards may include a requirement that the losing party bear reasonable attorneys' fees and costs of the arbitration proceeding, but, in no event shall award punitive or exemplary damages of any kind. Unless the Arbitrator determines otherwise, each

party to an arbitration proceeding shall be responsible for all fees and expenses of such party's attorneys, witnesses, and other representatives, and one-half of the other fees and expenses of the Arbitrator, and the other costs of the arbitration shall be allocated to and paid by (a) the party or parties initiating the respective arbitration proceeding, and (b) the party or parties against whom the respective arbitration proceeding is brought. The award rendered in any arbitration commenced hereunder shall be final and binding upon the parties, and each party hereby waives any claim or appeal whatsoever against it or any defense against its enforcement.

(f) The obligation to arbitrate under this Section is binding on the parties and their respective successors and assigns.

Until such time as a final determination of any Dispute is obtained pursuant to this Section and, notwithstanding any termination of or default under, or alleged termination of or default under, this Agreement, all parties to this Agreement involved in such Dispute shall remain liable for, and shall be required to continue to satisfy, their respective obligations under this Agreement.

27.3 **Survival**. This Section shall survive the expiration or termination of this Agreement.

ARTICLE 28
TERMINATION OF THE LICENSE AGREEMENT

Owner reserves and shall have the right in its sole discretion, at any time and without the consent or approval of (but with notice to) Operator, to terminate the License Agreement, provided, however, that Owner shall have no such right in order to establish its own independent operations, such as an operation without a franchise or license or in its own hotel name.

ARTICLE 29
RELATIONSHIP OF PARTIES

29.1 Owner and Operator acknowledge and agree that in operating the Hotel, entering into contracts, accepting reservations, and conducting financial transactions for the Hotel, Operator acts on behalf of and as agent for Owner with respect to the rights and obligations contemplated by this Agreement and assumes no independent contractual liability nor shall Operator be obligated to extend its own credit with respect to any obligation incurred in operating the Hotel or performing its obligations under this Agreement.

29.2 The relationship between the parties hereto shall be that of principal, in the case of Owner, and agent, in the case of Operator, with respect to the rights and obligations contemplated by this Agreement. Nothing contained in this Agreement shall constitute, or be construed to constitute or create, a partnership, joint venture or lease between Owner and Operator with respect to the Hotel. This Agreement is for the benefit of Owner and Operator and shall not create third-party beneficiary rights.

29.3 This Agreement shall be interpreted in accordance with general principles of contract interpretation without regard to the common law principles of agency (except as expressly provided for in this Agreement), and any liability between the parties shall be based solely on principles of contract law and the express provisions of this Agreement. To the extent any duties,

fiduciary or otherwise, that exist or may be implied for any reason whatsoever, including without limitation those resulting from the relationship between the parties, and including without limitation all duties of loyalty, good faith, fair dealing, care, full disclosure, or any other duty deemed to exist under the common law principles of agency or otherwise (collectively, the "**Implied Fiduciary Duties**"), are inconsistent with, or would have the effect of modifying, limiting or restricting the express provisions of this Agreement, the terms of this Agreement shall prevail.

29.4 For purposes of assessing Operator's duties and obligations under this Agreement, the parties acknowledge that the terms and provisions of this Agreement and the duties and obligations set forth herein are intended to satisfy any fiduciary duties which may exist between the parties. The parties also hereby unconditionally and irrevocably waive and release any right, power or privilege either may have to claim or receive from the other party any punitive, exemplary, statutory, or treble damages or any incidental or consequential damages with respect to any breach of the Implied Fiduciary Duties. Furthermore, Owner specifically consents to all transactions and conduct by Operator and its Affiliates described in this Agreement, including those set forth below, and waives any Implied Fiduciary Duties which Operator may owe to Owner now, or which may arise in the future, in connection with such transactions or conduct. Owner acknowledges and agrees that its consent to the transactions and conduct by Operator described in this Agreement, and its waiver of any Implied Fiduciary Duties otherwise owed by Operator: (a) has been obtained by Operator in good faith; (b) is made knowingly by Owner based on its adequate informed judgment as a sophisticated party after seeking the advice of competent and informed counsel; and (c) arises from Owner's knowledge and understanding of the specific transactions and actions or inactions of operators that are normal, customary, and reasonably expected in the hotel industry generally for this segment of the hotel industry.

The rest of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OWNER:

WS HAA Owner, LLC a Delaware limited liability company

By:_____
Name: _____
Title: _____

OPERATOR:

MERRITT HOSPITALITY, LLC, a Delaware limited liability company

By:_____
Name: _____
Title: _____

SCHEDULE 1

HOTEL COMPONENTS

1. Total Guest Rooms - approximately 507

2. Meeting Space - approximately 34,000 square feet and 11,000 square feet of pre-function space across 16 meeting rooms, including the 10,000 square foot grand ballroom and a 7,200 square foot junior ballroom

3. Food and Beverage Facilities - four (4) food and beverage outlets, which are, as of the Effective Date, known as Andiamo, Finish Line Sports Bar, Herb N' Kitchen, and Magnolia Grill, and in-room dining

4. Other Facilities - indoor and outdoor pools, fitness center, business center, private club level lounge

5. Parking - valet and paid self-parking

EXHIBIT A

DESCRIPTION OF PREMISES

[*Attached*]

EXHIBIT B

CENTRALIZED SERVICES

[*Attached*]

EXHIBIT C

SAMPLE INCENTIVE FEE CALCULATION

EXHIBIT D

TRANSITION BUDGET

Stock Inventory List

Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner/Manager_____

Name of Product	Number of Cases/Bottles in stock or in store as of date above	Price (i.e. $2.00/glass; $15.00/case)
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.		

Employee List

List ALL employees. Use full complete names (No initials). Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner _____

Name	Address/Phone	DOB	SSN	Employment Date	Position
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.					

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Effective Date: May 14th, 2019

Western Surety Company

LICENSE AND PERMIT BOND

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 64642660

That we, Merritt Hospitality, LLC dba Hilton Atlanta Airport

of Atlanta, State of Georgia, as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do surety business in the State of Georgia, as Surety, are held and firmly bound unto the City of Hapeville, State of Georgia, as Obligee, in the penal sum of Five Thousand and 00/100 DOLLARS ($5,000.00), lawful money of the United States, to be paid to the Obligee, for which payment well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal has been licensed Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City o

by the Obligee.

NOW THEREFORE, if the Principal shall faithfully perform the duties and in all things comply with the laws and ordinances, including all amendments thereto, pertaining to the license or permit applied for, then this obligation to be void, otherwise to remain in full force and effect until May 14th, 2020, unless renewed by Continuation Certificate.

This bond may be terminated at any time by the Surety upon sending notice in writing, by First Class U.S. Mail, to the Obligee and to the Principal at the address last known to the Surety, and at the expiration of thirty five (35) days from the mailing of said notice, this bond shall ipso facto terminate and the Surety shall thereupon be relieved from any liability for any acts or omissions of the Principal subsequent to said date. Regardless of the number of years this bond shall continue in force, the number of claims made against this bond and the number of premiums which shall be payable or paid, the Surety's total limit of liability shall not be cumulative from year to year or period to period, and in no event shall the Surety's total liability for all claims exceed the amount set forth above. Any revision of the bond amount shall not be cumulative.

Dated this 15th day of May, 2019.

Merritt Hospitality, LLC DBA Hilton Atlanta Airport
Principal

Principal

WESTERN SURETY COMPANY

By
Paul T. Bruflat, Vice President

Form 532-12-2015

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City of Hapeville

bond with bond number 64642660

for Merritt Hospitality, LLC dba Hilton Atlanta Airport
as Principal in the penalty amount not to exceed: $ 5,000.00.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

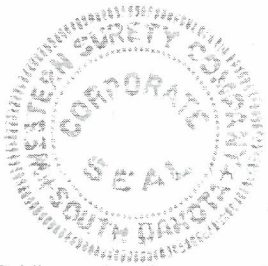
In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 15th day of May, 2019.

ATTEST

L. Nelson
L. Nelson, Assistant Secretary

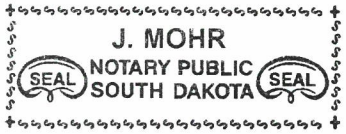
WESTERN SURETY COMPANY

By Paul T. Bruflat
Paul T. Bruflat, Vice President



STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires June 23, 2021

J. Mohr
Notary Public

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.

Form F1975-1-2016

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, the undersigned officer, personally appeared Paul T. Bruflat, who acknowledged himself to be the aforesaid officer of WESTERN SURETY COMPANY, a corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

M. Bent
Notary Public — South Dakota

My Commission Expires March 2, 2020

ACKNOWLEDGMENT OF PRINCIPAL
(Individual or Partners)

STATE OF Connecticut }
COUNTY OF Fairfield } ss

On this 20th day of May, 2019, before me personally appeared Anthony Rutledge, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

My commission expires September 30, 2012

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL
(Corporate Officer)

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, _____, before me personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

My commission expires

_____, _____

Notary Public

Western Surety Company

License or Permit No. _____

LICENSE AND PERMIT BOND

As _____ of _____

State of _____

Name of Applicant

Address

Filed _____, _____

Approved this _____ day of _____, _____

Control No. 11028875

STATE OF GEORGIA

Secretary of State

Corporations Division
315 West Tower
#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF AUTHORITY

I, **Brian P. Kemp**, the Secretary of State and the Corporations Commissioner of the State of Georgia, hereby certify under the seal of my office that

MERRITT HOSPITALITY, LLC
a Foreign Limited Liability Company

has been duly formed under the laws of Delaware and has filed an application meeting the requirements of Georgia law to transact business as a foreign Limited Liability Company in this state.

WHEREFORE, by the authority vested in me as Secretary of State, the above Limited Liability Company is hereby granted, on **04/08/2011**, a certificate of authority to transact business in the State of Georgia as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said application.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on April 8, 2011

Brian P. Kemp
Secretary of State

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SMILEZZZZ, LLC", CHANGING ITS NAME FROM "SMILEZZZZ, LLC" TO "MERRITT HOSPITALITY, LLC", FILED IN THIS OFFICE ON THE TWELFTH DAY OF FEBRUARY, A.D. 2004, AT 4:23 O'CLOCK P.M.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3448162 8100

040101165

AUTHENTICATION: 2929713

DATE: 02-13-04

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF FORMATION

OF

SMILEZZZZ, LLC

Smilezzzz, LLC (the "LLC") is a limited liability company organized under the Delaware Limited Liability Company Act, 6 Del. C. §§18-101 et seq. (the "Act") on October 19, 2001. This Certificate of Amendment to the Certificate of Formation of the LLC, dated as of February 12, 2004, is duly executed and filed by the undersigned, as a duly authorized person, for the purpose of amending the Certificate of Formation of the LLC pursuant to Section 18-202 of the Act.

FIRST, the name of the LLC as set forth on the first Certificate of Amendment of the Certificate of Formation of the LLC is "Smilezzzz, LLC"

SECOND, the Certificate of Formation of the LLC is hereby amended to reflect that the name of the LLC shall now be "Merritt Hospitality, LLC."

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of the date first written above.

David McCaslin,
Authorized Person

LIBC/1025382.2

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:34 PM 02/12/2004
FILED 04:23 PM 02/12/2004
SRV 040101165 – 3448162 FILE

Printed 05/15/19 13:35

TIMES JOURNAL, INC.

P.O. BOX 1633
ROME GA 30161-1633

PHONE: 770-428-9411
FAX: 1888

Advertising Payment Receipt

Account number:	200382	**Credit Card #:**	**********6000
Account name:	SARD & LEFF LLC 3789 ROSWELL ROAD ATLANTA GA 30342	**Approval Code:**	180878[264451343]
		Credit Holder Name:	
Phone number:	770-644-0800		
Payment number:	184457		
Payment date:	05/15/19		
Amount:	240.24		
Payment description:	CREDIT CARD PAYMENTS		

Ad Number:	171911	**Class Code:**	A
Ad Taker:	jdoll	**Salesperson:**	M208
First Words:	MERRITT		

Legal Advertisement

On Premise Consumption

Applications have been made by Merritt Hospitality, LLC at 1031 Virginia Avenue, Atlanta, GA 30354 for the issuance of 2019 Alcohol Beverage On-Premise Consumption of Beer, Wine and Liquor. WS HAA Owner, LLC (hotel owner) and Edward M. Walls (hotel manager).

☐ **PROOF O.K. BY:** _____ ☐ **O.K. WITH CORRECTIONS BY:** _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

MA-171911 (100%)

ADVERTISER: SARD & LEFF LLC
SALES PERSON: MAM208
SIZE: 2X2
PUBLICATION: MA-SOUTH FULTON

PROOF CREATED AT: 5/16/2019 12:59:37 PM
NEXT RUN DATE: 05/22/19
PROOF DUE: 05/22/19 19:00:00

Alcohol License Establishment Planning & Zoning Form

Date: May 28, 2019

Business Name: Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Herb 'N Kitchen)

Business Address: 1031 Virginia Avenue

Business Owner: Anthony R. Rutledge

Business Owner Address: 530 Main Street North, Southbury, CT 06488

Contact: Mindy L. Thompson, Esq. (Sard & Leff, LLC)

Contact Phone (770) 644-0800 Contact Email: mthompson@sardandleff.com

Building Square Footage: 505,000 SF Square footage of Business Unit: Not provided

Will the establishment provide patio/outdoor dining? No

Number of Parking Spaces Provided: 526

STAFF USE ONLY

Zoning Classification: C-2, General Commercial

Sec. 93-14-3. - Permitted uses.
The following uses are permitted within any C-2 zone:
(24) Hotels and Motels
(36) Restaurants, carry-out restaurants, drive-in restaurants or drive-through restaurants.

Does the proposed use require a Conditional Use Permit? No.

Number of parking spaces required by zoning: 507

Outdoor dining: Not applicable.

Staff Recommendation: The proposed location complies with zoning. The application may be approved.

Zoning Compliance

Zoning Classification: C-2, General Commercial. The business is a hotel restaurant which previously had an approved occupational tax permit in the C-2 district under the prior owner.

Alcoholic Beverage Ordinance Compliance

Sec. 5-3-4. – Standards for approval, denial, renewal, suspension or revocation.

(1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
Property is located in a commercial district.

Sec. 5-6-3. - On-premises consumption regulations generally.

The following regulations shall apply to licensed on-premises consumption establishments:
(b)No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this article. (b) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. for licensed establishments whose property lines abut an area zoned residential, and 2:00 a.m. and 8 :00 a.m. for all others. Except for bed and breakfasts and hotels, all patrons shall vacate such licensed establishments whose property lines abut an area zoned residential no later than 12:45 a.m., and 2:45 a.m. for all others. For purposes of this subsection, "residential" shall mean any parcel of land designated for use as a single or multifamily dwelling and duplexes.
There are no residential properties abutting the proposed location.

(2) The proximity of churches, school buildings, school grounds, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
There is no minimum distance required for on-site premises consumption from the nearest school/school grounds.

(3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
Adequate parking exists.

(4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
There is no anticipated increase in traffic or concerns regarding congestion.

Inspection No:	IAL 19 - 009
Inspection Date:	5/23/2019
Inspection Time:	
Inspector:	Brian Eskew

Inspection Report

Inspection and Compliance Orders

Facility:	Herb & Kitchen	**Address:**	1031 Virginia AVE		
Phone:	(404) 559-6885				
Fax:		**City:**	Hapeville		
Email:		**State:**	GA	**Postal Code:**	30354
Contact:	Mindy Thompson	**Work:**			
Email:	mthompson@sardandjeff.com	**Cell:**	(770) 644-0800		

Inspection Type:	Inspection Business License

Violation Code	Days to Correct *	Violation/Notes	Location

Inspection Notes

Approved For Alcohol License

Owner/Representative:

Inspector:

A variance procedure is available. Please contact the inspector named for further assistance with this or any other matter.

* Number of days to correct from date inspected.

700 Doug Davis Drive
Hapeville, GA 30354

Ph: 404-669-2111
Fax 404-669-2140

City of Hapeville 1891 GEORGIA
A Community with a Heart

Police, Code Enforcement, & Traffic Alcohol Establishment Inspection Report

Date: May 29, 2019
Business Name: Atlanta Airport Hilton Herb N Kitchen
Address: 1155 Virginia Avenue, Ste F, Atlanta, GA 30054

Exterior Observations:
Condition of Signage: Satisfactory

Window Signage & Visibility: Satisfactory

Condition of Property: Satisfactory

Exterior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level

Employee ID Badges: ☑ In Compliance ☐ Non-Compliant ☐ N/A

Interior Observations:
Interior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level ☐ Unknown

Cameras: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Broken Packages: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Traffic Considerations:
Private Property Accidents 0 Notes:

COMPLIANCE: To resolve this issue please N/A from premises within N/A days from receipt of this notice to be considered for an Alcohol License.

RIGHT TO APPEAL: Appeals are made thru the ARB, City of Hapeville Mayor and Council by contacting City Hall at 404-669-2100. Non-compliance may result in a Court Citation.

Additional Violations Noted:

History:
Law Enforcement: 33 calls Code Enforcement: 1 calls

Inspector's Signature

05/29/18

Administrative Services Department
3468 North Fulton Avenue
Hapeville, GA 30354
Phone: (404) 766-3004
Fax: (404) 669-3302

Alcohol Beverage License Application

Instructions: This application must be typed or printed legibly and executed under oath. Each question must be fully answered. If space provided is not sufficient to answer the question please use a separate sheet of paper.

Holding an alcohol beverage license with the City of Hapeville is a privilege.

☐ New ☒ Amended

Date: 05/22/2019

Contact Name: Mindy L. Thompson, Esq. Sard & Leff, LLC Phone: (770) 644-0800

Business/Trade Name: Merritt Hospitality, LLC

D/B/A: Hilton Atlanta Airport (In-Room Service)

Email: mthompson@sardandleff.com

Emergency Contact Name: Edward M. Walls Phone: (678) 425-6091

Business Address: 1031 Virginia Avenue, Atlanta, GA 30354

TYPE OF BUSINESS

- ☐ Convenience Store
- ☐ Grocery Store
- ☒ Hotel/Motel
- ☐ Package Store
- ☐ Manufacturer
- ☐ Specialty Beverage Store
- ☐ Restaurant
- ☐ Restaurant under 2,000 Sq. Ft.
- ☐ Wholesale
- ☐ Other: _____

TYPE OF LICENSE AND FEES

Retail		On-Premise Consumption		Wholesale/Manufacturer	
☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00
☐ Package	$5,000.00	☒ Beer/Wine/Liquor	$5,000.00	☐ Beer/Wine/Liquor	$5,000.00

On-Premise Consumption below 2,000 Sq. Ft.

☐ Beer	$750.00
☐ Wine	$750.00
☐ Liquor	$1600.00

APPLICANT INFORMATION

Please submit a passport photograph of owner(s) with completed application.

Full Name: Anthony R. Rutledge on behalf of Merritt Hospitality, LLC Date of Birth: [redacted]/1971

Current Address: 530 Main Street North, Southbury, CT 06488

Spouse Name: Valerie T. Rutledge

Address of Applicant (if different for the past 5 years):
N/A

Name and Location of Employers for the last five years: 05/2005 - Present: Merritt Hospitality, LLC - Norwalk, CT

Have you been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

Has your spouse been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

BUSINESS INFORMATION

Type of business entity: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☒ Other
Limited Liability Company

Has an Occupational Tax Certificate been obtained and paid for said business? ☐ Yes ☒ No (If not issued by the City of Hapeville please include a copy with application.) Applied for.

Federal Tax ID Number: 52-2353526 State Tax ID Number: Applied for

Do you own the property? ☐ Yes ☒ No (If no, please provide name, address, and contact number for the landlord. A copy of the Lease must be attached to this application.) WS HAA Owner, LLC

Name each person(s) having a financial interest in the Establishment.

Full Name	Position	Social Security Number	Address	% of Interest
Merritt Hospitality, LLC*	Hotel Management	52-2353526	101 Merritt - 7 Corporate	
	Company		Park, Norwalk, CT 06851	
WS HAA Owner, LLC*				100%

Have you or anyone with interest in the establishment ever or do you currently hold an alcohol beverage license with any other municipality, county, or state? ☒ Yes ☐ No

If so, have you or anyone holding interest in the establishment ever been placed on probation or had your license revoked? ☐ Yes ☒ No (If yes, please explain on separate sheet of paper and attach hereto.)

*At time of closing, scheduled for 06/21/2019

Provide name, address, Social Security Number, and phone number for each Manager if different from owner. A passport photograph, Personnel Statement, and Background Check must be submitted for each manager.

Full Name	Social Security Number	Address	Phone Number
Edward M. Walls	xxx-xx-[redacted]	2605 Shumard Oak Drive, Braselton, GA 30517	(678) 425-6091

BUSINESS SPECIFIC INFORMATION On File.

County Tax Parcel ID _____ Zoning District _____

Nearest Intersection: _____

Building Square Footage: _____ Business Square Footage (if not using entire building): _____

Patio/Outdoor Dining Square Footage (if applicable): _____

Number of Parking Spaces for business? (Attach site plan showing designated, striped parking and lighting)

_____

If shared parking, detail of how many are dedicated to the business and details of other businesses sharing parking (addresses).

_____

_____

_____

Hours/days of operation: _____

_____

Description of adjacent properties (residential/commercial) _____

_____

_____

_____

If application is for Retail Sale, attach a surveyor's certificate containing the following information:

- A scale drawing of the building and/or proposed building
- The proposed off-street parking facilities available to the building and all outdoor lighting on the premises
- The exact location of the business, including street address, ward, and county tax map number
- Current zoning classification of the location
- The distance from the business to each of the following: the nearest school, church building, and the nearest alcoholic treatment center owned and operated by state, county or municipality.

VERIFICATION OF APPLICATION

I hereby make application for an Alcohol Beverage License for the City of Hapeville. I understand that holding this license is a privilege. I do hereby affirm and swear that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this application and any action taken on this application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fee and further that it is my/our responsibility to conform with said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can

read the English language and I freely and voluntarily have completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. §16-10-20.

Signature of Applicant or Agent

Anthony R. Rutledge

Print or Type Name

I certify that Anthony R. Rutledge (name of applicant) personally appeared before me, and that he signed his name to the foregoing statements and answers made therein, and under oath, has sworn that said statements and answers are true.

This 20th day of May, 2019.

Notary Public

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

My commission expires on: 9/30/2021

Alcoholic Beverage Personnel Statement

For Official Use Only
Type of License: Beer/Wine/Liquor

Business: Merritt Hospitality, LLC

Address: 1031 Virginia Avenue, Hapeville

Telephone: _____

Instructions: This personnel statement must be executed under oath or affirmation by every person having any ownership or profit sharing interest in, or managing any place of business applying for license from the City of Hapeville, Georgia to sell or deal in alcoholic beverages or liquors. Please type or print clearly in ink. If not legible, Statement will not be accepted. Each question must be fully answered. If the space provided is not sufficient, answer the question on a separate sheet and indicate in the space provided that such separate sheet is attached. A personnel statement, including two (2) passport-size photographs and two (2) fingerprint cards are required by Questions 35 and 36, for all owners/managers/assistant managers and must be submitted with every license application.

1. Stephen Mendell - 143 W. Bears Club Drive, Jupiter, FL 33477
   Full Name of Applicant Address of Applicant

2. Social Security Number
   [redacted]

3. Driver's License Number
   [redacted] FL

4. Date of Birth Place of Birth
   [redacted]58 Bridgeport, CT

5. U.S. Citizen
   a. (X) By Birth
   b. ( ) Naturalized
   Date, Place and Court _____
   Petition Number _____
   Certificate Number _____
   Derived Parent Certificate Number(s) _____
   Alien Registration Number _____
   Native Country _____
   Date of Port Entry _____

6. How long have you been a legal resident of Georgia? N/A Years _____ Months

7. Marital Status () Single (⊗) Married () Widowed () Divorced () Separated

8. If married, give Spouse's full name Ellen Jo Mendell (Breslau)

9. Physical Description of Applicant _____ Race Caucasian Sex Male Height 5'11"

Weight 160 Age 61 Hair Color Brown Eyes Hazel

10. Education and training specific to restaurant/alcohol field.

More than seventeen (17) years of hotel management experience.

11. Have you ever used or been known by any other name () Yes (⊗) No

12. List maiden name, names by former marriages, former names changed legally or otherwise, aliases or nicknames. For each, list the period during which you were known by this name. N/A

13. Are you a registered voter in the State of Georgia () Yes (⊗) No

County registered Number of years registered

N/A

14. For the last calendar year, did you file and pay any County property tax (⊗) Yes () No
Name of County

Fairfield County, CT

15. For the last calendar year, did you file and pay any City property tax (⊗) Yes () No
Name of City

Westport, CT

16. Employment record for the past ten (10) years (Give most recent experience first, if self-employed give details)

	From	To	Employer	Occupation Duties	Reason for leaving
(a)	01/2002	Present	Merritt Hospitality, LLC	Vice President	N/A
(b)					
(c)					
(d)					
(e)					
(f)					
(g)					
(h)					

17. List, with your most recent place of residence first, all of your residences for the past ten (10) years

	Date From/To	Street	City	State
(a)	01/2017 - Present	143 W. Bears Club Drive	Jupiter	FL
(b)	10/2015 - 01/2017	4 Hideaway Lane	Westport	CT
(c)	01/1998 - 10/2015	30 Riverside Lane	Easton	CT
(d)				
(e)				

20. Military Service () Yes (X) No

List Serial Number _____ Branch of Service _____
Period of Service _____ Date of Discharge _____
Type of Discharge received _____

21. Have you ever been convicted of a felony relating to violence, illegal substances, gambling, theft or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city or any other city or county relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of

malt beverages, wine or intoxicating liquors, or the taxability thereof within five (5) years preceding this application? _____ Yes __X__ No

22. Full name of dealer and trade name, if any, submitting application of which this personnel statement is a part.

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

23. Position of applicant in dealer's business.

Vice President

24. Does applicant have any ownership/profit sharing interest in business? () Yes (X) No Describe.

State annual salary of applicant or the estimated annual profit or compensation derived from this business. $

Salary

25. Do you have any financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverages are sold and consumed on the business premises? (X) Yes () No If Yes, explain.

Please see attached Exhibit "A"

26. Do you have any financial interest or are you employed in any wholesale or retail liquor business other than the business submitting the license application of which this personnel statement is a part? (X) Yes () No If Yes, give names and locations and amount of interest in each.

Please see attached Exhibit "A"

27. Do you have any financial interest or are you employed in any business engaged in distilling, bottling, rectifying or selling (wholesale, retail or manufacturing) alcoholic beverages in this State or outside this State which has not otherwise been disclosed in this statement. () Yes (X) No If yes, explain.

N/A

28. Have you ever had any financial interest in an Alcoholic Beverage business which was denied a liquor permit () Yes (X) No If yes, explain.

N/A

29. Has any Alcoholic Beverage business in which you hold or have held any financial interest or have been employed, ever been cited for any violation for the rules and regulations of the State Revenue Commissioner relating to the sale and distribution of distilled spirits. () Yes X (No) If yes, explain.

To Applicant's best knowledge, information and belief, Merritt Hospitality, LLC has never been cited in the state of Georgia.

City of Hapeville Alcoholic Beverage License Applications of
Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport
1031 Virginia Avenue, Atlanta, GA 30354

EXHIBIT "A"

Georgia Liquor Licenses
Merritt Hospitality, LLC
May 2019

ST	City	Licensee	Property	Agency	License Nbr
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Georgia DOR	0087490, 0087897
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Alpharetta Code Enforcement Office	8573, 9034
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Georgia DOR	0084699, 0084714, 0084730, 0085573
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Atlanta Police Dept.	177369 A20, A21, A22, A23
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0087325, 0087802, 0087782, 0091598, 0067930 (Tobacco)
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	182036, A20, A22, A1H
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	Georgia DOR	0087739, 0087888
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	City of Sandy Springs	19-58286
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0086266, 0086173,
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	179163 A20, A34
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Georgia DOR	0089468, 0089303, 0089611, 0089632, 0089484, 0089455
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Braselton	12642, 12644, 12643, 12641, 12645

Merritt Hospitality, LLC and some of its related businesses (collectively, "Merritt") hold numerous alcoholic beverage licenses throughout the United States in connection with their various hotel operations. A complete list of alcoholic beverage licenses held by Merritt will be provided upon request.

30. Have you ever been denied a bond by a commercial surety company? () Yes (X) No
If yes, explain.
N/A

31. Are you related by blood, marriage or adoption to any persons engaged in any business handling alcoholic beverages, whiskeys or liquors in the State of Georgia.
() Yes (X) No

32. Personal References. Give three (3) personal references, not relatives (i.e., former employers, fellow employees or school teachers who are responsible adults, business or professional men or women) who have known you well during the past five (5) years.

Name
Todd Holson
Residence
97 Silver Spring Road, Wilton, CT 06897
Business Address
97 Silver Spring Road, Wilton, CT 06897
Telephone Number
[redacted]
Number of Years Known
More than 20 years

Name
Rich Jaffe
Residence
5 Overbrook Lane, Weston, CT 06883
Business Address
N/A
Telephone Number
[redacted]
Number of Years Known
16 years

Name
Steve Samuels
Residence
77 Coley Town Road, Westport, CT 06880
Business Address
N/A
Telephone Number
[redacted]
Number of Years Known
18 years

33. Attach two (2) passport-size photographs (front view). Write name on back of photographs and also the name of dealer submitting a license application. Initial here if such photographs are attached. SW

34. There must be submitted with this personnel statement the fingerprints of applicant on two (2) fingerprint cards, which will be furnished by the City of Hapeville. Initial here that such fingerprint cards are attached. SM

NOTE: Before signing this statement, check all answers and explanations to see that you have answered all questions fully and correctly. This statement is to be executed under oath or affirmation and subject to the penalties of false swearing and it includes all attached sheets submitted herewith.

Verification

I, Stephen Mendell, applicant, do solemnly swear, subject to criminal penalties for false swearing, that the statements and answers made by me to the foregoing questions in this application for a City of Hapeville license as a dealer in alcoholic beverage and liquors are true, and no false or fraudulent statement or answer is made therein to procure the granting of such license. I hereby submit for an Alcoholic Beverage Privilege License Personnel Statement for the City of Hapeville. I do hereby swear or affirm that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this statement and any related application and any action taken on this statement and any related application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fees and further that it is my/our responsibility to conform to said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can read the English language and I freely and voluntarily have completed this statement. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. § 16-10-20.

Applicant's Signature
(Full name in ink)

Stephen Mendell
Applicant's Name
(Print or Type)

I certify that
Stephen Mendell
(the above named applicant)

is personally known to me, and that he signed his name to the foregoing statements and answers made therein, and, under oath, has sworn that said statements and answers are true.

This 20 day of May, 20 19.

Notary Public

Seal:

Sue Broderick
NOTARY PUBLIC
State of Connecticut
My Commission Expires May 31, 2023

City of Hapeville 1891 GEORGIA

Georgia Bureau of Investigation
Georgia Crime Information Center

Consent Form

I hereby authorize **HAPEVILLE POLICE DEPARTMENT** to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Stephen Mendell
Full Name (print)

[redacted] FL
Driver's License Number and State

143 W. Bears Club Drive, Jupiter, FL 33477
Address

Merritt Hospitality, LLC
Company Name

M
Sex

W
Race

[redacted]1958
Date of Birth

[redacted]
Social Security Number

Signature

05/20/2019
Date

Purpose Codes Used (check appropriate one)

X Employment (Licensing, Public/Private employment, Firefighter employment Adoptions, Education employment, and Military Recruitment) (E)
____ Employment with mentally disabled (M)
____ Employment with elder care (N)
____ Employment with children (W)
____ Criminal Justice Employment (J)
____ Public Access (GA Felonies Only) (P)
____ Used by Law Enforcement Only (C) _____ Case Number
____ Pre-employment or Employment of Police Officers (Z)

Inquiry ran by: _____
If ran Purpose Code C Officer Signature: _____



Mr. Stephen Mendell

City of Hapeville Alcoholic Beverage License Applications (Change of Ownership)

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

1031 Virginia Avenue, Atlanta, GA 30354


Florida
The Sunshine State
DRIVER LICENSE CLASS E
M534-780-58-428-0
STEPHEN
MENDELL
143 WEST BEARS CLUB DRIVE
JUPITER FL 33477-0000
DOB: [redacted]1958 SEX: M
[redacted]2014 HGT: 5-10
[redacted]2022
SAFE DRIVER
Operation of a motor vehicle constitutes consent to any sobriety test required by law.


72798786 8
ENDELL/STEPHEN
NHIMI
5JUN16 1050
PN/IIY
BN PBI B6 1567
010025643514076
an 26,001 lbs. or any RV
DDRESS OR NAME CHANGE.
Executive Director
Julie Jones
Clayton Boyd Walden
Director of Motorist Services
P751404220016
Rev Date 09-01-12
www.flhsmv.gov

MANAGEMENT AGREEMENT

between

WS HAA Owner, LLC

and

MERRITT HOSPITALITY, LLC

for the

HILTON ATLANTA AIRPORT HOTEL

[_____], 2019

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 1
1.1 Definitions 1
1.2 Terminology 10
1.3 Exhibits 10
ARTICLE 2 ENGAGEMENT OF OPERATOR 10
2.1 Engagement and Duties of Operator 10
ARTICLE 3 TERM 11
3.1 Term 11
ARTICLE 4 USE AND OPERATION OF THE HOTEL 11
4.1 Hotel Employees 11
4.2 Annual Plan 13
4.3 Labor Relations 15
4.4 Liquor License 15
4.5 Notice of Violations 15
4.6 Centralized Services 15
4.7 Multi-Property Programs 15
ARTICLE 5 USE OF NAME 16
5.1 Name 16
ARTICLE 6 ADVERTISING 16
ARTICLE 7 RESERVE FOR FF&E 16
7.1 Reserve for Replacement of FF&E 16
7.2 Transfers to Reserve for FF&E 16
7.3 Annual Adjustment 16
7.4 Maintenance of Reserve 17
7.5 Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements 17
ARTICLE 8 REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS 17
8.1 Repairs and Maintenance 17
8.2 Capital Improvements 17
8.3 Liens 18
8.4 Notice of Force Majeure Event 18
ARTICLE 9 WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH 18

9.1 Working Capital 18
9.2 Depository Account 18
9.3 Operating Account 18
9.4 Distribution of Excess Cash 19
9.5 Lender Requirements 19
ARTICLE 10 BOOKS, RECORDS AND STATEMENTS 19
10.1 Books and Records 19
10.2 Financial Reports 19
10.3 Audits by Owner 20
10.4 Accounting Services 20
ARTICLE 11 MANAGEMENT FEES AND OTHER PAYMENTS 21
11.1 Management Fee 21
11.2 Payment of Management Fee 21
11.3 Other Payments 22
11.4 Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards 22
ARTICLE 12 INSURANCE 22
12.1 Insurance Requirements 22
12.2 General Insurance Requirements. 25
ARTICLE 13 REAL AND PERSONAL PROPERTY TAXES; UTILITIES 27
13.1 Taxes 27
13.2 Utilities, Etc 27
ARTICLE 14 DAMAGE OR DESTRUCTION; CONDEMNATION 27
14.1 Damage or Destruction 27
14.2 Condemnation 28
14.3 Reinstatement 28
14.4 Mortgage Requirements 28
ARTICLE 15 EVENTS OF DEFAULT 29
15.1 Operator Defaults 29
15.2 Owner Defaults 29
ARTICLE 16 TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES 30
16.1 Termination 30
16.2 Operator's Rights to Perform 31
ARTICLE 17 OWNER'S ADDITIONAL TERMINATION RIGHTS 31
17.1 Termination on Sale 31

17.2 Performance Termination....32
ARTICLE 18 TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION....32
18.1 Transfer to Owner....32
18.2 Remittance to Owner....33
ARTICLE 19 NOTICES....33
ARTICLE 20 CONSENT AND APPROVAL....34
ARTICLE 21 TRANSFERS....34
21.1 Transfers....34
21.2 Assignability upon Sale....35
21.3 Prohibited Sale....35
ARTICLE 22 INDEMNITY....35
22.1 Indemnity by Owner....35
22.2 Indemnity by Operator....35
22.3 Indemnification Procedure....36
22.4 Survival/Miscellaneous....36
ARTICLE 23 MISCELLANEOUS....36
23.1 Further Assurances....36
23.2 Waiver....36
23.3 Successors and Assigns....36
23.4 Governing Law....37
23.5 Compliance with Mortgage and License Agreement....37
23.6 Amendments....37
23.7 Estoppel Certificates....37
23.8 Inspection Rights....37
23.9 Subordination....37
23.10 Effect of Approval of Plans and Specifications....37
23.11 Entire Agreement....38
23.12 Time is of the Essence....38
23.13 Interpretation....38
23.14 Counterparts....38
23.15 Partial Invalidity....38
23.16 Confidentiality....38
23.17 No Third Party Rights....38
ARTICLE 24 NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL....38

ARTICLE 25 REPRESENTATIONS OF OPERATOR 39
ARTICLE 26 REPRESENTATIONS OF OWNER 39
ARTICLE 27 DISPUTE RESOLUTION 40
27.1 Expert Determination 40
27.2 Mediation/Arbitration 40
27.3 Survival 42
ARTICLE 28 TERMINATION OF THE LICENSE AGREEMENT 42
ARTICLE 29 RELATIONSHIP OF PARTIES 42

EXHIBITS:

SCHEDULE 1 Hotel Components
EXHIBIT A Description of Premises
EXHIBIT B Centralized Services
EXHIBIT C Sample Incentive Fee Calculation
EXHIBIT D Transition Budget

MANAGEMENT AGREEMENT

This Management Agreement (the "**Agreement**") is made and entered into as of this [__] day of [_____], 2019 (the "**Effective Date**") by and between WS HAA Owner, LLC, a Delaware limited liability company] ("**Owner**"), and **MERRITT HOSPITALITY, LLC**, a Delaware limited liability company ("**Operator**").

RECITALS:

A. Owner is, or shall become prior to the Commencement Date, the fee owner of the Premises, which, together with associated improvements, parking areas and personal property, is presently known as the "Hilton Atlanta Airport Hotel" and is defined herein as the "**Hotel**".

B. Operator is engaged in the business of managing and operating hotels.

C. Owner and Operator desire to enter into this Agreement for the management and operation of the Hotel in accordance with the terms and conditions and subject to the limitations contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator covenant and agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Definitions**. In this Agreement and any Exhibits, the following terms shall have the following meanings:

"**Accounting Period**" shall mean each calendar month during each Fiscal Year.

"**Accounting Services**" shall have the meaning set forth in Section 10.4.

"**Accounting Services Fee**" shall mean an annual amount equal to $30,000, payable monthly as provided in Section 11.3.

"**Adjusted GOP**" shall mean, for any Fiscal Year, Gross Operating Profit less the sum of: (i) Management Fees (excluding the Incentive Fee), (ii) Taxes, (iii) Insurance Costs, (iv) Equipment Lease Costs, (v) the Reserve; and (vi) Owner's Priority Return.

"**ADR Provider**" shall have the meaning set forth in Section 27.2(a).

"**Affiliate**" shall mean any person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another person or entity. The term "**control**" (and correlative terms) shall mean the power, whether by contract, equity ownership or otherwise, to direct the policies or management of a person or entity. A natural person is related to another natural person if he or she is a spouse, parent, or lineal descendant of the other person.

"**Agreement**" shall have the meaning set forth in the introductory section of this Agreement.

"**Annual Operating Budget**" shall mean an annual operating projection for the Hotel prepared and submitted by Operator to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(a).

"**Annual Plan**" shall mean an annual business plan for the operation of the Hotel prepared by Operator and approved by Owner, which shall include the Annual Operating Budget and the Capital Budget, and any other material included therein by Operator as provided in Section 4.2.

"**Arbitrator**" shall have the meaning set forth in Section 27.2(c).

"**Base Fee**" shall have the meaning set forth in ARTICLE 11.

"**Building**" shall mean, collectively, the buildings (including all roof coverings and exterior facades and any walkways and bridges) and all structural elements of such buildings, all of which are a part of the Hotel, together with such elements servicing and/or supporting the Hotel.

"**Building Systems**" shall mean any mechanical, electrical, plumbing, heating, ventilating, air conditioning, sanitation, water treatment, sewer treatment and disposal, life safety systems, vertical transportation systems and other similar operating and monitoring systems and items of equipment installed in or upon, and affixed to, the Hotel.

"**Capital Budget**" shall mean a proposed estimate of FF&E Expenditures and Capital Improvements prepared by Operator and submitted to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(b).

"**Capital Improvements**" shall mean any expenditures properly categorized under GAAP as capital in nature, for any alterations, improvements, replacements, and additions to the Building, the Building Systems or FF&E.

"**Centralized Services**" shall have the meaning set forth in Section 4.6.

"**Centralized Services Charge**" shall have the meaning set forth in Section 4.6.

"**Claims**" shall have the meaning set forth in Section 22.1.

"**Commencement Date**" shall mean the date on which Operator assumes the management and operation of the Hotel and all or substantially all of the Hotel is open for business to the general public.

"**Competitive Set**" shall mean initially, the following list of hotels: (i) [_____], subject to any revisions to such list agreed upon by Owner and Operator from time to time, which revisions, to the extent applicable, will occur during the Annual Plan process.

"**Corporate Personnel**" shall mean any of Operator's executive level personnel holding a position of Vice President or higher from Operator's corporate headquarters who perform activities

at or on behalf of the Hotel in connection with the services provided by Operator under this Agreement.

"**CPI**" shall mean the Consumer Price Index for All Urban Consumers, United States City Average, All Items (1982-84=100), issued by the Bureau of Labor Statistics of the United States Department of Labor.

"**Default Rate**" shall mean the lesser of (i) the Prime Rate plus five percent (5%) per annum or (ii) the highest lawful rate permitted by applicable Legal Requirements from time to time.

"**Depository Account**" shall have the meaning set forth in Section 9.2.

"**Effective Date**" shall mean the date of this Agreement as set forth in the introductory paragraph.

"**Equipment Lease Costs**" shall mean costs and expenses incurred by Owner in connection with the leasing or financing of equipment used in the operation and maintenance of the Hotel.

"**Event of Default**" shall mean any of the events described in ARTICLE 15, provided that any condition contained therein for the giving of notice or the lapse of time, or both, has been satisfied.

"**Expert**" shall mean an independent, neutral and impartial individual having not less than ten (10) years of experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels) and shall not have any conflict of interest with either party.

"**Fiscal Year**" shall mean the fiscal year that ends on the last day of each calendar year. The first Fiscal Year shall be the period commencing on the Commencement Date and ending on December 31st of the same calendar year in which the Commencement Date occurs. Except as otherwise expressly set forth in this Agreement, the words "full Fiscal Year" shall mean any Fiscal Year containing not fewer than three hundred sixty five (365) days. A partial Fiscal Year after the end of the last full Fiscal Year and ending with the expiration or earlier termination of the Term shall constitute a separate Fiscal Year.

"**Force Majeure Event**" shall mean any one or more of the following events or circumstances that, alone or in combination, directly or indirectly, materially and adversely affect the operation of the Hotel: (i) fire, earthquake, hurricane, tornado, flood, storm or other casualty; (ii) epidemics, quarantine restrictions or other public health restrictions or advisories; (iii) performance of Capital Improvements reasonably required to maintain the Hotel in accordance with the Operating Standards which materially and adversely affect the income generating areas of the Hotel or any other area material to the operation of the Hotel; (iv) strikes, lockouts, or other labor interruptions generally (as opposed to any such events directed specifically against Operator or its Affiliates not involving or related to the Hotel); (v) war, rebellion, riots, acts of terrorism, or other civil unrest or commotion; shortage of critical materials or supplies; (vi) disruption to local,

national or international transport services; (vii) embargoes, lack of materials, water, power or telephone transmissions necessary for the operation of the Hotel in accordance with this Agreement; (viii) action or inaction of governmental authorities having jurisdiction over the Hotel; or (ix) any other event beyond the reasonable control of Owner or Operator, but in all instances excluding the financial inability of either party to perform or otherwise meet its obligations.

"**Furniture, Fixtures and Equipment**" **or** "**FF&E**" shall mean all furniture, furnishings, wall coverings, fixtures, carpeting, rugs, fine arts, paintings, statuary, decorations, and hotel equipment and systems located at, or used in connection with, the operation of the Premises as a hotel, including without limitation, major equipment and systems required for the operation of kitchens, bars, laundry and dry cleaning facilities, office equipment, dining room wagons, major material handling equipment, major cleaning and engineering equipment, telephone systems, computerized accounting and vehicles (including the costs associated with the purchase, installation and delivery thereof) together with all replacements therefor and additions thereto, but in all events excluding Operating Equipment and Supplies.

"**FF&E Expenditures**" shall mean any expenditures pertaining to FF&E and not constituting Capital Improvements.

"**GAAP"** shall mean those conventions, rules, procedures and practices, consistently applied, affecting all aspects of recording and reporting financial transactions which are generally accepted by major independent accounting firms in the United States. Any financial or accounting terms not otherwise defined herein shall be construed and applied according to GAAP.

"**GOP Test**" shall have the meaning set forth in Section 17.2.

"**Gross Operating Profit**" or "**GOP**" shall mean the amount by which Gross Revenues of the Hotel exceed Operating Expenses of the Hotel.

"**Gross Revenues**" shall mean all revenues and receipts of every kind derived from the Hotel and all departments and parts thereof, as finally determined on an accrual basis in accordance with the Uniform System of Accounts, including, but not limited to, revenues and income (both cash and credit transactions) before commissions and discounts for prompt or cash payments, from (a) the rental of rooms and lobby space; (b) exhibit or sales space of any kind, including without limitation, charges for reservations, deposits and cancellation fees not refunded to guests; (c) income from vending machines, health club membership fees, wholesale and retail sales of merchandise, service fees and charges; (d) business interruption insurance claims in respect of the Hotel, (e) condemnation awards for temporary use of the Hotel; (f) license, lease and concession fees and rentals or other management income received by Owner (but not including the gross receipts of any licensees, lessees and concessionaires); (g) food and beverages sales, and (h) other sales of every kind conducted by, through or under Operator in connection with the Hotel. Gross Revenues shall not include (i) federal, state and municipal excise, sales and use taxes or similar impositions collected directly from patrons or guests or included as part of the sales price of any goods or services; (ii) proceeds arising from the sale or other disposition of property described in Section 1231 of the Internal Revenue Code or of capital assets; (iii) proceeds from condemnation and payments received on account of insurance policies (other than the proceeds from business interruption insurance and from condemnation awards for temporary use of the Hotel when

received); (iv) proceeds from claims for damages suffered by Operator or Owner, unless in recompense for a lost revenue item; (v) interest earned on the Reserve; or on any funds in the Operating Accounts; (vi) gratuities, including tips and service charges which are paid to the Hotel Employees by third parties; (vii) gross receipts received by licensees, lessees and concessionaires at the Hotel; (viii) proceeds from any sale, financing or refinancing of the Hotel or any interest therein; and (ix) any funds supplied by Owner to the reserve or to provide Working Capital, or which otherwise is defined as Owner's Invested Capital or Owner's Additional Invested Capital.

"**Guest Data**" shall mean all guest profiles, contact information, histories, preferences, and other information obtained in the ordinary course of business from guests of the Hotel during such guests' stay at the Hotel, or during such guests' use of the facilities associated with the Hotel.

"**Hotel**" shall have the meaning set forth in Recital A of this Agreement, as further described on Schedule 1 attached hereto.

"**Hotel Employees**" shall mean all individuals performing services in the name of the Hotel at the Hotel, in connection with the Hotel's business, whether employees of Operator or its Affiliate, but in any event, excluding the Corporate Personnel and any other personnel employed by Operator to perform services on a non-exclusive basis at other System Hotels.

"**Hotel Executive Staff Member**" shall mean each of the general manager, controller, director of revenue management, director of sales/marketing and director of food and beverage at the Hotel from time to time (or such equivalent position), to the extent such positions exist at the Hotel.

"**Implied Fiduciary Duties**" shall have the meaning set forth in Section 11.1(b).

"**Incentive Fee**" shall have the meaning set forth in Section 11.1(b).

"**Indemnified Party**" shall mean any party entitled to indemnification pursuant to ARTICLE 22.

"**Indemnifying Party**" shall mean any party required to indemnify an Indemnified Party pursuant to ARTICLE 22.

"**Insurance Costs**" shall mean all insurance premiums or other costs paid for any insurance policies (including business interruption insurance) maintained by or on behalf of Owner with respect to the Hotel.

"**Inventories**" shall mean "Inventories of Supplies" as defined in the Uniform System of Accounts, such as soap, toilet paper, stationery, writing pens, food and beverage inventories, paper products, menus, expendable office and kitchen supplies, fuel, supplies and items similar to any of the foregoing.

"**Legal Proceedings**" shall mean all complaints, counterclaims or cross-claims filed in a court of competent jurisdiction, any notice of any claim of violation of any legal requirement by any governmental agency or authority, or any summons or other legal process, in each instance by or against the Hotel or by or against Owner, or Operator in connection with the Hotel.

"**Legal Requirements**" shall mean (a) all laws, ordinances, statutes, regulations and orders relating to the Hotel and the Premises now or hereafter in effect, including but not limited to, environmental laws and (b) all terms, conditions, requirements and provisions of (i) all Permits; (ii) all leases; and (iii) all liens, restrictive covenants and encumbrances affecting the Hotel or the Premises or any part thereof.

"**Lender**" shall mean the holder of any Mortgage.

"**License Agreement**" shall mean the applicable franchise or license agreement issued to Owner by Hilton Franchise Holding LLC (or any successor thereto); should for any reason the License Agreement as above defined terminate or cease to exist, then the term "**License Agreement**" shall thereafter mean the franchise or license agreement from time to time entered into by Owner with respect to the branding and operation of the Hotel.

"**Licensor**" shall mean the "Franchisor" under the License Agreement.

"**Litigation Claims**" shall have the meaning set forth in Section 27.2(a).

"**Major Renovations**" shall mean a contemporaneously made set or series of alterations, additions and/or improvements to the Hotel or any material renovation, remodeling or refurbishing of the Hotel (or any portion thereof) implemented by Owner or required under a so-called "property improvement plan" imposed under a License Agreement, which customarily would be managed by a third party project manager, but which shall not include any routine Repairs and Maintenance with respect to Capital Improvements or FF&E.

"**Management Fee**" shall mean collectively the Base Fee and Incentive Fee, all as set forth in ARTICLE 11 hereof.

"**Measurement Year**" shall have the meaning set forth in Section 17.2(a).

"**Mediator**" shall have the meaning set forth in Section 27.2(a).

"**Mortgage**" shall mean, collectively, each of the documents evidencing or securing current or future indebtedness on the Hotel in favor of any Lender.

"**Multi-Property Programs**" shall have the meaning set forth in Section 4.7.

"**Notice**" shall have the meaning set forth in ARTICLE 19.

"**Notice of Proposed Sale**" shall have the meaning set forth in Section 21.2.

"**OFAC**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Operating Account**" shall mean an account or accounts, bearing the name of the Hotel and owned by Owner, established by Operator in a federally insured bank or trust company selected by Owner.

"**Operating Equipment and Supplies**" shall mean supply items which constitute "Operating Equipment and Supplies" under the Uniform System of Accounts, all miscellaneous serving equipment, linen, towels, uniforms, silver, glassware, china and similar items.

"**Operating Expenses**" shall mean all those ordinary and necessary expenses incurred in the operation of the Hotel determined in accordance with GAAP and the Uniform System of Accounts.

"**Operating Standards**" shall mean the operation of the Hotel in a first class manner in accordance with (i) the requirements under the applicable License Agreement; (ii) this Agreement; (iii) Legal Requirements; and (iv) the standards, policies and programs in effect from time to time that Operator reasonably determines are applicable to the operation, maintenance and repair of comparable hotels within the System Hotels.

"**Operator**" shall have the meaning set forth in the introductory section of this Agreement.

"**Operator Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Operator Rebates**" shall have the meaning set forth in Section 4.7.

"**Operator's Grossly Negligent or Willful Acts**" shall mean any gross negligence, willful misconduct, or fraud committed by Operator or the Corporate Personnel in the performance of Operator's duties under this Agreement. The acts or omissions (including gross negligence, willful misconduct or fraudulent acts or omissions) of the Hotel Employees (excluding the general manager and the controller) shall not be imputed to Operator or to the Corporate Personnel, or be deemed to constitute Operator's Grossly Negligent or Willful Acts, unless such acts or omissions resulted directly from the gross negligence, willful misconduct or fraudulent acts of Operator, the Corporate Personnel, the general manager and/or the controller in directing the Hotel Employees.

"**Owner**" shall have the meaning set forth in the introductory section of this Agreement.

"**Owner Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Owner's Additional Invested Capital**" shall mean any additional amounts advanced by Owner for Working Capital and for Capital Improvements in excess of the Reserve, calculated on a cumulative basis.

"**Owner's Annual Plan Objections**" shall have the meaning set forth in Section 4.2.

"**Owner's Invested Capital**" shall mean an amount equal to the purchase price paid by Owner for the Hotel, plus Owner's due diligence and related costs (including closing costs) in connection with Owner's acquisition of the Hotel, and Working Capital, subject to an adjustment by Owner by written notice to Operator within sixty (60) days of the closing of the acquisition of the Hotel.

"**Owner's Priority Return**" shall mean an amount equal to a nine and one half percent (9.5%) unlevered cash on cash return of: (i) Owner's Invested Capital; and (ii) Owner's Additional Invested Capital.

"**Performance Test**" shall have the meaning set forth in Section 17.2.

"**Permits**" shall mean all governmental or quasi-governmental licenses and permits, including but not limited to any certificate of occupancy, business licenses and liquor licenses.

"**Premises**" shall mean the land on which the Hotel is located, which land is described in Exhibit A attached hereto.

"**Prime Rate**" shall mean the rate per annum announced, designated or published from time to time by JP Morgan Chase Bank N.A. as its "prime", "reference" or "base" rate of interest for commercial loans.

"**Privileged Information**" shall have the meaning set forth in Section 23.16.

"**Prohibited Persons**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Reimbursable Expenses**" shall mean all reasonable travel, lodging, entertainment, telephone, facsimile, postage, courier, delivery, employee training and other expenses reasonably incurred by Operator in accordance with the standard policies for expenses reasonably incurred by Operator on its own behalf and which are directly related to its performance of this Agreement, but in no event will Reimbursable Expenses include or duplicate expenses for Operator's overhead or Centralized Services.

"**Repairs and Maintenance**" shall have the meaning set forth in Section 8.1.

"**Reserve**" shall mean an account maintained as a reserve for FF&E Expenditures and Capital Improvements.

"**Revenue Data Publication**" shall mean Smith's STR Report, a monthly publication distributed by STR, Inc., or an alternative source, reasonably satisfactory to both parties, of data regarding the average daily rate, occupancy and RevPAR of hotels in the general area of the Hotel, including, without limitation, the Competitive Set.

"**Revenue Per Available Room**" or "**RevPAR**" shall mean for any Fiscal Year the number derived by dividing (i) net room revenue (in accordance with the Uniform System of Accounts), by (ii) the number of available guest rooms in the Hotel.

"**RevPAR Test**" shall have the meaning set forth in Section 17.2.

"**Rules**" shall have the meaning set forth in Section 27.2(c).

"**Sale of the Hotel**" shall mean any voluntary sale, assignment, transfer or other disposition, for value or otherwise, of the fee simple title to the site and/or all or substantially all of the assets comprising the Hotel other than through foreclosure or deed in lieu of foreclosure or other similar procedure of financing permitted by this Agreement. For purposes of this Agreement, a Sale of the Hotel shall also include: (i) a lease (or sublease) of all or substantially all of the Hotel or site; or (ii) any sale, assignment, transfer or other disposition, for value or otherwise, voluntary

or involuntary, in a single transaction or a series of related transactions, of the controlling interest in Owner.

"**Sale Termination Notice**" shall have the meaning set forth in Section 17.1.

"**State**" shall mean the State in which the Hotel is located or other as designated.

"**System Hotels**" shall mean all or substantially all hotels operated by Operator or its Affiliates from time to time within the United States

"**Taxes**" shall mean all real and personal property taxes and other governmental impositions. Notwithstanding the foregoing, the term "Taxes" as used in this Agreement shall specifically exclude (a) all sales, use, excise, and hotel occupancy taxes collected directly from patrons and guests or as part of the sales price of any goods, services or displays and paid over to federal, state or municipal governments, (b) all income, franchise and municipal licenses or similar taxes of Owner or Operator or their respective Affiliates, and (c) any and all utility consumption costs.

"**Term**" shall have the meaning set forth in Section 3.1.

"**Termination Fee**" shall mean an amount determined as follows:

(a) From and after the Commencement Date until the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to (I) the product of (A) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (B) the quotient of (i) the Base Fee payable for the twelve (12) full calendar months immediately preceding the date of a termination of this Agreement, divided by (ii) twelve (12). If at the time of termination of this Agreement the Base Fee shall have been payable for less than twelve (12) full calendar months, then the Termination Fee shall equal the product of (X) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (Y) the quotient of (i) the Base Fee paid for each full calendar month following the Commencement Date plus the Base Fee payable under Operator's proforma for each additional month up to and including the twelfth (12^{th}) full calendar month following the Commencement Date, divided by (ii) twelve (12).

(b) From and after the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to zero.

"**Threshold Adjustment Event**" shall mean the occurrence of a Force Majeure Event, a material casualty or condemnation of all or any portion of the Hotel, Capital Improvements that result in displacement of rooms or amenities for in excess of a total of [___] room nights in any calendar month or negatively impact the average daily rate of a Hotel, an adjustment to the Competitive Set, including any rebranding occurring at one or more of the Competitive Set hotels, or an Owner Event of Default.

"**Transfer**" any assignment of this Agreement, transfer of any direct or indirect ownership interest in Owner, or Sale of the Hotel.

"**Transition Budget**" shall have the meaning set forth in Section 11.3.

"**Uniform System of Accounts**" shall mean the Uniform System of Accounts for the Lodging Industry, 11th Revised Edition, 2014, as published by the Hotel Association of New York City, Inc. or any later edition thereof.

"**WARN Act**" shall have the meaning set forth in Section 18.1.

"**Working Capital**" shall mean and refer to the funds which are reasonably necessary for the day-to-day operation of the Hotel's business, including, without limitation, amounts sufficient for the maintenance of petty cash funds, operating bank accounts, receivables, payrolls, prepaid expenses, advance deposits, funds required to maintain Inventories, amounts due to/or from Operator and/or Owner less accounts payable and accrued current liabilities, and all other costs and expenses incurred in connection with the Hotel pursuant to this Agreement and the performance by Operator of its obligations under this Agreement.

1.2 **Terminology**. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all genders; the singular shall include the plural, and the plural shall include the singular. The titles of Articles, Sections and Subsections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement, and all references in this Agreement to Articles, Sections, Subsections, paragraphs, clauses, sub-clauses or exhibits shall refer to the corresponding Article, Section, Subsection, paragraph, clause or sub-clause of, or exhibit attached to, this Agreement, unless specific reference is made to the articles, sections or other subdivisions of, or exhibits to, another document or instrument.

1.3 **Exhibits**. All exhibits and schedules and other attachments attached hereto are by this reference made a part of this Agreement.

ARTICLE 2
ENGAGEMENT OF OPERATOR

2.1 **Engagement and Duties of Operator**. Owner hereby engages and appoints Operator, pursuant to the terms of this Agreement, to operate and manage the Hotel, and Operator hereby agrees and contracts to operate**,** manage and supervise the Hotel pursuant to the terms of this Agreement and the Operating Standards (including the then-applicable Annual Plan). Subject to the terms of this Agreement, Hotel operations shall be under the exclusive supervision and control of Operator, which, except as otherwise specifically provided in this Agreement, shall be responsible for the proper and efficient operation, maintenance and repair of the Hotel in accordance with the terms of this Agreement. Except as specifically set forth in this Agreement, Operator shall have full discretion and control respecting matters relating to management and operation of the Hotel, including, without limitation, charges for rooms and commercial space, credit policies, food and beverage services, other Hotel services, employment policies, granting of concessions or leasing of space within the Hotel, receipt, holding and disbursement of funds, maintenance of bank accounts, procurement of Inventories, supplies and services, promotion and publicity, retain and direct legal counsel for the Hotel in the name of and as agent for Owner with respect to any matter regarding the operation of the Hotel; and, in general, all activities necessary

for operation of the Hotel. Operator shall devote its knowledge, experience and efforts to operate and manage the Hotel pursuant to this Agreement and in accordance with the Operating Standards.

Notwithstanding the foregoing grant of authority to Operator, Owner's prior written approval (not to be unreasonably delayed, conditioned or withheld (except as otherwise provided in Section 4.3 with respect to subparagraph (d))) shall be required for the following:

(a) the execution of (and provide Owner with a true and complete copy of) any contract (i) requiring total annual payments in excess of $25,000, as adjusted for increases in CPI every Fiscal Year after the initial Fiscal Year, or (ii) which has a term in excess of one (1) year (unless such agreement is terminable by Owner or Operator upon not more than thirty (30) days' notice without fee or penalty);

(b) with respect to claims asserted against Owner and/or the Hotel, for any matter for which aggregate legal fees, liabilities and/or out of pocket settlement amounts are anticipated to exceed $50,000; provided, however, Operator shall have the right to control the defense, including settlement, of any Legal Proceeding involving claims which are covered by Operator procured insurance programs (so long as Owner shall have no liability with respect to such claims, including any obligation to indemnify Operator under this Agreement);

(c) tenant leases of any space at the Premises (including rooftop leases) other than as provided in the Annual Plan (and which shall not include ordinary guest room and banquet space operations); and

(d) the negotiation and execution of any union, collective bargaining or similar agreements affecting the Hotel.

ARTICLE 3
TERM

3.1 **Term**. The operating term shall commence on the Effective Date and expire on the tenth (10th) anniversary of the Commencement Date (the "**Term**"), unless sooner terminated pursuant to the terms of this Agreement. In the event the Commencement Date does not occur by September 30, 2019, then either party shall have the option, in its sole and absolute discretion and without penalty or liability, to terminate this Agreement by delivery of written notice to the other party. If either party exercises its termination right in accordance with this Section 3.1, then all sums then due and payable to Operator and its Affiliates under this Agreement for the period of time prior to the date of termination shall be immediately due and payable. Owner and Operator shall confirm the Commencement Date in writing within ten (10) days after the Commencement Date occurs upon request of either party.

ARTICLE 4
USE AND OPERATION OF THE HOTEL

4.1 **Hotel Employees**.

(a) Operator shall have the sole right, as Operator reasonably deems appropriate for the proper operation, maintenance and security of the Hotel, to: (i) select, appoint, hire, promote, direct, supervise, train and discharge all Hotel Employees; and (ii) establish and maintain all policies relating to the employment of the Hotel Employees. Operator shall use commercially reasonable efforts and exercise reasonable care to select qualified and competent employees. Operator shall use commercially reasonable efforts to cause Operator's employment practices to comply with all Legal Requirements. All Hotel Employees shall be solely employees of Operator; provided, however, all of the costs, expenses and liabilities associated with the Hotel Employees shall be Operating Expenses, and shall include, by way of example and not limitation, all costs and expenses (including, without limitation, all employment and benefit related expenses incurred by Operator with respect to the Hotel Employees), such as severance pay, unemployment compensation and health insurance and related costs (i.e., in order to comply with COBRA-type regulations) as a result of the termination of Hotel Employees. Notwithstanding anything to the contrary contained herein, Owner shall have the right to interview and approve each individual selected by Operator to hold a position as a Hotel Executive Staff Member prior to his or her appointment, which approval shall not be unreasonably withheld or delayed. Prior to appointing an individual to a Hotel Executive Staff Member position, Operator shall provide Owner with a written summary of such individual's professional experience and qualifications and shall offer Owner the opportunity to interview the candidate at the Hotel or another mutually acceptable location. Owner will forego its right to interview any such individual if Owner or its authorized representative is unwilling or unable to participate in the interview within ten (10) days following Operator's offer. Owner shall be deemed to have approved the appointment of any such individual unless Owner delivers notice of its disapproval of such appointment within ten (10) days after Operator's offer to Owner to interview the candidate. Owner acknowledges that it may not reject more than three (3) qualified candidates proposed by Operator for any Hotel Executive Staff Member position. Owner further acknowledges that, notwithstanding Owner's right to interview and approve the hiring of each individual to hold a position as a Hotel Executive Staff Member, Operator shall have sole discretion to remove or replace any such individual (with such replacement subject to the approval rights set forth herein) (provided Operator shall not relocate the general manager or director of sales to any other System Hotel without the prior consent of Owner within thirty-six (36) months of such individual's hire).

(b) Operator may, from time to time, assign one or more of its corporate employees to the staff of the Hotel on a full-time, part-time or temporary basis, and the pro-rata share of the costs, expense and liabilities of such corporate employee of Operator shall be fairly and equitably allocated as an Operating Expense of the Hotel.

(c) Operator may elect to use the services of its Affiliates in fulfilling its obligations under this Agreement. If an Affiliate of Operator performs services Operator is required to provide, Operator shall be ultimately responsible to Owner, and Owner shall not pay more for the Affiliate's services and expenses than Operator would have been entitled to receive under this Agreement had Operator performed the services. If an Affiliate of Operator provides goods to the Hotel, such goods shall be supplied at prices and on terms at least as favorable to the Hotel as generally available in the relevant market.

(d) Any Hotel Employees who are not then represented by a collective bargaining representative shall be entitled to participate in the incentive programs, profit sharing and/or other

employee retirement, disability, health, welfare or other benefit plan or plans then made available by Operator to similarly situated employees of other System Hotels, in accordance with their respective terms. Operator will have the right to charge the Hotel with its allocable share of the cost of any such plan or plans and any contributions to be made thereunder provided that such charges and contributions shall be determined by Operator in good faith on a fair and equitable basis with respect to charges and contributions imposed for the same or similar plans at other hotels then managed by Operator, subject to Legal Requirements, and to the extent set forth in the Annual Operating Budget. Operator's rights under this Subsection (d) shall be subject to the condition that Operator shall not put into effect any amendment to any existing plan, or adopt any additional plan, which is not imposed upon all other similarly situated System Hotels.

(e) During the Term of this Agreement and for a period of twelve (12) months following termination, Owner shall not, and shall use reasonable efforts to ensure that its Affiliates do not, hire, solicit for hire, make any referrals for employment, retain as a consultant, or use the services of, any person who is employed at the Hotel as a Hotel Executive Staff Member and any Corporate Personnel, and Owner shall use reasonable efforts to prevent any other company (and any Affiliate of such other company) working on behalf of Owner or its Affiliates (including, without limitation, companies that operate or manage hotels for Owner or its Affiliates) from hiring, retaining as a consultant or using the services of any such person. The foregoing shall not prohibit Owner, any Owner Affiliate or any other company working on behalf of Owner or its Affiliates from hiring, retaining as a consultant or using the services of any such person to the extent such person is responding to a general advertisement or other solicitation of employment not specifically directed towards any Hotel Executive Staff Member or Corporate Personnel. The provisions of this section shall survive expiration or termination of this Agreement.

4.2 **Annual Plan**. [Operator shall use the existing Fiscal Year 2019 budget prepared by the existing Hotel manager as a guide to operate the Hotel pending delivery of Operator's Fiscal Year 2019 Annual Plan. On or before the date that is ninety (90) days following the Commencement Date, Operator shall submit to Owner an Annual Plan ("**Annual Plan**") for the remaining portion of the 2019 Fiscal Year and Owner either shall accept the initial Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan. Owner and Operator shall meet and discuss Owner's Annual Plan objections and shall coordinate expeditiously and in good faith to agree upon an Annual Plan for the 2019 Fiscal Year. On or before November 1st of each year following the Commencement Date, Operator shall submit to Owner an Annual Plan for the next Fiscal Year and on or before December 1st of each year following the Commencement Date, Owner either shall accept the Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan ("**Owner's Annual Plan Objections**"). Within seven (7) days after Operator's receipt of Owner's Annual Plan Objections, Owner and Operator shall agree upon a date to meet and discuss Owner's Annual Plan Objections with the goal of agreeing upon an Annual Plan for the subject Fiscal Year. In the event Owner objects to the Annual Plan or any specific items expense in the Annual Plan and Owner and Operator are unable to reach agreement thereon as provided above prior to commencement of the Fiscal Year in question, pending such agreement, the Annual Plan or the specific item or items of expense (not revenue) in question shall be suspended and replaced for such period of disagreement by an amount equal to the actual Operating Expenses for the immediately preceding Fiscal Year subject to an adjustment equal to the percentage increase in the CPI over the last twelve (12) month period

immediately preceding the start of the Fiscal Year in question. Notwithstanding anything to the contrary contained herein, Owner shall not have the right to withhold its approval with respect to the following aspects of the Annual Plan: (i) employee wages, compensation, and benefit programs to the extent applied on a system-wide basis to the other hotels managed by Operator, taking into account fluctuation for local market conditions; (ii) the Centralized Services Charge, and (iii) costs over which Operator has no reasonable control, including, without limitation, taxes, insurance, utility rates, payments due under Mortgages and Legal Requirements.

(a) The proposed Annual Operating Budget shall incorporate Operator's good faith reasonable estimates of the items of revenue and expense contained therein and shall contain the proposed budget for operations for the succeeding Fiscal Year. When approved by Owner, the proposed Annual Operating Budget shall become the approved Annual Operating Budget. Any revisions, substitutions or additions to the Annual Operating Budget must be approved by Owner in writing.

(b) The Capital Budget shall contain the proposed budget for FF&E Expenditures from the Reserve and the budget for Capital Improvements for the succeeding Fiscal Year. Operator shall submit good faith reasonable estimates for Capital Improvements and for FF&E Expenditures for such succeeding Fiscal Year. When approved by Owner, the proposed Capital Budget shall become the approved Capital Budget. Approval of the Capital Budget constitutes an authorization for Operator to expend money for Capital Improvements and for FF&E as provided in the Capital Budget, unless Owner's approval thereof specifically requires Operator to obtain additional approvals prior to commencing such work. Any revisions, substitutions or additions to the approved Capital Budget must be approved by Owner in writing.

(c) Operator shall use commercially reasonable efforts to operate the Hotel in accordance with the approved Annual Plan. The parties acknowledge that: (i) the approved Annual Plan is an estimate only; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the approved Annual Plan impracticable or impossible; and (iii) Operator shall be entitled to depart therefrom due to causes of the foregoing nature. Operator may (w) incur variable expenses directly attributable to occupancy or revenues above forecasted levels; (x) pay all taxes, utilities, insurance premiums and charges provided for in contracts and leases entered into pursuant to this Agreement that are not within Operator's ability to control; (y) make any expenditures reasonably required on an emergency basis to avoid or mitigate damage to the Hotel or injury to persons or property, provided that Operator notify Owner as promptly as reasonably possible; and (z) make any expenditures necessary to comply with, or to cure or prevent any violation of any Mortgage and Legal Requirements. In addition to, and without limiting the foregoing, Operator shall be permitted, in its discretion and without the approval of Owner, to deviate from the approved Annual Operating Budget as follows: by up to ten percent (10%) of the approved department expense line item, or by up to five percent (5%) of the aggregate total expenditures in the approved Annual Operating Budget. If Operator determines that circumstances will result in material changes between actual results and the approved Annual Plan during the course of the Fiscal Year, Operator shall, within thirty (30) days of such determination, notify Owner, which shall include a reforecast of revenues and expenses through the remainder of the Fiscal Year. Unless otherwise specified, all references to the Annual Plan in this Agreement shall be deemed to refer to the Annual Plan approved by Owner, subject to Operator's right to depart therefrom pursuant to this Section 4.2(c).

4.3 **Labor Relations**. Operator may negotiate with any union lawfully entitled to represent the Hotel Employees and may execute collective bargaining agreements or labor contracts resulting therefrom that have been approved by Owner in Owner's sole and absolute discretion, as provided in Section 2.1(d). Owner shall have the right to have one or more representatives attend and participate in all such negotiations.

4.4 **Liquor License**. Operator shall obtain all alcoholic beverage licenses either in its name or its designee and shall maintain the alcoholic beverage licenses in good standing and effect, free of all liens (with the exception of any lien granted to Owner herein) and in compliance with the conditions imposed upon such alcoholic beverage licenses by any alcoholic beverage control commission or other governmental authority or agency, pursuant to the License Agreement. Operator further covenants and agrees that upon termination of this Agreement, whether upon its expiration or at any sooner termination thereof, it shall execute any documentation and perform any other acts which may be reasonably necessary or appropriate to effect the transfer or issuance of an alcoholic beverage license to the subsequent owner or Operator of the Hotel, provided that Operator shall not incur liability or cost in connection with such transfer or issuance. Owner covenants and agrees to pay any and all costs (including reasonable attorney's fees) incurred by Operator or its designee in effecting the transfer or obtaining such licenses and such covenant and agreement shall survive the expiration or termination of this Agreement.

4.5 **Notice of Violations**. Operator shall promptly notify Owner in writing of any written notice received from any regulatory or governmental body regarding an actual or perceived violation of any Legal Requirements.

4.6 **Centralized Services**. To the extent not otherwise provided by Licensor pursuant to the terms and conditions of the License Agreement, Operator may provide or cause its affiliated companies to provide for the Hotel the benefit of certain reservation systems, centralized accounting services, IT services, purchasing services, revenue management services, training, satisfaction surveys, and/or other centralized services as may be made available generally to similar properties managed by Operator from time to time (individually and collectively, the "**Centralized Services**"). The cost of all Centralized Services ("**Centralized Services Charge**") shall be (a) set forth in the applicable Annual Operating Budget, (b) allocated to the Hotel on an equitable basis with all other hotels utilizing the Centralized Services of Operator or its Affiliates, (c) reimbursed to Operator on a cost reimbursement basis and without mark-up or profit to Operator, and (d) shall not exceed the costs which Owner otherwise would have incurred if such services otherwise were provided on-site at the Hotel, which costs may include, without limitation, salaries (including payroll taxes and employee benefits) of employees and officers of Operator and its Affiliates engaged in the provision of the Centralized Services, costs of all equipment employed in the provision of such Centralized Services, and a reasonable charge for the development costs of Operator or its Affiliates. The Centralized Services currently provided by Operator, along with the Centralized Services Charge as of the Effective Date, are described in Exhibit B attached hereto. The Centralized Services and the Centralized Services Charge shall be subject to change from time to time, subject to clauses (a)-(d) above.

4.7 **Multi-Property Programs**. Owner acknowledges and agrees that, subject to the applicable Annual Operating Budget, Operator may, in Operator's reasonable discretion, enter into certain purchasing, maintenance, service or other contracts with respect to the operation of

the Hotel and other hotels operated by Operator (collectively, "**Multi-Property Programs**") pursuant to which Operator or its Affiliates may receive rebates, discounts, cash or other incentives, administration fees, concessions, profit participations, stock or stock options, investment rights or similar payments or economic considerations (collectively, "**Operator Rebates**") from the vendors or suppliers of goods or services provided under such Multi-Property Programs. When taking bids or issuing purchase orders, Operator shall secure for, and shall credit to, Owner any Operator Rebates (less Operator's expenses related thereto) in connection with such purchase. Operator shall promptly remit to Owner's benefit in the Operating Account the value of all Operator Rebates (less Operator's expenses related thereto) received by Operator or any of its affiliates in connection with any purchases described herein.

ARTICLE 5
USE OF NAME

5.1 **Name**. During the Term of this Agreement, the Hotel shall at all times be known and designated by the name set forth in the applicable License Agreement or by such other name as from time to time may be approved by Owner. Operator shall make or cause to be made any fictitious name filings or disclosures required by the laws of the State with respect to the use of such name for or in connection with the Hotel.

ARTICLE 6
ADVERTISING

Subject to the provisions of the License Agreement, Operator shall arrange and contract for all advertising, which Operator may reasonably deem necessary, in accordance with Section 4.2, for the operation of the Hotel. So long as the License Agreement may be in effect, Operator generally shall advertise the Hotel under the name required by the License Agreement for the Hotel.

ARTICLE 7
RESERVE FOR FF&E

7.1 **Reserve for Replacement of FF&E**. The Reserve shall be funded pursuant to Section 7.2, and Operator shall be authorized to use amounts in the Reserve to pay for the cost of FF&E Expenditures and Capital Improvements.

7.2 **Transfers to Reserve for FF&E**. Commencing on the Commencement Date and continuing thereafter during the remainder of the Term, Operator shall deposit monthly into the Reserve for FF&E and Capital Improvements an amount equal to the amounts required by Lender and/or by Licensor; provided that in no event will the amounts to be deposited monthly into the Reserve be less than an amount equal to four percent (4%) of Gross Revenues throughout the Term.

7.3 **Annual Adjustment**. At the end of each Fiscal Year and following receipt by Operator of the annual accounting referred to in ARTICLE 10, an adjustment will be made if necessary and if available, so that the appropriate amount shall have been deposited in the Reserve for such Fiscal Year.

7.4 **Maintenance of Reserve**. The proceeds from the sale of FF&E no longer needed for the operation of the Hotel shall be deposited in the Reserve, but not credited against the obligation to deposit cash in such fund for the then current Fiscal Year. All interest earned or accrued on amounts invested from the Reserve shall be added to the Reserve (but shall not be credited against Owner's obligations to fund the Reserve), and shall not constitute Gross Revenues or be included therein.

7.5 **Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements**. Owner and Operator acknowledge and agree that portions of the Reserve may, from time to time in accordance with the then-current Annual Plan, be used for more significant expenditures than could be reserved for in a single year. Accordingly, at the end of each Fiscal Year, any amounts remaining in the Reserve shall be carried forward to the next Fiscal Year, and shall be in addition to the amount to be reserved in the next Fiscal Year. In the event at any time there are insufficient funds in the Reserve for any Fiscal Year to pay the cost of FF&E Expenditures in accordance with the Annual Plan, then Owner will, within thirty (30) days after request therefor by Operator, provide the additional funds to Operator to pay for such excess.

ARTICLE 8
REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS

8.1 **Repairs and Maintenance**. Operator shall, from time to time, make such expenditures from the Reserve (or, to the extent insufficient, from funds otherwise provided by Owner) for (a) FF&E Expenditures and (b) repairs and maintenance of HVAC, mechanical and electrical systems, exterior and interior repainting; resurfacing building walls and floors; resurfacing parking areas; replacing folding walls; and miscellaneous similar expenditures (collectively, "**Repairs and Maintenance**") as required by the License Agreement, any Mortgage, Legal Requirements, Annual Plan and otherwise in the condition required by this Agreement. Except in the event of an emergency, Force Majeure Event or otherwise under circumstances in which it would be unreasonable to seek to obtain prior approval (and provided that Operator shall notify Owner of any such expenditure within a reasonable time given the nature and scope of the emergency), all expenditures for the foregoing shall be as provided in the Annual Plan. If any such Repairs and Maintenance shall be made necessary by any condition against the occurrence of which Owner has received the guaranty or warranty of the builder of the Hotel or of any supplier of labor or materials for the Hotel or of any supplier of labor or materials for the construction of the Hotel, then Operator shall, at Owner's direction, invoke said guarantees or warranties in Owner's or Operator's name and Owner shall cooperate in all reasonable respects with Operator in the enforcement thereof.

8.2 **Capital Improvements**. Owner shall, from time to time, at its sole expense (which may include funds deposited in the Reserve), make such Capital Improvements in or to the Hotel as Owner shall determine are necessary to comply with the Operating Standards. If Capital Improvements shall be required at any time during the Term by the terms of the License Agreement, to maintain the Hotel in accordance with the Operating Standards or Legal Requirements, or because Operator and Owner jointly agree upon the desirability thereof, then in such event all such Capital Improvements shall be made with as little hindrance to the operation of the Hotel as reasonably possible. Notwithstanding the foregoing, as long as the Hotel can continue to operate without interruption, Owner shall have the right to contest the need for any

such Capital Improvements required by any Legal Requirements and may postpone compliance therewith, if so permitted by law and if such postponement will not expose Operator to any civil or criminal liability. All recommendations by Operator of Capital Improvements shall be submitted in conjunction with the Capital Budget for the Fiscal Year described in Section 4.2(b). In the event that Owner elects to perform Major Renovations to the Hotel, Owner may request Operator to oversee the performance of the Major Renovations, in which case the parties shall enter into an agreement for project management services in a form and on such terms and conditions (including the amount of any project management fees) mutually acceptable to both parties.

8.3 **Liens**. Owner and Operator shall cooperate and use all commercially reasonable efforts to prevent any liens from being filed against the Hotel that arise from any maintenance, changes, repairs, alterations, improvements, renewals or replacements in or to the Hotel.

8.4 **Notice of Force Majeure Event**. In the event of any occurrence constituting a Force Majeure Event, Operator shall promptly notify Owner of such occurrence and shall keep Owner informed as to the extent and impact thereof on the Hotel.

ARTICLE 9
WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH

9.1 **Working Capital**. Owner shall provide initial Working Capital in an amount equal to $1,000 per guest room at the Hotel. Owner shall at all times cause sufficient Working Capital to be on hand in the Operating Account. In no event shall Owner permit the Working Capital in the Operating Accounts to be less than an amount equal to the estimated monthly operating expenses of the Hotel for the ensuing sixty (60) day period, as reflected in the then current Annual Operating Budget. From time to time, upon fifteen (15) days prior written notice from Operator that such funds are required, Owner shall furnish to Operator funds that Operator deems reasonably necessary to assure that the Hotel shall have adequate Working Capital as herein provided.

9.2 **Depository Account**. All monies received by Operator in the operation of the Hotel shall be received in trust by Operator for the benefit of Owner and shall be deposited in a "**Depository Account**" in Owner's name, with certain of Owner's employees as authorized signatories, in a bank or trust company selected by Owner. Such monies shall not be commingled with other funds belonging to Operator and shall be swept on a daily basis into the Operating Account.

9.3 **Operating Account**. Owner and Operator shall also establish an Operating Account for paying the Hotel's expenses permitted herein to be charged to the Hotel and/or Owner. The Operating Account shall be in Owner's name, with Operator's employees as the authorized signatories, in a bank or trust company selected by Owner. Operator shall pay all Operating Expenses of the Hotel and amounts owed Operator and its Affiliates hereunder (including the Management Fee and Centralized Services Charges) out of the Operating Account. Checks drawn on the Operating Account or other documents of withdrawal from such accounts shall be signed by a designated representative of Operator approved by Owner. The Operating Account shall provide that, upon Owner's written direction, Operator and its representatives may be removed

as authorized signatories of such account but only upon termination of this Agreement. Owner shall make arrangements to deposit from the Depository Account into the Operating Account on a daily basis any money which is required to cover payments from the Operating Account permitted herein, including any payments for capital expenditures permitted herein. If Owner fails to do so and such failure continues for three (3) business days after notice from Operator, such failure shall be deemed an Owner Event of Default and Owner shall indemnify and hold Operator harmless from any loss or expense Operator might incur as a result of such deposit not having been made, and Operator may exercise its right to terminate pursuant to Section 15.2. All risk of loss with respect to funds in the Operating Account shall be borne by Owner.

9.4 **Distribution of Excess Cash**. Within twenty-five (25) days of the close of each Accounting Period, Operator shall distribute to Owner all sums remaining in the Operating Account in excess of the then Working Capital requirements of the Hotel determined in accordance with Section 9.1 of this Agreement.

9.5 **Lender Requirements**. The provisions of this ARTICLE 9 shall be subject to the requirements of any Lender. Operator will cooperate with all cash management and other similar requirements reasonably imposed by any Lender, provided such cash management or other requirements acknowledge that so long as Operator is managing the Hotel, Operator shall continue to receive payment of Management Fees, Reimbursable Expenses and payroll expenses as contemplated herein.

ARTICLE 10
BOOKS, RECORDS AND STATEMENTS

10.1 **Books and Records**. Operator shall keep full and adequate books of account and other records reflecting the results of operation of the Hotel in accordance with the Uniform System of Accounts and GAAP. The books of account and all other records relating to or reflecting the operation of the Hotel shall be kept either at the Hotel or at Operator's corporate offices and shall be available to Owner and its representatives and its auditors or accountants, at all reasonable times for examination, audit, inspection and transcription at Owner's sole cost and expense. All of such books and records pertaining to the Hotel shall be the property of Owner. Upon any termination of this Agreement, all of such books and records forthwith shall be turned over to Owner at a location designated by Owner so as to insure the orderly continuance of the operation of the Hotel, but such books and records shall thereafter be available to Operator at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years. In addition to the Hotel's books and records, Operator shall maintain Guest Data in accordance with its privacy policy and the License Agreement; provided, however, Owner and Operator shall jointly own all Guest Data, and each may use such Guest Data in any commercially reasonable manner that: (a) does not violate the terms of this Agreement, (b) during the Term of this Agreement, does not interfere with and/or is not detrimental to the operation or financial performance of the Hotel, and (c) does not violate any Legal Requirements applicable to the use of Guest Data.

10.2 **Financial Reports**.

(a) Operator shall deliver to Owner within twenty (20) days following the close of each Accounting Period a monthly profit and loss statement reflecting a comparison of periodic and year-to-date actual revenues and expenses with the Annual Operating Budget as well as a periodic and year-to-date comparison of such actual revenues and expenses with those of the prior Fiscal Year.

(b) Within seventy-five (75) days after the end of each Fiscal Year, Operator shall deliver to Owner an annual accounting, showing the results of operation of the Hotel during the Fiscal Year and a computation of Gross Revenues, Operating Expenses, and Gross Operating Profit, if any, and any other information necessary to make the computations required hereby or which may be requested by Owner, all for such Fiscal Year. The annual accounting for any Fiscal Year shall be controlling over the interim accountings for such Fiscal Year.

(c) Operator shall prepare and deliver any additional reports or information as Owner is required to provide under the License Agreement.

10.3 **Audits by Owner**. Owner shall have the right to audit, conducted either by Owner's internal personnel or by a third party auditor retained by Owner, at its expense and not as an Operating Expense of the Hotel (except as provided below), all items of expense and revenue under this Agreement including, but not limited to, Gross Revenues, Operating Expenses, depreciation, the Management Fee and the Reserve. Operator shall cooperate and assist with such audit. In the event that an audit reflects an underpayment to Owner or Operator or an overpayment to Operator or Owner, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the audit results to Operator, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. In the event any audit establishes that Operator has overstated or understated Gross Revenues or Operating Expenses by more than five percent (5%), the costs of such audit shall be paid for by Operator (and shall not be an Operating Expense of the Hotel).

10.4 **Accounting Services**. Subject to the provision of sufficient input, review, approval and signoff by Owner, during the Term, Operator (or its Affiliate) shall render certain accounting services to and on behalf of Owner, which shall include:

(a) separate from the Hotel books and records, the maintenance of Owner's corporate books of account, including without limitation capital accounting (to be performed under Operator's capitalization policy) and check cutting services with respect to Owner's FF&E account for the payment of FF&E Expenditures;

(b) the provision of financial reporting services, utilizing Operator's standard reports, which shall be delivered within the reporting deadlines required by Lender, but in no event less than twenty (20) days monthly, forty five (45) days quarterly and ninety (90) days annually;

(c) the making of all of Owner's required payments with respect to (i) any Mortgage (on behalf of Owner in satisfaction of Owner's obligations under Section 23.5), (ii) Taxes (as set forth in Section 13.1) and (iii) Insurance Costs (as set forth in Section 12.1);

(d) if applicable, the processing of Lender requisitions from the Reserve;

(e) coordination of deliverables for Lender reporting requirements;

(f) cooperation with an independent accounting firm approved in Owner's sole discretion in connection with securitization vehicle reporting deadlines and audit procedures under Regulation AB; and

(g) other related services as mutually agreed by Owner and Operator from time to time (collectively, the "**Accounting Services**").

In consideration for its provision of the Accounting Services hereunder, Operator shall receive the Accounting Services Fee, which amount shall be payable pursuant to Section **Error! Reference source not found.**, and which reflects Operator's cost reimbursement only, without mark-up or profit to Operator. In the event the scope of the Accounting Services is materially increased (including through use of reports other than Operator's standard forms), the Accounting Services Fee may be increased as mutually determined by the parties. Owner may elect at any time to terminate the Accounting Services by delivery of seventy five (75) days' prior written notice to Operator, in which event the date of termination of the Accounting Services will be the last day of the calendar quarter following the month in which Operator receives Owner's written notice of termination, and the Accounting Services Fee shall cease to be due from and after the date of such termination.

ARTICLE 11
MANAGEMENT FEES AND OTHER PAYMENTS

11.1 **Management Fee**. For each Fiscal Year or portion thereof, Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, subject to delivery of the monthly reports described in Section 10.2(a) (except with respect to the Incentive Fee, which, if due, shall be paid at the end of each calendar quarter upon the submission of the reports described in Section 10.2(b) with respect to such calendar quarter) in respect of its management services hereunder, a management fee calculated as follows (collectively, the "**Management Fee**"):

(a) a base fee (the "**Base Fee**") in an amount equal to two and one half percent (2.5%) of Gross Revenues in respect of any applicable period; plus

(b) an incentive fee (the "**Incentive Fee**") in an amount equal to fifteen percent (15%) of Adjusted GOP for such Fiscal Year. A sample calculation of the Incentive Fee is attached hereto as Exhibit C.

(c) Notwithstanding the forgoing, the aggregate Management Fee payable in any given Fiscal Year shall not exceed four percent (4%) of Gross Revenues for such Fiscal Year.

11.2 **Payment of Management Fee**. The Incentive Fee shall be computed separately for each Fiscal Year and shall not be accumulated from Fiscal Year to Fiscal Year. The Incentive Fee shall be prorated for any partial Fiscal Year (provided that in the event this Agreement is terminated due to an Event of Default by Operator, no Incentive Fee shall be payable with respect to the Fiscal Year in which such termination occurs). The Incentive Fee shall be adjusted, if necessary, within sixty (60) days after receipt by Owner of the annual accounting for such Fiscal

Year or receipt by Operator of Owner's documentation supporting the calculation of Owner's Priority Return. Upon request by Operator, Owner shall provide sufficient evidence and back up documentation to support Owner's calculation of Owner's Priority Return, including without limitation sufficient evidence and back up documentation to allow Operator to properly verify Owner's Invested Capital and Owner's Additional Invested Capital. Owner or Operator shall be entitled to audit the determination and calculation of the Management Fee. In the event that an audit reflects an underpayment or overpayment of the Management Fee to Operator, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the results of such audit to the other party, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. The calculation and payment of the Incentive Fee shall survive the termination of this Agreement.

11.3 **Other Payments**. Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, the Centralized Services Charges and Accounting Services Fee for each Accounting Period concurrently with the payment of the Base Fee at the end of each Accounting Period. Operator shall also receive reimbursement from Owner for those reasonable out of pocket costs actually incurred by Operator which are or were directly and exclusively related to transitional management services provided by Operator prior to the Commencement Date, as outlined in the Transition Budget attached hereto as Exhibit D (the "**Transition Budget**"). Additionally, Operator shall, in accordance with the Annual Plan, be entitled to reimburse itself directly from the Operating Account for all Reimbursable Expenses incurred by it in connection with the performance of this Agreement. If requested by Owner, Operator shall provide a statement showing in reasonable detail the nature and amount of such expenses, together with supporting documentation reasonably requested by Owner.

11.4 **Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards**. In the event of a casualty or condemnation for temporary use resulting in the payment of business interruption insurance (with respect to such casualty) or a condemnation award (with respect to such condemnation for temporary use), the amount of such proceeds shall be considered a part of Gross Revenues for the purpose of computing Operator's Management Fee, unless such Management Fees are paid directly to Operator by way of receipt of business interruption proceeds.

ARTICLE 12
INSURANCE

12.1 **Insurance Requirements**. Owner shall retain the right, upon written notice to Operator, to procure and maintain, as an Operating Expense of the Hotel, the policies required in subsections (a), (b), (c), (d), (e), (f), (g) or (l) of this Section 12.1 given, however, that such policies shall be placed with responsible and properly authorized companies, meet the minimum requirements as contained in this ARTICLE 12, the coverage provisions provided shall apply to Operator's benefit as provided in this Agreement, and with respect to subsection (l) of this Section 12.1, if there is a deficiency in the coverage of the Cyber Liability Insurance policy procured or maintained by Owner, Operator shall have the right to elect to procure Cyber Liability Insurance coverage addressing any such deficiency, as an Operating Expense of the Hotel. Operator will procure and maintain, as an Operating Expense of the Hotel, the policy required in subsection (h) of this

Section 12.1 with a responsible and properly authorized company that meets the minimum standards contained in this ARTICLE 12. Operator will procure and maintain, at Operator's sole cost and not as an Operating Expense of the Hotel, the policies required in subsections (i), (j) and (k) of this Section 12.1 with responsible and properly authorized companies that meet the minimum standards contained in this ARTICLE 12; provided, however, Operator shall only be responsible for the payment of the premiums for such policies as procured by Operator, and any deductibles payable in connection with any claim or loss, any losses suffered under such policies, or any other claims, costs or expenses associated with such policies, shall be borne by Owner. Notwithstanding Operator's agreement to pay the cost of the premiums associated with the policies required in subsections (i), (j) and (k), in the event Owner elects to modify the deductibles under such policies or otherwise adjust coverage under such policies and such modifications result in an increase in premium, Owner shall be responsible for any increase in premium associated with such modification. All policies evidencing such insurance in this ARTICLE 12 shall name both Owner and Operator as named or additional insureds as their interests may appear, and may, at Owner's election, name any mortgagee, lien holder or other security interest holder of all or any part of the Hotel as an additional insured thereunder, as its interest may appear. The party which procures the insurance required under subsections (d) and (e) of this Section 12.1 will procure such coverage on a primary and non-contributory basis to the other party.

(a) An "all risk" policy (including, at Owner's option, Difference in Conditions coverage which shall include earthquake, windstorm and flood) insuring all real and personal property, in an amount Owner and Operator shall mutually deem advisable.

(b) Insurance on the Hotel against loss or damage from an accident to and/or caused by boilers, heating apparatus, pressure vessels, pressure pipes, electrical or air conditioning equipment, in an amount as Owner shall deem advisable.

(c) Business interruption and extra expense insurance, on a loss sustained basis, against the perils enumerated in subsections (a) and (b) above, including Operator's Management Fees and the Centralized Services Charges as provided under this Agreement.

(d) Commercial General Liability Insurance, including coverage for bodily injury (including coverage for death, mental anguish), full liquor liability, inn keepers legal liability (this coverage can be provided through a 3rd party crime policy upon Owner consent), personal injury and advertising liability including premises-operations, independent contractors' protective, products-completed operations, broad form property damage (including coverage for explosion, collapse and underground hazards), and including cross liability and severability of interests, blanket contractual liability for liability and claims occurring upon, in on or about the Hotel and, without exclusion for assault, battery or sexual molestation. Coverage shall be extended to include liability arising out of spas, treatments, massages as applicable, with the following minimum limits:

(i) $1,000,000 Each Occurrence;
(ii) $2,000,000 General Aggregate;
(iii) $1,000,000 Personal and Advertising Injury; and
(iv) $2,000,000 Products-Completed Operations Aggregate.

Such policy shall provide coverage on a on a per occurrence basis and be endorsed to have the General Aggregate apply on a per location/ per project basis. The Contractual Liability Insurance shall include coverage sufficient to meet the indemnity obligations in this Agreement.

(e) Umbrella/Excess Liability Insurance on a follow form basis with a per occurrence and annual aggregate limit of $100,000,000 per location / project. Coverage shall be excess of Commercial General Liability Insurance, Auto Liability and Employers Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

(f) Comprehensive Automobile Liability Insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage for automobiles used in the performance of Operator's obligations hereunder.

(g) Such additional insurance as may be required by any mortgagee or lessor of the Hotel or any part thereof, together with insurance against such other risks as Owner deems necessary and that is now, or hereafter is, customary to insure against in the operation of similar properties, considering the nature of the business and the geographic and climatic nature of the Hotel's location.

(h) Worker's Compensation coverage with statutory limits and employer's liability with limits not less $1,000,000 and similar insurance as may be required by law or as Operator shall deem advisable.

(i) Employment Practices Liability Insurance in amounts not less than $2,000,000 covering employee harassment, discrimination, retaliation, wrongful termination. Such policy shall contain an endorsement to provide for coverage relating to claims from third parties, with coverage including but not limited to third party discrimination.

(j) Fidelity or Crime insurance in such reasonable amounts as Owner and Operator shall deem advisable but not less than $1,000,000, which policy shall specify that any loss involving funds of Owner shall be payable to both Operator and Owner with Owner as primary loss payee. A contracting services endorsement or other endorsement to provide for coverage of employees of Operator taking money or property of Owner or guests shall be attached to said policy.

(k) Professional Liability (Errors and Omissions) Insurance in amount not less than $2,000,000 covering the management, marketing, and hospitality services provided on behalf of the Hotel by Corporate Personnel.

(l) Cyber Liability Insurance with limits of not less than $2,000,000 each claim and $2,000,000 general aggregate covering liabilities for financial loss resulting or arising from website media content liability, breaches of security, and damage, destruction or theft of data. If Operator shall have access to personally identifiable information, such insurance shall also cover liabilities for the failure to prevent unauthorized access to data containing such information including violations of privacy laws and regulations. Furthermore, the insurance shall cover data breach expenses, including but not limited to consumer notification, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring

or remediation services. The coverage shall be written on a claims made and reported basis. Operator's insurance shall be primary and required to respond to and pay prior to any other available coverage of Owner.

Owner and Operator may agree for Operator to procure and maintain the policies required in subsections (a), (b), (c), (d), (e), (f) or (g) of this Section 12.1, as an Operating Expense to the Hotel, on Owner's behalf and upon Owner's approval. Operator shall cause each contractor employed at the Hotel to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Commercial General Liability Insurance and Worker's Compensation limits required above. Operator shall cause each contractor to include the same additional insured requirements and certificates of insurance as noted above for Operator.

12.2 **General Insurance Requirements.**

(a) Certificates of insurance, containing all conditions applying to the Hotel, shall be delivered to Owner or Operator, as applicable, upon renewal of all policies of insurance that must be maintained under the terms of this Agreement. All policies shall contain an endorsement providing a thirty (30) day written notice of cancellation, material change, or non-renewal to Owner and Operator.

(b) Each policy of insurance shall provide that the carrier shall have no right of subrogation against either party hereto, their agents or employees by separate endorsement.

(c) No deductible or self-insured retention required by Operator hereunder shall exceed $25,000 unless written consent is provided by Owner; provided, however, that:

(i) those policies associated with Sections 12.1(h) or (k) shall be excluded;

(ii) with respect to the policy associated with Section 12.1(j), the deductible or self-insured retention required by Operator hereunder shall not exceed $50,000 unless written consent is provided by Owner;

(iii) with respect to the policy associated with Section 12.1(l), the deductible or self-insured retention required by Operator hereunder shall not exceed $150,000 unless written consent is provided by Owner;

(iv) with respect to the policy associated with Section 12.1(i), the deductible or self-insured retention required by Operator hereunder shall not exceed $250,000 unless written consent is provided by Owner; and

(v) in the event Owner elects to modify the deductibles of those policies associated with Section 12.1(i), (j), or (l), or otherwise adjust the coverage under such policies, and such modifications or adjustments result in an increase in the premium, Owner shall be responsible for any increase in the premium associated with such modification or adjustment.

(d) All insurance shall be written with companies approved by Owner, licensed in the state in which the Hotel is located and having a Best's Rating of not less than A-XI, unless otherwise approved by Owner.

(e) At Owner's request, Operator shall provide information pertaining to Operator's policies and procedures governing claims, emergency preparedness, and loss prevention. This is to include regular reports on claim and insurance litigation activity at the Hotel.

(f) Any insurance required to be provided pursuant to this ARTICLE 12 may be provided under policies of blanket insurance which cover other properties and activities of Owner or Operator, as applicable. The cost of any blanket coverage shall be equitably prorated among the properties and activities covered, provided that the portion of such cost allocated to the Hotel shall be no greater than if the same insurance coverage were written separately. Upon request, any such proration by Owner or Operator of blanket coverage shall be subject to the reasonable approval of the other party.

(g) The parties acknowledge that, as of the Effective Date, Operator will not provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program; provided, however, that Owner may elect to have Operator provide such insurance at any time during the Term, in which case the provisions of this Section 12.2(g) shall apply. If at any time during the Term, Owner elects to have Operator provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program, certain coverage limits will be shared with other properties owned and/or managed by Affiliates of Operator. Owner agrees that if there is a loss at the Hotel that results in a reduction of the amount of insurance coverage with respect to other properties covered by such master property insurance program, all costs of reinstating the full amount of coverage with respect to such other properties to the coverage that was available for such other properties under such master property insurance program immediately prior to such loss at the Hotel shall be borne by Owner as an expense of the Hotel. Conversely, if there is a loss at another property covered by such master insurance program that results in a reduction of the amount of insurance coverage with respect to the Hotel, all costs of reinstating the full amount of coverage with respect to the Hotel shall not be borne by Owner as an expense of the Hotel, but shall be borne by Operator or the owner of the applicable property that suffered such loss. The obligations of Owner and/or Operator pursuant to this Section 12.2(g) shall survive (i) the expiration or termination of this Agreement or termination of similar agreements, if any, related to Operator's affiliated properties on the shared program; and (ii) any election of Owner or Operator to remove the Hotel from the master insurance program and/or the removal of any of Operator's affiliated properties from the shared master insurance program. Owner and Operator agree to use commercially reasonable efforts in reinstating the coverage limits to the amount of coverage available immediately prior to such loss; provided, however, Owner and Operator shall be required, at a minimum, to reinstate the amounts of coverage necessary to comply with the requirements of any third party mortgagee or franchisor of the properties covered by the master insurance program. Notwithstanding the foregoing, (A) after a loss the relevant party will only be required to reinstate coverage, if any, up to an amount that results in a total amount of coverage that is sufficient for all properties under the program that are also obligated to a reinstatement provision, if Owner and Operator mutually agree at their sole discretion that the remaining amount of coverage is sufficient; provided if Owner and Operator do not mutually agree, an independent third-party consultant (i.e., a consultant who has not had any

direct relationship with either party in the preceding twenty-four (24) month period) selected by Operator will make such determination, (B) the amount of coverage to be reinstated by the relevant party will be limited to what is sufficient only for the properties in Operator's master shared insurance program that are obligated by the same reinstatement provisions per this Section 12.2(g) and (C) the maximum amount of lost shared limit to be reinstated by the relevant party after a loss will be equal to the amount of lost shared limit that was lost due to a loss at the relevant party's property. Owner also agrees that it shall bear as an expense of the Hotel all costs for any additional limits or coverages that may be requested by Owner that are above the limits in such master insurance program. Owner may elect to remove the Hotel from Operator's master insurance program upon thirty (30) days prior written notice (or upon three (3) business days prior written notice if such termination is effective on the annual renewal date of such master insurance program). Any premium prepaid by Owner for such terminated coverage shall be credited to Owner in an amount calculated by the insurance carrier in its sole and absolute discretion. Operator will use reasonable efforts to give written notice to Owner within ten (10) business days after any property is added or removed from Operator's shared master insurance program and will confirm the same upon request by Owner.

ARTICLE 13
REAL AND PERSONAL PROPERTY TAXES; UTILITIES

13.1 **Taxes**. Operator shall pay, for and on behalf of Owner from funds of the Hotel, all real estate taxes, all personal property taxes and all betterment assessments levied against the Hotel or any of its component parts. Operator shall promptly deliver to Owner all notices of assessments, valuations and similar documents to be filed by Owner, which are received from taxing authorities by Operator.

13.2 **Utilities, Etc**. To the extent sufficient funds are available in the Operating Account or otherwise made available in a timely manner by Owner, Operator shall promptly pay all fuel, gas, light, power, water, sewage, garbage disposal, telephone and other utility bills currently as they are incurred in connection with the Hotel from the Gross Revenues or Working Capital.

ARTICLE 14
DAMAGE OR DESTRUCTION; CONDEMNATION

14.1 **Damage or Destruction**.

(a) If the Hotel or any portion thereof shall be damaged or destroyed at any time or times during the Term by fire, casualty or any other cause commonly covered by fire and extended coverage insurance, to the extent required or permitted by any Lender and to the extent insurance proceeds are made available by Lender for such purpose, Owner will at its own cost and expense and with due diligence, repair and/or restore the Hotel so that after such repair and/or restoration, the Hotel shall be in substantially the same condition as it was immediately prior to such damage or destruction.

(b) Owner shall notify Operator within thirty (30) days after Owner determines whether or not Lender will permit, and make insurance proceeds available to carry out, such repair and/or

restoration, in which case Owner shall complete such repair and/or restoration pursuant to the last sentence of Section 14.1(a).

(c) If Owner advises Operator as provided in clause (b) above that Lender will not permit, and make insurance proceeds available to carry out, such repair and/or restoration, or fails to advise Operator as provided in clause (b) above, Operator may terminate this Agreement by written notice to Owner, within one hundred fifty (150) days after such damage or destruction, in which case, Owner shall pay to Operator the Termination Fee (provided Owner's obligation to pay the Termination Fee shall be limited to the extent of insurance proceeds which are made available to pay such Termination Fee).

14.2 **Condemnation**. If the whole of the Hotel shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition or like proceeding by any competent authority or if such a portion thereof shall be taken or condemned as to make it imprudent or unreasonable, in the sole opinion of Owner, to use the remaining portion as a hotel of the type and class immediately preceding such taking or condemnation, then this Agreement shall terminate as of the date title vests in the condemning authority. Operator has no interest in any award paid to Owner; however, Operator shall have the right, in the case of a condemnation that results in the termination of this Agreement, to institute a separately available administrative proceeding or judicial action intended to determine just compensation in connection with the condemnation, for the purpose of representing Operator's compensable interest in this Agreement. If only a part of the Hotel shall be taken or condemned and the taking or condemnation of such part does not, in the opinion of Owner, make it unreasonable or imprudent to operate the remainder as a hotel of the type and class immediately preceding such taking or condemnation, this Agreement shall not terminate, and so much of any award to Owner shall be made available as shall be reasonably necessary for making alterations or modifications of the Hotel, or any part thereof, so as to make it a satisfactory architectural unit as a hotel of similar type and class as prior to the taking or condemnation.

14.3 **Reinstatement**. If within twelve (12) months following any termination of this Agreement pursuant to Section 14.1 or 14.2, Owner or any of its Affiliates intends to commence repair and/or restoration of the Hotel, Owner shall promptly give notice to Operator in writing of such intention, and at Operator's election (exercisable by giving written notice to Owner within thirty (30) days of the date upon which Operator receives such notice from Owner), this Agreement shall be deemed reinstated in accordance with all the terms and conditions hereof (and Operator shall repay to Owner any Termination Fee received by Operator within ten (10) days after the Hotel is substantially re-opened). Operator's duties shall be suspended until the Hotel is substantially reopened and the termination date (and Term) shall be extended to reflect the period of time the Hotel is closed. The provisions of this Section 14.3 shall survive the expiration or termination of this Agreement.

14.4 **Mortgage Requirements**. Actions as to damage or destruction and condemnation shall be taken only in a manner that is consistent with the terms and conditions of any Mortgage and any conflict between those terms and conditions and the provisions of this Agreement shall be resolved in favor of such Mortgage.

ARTICLE 15
EVENTS OF DEFAULT

15.1 **Operator Defaults**. Each of the following shall constitute an Event of Default by Operator:

(a) The failure of Operator to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions to be kept, observed or performed by Operator and such failure shall continue for a period of (i) ten (10) days after written notice from Owner to Operator with respect to payment of any funds or delivery of any of the financial reports required under Section 10.2, or (ii) thirty (30) days after written notice from Owner to Operator with respect to any other obligations of Operator under this Agreement; provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Operator commenced the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion, not to exceed in any event ninety (90) days after Owner's delivery of such notice.

(b) If Operator shall apply for or consent to the appointment of a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Operator in any bankruptcy, reorganization or judgment or decree shall be entered by any court of competition jurisdiction, on the application of a creditor, adjudicating Operator bankrupt or insolvent or approving a petition seeking reorganization of Operator or appointing a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets or a decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(c) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Operator, or Operator shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(d) The filing against Operator of a petition seeking adjudication of Operator as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Operator's assets, if such petition is not dismissed within ninety (90) days.

(e) Failure of Operator to maintain at all times throughout the term hereof all of the insurance required to be maintained by Operator under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Owner to Operator.

15.2 **Owner Defaults**. Each of the following shall constitute an Event of Default by Owner:

(a) The failure of Owner to pay or furnish to Operator any money Owner is required to pay or furnish to Operator in accordance with the terms hereof on the date the same is payable, if such failure is not cured within ten (10) days after written notice specifying such failure is given by Operator to Owner. If any sum of money is not paid within ten (10) days following the date the same becomes due and payable under this Agreement, and Operator has advanced such sum on behalf of Owner, such sum shall bear interest at the Default Rate from the date Operator advanced

such sum on behalf of Owner until the date Owner actually pays such sum. If the failure to pay relates to the Management Fee, such sum shall bear interest at the Default Rate from the date due until the date actually paid.

(b) The failure of Owner to perform, keep or fulfill any of the other covenants, undertakings, obligations or conditions set forth in this Agreement (other than a failure to pay or furnish to Operator any money Owner is required to pay or furnish to Operator), including without limitation, the failure of Owner to respond to written requests by Operator to approve expenditures or to authorize procedures necessary to maintain the standards of the Hotel in accordance with the Operating Standards, if such failure shall continue for a period of thirty (30) days after written notice by Operator or Licensor to Owner specifying the matters or conditions which constitute the basis for such Event of Default, provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Owner commences the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion.

(c) If Owner shall apply for or consent to the appointment of a receiver, trustee or liquidator of Owner of all or a substantial part of its assets, or admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Owner in any bankruptcy, reorganization or insolvency proceeding, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating Owner a bankrupt or insolvent or approving a petition seeking reorganization of Owner or appointing a receiver, trustee or liquidator of Owner or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(d) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Owner, or Owner shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(e) The filing against Owner of a petition seeking adjudication of Owner as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Owner's assets, if such petition is not dismissed within ninety (90) days.

(f) Failure of Owner to maintain at all times throughout the term hereof all of the insurance required to be maintained by Owner under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Operator to Owner.

ARTICLE 16
TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES

16.1 **Termination**. Upon the occurrence of an Event of Default, in addition to and cumulative of any and all rights and remedies available to the non-defaulting party under this Agreement, at law or in equity, the non-defaulting party may: (a) terminate this Agreement without penalty, effective upon receipt of written notice of termination by the defaulting party; and (b) pursue any

and all other remedies available to the non-defaulting party at law or in equity. In addition to and cumulative of the foregoing, upon the occurrence of any Event of Default on the part of Owner, all Management Fees, Reimbursable Expenses, Accounting Services Fees and all other sums then due and payable to Operator under this Agreement shall be immediately due and payable without notice. In no event shall the provisions of this Agreement with respect to the payment of a Termination Fee upon the termination of this Agreement under certain circumstances be construed as defining or limiting the amount recoverable by Operator from Owner by reason of any Event of Default on the part of Owner.

16.2 **Operator's Rights to Perform**.

(a) If Owner shall fail to make any payment or to perform any act required of Owner pursuant to this Agreement, Operator may (but shall not be obligated to), without further notice to, or demand upon, Owner and without waiving or releasing Owner from any obligations under this Agreement, make such payment (either with its own funds or with funds withdrawn for such purpose from the Operating Accounts) or perform such act. All sums so paid by Operator from its own funds, together with interest thereon at the Default Rate from the date of making such expenditure by Operator, shall be payable to Operator on demand.

(b) Operator shall have the right to set-off against any payments to be made to Owner by Operator under any provision of this Agreement and against all funds from time to time in the Operating Accounts any and all liabilities of Owner to Operator. Operator may withdraw from the Operating Accounts from time to time such amounts as Operator deems desirable in partial or full payment of all or any portion of said liabilities, the amount of such withdrawals to be paid by Owner to Operator on demand and to be replaced in the respective account and fund.

(c) Owner shall have the right to set-off against any payments to be made to Operator by Owner any amounts owed by Operator to Owner under this Agreement.

ARTICLE 17
OWNER'S ADDITIONAL TERMINATION RIGHTS

17.1 **Termination on Sale**. If at any time during the Term, Owner sells, leases or otherwise transfers or conveys (a) the Hotel, or (b) seventy-five percent (75%) or more of the direct or indirect interests in Owner, in each case to a person or entity which is not an Affiliate of Owner in a bona fide arm's length transaction, Owner shall have the right to terminate this Agreement by giving prior written notice (the "**Sale Termination Notice**") to Operator; provided that if such transfer shall occur at any time prior to the third (3rd) anniversary of the Commencement Date, Owner shall pay to Operator, as a condition of such termination, the Termination Fee, subject to Section 21.2. The Sale Termination Notice shall set forth an estimate of the effective termination date of this Agreement, which date shall not be less than sixty (60) days subsequent to the date of the Sale Termination Notice. The actual termination shall be effective as of the closing of the sale, regardless of the estimate provided in the Sale Termination Notice. Accordingly, Owner shall, upon reasonable notice, have the right to extend the effective date of such termination for a reasonable period of time based on delays in the closing, provided that Owner shall pay all actual costs reasonably incurred by Operator in postponing the effectiveness of such termination. As a further condition of any termination of this Agreement by Owner under this Section 17.1, Owner

shall pay to Operator, on or before the effective date of such termination all amounts due Operator and its Affiliates under this Agreement for the period of time prior to the date of termination.

17.2 **Performance Termination**.

(a) Subject to the provisions of this Section 17.2, Owner may terminate this Agreement in accordance with the procedure described below, if for any full Fiscal Year from and after the expiration of Fiscal Year 2019 (i.e., commencing with Fiscal Year 2020) (each a "**Measurement Year**"), subsections (i) and (ii) below are applicable for such Measurement Year (collectively, the "**Performance Test**"):

(i) the Gross Operating Profit for such Measurement Year is less than ninety percent (90%) of the budgeted Gross Operating Profit set forth in the approved Annual Operating Budget for such Measurement Year (the "**GOP Test**"); and

(ii) the RevPAR of the Hotel for such Measurement Year is less than the following percentage of the annualized RevPAR for the Competitive Set (the "**RevPAR Test**"): (A) for Fiscal Year 2020, one hundred and ten percent percent (110%); (B) for Fiscal Year 2021, one hundred and fifteen percent (115%); (C) for Fiscal Year 2022, and every Fiscal Year thereafter for the remainder of the Term, one hundred and twenty percent (120%).

(b) If the Performance Test is not satisfied and Owner elects to exercise its right to terminate this Agreement pursuant to this Section, (i) Owner shall give written notice to Operator of such election within sixty (60) days after the receipt by Owner of the annual accounting (as set forth in Section 10.2) for such Measurement Year; and (ii) the notice shall specify a termination date no sooner than ninety (90) days after the giving of such notice. No Termination Fee shall be payable upon any termination of this Agreement pursuant to this Section 17.2. Within sixty (60) days following its receipt of Owner's notice of termination, Operator may elect, which election may be exercised only once during the Term, to pay to Owner an amount which, when added to the actual aggregate amount of the Gross Operating Profit for the Measurement Year in question, equals the amount of Gross Operating Profit that would have been necessary to satisfy the GOP Test for such Measurement Year. Upon such payment, the Performance Test shall be deemed to have been satisfied for such Measurement Year, Owner shall not have a right to terminate this Agreement based upon such Measurement Year and Owner's election to do so shall be of no further force and effect.

(c) In the event that there is a Threshold Adjustment Event, Owner and Operator will reasonably cooperate to equitably adjust the GOP Test and the RevPAR Test, as applicable. If the parties cannot agree as to the equitable adjustment within thirty (30) days following written request for adjustment by either party, the matter will be submitted to an Expert, as provided and in accordance with the procedures set forth in Section 27.1.

ARTICLE 18
TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION

18.1 **Transfer to Owner**. Upon any termination of this Agreement, whether due to the occurrence of an Event of Default or otherwise, Operator shall cooperate with Owner and shall execute all documents or instruments requested by Owner in connection with the transfer to

Owner or its nominee of the Permits and the License Agreement used or useful in connection with the operation of the Hotel (including without limitation executing any interim beverage agreement or similar agreement reasonably required to allow alcoholic beverages to continue to be sold at the Hotel after such termination in accordance with Legal Requirements pending issuance of temporary or new Permits with respect to such sales to Owner or its designee, so long as such successor Owner provides Operator with an indemnity, in form and substance reasonably acceptable to Operator, indemnifying Operator from any and all claims and liability associated with such interim agreements and continued use of such Permits); provided, however, if such termination is due to a reason other than a default by Operator under this Agreement, Owner will reimburse Operator for Operator's reasonable expenses to effect such transfer, or the imposition of liability by Operator. Without limiting the generality of the foregoing, Operator shall cause its officials to execute any necessary documents to effectuate the orderly transfer to Owner or its designee of the Permits and the License Agreement or the renewal thereof to Owner or Owner's designee if appropriate. In the event that this Agreement terminates for any reason, a sufficient number of Hotel Employees will be hired by Owner or its successor, assign or designee, so as not to cause a "mass layoff" or "plant closing", as defined in the Workers Adjustment and Retraining Act, 29 USC, sec 2101 et seq. (the "**WARN Act**"). Owner hereby agrees to indemnify, defend and hold Operator harmless from and against any and all claims asserted against or incurred by Operator related to: (a) hiring, discharging, offering to hire or failing to hire any of the Hotel Employees; (b) termination of the Hotel Employees by reason of the termination of this Agreement; or (c) Owner's failure to take, or cause to be taken, the action necessary with respect to Hotel Employees so that Operator will not be required to comply with the WARN Act or any other similar Legal Requirements.

18.2 **Remittance to Owner**. Upon the expiration or termination of this Agreement, after payment of all Operating Expenses for which bills were received to such date, Operator's Management Fee, Reimbursable Expenses, Accounting Services Fee, any Termination Fee and any other amounts then due and payable to Operator, and after withholding a reasonable amount determined by Operator to be necessary to pay for any continuing liabilities or payables that may become due following such termination, all remaining amounts in: (a) the Reserve and (b) the Operating Account, shall be transferred by Operator to Owner.

ARTICLE 19
NOTICES

All notices, elections, acceptances, demands, consents and reports (collectively "**notice**") provided for in this Agreement shall be in writing and shall be given to the other party at the address set forth below or at such other address as any of the parties hereto may hereafter specify in writing.

To Owner: c/o Wheelock Street Capital LLC
660 Steamboat Road, 3rd Floor
Greenwich, CT 06830
Attention: Lawrence Settanni
Email: settanni@wheelockst.com

With a copy to:

Goodwin Procter LLP
601 S. Figueroa Street, 41st Floor
Los Angeles, CA 90017
Attention: Chauncey Swalwell
Email: cswalwell@goodwinprocter.com

To Operator: Merritt Hospitality, LLC
101 Merritt 7 Corporate Park
1st Floor
Norwalk, Connecticut 06851
Attention: Clark W. Hanrattie
Email: chanrattie@heihotels.com

With a copy to:

Dentons LLP
2398 East Camelback Road, Suite 850
Phoenix, Arizona 85016
Attn: Rick Ross and Meghan Cocci
Phone: (602) 508-3900
Email: rick.ross@dentons.com and meghan.cocci@dentons.com

Such notice or other communication may be given by personal delivery, by Federal Express or other nationally recognized overnight carrier, by electronic mail, or by United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office. All notices, demands, consents and reports shall be deemed received upon acceptance or rejection of delivery.

ARTICLE 20
CONSENT AND APPROVAL

Except as herein otherwise provided, whenever in this Agreement the consent or approval of Operator or Owner is required, such consent or approval shall not be unreasonably withheld or delayed. Such consent or approval shall also be in writing only and shall be executed only by an authorized officer or agent of the party granting such consent or approval.

ARTICLE 21
TRANSFERS

21.1 **Transfers**. Except as herein otherwise provided, neither party may cause or permit a Transfer without the prior written consent of the other party (which consent may be withheld or conditioned in such other party's sole discretion); provided however, that either party shall be entitled to assign this Agreement (a) to an Affiliate of such party and (b) in connection with a corporate transaction involving such party in which all or substantially all of such party's assets are transferred to an Affiliate of such party. Operator shall have the right to assign its economic rights to receive payments under this Agreement (as opposed to a pledge of the ownership interests in Operator) as security for indebtedness or other obligations. Additionally, Operator

may transfer this Agreement and its rights hereunder to a successor by merger, sale of all or substantially all of its assets or interest in Operator, as applicable, or otherwise by operation of law.

21.2 **Assignability upon Sale**. Notwithstanding anything to the contrary in Section 21.1, if Owner decides to enter into a Sale of the Hotel with a third party, then at such time as Owner enters into a firm commitment for the Sale of the Hotel, Owner shall deliver a written notice (the "**Notice of Proposed Sale**") of the proposed Sale of the Hotel to Operator stating the name of the prospective purchaser or tenant, as the case may be, and, thereafter shall provide all other information concerning the proposed purchaser or tenant reasonably requested by Operator and which such purchaser or tenant has provided to Owner or Owner's Affiliates. Within fifteen (15) days of Operator's receipt of the Notice of Proposed Sale, Operator shall notify Owner of its election to either: (a) continue operating the Hotel following such Sale of the Hotel, or (b) terminate this Agreement. In the event Operator enters into an agreement to operate the Hotel following such Sale of the Hotel, Operator shall not have the right to receive the Termination Fee in connection with such Sale of the Hotel. In the event Operator does not enter into an agreement to operate the Hotel following the closing of the Sale of the Hotel Operator shall have the right to receive the Termination Fee.

21.3 **Prohibited Sale**. Notwithstanding anything to the contrary in Section 21.2, Owner may not cause or permit a Transfer to any Prohibited Person.

ARTICLE 22
INDEMNITY

22.1 **Indemnity by Owner**. Owner shall indemnify, defend and hold Operator, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Operator Indemnified Parties**") harmless for, from and against any and all third-party liabilities, claims, demands, actions, causes of action, judgments, orders, damages, costs, expenses, and losses (including reasonable attorney's fees and costs) (collectively, "**Claims**") which Operator Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from: (a) this Agreement, including the negotiation of or entering into this Agreement; (b) the development, construction, ownership and/or operation of the Hotel from and after the Effective Date, (c) any reporting to the IRS, Owner's lenders or any party relying on Owner's books and records by Owner or by Operator (on behalf of and as directed by Owner, in connection with Operator's provision of the Accounting Services pursuant to Section 10.4 of this Agreement); and (d) other activities relating to the Hotel, except to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.2 **Indemnity by Operator**. Operator shall indemnify, defend and hold Owner, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Owner Indemnified Parties**") harmless for, from and against any and all Claims which Owner Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from this Agreement, to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.3 **Indemnification Procedure**. Any Indemnified Party shall be entitled, upon written notice to the Indemnifying Party, to the timely appointment of counsel by the Indemnifying Party for the defense of any claim, which counsel shall be subject to the approval of the Indemnified Party. If, in the Indemnified Party's reasonable judgment, a material conflict of interest exists between the Indemnified Party and the Indemnifying Party at any time during the defense of the Indemnified Party, the Indemnified Party may appoint independent counsel of its choice for the defense of the Indemnified Party as to such claim. Additionally, regardless of whether the Indemnified Party is appointed counsel or selects independent counsel (a) the Indemnified Party shall have the right to participate in the defense of any claim and approve any proposed settlement of such claim, such approval to be in such party's sole and absolute discretion, and (b) all costs, expenses and attorneys' fees of the Indemnified Party shall be borne by the Indemnifying Party. If the Indemnifying Party fails to timely pay such costs, expenses and reasonable attorneys' fees, the Indemnified Party may, but shall not be obligated to, pay such amounts and be reimbursed by the Indemnifying Party for the same, which amounts shall bear interest at the Default Rate until paid in full. The parties hereby acknowledge that it shall not be a defense to a demand for indemnity that less than all claims asserted against the Indemnified Party are subject to indemnification. If a claim is covered by the Indemnifying Party's liability insurance, the Indemnified Party shall not take or omit to take any action that would cause the insurer not to defend such claim or to disclaim liability in respect thereof. Further, the Indemnified Party shall cooperate with the Indemnifying Party in the defense of the claim (at the Indemnifying Party's cost), shall not settle the claim without the consent of the Indemnifying Party, and shall not take any action which prejudices the defense of the claim.

22.4 **Survival/Miscellaneous**. The provisions of this ARTICLE 22 shall survive the expiration or earlier termination of this Agreement. Owner and Operator mutually agree for the benefit of each other to look first to the appropriate insurance coverages in effect pursuant to this Agreement in the event any claim or liability occurs as a result of injury to person or damage to property, regardless of the cause of such claim or liability. In no event shall the settlement by either party of any claim brought by a third party (including Hotel Employees) in connection with the ownership or operation of the Hotel be deemed to create any presumption of the validity of the claim, nor shall any such settlement be deemed to create any presumption that the acts or omissions giving rise to such claim constituted Operator's Grossly Negligent or Willful Acts.

ARTICLE 23
MISCELLANEOUS

23.1 **Further Assurances**. Owner and Operator shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding and enforceable as between them and as against third parties.

23.2 **Waiver**. The waiver of any of the terms and conditions of this Agreement on any occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasion.

23.3 **Successors and Assigns**. Subject to and limited by ARTICLE 21, this Agreement shall be binding upon and inure to the benefit of Owner, its successors and permitted assigns, and shall be binding upon and inure to the benefit of Operator, its successors and permitted assigns.

23.4 **Governing Law**. This Agreement shall be construed, both as to its validity and as to the performance of the parties, in accordance with the laws of the State of New York.

23.5 **Compliance with Mortgage and License Agreement**. In carrying out their respective duties and obligations under the terms of this Agreement, Owner and Operator shall take no action that could reasonably be expected to constitute a material default under any Mortgage or the License Agreement and will take such actions as are reasonably necessary to comply therewith. Owner shall be responsible for making all payments under any Mortgage.

23.6 **Amendments**. This Agreement may not be modified, amended, surrendered or changed, except by a written document signed by Owner and Operator agreeing to be bound thereby.

23.7 **Estoppel Certificates**. Owner and Operator agree, at any time and from time to time, as requested by the other party, upon not less than ten (10) days' prior written notice, to execute and deliver to the other a written statement (a) certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), (b) certifying the dates to which required payments have been paid, and (c) stating whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Agreement, and if so, specifying each such default of which the signer may have knowledge, it being intended that such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing.

23.8 **Inspection Rights**. Owner shall have the right to inspect the Hotel and examine the books and records of Operator pertaining to the Hotel at all reasonable times during the Term upon reasonable notice to Operator, and Owner and the holder of any Mortgage shall have access to the Hotel and the books and records pertaining thereto at all times during the Term to the extent necessary to comply with the terms of any Mortgage, all to the extent consistent with applicable Legal Requirements and the rights of guests, tenants and concessionaires of the Hotel, and all to the extent the same will not interfere with the operation and management of the Hotel.

23.9 **Subordination**. This Agreement, any extension hereof and any modification hereof shall be subject and subordinate to a Mortgage as provided therein. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, Operator will execute and return to Owner (or to Lender, as designated by Owner) such documentation as Owner or Lender may reasonably request to evidence the subordination of this Agreement to the Mortgage (and, if required by a Lender, the assignment of this Agreement to such Lender as additional security in connection with such Mortgage).

23.10 **Effect of Approval of Plans and Specifications**. Owner and Operator agree that in each instance in this Agreement or elsewhere wherein Operator is required to give its approval of plans, specifications, budgets and/or financing, no such approval shall imply or be deemed to constitute an opinion by Operator, nor impose upon Operator any responsibility for the design or construction of additions to or improvements of the Hotel, including but not limited to structural integrity or life/safety requirements or adequacy of budgets and/or financing. The scope of Operator's review and approval of plans and specifications is limited solely to the adequacy and relationship of spaces and aesthetics of the Hotel in order to comply with the Operating Standards.

23.11 **Entire Agreement**. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, superseding all prior agreements or undertakings, oral or written.

23.12 **Time is of the Essence**. Time is of the essence in this Agreement.

23.13 **Interpretation**. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

23.14 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement. Counterparts of this Agreement received by electronic transmission shall be deemed originals for all purposes.

23.15 **Partial Invalidity**. In the event that any one or more of the phrases, sentences, clauses or paragraphs contained in this Agreement shall be declared invalid by the final and unappealable order, decree or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses or paragraphs had not been inserted, unless such construction would substantially destroy the benefit of the bargain of this Agreement to either of the parties hereto.

23.16 **Confidentiality**. The parties agree that the terms, conditions and provisions set forth in this Agreement are strictly confidential and the parties agree to keep strictly confidential any information of a confidential nature about or belonging to a party or to any Affiliate of a party to which the other party gains or has access by virtue of the relationship between the parties (collectively, "**Privileged Information**"). Except as disclosure may be required to obtain the advice of professionals or consultants, or financing for the Hotel from a Lender, or in furtherance of a permitted assignment of this Agreement, or as may be required to comply with Legal Requirements (including reporting requirements applicable to public companies), each party shall make commercially reasonable efforts to ensure that Privileged Information is not disclosed to the press or to any other third party without the prior consent of the other party. Notwithstanding the foregoing, the parties hereby acknowledge that Operator shall have the authority to release information regarding the Hotel to STR, Inc. (or a similar organization mutually agreed upon by the parties). The obligations set forth in this Section shall survive any termination or expiration of this Agreement. The parties shall cooperate with one another on all public statements, whether written or oral and no matter how disseminated, regarding their contractual relationship as set forth in this Agreement or the performance of their respective obligations under this Agreement.

23.17 **No Third Party Rights**. This Agreement shall inure solely to the parties hereto. Notwithstanding any other provision of this Agreement, no third party shall have any rights pursuant to the terms of this Agreement.

ARTICLE 24
NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL

In entering into this Agreement, Operator and Owner acknowledge that neither Owner nor Operator has made any representation to the other regarding projected earnings, the possibility of future success or any other similar matter respecting the Hotel, and that Operator and Owner

understand that no guarantee is made to the other as to any specific amount of income to be received by Operator or Owner or as to the future financial success of the Hotel.

ARTICLE 25
REPRESENTATIONS OF OPERATOR

In order to induce Owner to enter into this Agreement, Operator does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Operator enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Operator, threatened, against or relating to Operator, the properties or business of Operator or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Operator to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Owner;

(c) neither the consummation of the transactions contemplated by this Agreement on the part of Operator or to be performed, nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Operator is a party or by which it is bound; and

(d) Operator is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action (such persons and entities being "**Prohibited Persons**").

ARTICLE 26
REPRESENTATIONS OF OWNER

In order to induce Operator to enter into this Agreement, Owner does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Owner enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Owner, threatened, against or relating to Owner, the properties or business of Owner or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Owner to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Operator;

(c) neither the consummation of the transactions contemplated by this Agreement by this Agreement on the part of Owner to be performed nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Owner is a party or by which it is bound; and

(d) Owner is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action.

ARTICLE 27
DISPUTE RESOLUTION

27.1 **Expert Determination**. Notwithstanding anything to the contrary in Section 27.2, any dispute, claim or issue arising under this Agreement with respect to: (a) the proper inclusion or exclusion of items in revenues, expenses and other financial computations contemplated herein, (b) the proper computation of the Base Fee, Incentive Fee, charges for Centralized Services, Accounting Services or Reimbursable Expenses, (c) disputes relating to the Annual Plan, including expenses related to satisfying Operating Standards, (d) disputes as to the Performance Test or changes in the Competitive Set, or (e) other matters as to which this Agreement expressly provides for dispute resolution by an Expert, shall be resolved in accordance with this Section by one Expert. Notwithstanding the foregoing, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The decision of the Expert shall be final and binding on the parties and shall not be capable of challenge, whether by arbitration, in court or otherwise, except to the extent of any manifest error in such Expert's determination. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. In the event the parties are unable to agree on an Expert or otherwise disagree as to whether the disputed matter qualifies for Expert determination, either party shall have the right, prior to submitting such matter to an Expert, to initiate the mediation and arbitration procedures contemplated below.

27.2 **Mediation/Arbitration**. Except with respect to the matters described in Section 27.1 above, if any claim, dispute or difference of any kind whatsoever (a "**Dispute**") shall arise out of or in connection with or in relation to this Agreement whether in contract, tort, statutory, or otherwise, and including any questions regarding the existence, scope, validity, breach or termination of this Agreement, the following procedures shall apply:

(a) The parties shall first attempt to settle such Dispute by participating in at least ten (10) hours of mediation, which mediation shall be administered by JAMS (or if JAMS no longer exists, another mutually acceptable alternative dispute resolution provider) (the "**ADR Provider**"). A designated individual mediator who is a member in good standing of the ADR Provider will then be mutually selected by the parties to conduct the mediation; provided that such mediator must have at least ten (10) years' experience as a mediator and must not have any conflict of interest with either party (the "**Mediator**"). If the parties are unable to agree upon the identity of the

Mediator within five (5) days after the complaining party has notified the other party that a Dispute exists, then, subject to the requirements of this Section, the ADR Provider shall select a qualified Mediator of its choosing who shall act as the Mediator of the Dispute. The mediation will be a nonbinding conference between the parties conducted in accordance with the applicable rules and procedures of the ADR Provider. The mediation shall take place in New York, New York. Neither party may initiate litigation or arbitration proceedings with respect to any Dispute until the mediation of such Dispute is complete; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any claims solely relating to: (i) preserving or protecting proprietary information, (ii) emergency or injunctive relief, (iii) enforcement of the dispute resolution provisions of this Agreement, or (iv) enforcement of the decision and/or award by any Expert or Arbitrator hereunder ("**Litigation Claims**"). Any mediation will be considered complete: (a) if the parties enter into an agreement to resolve the Dispute; or (b) if the Dispute is not resolved after completion of ten (10) hours of such mediation. The parties shall share equally in the cost of the mediation.

(b) If any Dispute remains between the parties after the mediation is complete, then the Dispute shall be submitted to final and binding arbitration pursuant to the procedures set forth in this Section; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The parties agree that the Arbitrator shall have the power to order equitable remedies, including specific performance and injunctive relief.

(c) An arbitral tribunal of one arbitrator (the "**Arbitrator**") shall be established in conformity with the Comprehensive Arbitration Rules and Procedures of JAMS or such other rules of a successor ADR Provider mutually agreed upon by the parties (the "**Rules**") in effect at the time such arbitration is commenced; provided, however, the parties agree that such Arbitrator shall have not less than ten (10) years' experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels). Each party shall appoint a person to appoint the Arbitrator within five (5) days of the date of a request to initiate arbitration, and the two appointed persons will then jointly appoint the Arbitrator (provided that the Arbitrator shall not be the same person as the Mediator) within ten (10) days thereafter. If the appointed persons or the Arbitrator is not appointed within the time limits set forth in the preceding sentence, such person(s) or Arbitrator shall be appointed by the ADR Provider (subject to the hospitality qualification standards set forth above). In rendering a decision hereunder, the Arbitrator shall take into account the Operating Standards of the Hotel and other applicable provisions of this Agreement.

(d) The arbitration, regardless of the amount in dispute, shall be conducted in accordance with the Rules. Any arbitration shall take place in New York, New York. The Arbitrator shall apply the substantive law of the State of New York. No party to any Dispute shall be required to join any other party as a party to the Dispute pursuant to the arbitration provisions set forth in this ARTICLE 27.

(e) The Arbitrator's monetary awards may include a requirement that the losing party bear reasonable attorneys' fees and costs of the arbitration proceeding, but, in no event shall award punitive or exemplary damages of any kind. Unless the Arbitrator determines otherwise, each

party to an arbitration proceeding shall be responsible for all fees and expenses of such party's attorneys, witnesses, and other representatives, and one-half of the other fees and expenses of the Arbitrator, and the other costs of the arbitration shall be allocated to and paid by (a) the party or parties initiating the respective arbitration proceeding, and (b) the party or parties against whom the respective arbitration proceeding is brought. The award rendered in any arbitration commenced hereunder shall be final and binding upon the parties, and each party hereby waives any claim or appeal whatsoever against it or any defense against its enforcement.

(f) The obligation to arbitrate under this Section is binding on the parties and their respective successors and assigns.

Until such time as a final determination of any Dispute is obtained pursuant to this Section and, notwithstanding any termination of or default under, or alleged termination of or default under, this Agreement, all parties to this Agreement involved in such Dispute shall remain liable for, and shall be required to continue to satisfy, their respective obligations under this Agreement.

27.3 **Survival**. This Section shall survive the expiration or termination of this Agreement.

ARTICLE 28
TERMINATION OF THE LICENSE AGREEMENT

Owner reserves and shall have the right in its sole discretion, at any time and without the consent or approval of (but with notice to) Operator, to terminate the License Agreement, provided, however, that Owner shall have no such right in order to establish its own independent operations, such as an operation without a franchise or license or in its own hotel name.

ARTICLE 29
RELATIONSHIP OF PARTIES

29.1 Owner and Operator acknowledge and agree that in operating the Hotel, entering into contracts, accepting reservations, and conducting financial transactions for the Hotel, Operator acts on behalf of and as agent for Owner with respect to the rights and obligations contemplated by this Agreement and assumes no independent contractual liability nor shall Operator be obligated to extend its own credit with respect to any obligation incurred in operating the Hotel or performing its obligations under this Agreement.

29.2 The relationship between the parties hereto shall be that of principal, in the case of Owner, and agent, in the case of Operator, with respect to the rights and obligations contemplated by this Agreement. Nothing contained in this Agreement shall constitute, or be construed to constitute or create, a partnership, joint venture or lease between Owner and Operator with respect to the Hotel. This Agreement is for the benefit of Owner and Operator and shall not create third-party beneficiary rights.

29.3 This Agreement shall be interpreted in accordance with general principles of contract interpretation without regard to the common law principles of agency (except as expressly provided for in this Agreement), and any liability between the parties shall be based solely on principles of contract law and the express provisions of this Agreement. To the extent any duties,

fiduciary or otherwise, that exist or may be implied for any reason whatsoever, including without limitation those resulting from the relationship between the parties, and including without limitation all duties of loyalty, good faith, fair dealing, care, full disclosure, or any other duty deemed to exist under the common law principles of agency or otherwise (collectively, the "**Implied Fiduciary Duties**"), are inconsistent with, or would have the effect of modifying, limiting or restricting the express provisions of this Agreement, the terms of this Agreement shall prevail.

29.4 For purposes of assessing Operator's duties and obligations under this Agreement, the parties acknowledge that the terms and provisions of this Agreement and the duties and obligations set forth herein are intended to satisfy any fiduciary duties which may exist between the parties. The parties also hereby unconditionally and irrevocably waive and release any right, power or privilege either may have to claim or receive from the other party any punitive, exemplary, statutory, or treble damages or any incidental or consequential damages with respect to any breach of the Implied Fiduciary Duties. Furthermore, Owner specifically consents to all transactions and conduct by Operator and its Affiliates described in this Agreement, including those set forth below, and waives any Implied Fiduciary Duties which Operator may owe to Owner now, or which may arise in the future, in connection with such transactions or conduct. Owner acknowledges and agrees that its consent to the transactions and conduct by Operator described in this Agreement, and its waiver of any Implied Fiduciary Duties otherwise owed by Operator: (a) has been obtained by Operator in good faith; (b) is made knowingly by Owner based on its adequate informed judgment as a sophisticated party after seeking the advice of competent and informed counsel; and (c) arises from Owner's knowledge and understanding of the specific transactions and actions or inactions of operators that are normal, customary, and reasonably expected in the hotel industry generally for this segment of the hotel industry.

The rest of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OWNER:

WS HAA Owner, LLC a Delaware limited liability company

By:_____
Name: _____
Title: _____

OPERATOR:

MERRITT HOSPITALITY, LLC, a Delaware limited liability company

By:_____
Name: _____
Title: _____

SCHEDULE 1

HOTEL COMPONENTS

1. Total Guest Rooms - approximately 507

2. Meeting Space - approximately 34,000 square feet and 11,000 square feet of pre-function space across 16 meeting rooms, including the 10,000 square foot grand ballroom and a 7,200 square foot junior ballroom

3. Food and Beverage Facilities - four (4) food and beverage outlets, which are, as of the Effective Date, known as Andiamo, Finish Line Sports Bar, Herb N' Kitchen, and Magnolia Grill, and in-room dining

4. Other Facilities - indoor and outdoor pools, fitness center, business center, private club level lounge

5. Parking - valet and paid self-parking

EXHIBIT A

DESCRIPTION OF PREMISES

[*Attached*]

EXHIBIT B

CENTRALIZED SERVICES

[*Attached*]

EXHIBIT C

SAMPLE INCENTIVE FEE CALCULATION

EXHIBIT D

TRANSITION BUDGET

Stock Inventory List

Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner/Manager_____

Name of Product	Number of Cases/Bottles in stock or in store as of date above	Price (i.e. $2.00/glass; $15.00/case)
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.		

Employee List

List ALL employees. Use full complete names (No initials). Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner _____

Name	Address/Phone	DOB	SSN	Employment Date	Position
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.					

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Effective Date: May 14th, 2019

Western Surety Company

LICENSE AND PERMIT BOND

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 64642660

That we, Merritt Hospitality, LLC dba Hilton Atlanta Airport

of Atlanta, State of Georgia, as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do surety business in the State of Georgia, as Surety, are held and firmly bound unto the City of Hapeville, State of Georgia, as Obligee, in the penal sum of Five Thousand and 00/100 DOLLARS ($5,000.00), lawful money of the United States, to be paid to the Obligee, for which payment well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal has been licensed Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City o

by the Obligee.

NOW THEREFORE, if the Principal shall faithfully perform the duties and in all things comply with the laws and ordinances, including all amendments thereto, pertaining to the license or permit applied for, then this obligation to be void, otherwise to remain in full force and effect until May 14th, 2020, unless renewed by Continuation Certificate.

This bond may be terminated at any time by the Surety upon sending notice in writing, by First Class U.S. Mail, to the Obligee and to the Principal at the address last known to the Surety, and at the expiration of thirty five (35) days from the mailing of said notice, this bond shall ipso facto terminate and the Surety shall thereupon be relieved from any liability for any acts or omissions of the Principal subsequent to said date. Regardless of the number of years this bond shall continue in force, the number of claims made against this bond and the number of premiums which shall be payable or paid, the Surety's total limit of liability shall not be cumulative from year to year or period to period, and in no event shall the Surety's total liability for all claims exceed the amount set forth above. Any revision of the bond amount shall not be cumulative.

Dated this 15th day of May, 2019.

Merritt Hospitality, LLC DBA Hilton Atlanta Airport
Principal

Principal

WESTERN SURETY COMPANY

By
Paul T. Bruflat, Vice President

Form 532-12-2015

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City of Hapeville

bond with bond number 64642660

for Merritt Hospitality, LLC dba Hilton Atlanta Airport
as Principal in the penalty amount not to exceed: $ 5,000.00.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

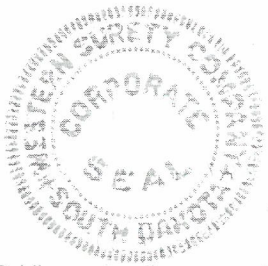
In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 15th day of May, 2019.

ATTEST

L. Nelson
L. Nelson, Assistant Secretary

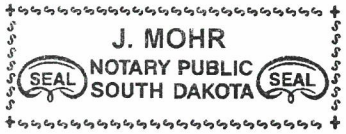
WESTERN SURETY COMPANY

By Paul T. Bruflat
Paul T. Bruflat, Vice President



STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires June 23, 2021

J. Mohr
Notary Public

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.

Form F1975-1-2016

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, the undersigned officer, personally appeared Paul T. Bruflat, who acknowledged himself to be the aforesaid officer of WESTERN SURETY COMPANY, a corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

M. Bent
Notary Public — South Dakota

My Commission Expires March 2, 2020

ACKNOWLEDGMENT OF PRINCIPAL
(Individual or Partners)

STATE OF Connecticut }
COUNTY OF Fairfield } ss

On this 20th day of May, 2019, before me personally appeared Anthony Rutledge, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

My commission expires September 30, 2012

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL
(Corporate Officer)

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, _____, before me personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

My commission expires

_____, _____

Notary Public

Western Surety Company

License or Permit No. _____

LICENSE AND PERMIT BOND

As _____ of _____

State of _____

Name of Applicant

Address

Filed _____, _____

Approved this _____ day of _____, _____

Control No. 11028875

STATE OF GEORGIA

Secretary of State

Corporations Division
315 West Tower
#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF AUTHORITY

I, **Brian P. Kemp**, the Secretary of State and the Corporations Commissioner of the State of Georgia, hereby certify under the seal of my office that

MERRITT HOSPITALITY, LLC
a Foreign Limited Liability Company

has been duly formed under the laws of Delaware and has filed an application meeting the requirements of Georgia law to transact business as a foreign Limited Liability Company in this state.

WHEREFORE, by the authority vested in me as Secretary of State, the above Limited Liability Company is hereby granted, on **04/08/2011**, a certificate of authority to transact business in the State of Georgia as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said application.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on April 8, 2011

Brian P. Kemp
Secretary of State

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SMILEZZZZ, LLC", CHANGING ITS NAME FROM "SMILEZZZZ, LLC" TO "MERRITT HOSPITALITY, LLC", FILED IN THIS OFFICE ON THE TWELFTH DAY OF FEBRUARY, A.D. 2004, AT 4:23 O'CLOCK P.M.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3448162 8100

040101165

AUTHENTICATION: 2929713

DATE: 02-13-04

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF FORMATION

OF

SMILEZZZZ, LLC

Smilezzzz, LLC (the "LLC") is a limited liability company organized under the Delaware Limited Liability Company Act, 6 Del. C. §§18-101 et seq. (the "Act") on October 19, 2001. This Certificate of Amendment to the Certificate of Formation of the LLC, dated as of February 12, 2004, is duly executed and filed by the undersigned, as a duly authorized person, for the purpose of amending the Certificate of Formation of the LLC pursuant to Section 18-202 of the Act.

FIRST, the name of the LLC as set forth on the first Certificate of Amendment of the Certificate of Formation of the LLC is "Smilezzzz, LLC"

SECOND, the Certificate of Formation of the LLC is hereby amended to reflect that the name of the LLC shall now be "Merritt Hospitality, LLC."

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of the date first written above.

David McCaslin,
Authorized Person

LIBC/1025382.2

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:34 PM 02/12/2004
FILED 04:23 PM 02/12/2004
SRV 040101165 – 3448162 FILE

Printed 05/15/19 13:35

TIMES JOURNAL, INC.

P.O. BOX 1633
ROME GA 30161-1633

PHONE: 770-428-9411
FAX: 1888

Advertising Payment Receipt

Account number:	200382	**Credit Card #:**	**********6000
Account name:	SARD & LEFF LLC 3789 ROSWELL ROAD ATLANTA GA 30342	**Approval Code:**	180878[264451343]
		Credit Holder Name:	
Phone number:	770-644-0800		
Payment number:	184457		
Payment date:	05/15/19		
Amount:	240.24		
Payment description:	CREDIT CARD PAYMENTS		

Ad Number:	171911	**Class Code:**	A
Ad Taker:	jdoll	**Salesperson:**	M208
First Words:	MERRITT		

Legal Advertisement

On Premise Consumption

Applications have been made by Merritt Hospitality, LLC at 1031 Virginia Avenue, Atlanta, GA 30354 for the issuance of 2019 Alcohol Beverage On-Premise Consumption of Beer, Wine and Liquor. WS HAA Owner, LLC (hotel owner) and Edward M. Walls (hotel manager).

☐ **PROOF O.K. BY:** _____ ☐ **O.K. WITH CORRECTIONS BY:** _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

MA-171911 (100%)

ADVERTISER: SARD & LEFF LLC
SALES PERSON: MAM208
SIZE: 2X2
PUBLICATION: MA-SOUTH FULTON

PROOF CREATED AT: 5/16/2019 12:59:37 PM
NEXT RUN DATE: 05/22/19
PROOF DUE: 05/22/19 19:00:00

Inspection No:	IAL 19 -007
Inspection Date:	5/23/2019
Inspection Time:	
Inspector:	Brian Eskew

Inspection Report

Inspection and Compliance Orders

Facility:	Hilton Hotel	**Address:**	1031 Virginia AVE		
Phone:	(404) 767-9000				
Fax:		**City:**	Hapeville		
Email:		**State:**	GA	**Postal Code:**	30354
Contact:	Mindy Thompson	**Work:**			
Email:	mthompson@sardandjeff.com	**Cell:**	(770) 644-0800		

Inspection Type:	Inspection General

Violation Code	Days to Correct *	Violation/Notes	Location

Inspection Notes

Approved For Alcohol License

Owner/Representative:

Inspector:

A variance procedure is available. Please contact the inspector named for further assistance with this or any other matter.

* Number of days to correct from date inspected.

Alcohol License Establishment Planning & Zoning Form

Date: May 28, 2019

Business Name: Merritt Hospitality, LLC DBA Hilton Atlanta Airport (In-Room Service)

Business Address: 1031 Virginia Avenue

Business Owner: Anthony R. Rutledge

Business Owner Address: 530 Main Street North, Southbury, CT 06488

Contact: Mindy L. Thompson, Esq. (Sard & Leff, LLC)

Contact Phone (770) 644-0800 Contact Email: mthompson@sardandleff.com

Building Square Footage: 505,000 SF Square footage of Business Unit: Not provided

Will the establishment provide patio/outdoor dining? No

Number of Parking Spaces Provided: 526

STAFF USE ONLY

Zoning Classification: C-2, General Commercial

Sec. 93-14-3. - Permitted uses.
The following uses are permitted within any C-2 zone:
(24) Hotels and Motels

Does the proposed use require a Conditional Use Permit? No.

Number of parking spaces required by zoning: 507

Outdoor dining: Not applicable.

Staff Recommendation: The proposed location complies with zoning. The application may be approved.

Zoning Compliance

Zoning Classification: C-2, General Commercial. The business is a hotel in-room service which previously had an approved occupational tax permit in the C-2 district under the prior owner.

Alcoholic Beverage Ordinance Compliance

Sec. 5-3-4. – Standards for approval, denial, renewal, suspension or revocation.

(1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
Property is located in a commercial district.

Sec. 5-6-3. - On-premises consumption regulations generally.

The following regulations shall apply to licensed on-premises consumption establishments:
(b)No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this article. (b) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. for licensed establishments whose property lines abut an area zoned residential, and 2:00 a.m. and 8 :00 a.m. for all others. Except for bed and breakfasts and hotels, all patrons shall vacate such licensed establishments whose property lines abut an area zoned residential no later than 12:45 a.m., and 2:45 a.m. for all others. For purposes of this subsection, "residential" shall mean any parcel of land designated for use as a single or multifamily dwelling and duplexes.
There are no residential properties abutting the proposed location.

(2) The proximity of churches, school buildings, school grounds, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
There is no minimum distance required for on-site premises consumption from the nearest school/school grounds.

(3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
Adequate parking exists.

(4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
There is no anticipated increase in traffic or concerns regarding congestion.

700 Doug Davis Drive
Hapeville, GA 30354

Ph: 404-669-2111
Fax 404-669-2140

City of Hapeville 1891 GEORGIA
A Community with a Heart

Police, Code Enforcement, & Traffic Alcohol Establishment Inspection Report

Date: May 29, 2019
Business Name: Atlanta Airport Hilton In-room Service
Address: 1155 Virginia Avenue, Ste F, Atlanta, GA 30054

Exterior Observations:
Condition of Signage: Satisfactory

Window Signage & Visibility: Satisfactory

Condition of Property: Satisfactory

Exterior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level

Employee ID Badges: ☑ In Compliance ☐ Non-Compliant ☐ N/A

Interior Observations:
Interior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level ☐ Unknown

Cameras: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Broken Packages: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Traffic Considerations:
Private Property Accidents 0 Notes:

COMPLIANCE: To resolve this issue please N/A from premises within N/A days from receipt of this notice to be considered for an Alcohol License.

RIGHT TO APPEAL: Appeals are made thru the ARB, City of Hapeville Mayor and Council by contacting City Hall at 404-669-2100. Non-compliance may result in a Court Citation.

Additional Violations Noted:

History:
Law Enforcement: 33 calls Code Enforcement: 1 calls

Inspector's Signature

05/29/18

Administrative Services Department
3468 North Fulton Avenue
Hapeville, GA 30354
Phone: (404) 766-3004
Fax: (404) 669-3302

Alcohol Beverage License Application

Instructions: This application must be typed or printed legibly and executed under oath. Each question must be fully answered. If space provided is not sufficient to answer the question please use a separate sheet of paper.

Holding an alcohol beverage license with the City of Hapeville is a privilege.

☐ New ☒ Amended

Date: 05/22/2019

Contact Name: Mindy L. Thompson, Esq. Sard & Leff, LLC Phone: (770) 644-0800

Business/Trade Name: Merritt Hospitality, LLC

D/B/A: Hilton Atlanta Airport (Magnolia Grill)

Email: mthompson@sardandleff.com

Emergency Contact Name: Edward M. Walls Phone: (678) 425-6091

Business Address: 1031 Virginia Avenue, Atlanta, GA 30354

TYPE OF BUSINESS

- ☐ Convenience Store
- ☐ Grocery Store
- ☒ Hotel/Motel
- ☐ Package Store
- ☐ Manufacturer
- ☐ Specialty Beverage Store
- ☐ Restaurant
- ☐ Restaurant under 2,000 Sq. Ft.
- ☐ Wholesale
- ☐ Other: _____

TYPE OF LICENSE AND FEES

Retail		On-Premise Consumption		Wholesale/Manufacturer	
☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00	☐ Beer/Wine	$3,150.00
☐ Package	$5,000.00	☒ Beer/Wine/Liquor	$5,000.00	☐ Beer/Wine/Liquor	$5,000.00

On-Premise Consumption below 2,000 Sq. Ft.

☐ Beer	$750.00
☐ Wine	$750.00
☐ Liquor	$1600.00

APPLICANT INFORMATION

Please submit a passport photograph of owner(s) with completed application.

Full Name: Anthony R. Rutledge on behalf of Merritt Hospitality, LLC Date of Birth: [redacted]1971

Current Address: 530 Main Street North, Southbury, CT 06488

Spouse Name: Valerie T. Rutledge

Address of Applicant (if different for the past 5 years):
N/A

Name and Location of Employers for the last five years: 05/2005 - Present: Merritt Hospitality, LLC - Norwalk, CT

Have you been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

Has your spouse been arrested in the last five years? ☐ Yes ☒ No (If yes, explain)
N/A

BUSINESS INFORMATION

Type of business entity: ☐ Sole Proprietorship ☐ Partnership ☐ Corporation ☒ Other
Limited Liability Company

Has an Occupational Tax Certificate been obtained and paid for said business? ☐ Yes ☒ No (If not issued by the City of Hapeville please include a copy with application.) Applied for.

Federal Tax ID Number: 52-2353526 State Tax ID Number: Applied for

Do you own the property? ☐ Yes ☒ No (If no, please provide name, address, and contact number for the landlord. A copy of the Lease must be attached to this application.) WS HAA Owner, LLC

Name each person(s) having a financial interest in the Establishment.

Full Name	Position	Social Security Number	Address	% of Interest
Merritt Hospitality, LLC*	Hotel Management	52-2353526	101 Merritt - 7 Corporate	
	Company		Park, Norwalk, CT 06851	
WS HAA Owner, LLC*				100%

Have you or anyone with interest in the establishment ever or do you currently hold an alcohol beverage license with any other municipality, county, or state? ☒ Yes ☐ No

If so, have you or anyone holding interest in the establishment ever been placed on probation or had your license revoked? ☐ Yes ☒ No (If yes, please explain on separate sheet of paper and attach hereto.)

*At time of closing, scheduled for 06/21/2019

Provide name, address, Social Security Number, and phone number for each Manager if different from owner. A passport photograph, Personnel Statement, and Background Check must be submitted for each manager.

Full Name	Social Security Number	Address	Phone Number
Edward M. Walls	xxx-xx-[redacted]	2605 Shumard Oak Drive, Braselton, GA 30517	(678) 425-6091

BUSINESS SPECIFIC INFORMATION On File.

County Tax Parcel ID _____ Zoning District _____

Nearest Intersection: _____

Building Square Footage: _____ Business Square Footage (if not using entire building): _____

Patio/Outdoor Dining Square Footage (if applicable): _____

Number of Parking Spaces for business? (Attach site plan showing designated, striped parking and lighting)

_____

If shared parking, detail of how many are dedicated to the business and details of other businesses sharing parking (addresses).

_____

_____

_____

Hours/days of operation: _____

_____

Description of adjacent properties (residential/commercial) _____

_____

_____

_____

If application is for Retail Sale, attach a surveyor's certificate containing the following information:

- A scale drawing of the building and/or proposed building
- The proposed off-street parking facilities available to the building and all outdoor lighting on the premises
- The exact location of the business, including street address, ward, and county tax map number
- Current zoning classification of the location
- The distance from the business to each of the following: the nearest school, church building, and the nearest alcoholic treatment center owned and operated by state, county or municipality.

VERIFICATION OF APPLICATION

I hereby make application for an Alcohol Beverage License for the City of Hapeville. I understand that holding this license is a privilege. I do hereby affirm and swear that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this application and any action taken on this application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fee and further that it is my/our responsibility to conform with said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can

read the English language and I freely and voluntarily have completed this application. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. §16-10-20.

Signature of Applicant or Agent

Anthony R. Rutledge

Print or Type Name

I certify that Anthony R. Rutledge (name of applicant) personally appeared before me, and that he signed his name to the foregoing statements and answers made therein, and under oath, has sworn that said statements and answers are true.

This 28th day of May, 2019.

Notary Public

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

My commission expires on: 9/30/2021

Alcoholic Beverage Personnel Statement

For Official Use Only
Type of License: Beer/Wine/Liquor

Business: Merritt Hospitality, LLC

Address: 1031 Virginia Avenue, Hapeville

Telephone: _____

Instructions: This personnel statement must be executed under oath or affirmation by every person having any ownership or profit sharing interest in, or managing any place of business applying for license from the City of Hapeville, Georgia to sell or deal in alcoholic beverages or liquors. Please type or print clearly in ink. If not legible, Statement will not be accepted. Each question must be fully answered. If the space provided is not sufficient, answer the question on a separate sheet and indicate in the space provided that such separate sheet is attached. A personnel statement, including two (2) passport-size photographs and two (2) fingerprint cards are required by Questions 35 and 36, for all owners/managers/assistant managers and must be submitted with every license application.

1. Theodore William Darnall - 637 Valley Road, New Canaan CT 06840-3333
   Full Name of Applicant Address of Applicant

2. Social Security Number
   [redacted]

3. Driver's License Number
   [redacted] - CT

4. Date of Birth Place of Birth
   [redacted]1957 Tuscon, AZ

5. U.S. Citizen
   a. (X) By Birth
   b. ( ) Naturalized
   Date, Place and Court _____
   Petition Number _____
   Certificate Number _____
   Derived Parent Certificate Number(s) _____
   Alien Registration Number _____
   Native Country _____
   Date of Port Entry _____

6. How long have you been a legal resident of Georgia? N/A Years _____ Months

7. Marital Status () Single (x) Married () Widowed () Divorced () Separated

8. If married, give Spouse's full name Vicki Louise Darnall (Jacob)

9. Physical Description of Applicant _____ Race Caucasian Sex Male Height 6'0"

Weight 165 Age 61 Hair Color Brown Eyes Brown

10. Education and training specific to restaurant/alcohol field.

More than thirteen (13) years of hotel management experience.

11. Have you ever used or been known by any other name () Yes (x) No

12. List maiden name, names by former marriages, former names changed legally or otherwise, aliases or nicknames. For each, list the period during which you were known by this name. N/A

13. Are you a registered voter in the State of Georgia () Yes (x) No

County registered Number of years registered

N/A

14. For the last calendar year, did you file and pay any County property tax (x) Yes () No
Name of County

Fairfiled County, CT

15. For the last calendar year, did you file and pay any City property tax (x) Yes () No
Name of City

New Cannan, CT

16. Employment record for the past ten (10) years (Give most recent experience first, if self-employed give details)

	From	To	Employer	Occupation Duties	Reason for leaving
(a)	10/2006	Present	Merritt Hospitality, LLC	Vice President	N/A
(b)					
(c)					
(d)					
(e)					
(f)					
(g)					
(h)					

17. List, with your most recent place of residence first, all of your residences for the past ten (10) years

	Date From/To	Street	City	State
(a)	05/2016 - Present	637 Valley Road	New Canaan	CT
(b)	08/1998 - 05/2016	405 Belden Hill Road	Wilton	CT
(c)				
(d)				
(e)				

20. Military Service () Yes (x) No

List Serial Number _____ Branch of Service _____
Period of Service _____ Date of Discharge _____
Type of Discharge received _____

21. Have you ever been convicted of a felony relating to violence, illegal substances, gambling, theft or alcohol use, or of a crime opposed to decency and morality, or who has been convicted of a crime involving violation of the ordinances of the city or any other city or county relating to the use, sale, taxability or possession of malt beverages, wine or liquor, or violations of the laws of the state and federal government pertaining to the manufacture, possession, transportation or sale of

malt beverages, wine or intoxicating liquors, or the taxability thereof within five (5) years preceding this application? _____ Yes __X__ No

22. Full name of dealer and trade name, if any, submitting application of which this personnel statement is a part.

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

23. Position of applicant in dealer's business.

President

24. Does applicant have any ownership/profit sharing interest in business? () Yes (X) No Describe.

State annual salary of applicant or the estimated annual profit or compensation derived from this business. $

Salary

25. Do you have any financial interest in any bar, lounge, tavern, restaurant, or other place of business where alcoholic beverages are sold and consumed on the business premises? (X) Yes () No If Yes, explain.

Please see attached Exhibit "A"

26. Do you have any financial interest or are you employed in any wholesale or retail liquor business other than the business submitting the license application of which this personnel statement is a part? (X) Yes () No If Yes, give names and locations and amount of interest in each.

Please see attached Exhibit "A"

27. Do you have any financial interest or are you employed in any business engaged in distilling, bottling, rectifying or selling (wholesale, retail or manufacturing) alcoholic beverages in this State or outside this State which has not otherwise been disclosed in this statement. () Yes (X) No If yes, explain.

N/A

28. Have you ever had any financial interest in an Alcoholic Beverage business which was denied a liquor permit () Yes (X) No If yes, explain.

N/A

29. Has any Alcoholic Beverage business in which you hold or have held any financial interest or have been employed, ever been cited for any violation for the rules and regulations of the State Revenue Commissioner relating to the sale and distribution of distilled spirits. () Yes X (No) If yes, explain.

To Applicant's best knowledge, information and belief, Merritt Hospitality, LLC has never been cited in the state of Georgia.

City of Hapeville Alcoholic Beverage License Applications of
Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport
1031 Virginia Avenue, Atlanta, GA 30354

EXHIBIT "A"

Georgia Liquor Licenses
Merritt Hospitality, LLC
May 2019

ST	City	Licensee	Property	Agency	License Nbr
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Georgia DOR	0087490, 0087897
GA	Alpharetta	Merritt Hospitality LLC	The Hotel at Avalon 9000 Avalon Blvd. Alpharetta, GA 30009	Alpharetta Code Enforcement Office	8573, 9034
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Georgia DOR	0084699, 0084714, 0084730, 0085573
GA	Atlanta	Merritt Hospitality LLC	Sheraton Atlanta Hotel 165 Courtland Street NE Atlanta, GA 30303	Atlanta Police Dept.	177369 A20, A21, A22, A23
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0087325, 0087802, 0087782, 0091598, 0067930 (Tobacco)
GA	Atlanta	Merritt Hospitality LLC	Whitley Buckhead 3434 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	182036, A20, A22, A1H
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	Georgia DOR	0087739, 0087888
GA	Atlanta	Merritt Hospitality LLC	Westin Atlanta Perimeter North 7 Concourse Parkway NE Atlanta, GA 30328	City of Sandy Springs	19-58286
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Georgia DOR	0086266, 0086173,
GA	Atlanta	Merritt Hospitality LLC	Westin Buckhead Atlanta 3391 Peachtree Rd. NE Atlanta, GA 30326	Atlanta Police Dept.	179163 A20, A34
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Georgia DOR	0089468, 0089303, 0089611, 0089632, 0089484, 0089455
GA	Braselton	Merritt Hospitality LLC	Chateau Elan 100 Rue Charlemagne Braselton , GA 30517	Braselton	12642, 12644, 12643, 12641, 12645

Merritt Hospitality, LLC and some of its related businesses (collectively, "Merritt") hold numerous alcoholic beverage licenses throughout the United States in connection with their various hotel operations. A complete list of alcoholic beverage licenses held by Merritt will be provided upon request.

30. Have you ever been denied a bond by a commercial surety company? () Yes (x) No
If yes, explain.
N/A

31. Are you related by blood, marriage or adoption to any persons engaged in any business handling alcoholic beverages, whiskeys or liquors in the State of Georgia.
() Yes (x) No

32. Personal References. Give three (3) personal references, not relatives (i.e., former employers, fellow employees or school teachers who are responsible adults, business or professional men or women) who have known you well during the past five (5) years.

Name
Ryan Sistare
Residence
8375 Laura Ray Road, Linden NC 28356
Business Address
8375 Laura Ray Road, Linden NC 28356
Telephone Number
[redacted]
Number of Years Known
6 years

Name
Charlie Colletta
Residence
100 South Avenue, New Canaan, CT 06840
Business Address
N/A
Telephone Number
[redacted]
Number of Years Known
8 years

Name
Gerald Barrack
Residence
191 East Pine Street, Orlando, FL 32801
Business Address
N/A
Telephone Number
[redacted]
Number of Years Known
12 years

33. Attach two (2) passport-size photographs (front view). Write name on back of photographs and also the name of dealer submitting a license application. Initial here if such photographs are attached. _____

34. There must be submitted with this personnel statement the fingerprints of applicant on two (2) fingerprint cards, which will be furnished by the City of Hapeville. Initial here that such fingerprint cards are attached. _____

NOTE: Before signing this statement, check all answers and explanations to see that you have answered all questions fully and correctly. This statement is to be executed under oath or affirmation and subject to the penalties of false swearing and it includes all attached sheets submitted herewith.

Verification

I, Theodore W. Darnall, applicant, do solemnly swear, subject to criminal penalties for false swearing, that the statements and answers made by me to the foregoing questions in this application for a City of Hapeville license as a dealer in alcoholic beverage and liquors are true, and no false or fraudulent statement or answer is made therein to procure the granting of such license. I hereby submit for an Alcoholic Beverage Privilege License Personnel Statement for the City of Hapeville. I do hereby swear or affirm that the information provided herein is true, complete and accurate, and I understand that any inaccuracies may be considered just case for invalidation of this statement and any related application and any action taken on this statement and any related application. I understand the City of Hapeville reserves the right to enforce any and all ordinances regardless of payment of license fees and further that it is my/our responsibility to conform to said ordinances in full. I hereby acknowledge that all requirements shall be adhered to. I can read the English language and I freely and voluntarily have completed this statement. I understand that it is a felony to make false statements or writings to the City of Hapeville pursuant to O.C.G.A. § 16-10-20.

_____
Applicant's Signature
(Full name in ink)

Theodore W. Darnall
_____
Applicant's Name
(Print or Type)

I certify that
Theodore W. Darnall
_____
(the above named applicant)

is personally known to me, and that he signed his name to the foregoing statements and answers made therein, and, under oath, has sworn that said statements and answers are true.

This 20th day of May, 2019.

_____
Notary Public

Seal:

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

City of Hapeville 1891 GEORGIA

Georgia Bureau of Investigation
Georgia Crime Information Center

Consent Form

I hereby authorize **HAPEVILLE POLICE DEPARTMENT** to receive any Georgia criminal history record information pertaining to me which may be in the files of any state or local criminal justice agency in Georgia.

Theodore William Darnall
Full Name (print)

[redacted] CT
Driver's License Number and State

637 Valley Road, New Canaan CT 06840-3333
Address

Merritt Hospitality, LLC
Company Name

M
Sex

W
Race

[redacted]1957
Date of Birth

[redacted]
Social Security Number

Signature

05-20-2019
Date

Purpose Codes Used (check appropriate one)

X Employment (Licensing, Public/Private employment, Firefighter employment Adoptions, Education employment, and Military Recruitment) (E)
____ Employment with mentally disabled (M)
____ Employment with elder care (N)
____ Employment with children (W)
____ Criminal Justice Employment (J)
____ Public Access (GA Felonies Only) (P)
____ Used by Law Enforcement Only (C) _____ Case Number
____ Pre-employment or Employment of Police Officers (Z)

Inquiry ran by: _____
If ran Purpose Code C Officer Signature: _____

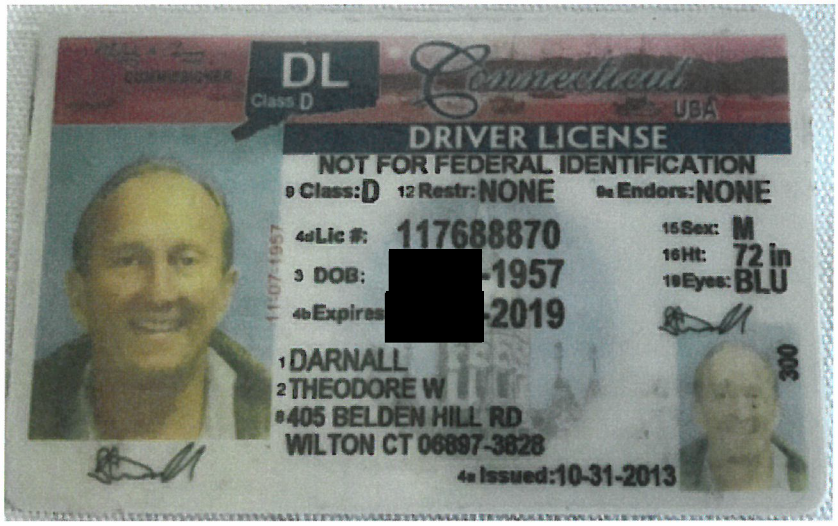


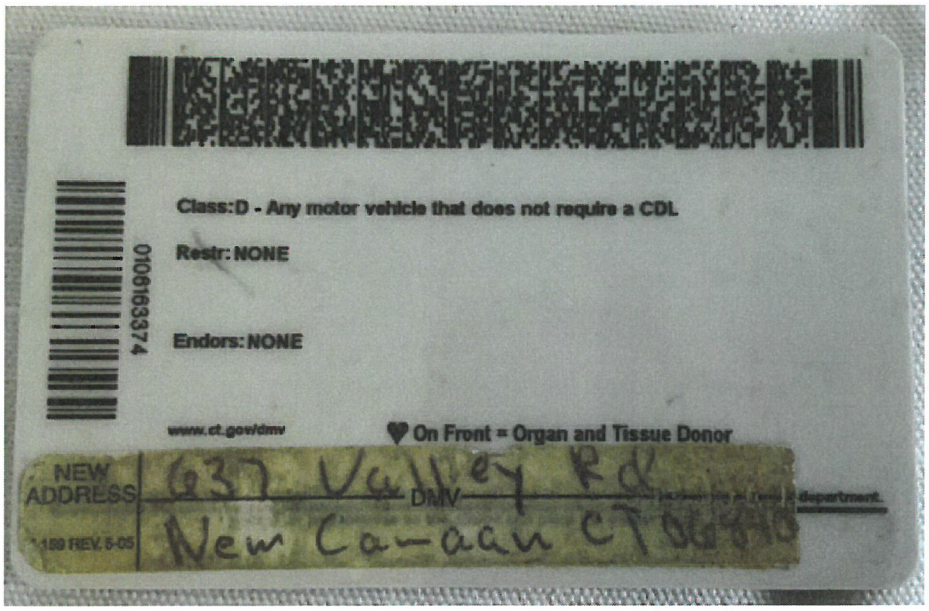
Mr. Theodore Darnall

City of Hapeville Alcoholic Beverage License Applications (Change of Ownership)

Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport

1031 Virginia Avenue, Atlanta, GA 30354


DL
Class D
Connecticut
USA
DRIVER LICENSE
NOT FOR FEDERAL IDENTIFICATION
9 Class: D
12 Restr: NONE
9a Endors: NONE
4d Lic #: 117688870
3 DOB: [redacted]-1957
4b Expires [redacted]-2019
15 Sex: M
16 Ht: 72 in
18 Eyes: BLU
1 DARNALL
2 THEODORE W
8 405 BELDEN HILL RD
WILTON CT 06897-3828
4a Issued: 10-31-2013


Class: D - Any motor vehicle that does not require a CDL
Restr: NONE
Endors: NONE
0106163374
www.ct.gov/dmv
On Front = Organ and Tissue Donor
NEW ADDRESS
637 Valley Rd
DMV
New Canaan CT

MANAGEMENT AGREEMENT

between

WS HAA Owner, LLC

and

MERRITT HOSPITALITY, LLC

for the

HILTON ATLANTA AIRPORT HOTEL

[_____], 2019

TABLE OF CONTENTS

Page

ARTICLE 1 DEFINITIONS 1
1.1 Definitions 1
1.2 Terminology 10
1.3 Exhibits 10
ARTICLE 2 ENGAGEMENT OF OPERATOR 10
2.1 Engagement and Duties of Operator 10
ARTICLE 3 TERM 11
3.1 Term 11
ARTICLE 4 USE AND OPERATION OF THE HOTEL 11
4.1 Hotel Employees 11
4.2 Annual Plan 13
4.3 Labor Relations 15
4.4 Liquor License 15
4.5 Notice of Violations 15
4.6 Centralized Services 15
4.7 Multi-Property Programs 15
ARTICLE 5 USE OF NAME 16
5.1 Name 16
ARTICLE 6 ADVERTISING 16
ARTICLE 7 RESERVE FOR FF&E 16
7.1 Reserve for Replacement of FF&E 16
7.2 Transfers to Reserve for FF&E 16
7.3 Annual Adjustment 16
7.4 Maintenance of Reserve 17
7.5 Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements 17
ARTICLE 8 REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS 17
8.1 Repairs and Maintenance 17
8.2 Capital Improvements 17
8.3 Liens 18
8.4 Notice of Force Majeure Event 18
ARTICLE 9 WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH 18

9.1 Working Capital 18
9.2 Depository Account 18
9.3 Operating Account 18
9.4 Distribution of Excess Cash 19
9.5 Lender Requirements 19
ARTICLE 10 BOOKS, RECORDS AND STATEMENTS 19
10.1 Books and Records 19
10.2 Financial Reports 19
10.3 Audits by Owner 20
10.4 Accounting Services 20
ARTICLE 11 MANAGEMENT FEES AND OTHER PAYMENTS 21
11.1 Management Fee 21
11.2 Payment of Management Fee 21
11.3 Other Payments 22
11.4 Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards 22
ARTICLE 12 INSURANCE 22
12.1 Insurance Requirements 22
12.2 General Insurance Requirements. 25
ARTICLE 13 REAL AND PERSONAL PROPERTY TAXES; UTILITIES 27
13.1 Taxes 27
13.2 Utilities, Etc 27
ARTICLE 14 DAMAGE OR DESTRUCTION; CONDEMNATION 27
14.1 Damage or Destruction 27
14.2 Condemnation 28
14.3 Reinstatement 28
14.4 Mortgage Requirements 28
ARTICLE 15 EVENTS OF DEFAULT 29
15.1 Operator Defaults 29
15.2 Owner Defaults 29
ARTICLE 16 TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES 30
16.1 Termination 30
16.2 Operator's Rights to Perform 31
ARTICLE 17 OWNER'S ADDITIONAL TERMINATION RIGHTS 31
17.1 Termination on Sale 31

17.2 Performance Termination....32
ARTICLE 18 TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION....32
18.1 Transfer to Owner....32
18.2 Remittance to Owner....33
ARTICLE 19 NOTICES....33
ARTICLE 20 CONSENT AND APPROVAL....34
ARTICLE 21 TRANSFERS....34
21.1 Transfers....34
21.2 Assignability upon Sale....35
21.3 Prohibited Sale....35
ARTICLE 22 INDEMNITY....35
22.1 Indemnity by Owner....35
22.2 Indemnity by Operator....35
22.3 Indemnification Procedure....36
22.4 Survival/Miscellaneous....36
ARTICLE 23 MISCELLANEOUS....36
23.1 Further Assurances....36
23.2 Waiver....36
23.3 Successors and Assigns....36
23.4 Governing Law....37
23.5 Compliance with Mortgage and License Agreement....37
23.6 Amendments....37
23.7 Estoppel Certificates....37
23.8 Inspection Rights....37
23.9 Subordination....37
23.10 Effect of Approval of Plans and Specifications....37
23.11 Entire Agreement....38
23.12 Time is of the Essence....38
23.13 Interpretation....38
23.14 Counterparts....38
23.15 Partial Invalidity....38
23.16 Confidentiality....38
23.17 No Third Party Rights....38
ARTICLE 24 NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL....38

ARTICLE 25 REPRESENTATIONS OF OPERATOR 39
ARTICLE 26 REPRESENTATIONS OF OWNER 39
ARTICLE 27 DISPUTE RESOLUTION 40
27.1 Expert Determination 40
27.2 Mediation/Arbitration 40
27.3 Survival 42
ARTICLE 28 TERMINATION OF THE LICENSE AGREEMENT 42
ARTICLE 29 RELATIONSHIP OF PARTIES 42

EXHIBITS:

SCHEDULE 1 Hotel Components
EXHIBIT A Description of Premises
EXHIBIT B Centralized Services
EXHIBIT C Sample Incentive Fee Calculation
EXHIBIT D Transition Budget

MANAGEMENT AGREEMENT

This Management Agreement (the "**Agreement**") is made and entered into as of this [__] day of [_____], 2019 (the "**Effective Date**") by and between WS HAA Owner, LLC, a Delaware limited liability company] ("**Owner**"), and **MERRITT HOSPITALITY, LLC**, a Delaware limited liability company ("**Operator**").

RECITALS:

A. Owner is, or shall become prior to the Commencement Date, the fee owner of the Premises, which, together with associated improvements, parking areas and personal property, is presently known as the "Hilton Atlanta Airport Hotel" and is defined herein as the "**Hotel**".

B. Operator is engaged in the business of managing and operating hotels.

C. Owner and Operator desire to enter into this Agreement for the management and operation of the Hotel in accordance with the terms and conditions and subject to the limitations contained in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator covenant and agree as follows:

ARTICLE 1
DEFINITIONS

1.1 **Definitions**. In this Agreement and any Exhibits, the following terms shall have the following meanings:

"**Accounting Period**" shall mean each calendar month during each Fiscal Year.

"**Accounting Services**" shall have the meaning set forth in Section 10.4.

"**Accounting Services Fee**" shall mean an annual amount equal to $30,000, payable monthly as provided in Section 11.3.

"**Adjusted GOP**" shall mean, for any Fiscal Year, Gross Operating Profit less the sum of: (i) Management Fees (excluding the Incentive Fee), (ii) Taxes, (iii) Insurance Costs, (iv) Equipment Lease Costs, (v) the Reserve; and (vi) Owner's Priority Return.

"**ADR Provider**" shall have the meaning set forth in Section 27.2(a).

"**Affiliate**" shall mean any person or entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another person or entity. The term "**control**" (and correlative terms) shall mean the power, whether by contract, equity ownership or otherwise, to direct the policies or management of a person or entity. A natural person is related to another natural person if he or she is a spouse, parent, or lineal descendant of the other person.

"**Agreement**" shall have the meaning set forth in the introductory section of this Agreement.

"**Annual Operating Budget**" shall mean an annual operating projection for the Hotel prepared and submitted by Operator to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(a).

"**Annual Plan**" shall mean an annual business plan for the operation of the Hotel prepared by Operator and approved by Owner, which shall include the Annual Operating Budget and the Capital Budget, and any other material included therein by Operator as provided in Section 4.2.

"**Arbitrator**" shall have the meaning set forth in Section 27.2(c).

"**Base Fee**" shall have the meaning set forth in ARTICLE 11.

"**Building**" shall mean, collectively, the buildings (including all roof coverings and exterior facades and any walkways and bridges) and all structural elements of such buildings, all of which are a part of the Hotel, together with such elements servicing and/or supporting the Hotel.

"**Building Systems**" shall mean any mechanical, electrical, plumbing, heating, ventilating, air conditioning, sanitation, water treatment, sewer treatment and disposal, life safety systems, vertical transportation systems and other similar operating and monitoring systems and items of equipment installed in or upon, and affixed to, the Hotel.

"**Capital Budget**" shall mean a proposed estimate of FF&E Expenditures and Capital Improvements prepared by Operator and submitted to Owner and approved by Owner for each Fiscal Year pursuant to Section 4.2(b).

"**Capital Improvements**" shall mean any expenditures properly categorized under GAAP as capital in nature, for any alterations, improvements, replacements, and additions to the Building, the Building Systems or FF&E.

"**Centralized Services**" shall have the meaning set forth in Section 4.6.

"**Centralized Services Charge**" shall have the meaning set forth in Section 4.6.

"**Claims**" shall have the meaning set forth in Section 22.1.

"**Commencement Date**" shall mean the date on which Operator assumes the management and operation of the Hotel and all or substantially all of the Hotel is open for business to the general public.

"**Competitive Set**" shall mean initially, the following list of hotels: (i) [_____], subject to any revisions to such list agreed upon by Owner and Operator from time to time, which revisions, to the extent applicable, will occur during the Annual Plan process.

"**Corporate Personnel**" shall mean any of Operator's executive level personnel holding a position of Vice President or higher from Operator's corporate headquarters who perform activities

at or on behalf of the Hotel in connection with the services provided by Operator under this Agreement.

"**CPI**" shall mean the Consumer Price Index for All Urban Consumers, United States City Average, All Items (1982-84=100), issued by the Bureau of Labor Statistics of the United States Department of Labor.

"**Default Rate**" shall mean the lesser of (i) the Prime Rate plus five percent (5%) per annum or (ii) the highest lawful rate permitted by applicable Legal Requirements from time to time.

"**Depository Account**" shall have the meaning set forth in Section 9.2.

"**Effective Date**" shall mean the date of this Agreement as set forth in the introductory paragraph.

"**Equipment Lease Costs**" shall mean costs and expenses incurred by Owner in connection with the leasing or financing of equipment used in the operation and maintenance of the Hotel.

"**Event of Default**" shall mean any of the events described in ARTICLE 15, provided that any condition contained therein for the giving of notice or the lapse of time, or both, has been satisfied.

"**Expert**" shall mean an independent, neutral and impartial individual having not less than ten (10) years of experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels) and shall not have any conflict of interest with either party.

"**Fiscal Year**" shall mean the fiscal year that ends on the last day of each calendar year. The first Fiscal Year shall be the period commencing on the Commencement Date and ending on December 31st of the same calendar year in which the Commencement Date occurs. Except as otherwise expressly set forth in this Agreement, the words "full Fiscal Year" shall mean any Fiscal Year containing not fewer than three hundred sixty five (365) days. A partial Fiscal Year after the end of the last full Fiscal Year and ending with the expiration or earlier termination of the Term shall constitute a separate Fiscal Year.

"**Force Majeure Event**" shall mean any one or more of the following events or circumstances that, alone or in combination, directly or indirectly, materially and adversely affect the operation of the Hotel: (i) fire, earthquake, hurricane, tornado, flood, storm or other casualty; (ii) epidemics, quarantine restrictions or other public health restrictions or advisories; (iii) performance of Capital Improvements reasonably required to maintain the Hotel in accordance with the Operating Standards which materially and adversely affect the income generating areas of the Hotel or any other area material to the operation of the Hotel; (iv) strikes, lockouts, or other labor interruptions generally (as opposed to any such events directed specifically against Operator or its Affiliates not involving or related to the Hotel); (v) war, rebellion, riots, acts of terrorism, or other civil unrest or commotion; shortage of critical materials or supplies; (vi) disruption to local,

national or international transport services; (vii) embargoes, lack of materials, water, power or telephone transmissions necessary for the operation of the Hotel in accordance with this Agreement; (viii) action or inaction of governmental authorities having jurisdiction over the Hotel; or (ix) any other event beyond the reasonable control of Owner or Operator, but in all instances excluding the financial inability of either party to perform or otherwise meet its obligations.

"**Furniture, Fixtures and Equipment**" **or** "**FF&E**" shall mean all furniture, furnishings, wall coverings, fixtures, carpeting, rugs, fine arts, paintings, statuary, decorations, and hotel equipment and systems located at, or used in connection with, the operation of the Premises as a hotel, including without limitation, major equipment and systems required for the operation of kitchens, bars, laundry and dry cleaning facilities, office equipment, dining room wagons, major material handling equipment, major cleaning and engineering equipment, telephone systems, computerized accounting and vehicles (including the costs associated with the purchase, installation and delivery thereof) together with all replacements therefor and additions thereto, but in all events excluding Operating Equipment and Supplies.

"**FF&E Expenditures**" shall mean any expenditures pertaining to FF&E and not constituting Capital Improvements.

"**GAAP"** shall mean those conventions, rules, procedures and practices, consistently applied, affecting all aspects of recording and reporting financial transactions which are generally accepted by major independent accounting firms in the United States. Any financial or accounting terms not otherwise defined herein shall be construed and applied according to GAAP.

"**GOP Test**" shall have the meaning set forth in Section 17.2.

"**Gross Operating Profit**" or "**GOP**" shall mean the amount by which Gross Revenues of the Hotel exceed Operating Expenses of the Hotel.

"**Gross Revenues**" shall mean all revenues and receipts of every kind derived from the Hotel and all departments and parts thereof, as finally determined on an accrual basis in accordance with the Uniform System of Accounts, including, but not limited to, revenues and income (both cash and credit transactions) before commissions and discounts for prompt or cash payments, from (a) the rental of rooms and lobby space; (b) exhibit or sales space of any kind, including without limitation, charges for reservations, deposits and cancellation fees not refunded to guests; (c) income from vending machines, health club membership fees, wholesale and retail sales of merchandise, service fees and charges; (d) business interruption insurance claims in respect of the Hotel, (e) condemnation awards for temporary use of the Hotel; (f) license, lease and concession fees and rentals or other management income received by Owner (but not including the gross receipts of any licensees, lessees and concessionaires); (g) food and beverages sales, and (h) other sales of every kind conducted by, through or under Operator in connection with the Hotel. Gross Revenues shall not include (i) federal, state and municipal excise, sales and use taxes or similar impositions collected directly from patrons or guests or included as part of the sales price of any goods or services; (ii) proceeds arising from the sale or other disposition of property described in Section 1231 of the Internal Revenue Code or of capital assets; (iii) proceeds from condemnation and payments received on account of insurance policies (other than the proceeds from business interruption insurance and from condemnation awards for temporary use of the Hotel when

received); (iv) proceeds from claims for damages suffered by Operator or Owner, unless in recompense for a lost revenue item; (v) interest earned on the Reserve; or on any funds in the Operating Accounts; (vi) gratuities, including tips and service charges which are paid to the Hotel Employees by third parties; (vii) gross receipts received by licensees, lessees and concessionaires at the Hotel; (viii) proceeds from any sale, financing or refinancing of the Hotel or any interest therein; and (ix) any funds supplied by Owner to the reserve or to provide Working Capital, or which otherwise is defined as Owner's Invested Capital or Owner's Additional Invested Capital.

"**Guest Data**" shall mean all guest profiles, contact information, histories, preferences, and other information obtained in the ordinary course of business from guests of the Hotel during such guests' stay at the Hotel, or during such guests' use of the facilities associated with the Hotel.

"**Hotel**" shall have the meaning set forth in Recital A of this Agreement, as further described on Schedule 1 attached hereto.

"**Hotel Employees**" shall mean all individuals performing services in the name of the Hotel at the Hotel, in connection with the Hotel's business, whether employees of Operator or its Affiliate, but in any event, excluding the Corporate Personnel and any other personnel employed by Operator to perform services on a non-exclusive basis at other System Hotels.

"**Hotel Executive Staff Member**" shall mean each of the general manager, controller, director of revenue management, director of sales/marketing and director of food and beverage at the Hotel from time to time (or such equivalent position), to the extent such positions exist at the Hotel.

"**Implied Fiduciary Duties**" shall have the meaning set forth in Section 11.1(b).

"**Incentive Fee**" shall have the meaning set forth in Section 11.1(b).

"**Indemnified Party**" shall mean any party entitled to indemnification pursuant to ARTICLE 22.

"**Indemnifying Party**" shall mean any party required to indemnify an Indemnified Party pursuant to ARTICLE 22.

"**Insurance Costs**" shall mean all insurance premiums or other costs paid for any insurance policies (including business interruption insurance) maintained by or on behalf of Owner with respect to the Hotel.

"**Inventories**" shall mean "Inventories of Supplies" as defined in the Uniform System of Accounts, such as soap, toilet paper, stationery, writing pens, food and beverage inventories, paper products, menus, expendable office and kitchen supplies, fuel, supplies and items similar to any of the foregoing.

"**Legal Proceedings**" shall mean all complaints, counterclaims or cross-claims filed in a court of competent jurisdiction, any notice of any claim of violation of any legal requirement by any governmental agency or authority, or any summons or other legal process, in each instance by or against the Hotel or by or against Owner, or Operator in connection with the Hotel.

"**Legal Requirements**" shall mean (a) all laws, ordinances, statutes, regulations and orders relating to the Hotel and the Premises now or hereafter in effect, including but not limited to, environmental laws and (b) all terms, conditions, requirements and provisions of (i) all Permits; (ii) all leases; and (iii) all liens, restrictive covenants and encumbrances affecting the Hotel or the Premises or any part thereof.

"**Lender**" shall mean the holder of any Mortgage.

"**License Agreement**" shall mean the applicable franchise or license agreement issued to Owner by Hilton Franchise Holding LLC (or any successor thereto); should for any reason the License Agreement as above defined terminate or cease to exist, then the term "**License Agreement**" shall thereafter mean the franchise or license agreement from time to time entered into by Owner with respect to the branding and operation of the Hotel.

"**Licensor**" shall mean the "Franchisor" under the License Agreement.

"**Litigation Claims**" shall have the meaning set forth in Section 27.2(a).

"**Major Renovations**" shall mean a contemporaneously made set or series of alterations, additions and/or improvements to the Hotel or any material renovation, remodeling or refurbishing of the Hotel (or any portion thereof) implemented by Owner or required under a so-called "property improvement plan" imposed under a License Agreement, which customarily would be managed by a third party project manager, but which shall not include any routine Repairs and Maintenance with respect to Capital Improvements or FF&E.

"**Management Fee**" shall mean collectively the Base Fee and Incentive Fee, all as set forth in ARTICLE 11 hereof.

"**Measurement Year**" shall have the meaning set forth in Section 17.2(a).

"**Mediator**" shall have the meaning set forth in Section 27.2(a).

"**Mortgage**" shall mean, collectively, each of the documents evidencing or securing current or future indebtedness on the Hotel in favor of any Lender.

"**Multi-Property Programs**" shall have the meaning set forth in Section 4.7.

"**Notice**" shall have the meaning set forth in ARTICLE 19.

"**Notice of Proposed Sale**" shall have the meaning set forth in Section 21.2.

"**OFAC**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Operating Account**" shall mean an account or accounts, bearing the name of the Hotel and owned by Owner, established by Operator in a federally insured bank or trust company selected by Owner.

"**Operating Equipment and Supplies**" shall mean supply items which constitute "Operating Equipment and Supplies" under the Uniform System of Accounts, all miscellaneous serving equipment, linen, towels, uniforms, silver, glassware, china and similar items.

"**Operating Expenses**" shall mean all those ordinary and necessary expenses incurred in the operation of the Hotel determined in accordance with GAAP and the Uniform System of Accounts.

"**Operating Standards**" shall mean the operation of the Hotel in a first class manner in accordance with (i) the requirements under the applicable License Agreement; (ii) this Agreement; (iii) Legal Requirements; and (iv) the standards, policies and programs in effect from time to time that Operator reasonably determines are applicable to the operation, maintenance and repair of comparable hotels within the System Hotels.

"**Operator**" shall have the meaning set forth in the introductory section of this Agreement.

"**Operator Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Operator Rebates**" shall have the meaning set forth in Section 4.7.

"**Operator's Grossly Negligent or Willful Acts**" shall mean any gross negligence, willful misconduct, or fraud committed by Operator or the Corporate Personnel in the performance of Operator's duties under this Agreement. The acts or omissions (including gross negligence, willful misconduct or fraudulent acts or omissions) of the Hotel Employees (excluding the general manager and the controller) shall not be imputed to Operator or to the Corporate Personnel, or be deemed to constitute Operator's Grossly Negligent or Willful Acts, unless such acts or omissions resulted directly from the gross negligence, willful misconduct or fraudulent acts of Operator, the Corporate Personnel, the general manager and/or the controller in directing the Hotel Employees.

"**Owner**" shall have the meaning set forth in the introductory section of this Agreement.

"**Owner Indemnified Parties**" shall have the meaning set forth in Section 22.2.

"**Owner's Additional Invested Capital**" shall mean any additional amounts advanced by Owner for Working Capital and for Capital Improvements in excess of the Reserve, calculated on a cumulative basis.

"**Owner's Annual Plan Objections**" shall have the meaning set forth in Section 4.2.

"**Owner's Invested Capital**" shall mean an amount equal to the purchase price paid by Owner for the Hotel, plus Owner's due diligence and related costs (including closing costs) in connection with Owner's acquisition of the Hotel, and Working Capital, subject to an adjustment by Owner by written notice to Operator within sixty (60) days of the closing of the acquisition of the Hotel.

"**Owner's Priority Return**" shall mean an amount equal to a nine and one half percent (9.5%) unlevered cash on cash return of: (i) Owner's Invested Capital; and (ii) Owner's Additional Invested Capital.

"**Performance Test**" shall have the meaning set forth in Section 17.2.

"**Permits**" shall mean all governmental or quasi-governmental licenses and permits, including but not limited to any certificate of occupancy, business licenses and liquor licenses.

"**Premises**" shall mean the land on which the Hotel is located, which land is described in Exhibit A attached hereto.

"**Prime Rate**" shall mean the rate per annum announced, designated or published from time to time by JP Morgan Chase Bank N.A. as its "prime", "reference" or "base" rate of interest for commercial loans.

"**Privileged Information**" shall have the meaning set forth in Section 23.16.

"**Prohibited Persons**" shall have the meaning set forth in Section ARTICLE 25(d).

"**Reimbursable Expenses**" shall mean all reasonable travel, lodging, entertainment, telephone, facsimile, postage, courier, delivery, employee training and other expenses reasonably incurred by Operator in accordance with the standard policies for expenses reasonably incurred by Operator on its own behalf and which are directly related to its performance of this Agreement, but in no event will Reimbursable Expenses include or duplicate expenses for Operator's overhead or Centralized Services.

"**Repairs and Maintenance**" shall have the meaning set forth in Section 8.1.

"**Reserve**" shall mean an account maintained as a reserve for FF&E Expenditures and Capital Improvements.

"**Revenue Data Publication**" shall mean Smith's STR Report, a monthly publication distributed by STR, Inc., or an alternative source, reasonably satisfactory to both parties, of data regarding the average daily rate, occupancy and RevPAR of hotels in the general area of the Hotel, including, without limitation, the Competitive Set.

"**Revenue Per Available Room**" or "**RevPAR**" shall mean for any Fiscal Year the number derived by dividing (i) net room revenue (in accordance with the Uniform System of Accounts), by (ii) the number of available guest rooms in the Hotel.

"**RevPAR Test**" shall have the meaning set forth in Section 17.2.

"**Rules**" shall have the meaning set forth in Section 27.2(c).

"**Sale of the Hotel**" shall mean any voluntary sale, assignment, transfer or other disposition, for value or otherwise, of the fee simple title to the site and/or all or substantially all of the assets comprising the Hotel other than through foreclosure or deed in lieu of foreclosure or other similar procedure of financing permitted by this Agreement. For purposes of this Agreement, a Sale of the Hotel shall also include: (i) a lease (or sublease) of all or substantially all of the Hotel or site; or (ii) any sale, assignment, transfer or other disposition, for value or otherwise, voluntary

or involuntary, in a single transaction or a series of related transactions, of the controlling interest in Owner.

"**Sale Termination Notice**" shall have the meaning set forth in Section 17.1.

"**State**" shall mean the State in which the Hotel is located or other as designated.

"**System Hotels**" shall mean all or substantially all hotels operated by Operator or its Affiliates from time to time within the United States

"**Taxes**" shall mean all real and personal property taxes and other governmental impositions. Notwithstanding the foregoing, the term "Taxes" as used in this Agreement shall specifically exclude (a) all sales, use, excise, and hotel occupancy taxes collected directly from patrons and guests or as part of the sales price of any goods, services or displays and paid over to federal, state or municipal governments, (b) all income, franchise and municipal licenses or similar taxes of Owner or Operator or their respective Affiliates, and (c) any and all utility consumption costs.

"**Term**" shall have the meaning set forth in Section 3.1.

"**Termination Fee**" shall mean an amount determined as follows:

(a) From and after the Commencement Date until the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to (I) the product of (A) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (B) the quotient of (i) the Base Fee payable for the twelve (12) full calendar months immediately preceding the date of a termination of this Agreement, divided by (ii) twelve (12). If at the time of termination of this Agreement the Base Fee shall have been payable for less than twelve (12) full calendar months, then the Termination Fee shall equal the product of (X) thirty-six (36) minus the number of full calendar months for which the Base Fee has been paid to Operator since the Commencement Date, multiplied by (Y) the quotient of (i) the Base Fee paid for each full calendar month following the Commencement Date plus the Base Fee payable under Operator's proforma for each additional month up to and including the twelfth (12^{th}) full calendar month following the Commencement Date, divided by (ii) twelve (12).

(b) From and after the end of the thirty-sixth (36th) full calendar month following the Commencement Date, an amount equal to zero.

"**Threshold Adjustment Event**" shall mean the occurrence of a Force Majeure Event, a material casualty or condemnation of all or any portion of the Hotel, Capital Improvements that result in displacement of rooms or amenities for in excess of a total of [___] room nights in any calendar month or negatively impact the average daily rate of a Hotel, an adjustment to the Competitive Set, including any rebranding occurring at one or more of the Competitive Set hotels, or an Owner Event of Default.

"**Transfer**" any assignment of this Agreement, transfer of any direct or indirect ownership interest in Owner, or Sale of the Hotel.

"**Transition Budget**" shall have the meaning set forth in Section 11.3.

"**Uniform System of Accounts**" shall mean the Uniform System of Accounts for the Lodging Industry, 11th Revised Edition, 2014, as published by the Hotel Association of New York City, Inc. or any later edition thereof.

"**WARN Act**" shall have the meaning set forth in Section 18.1.

"**Working Capital**" shall mean and refer to the funds which are reasonably necessary for the day-to-day operation of the Hotel's business, including, without limitation, amounts sufficient for the maintenance of petty cash funds, operating bank accounts, receivables, payrolls, prepaid expenses, advance deposits, funds required to maintain Inventories, amounts due to/or from Operator and/or Owner less accounts payable and accrued current liabilities, and all other costs and expenses incurred in connection with the Hotel pursuant to this Agreement and the performance by Operator of its obligations under this Agreement.

1.2 **Terminology**. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all genders; the singular shall include the plural, and the plural shall include the singular. The titles of Articles, Sections and Subsections in this Agreement are for convenience only, and neither limit nor amplify the provisions of this Agreement, and all references in this Agreement to Articles, Sections, Subsections, paragraphs, clauses, sub-clauses or exhibits shall refer to the corresponding Article, Section, Subsection, paragraph, clause or sub-clause of, or exhibit attached to, this Agreement, unless specific reference is made to the articles, sections or other subdivisions of, or exhibits to, another document or instrument.

1.3 **Exhibits**. All exhibits and schedules and other attachments attached hereto are by this reference made a part of this Agreement.

ARTICLE 2
ENGAGEMENT OF OPERATOR

2.1 **Engagement and Duties of Operator**. Owner hereby engages and appoints Operator, pursuant to the terms of this Agreement, to operate and manage the Hotel, and Operator hereby agrees and contracts to operate**,** manage and supervise the Hotel pursuant to the terms of this Agreement and the Operating Standards (including the then-applicable Annual Plan). Subject to the terms of this Agreement, Hotel operations shall be under the exclusive supervision and control of Operator, which, except as otherwise specifically provided in this Agreement, shall be responsible for the proper and efficient operation, maintenance and repair of the Hotel in accordance with the terms of this Agreement. Except as specifically set forth in this Agreement, Operator shall have full discretion and control respecting matters relating to management and operation of the Hotel, including, without limitation, charges for rooms and commercial space, credit policies, food and beverage services, other Hotel services, employment policies, granting of concessions or leasing of space within the Hotel, receipt, holding and disbursement of funds, maintenance of bank accounts, procurement of Inventories, supplies and services, promotion and publicity, retain and direct legal counsel for the Hotel in the name of and as agent for Owner with respect to any matter regarding the operation of the Hotel; and, in general, all activities necessary

for operation of the Hotel. Operator shall devote its knowledge, experience and efforts to operate and manage the Hotel pursuant to this Agreement and in accordance with the Operating Standards.

Notwithstanding the foregoing grant of authority to Operator, Owner's prior written approval (not to be unreasonably delayed, conditioned or withheld (except as otherwise provided in Section 4.3 with respect to subparagraph (d))) shall be required for the following:

(a) the execution of (and provide Owner with a true and complete copy of) any contract (i) requiring total annual payments in excess of $25,000, as adjusted for increases in CPI every Fiscal Year after the initial Fiscal Year, or (ii) which has a term in excess of one (1) year (unless such agreement is terminable by Owner or Operator upon not more than thirty (30) days' notice without fee or penalty);

(b) with respect to claims asserted against Owner and/or the Hotel, for any matter for which aggregate legal fees, liabilities and/or out of pocket settlement amounts are anticipated to exceed $50,000; provided, however, Operator shall have the right to control the defense, including settlement, of any Legal Proceeding involving claims which are covered by Operator procured insurance programs (so long as Owner shall have no liability with respect to such claims, including any obligation to indemnify Operator under this Agreement);

(c) tenant leases of any space at the Premises (including rooftop leases) other than as provided in the Annual Plan (and which shall not include ordinary guest room and banquet space operations); and

(d) the negotiation and execution of any union, collective bargaining or similar agreements affecting the Hotel.

ARTICLE 3
TERM

3.1 **Term**. The operating term shall commence on the Effective Date and expire on the tenth (10th) anniversary of the Commencement Date (the "**Term**"), unless sooner terminated pursuant to the terms of this Agreement. In the event the Commencement Date does not occur by September 30, 2019, then either party shall have the option, in its sole and absolute discretion and without penalty or liability, to terminate this Agreement by delivery of written notice to the other party. If either party exercises its termination right in accordance with this Section 3.1, then all sums then due and payable to Operator and its Affiliates under this Agreement for the period of time prior to the date of termination shall be immediately due and payable. Owner and Operator shall confirm the Commencement Date in writing within ten (10) days after the Commencement Date occurs upon request of either party.

ARTICLE 4
USE AND OPERATION OF THE HOTEL

4.1 **Hotel Employees**.

(a) Operator shall have the sole right, as Operator reasonably deems appropriate for the proper operation, maintenance and security of the Hotel, to: (i) select, appoint, hire, promote, direct, supervise, train and discharge all Hotel Employees; and (ii) establish and maintain all policies relating to the employment of the Hotel Employees. Operator shall use commercially reasonable efforts and exercise reasonable care to select qualified and competent employees. Operator shall use commercially reasonable efforts to cause Operator's employment practices to comply with all Legal Requirements. All Hotel Employees shall be solely employees of Operator; provided, however, all of the costs, expenses and liabilities associated with the Hotel Employees shall be Operating Expenses, and shall include, by way of example and not limitation, all costs and expenses (including, without limitation, all employment and benefit related expenses incurred by Operator with respect to the Hotel Employees), such as severance pay, unemployment compensation and health insurance and related costs (i.e., in order to comply with COBRA-type regulations) as a result of the termination of Hotel Employees. Notwithstanding anything to the contrary contained herein, Owner shall have the right to interview and approve each individual selected by Operator to hold a position as a Hotel Executive Staff Member prior to his or her appointment, which approval shall not be unreasonably withheld or delayed. Prior to appointing an individual to a Hotel Executive Staff Member position, Operator shall provide Owner with a written summary of such individual's professional experience and qualifications and shall offer Owner the opportunity to interview the candidate at the Hotel or another mutually acceptable location. Owner will forego its right to interview any such individual if Owner or its authorized representative is unwilling or unable to participate in the interview within ten (10) days following Operator's offer. Owner shall be deemed to have approved the appointment of any such individual unless Owner delivers notice of its disapproval of such appointment within ten (10) days after Operator's offer to Owner to interview the candidate. Owner acknowledges that it may not reject more than three (3) qualified candidates proposed by Operator for any Hotel Executive Staff Member position. Owner further acknowledges that, notwithstanding Owner's right to interview and approve the hiring of each individual to hold a position as a Hotel Executive Staff Member, Operator shall have sole discretion to remove or replace any such individual (with such replacement subject to the approval rights set forth herein) (provided Operator shall not relocate the general manager or director of sales to any other System Hotel without the prior consent of Owner within thirty-six (36) months of such individual's hire).

(b) Operator may, from time to time, assign one or more of its corporate employees to the staff of the Hotel on a full-time, part-time or temporary basis, and the pro-rata share of the costs, expense and liabilities of such corporate employee of Operator shall be fairly and equitably allocated as an Operating Expense of the Hotel.

(c) Operator may elect to use the services of its Affiliates in fulfilling its obligations under this Agreement. If an Affiliate of Operator performs services Operator is required to provide, Operator shall be ultimately responsible to Owner, and Owner shall not pay more for the Affiliate's services and expenses than Operator would have been entitled to receive under this Agreement had Operator performed the services. If an Affiliate of Operator provides goods to the Hotel, such goods shall be supplied at prices and on terms at least as favorable to the Hotel as generally available in the relevant market.

(d) Any Hotel Employees who are not then represented by a collective bargaining representative shall be entitled to participate in the incentive programs, profit sharing and/or other

employee retirement, disability, health, welfare or other benefit plan or plans then made available by Operator to similarly situated employees of other System Hotels, in accordance with their respective terms. Operator will have the right to charge the Hotel with its allocable share of the cost of any such plan or plans and any contributions to be made thereunder provided that such charges and contributions shall be determined by Operator in good faith on a fair and equitable basis with respect to charges and contributions imposed for the same or similar plans at other hotels then managed by Operator, subject to Legal Requirements, and to the extent set forth in the Annual Operating Budget. Operator's rights under this Subsection (d) shall be subject to the condition that Operator shall not put into effect any amendment to any existing plan, or adopt any additional plan, which is not imposed upon all other similarly situated System Hotels.

(e) During the Term of this Agreement and for a period of twelve (12) months following termination, Owner shall not, and shall use reasonable efforts to ensure that its Affiliates do not, hire, solicit for hire, make any referrals for employment, retain as a consultant, or use the services of, any person who is employed at the Hotel as a Hotel Executive Staff Member and any Corporate Personnel, and Owner shall use reasonable efforts to prevent any other company (and any Affiliate of such other company) working on behalf of Owner or its Affiliates (including, without limitation, companies that operate or manage hotels for Owner or its Affiliates) from hiring, retaining as a consultant or using the services of any such person. The foregoing shall not prohibit Owner, any Owner Affiliate or any other company working on behalf of Owner or its Affiliates from hiring, retaining as a consultant or using the services of any such person to the extent such person is responding to a general advertisement or other solicitation of employment not specifically directed towards any Hotel Executive Staff Member or Corporate Personnel. The provisions of this section shall survive expiration or termination of this Agreement.

4.2 **Annual Plan**. [Operator shall use the existing Fiscal Year 2019 budget prepared by the existing Hotel manager as a guide to operate the Hotel pending delivery of Operator's Fiscal Year 2019 Annual Plan. On or before the date that is ninety (90) days following the Commencement Date, Operator shall submit to Owner an Annual Plan ("**Annual Plan**") for the remaining portion of the 2019 Fiscal Year and Owner either shall accept the initial Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan. Owner and Operator shall meet and discuss Owner's Annual Plan objections and shall coordinate expeditiously and in good faith to agree upon an Annual Plan for the 2019 Fiscal Year. On or before November 1st of each year following the Commencement Date, Operator shall submit to Owner an Annual Plan for the next Fiscal Year and on or before December 1st of each year following the Commencement Date, Owner either shall accept the Annual Plan submitted to Owner as provided above or shall submit to Operator a detailed list of Owner's objections or questions to the Annual Plan ("**Owner's Annual Plan Objections**"). Within seven (7) days after Operator's receipt of Owner's Annual Plan Objections, Owner and Operator shall agree upon a date to meet and discuss Owner's Annual Plan Objections with the goal of agreeing upon an Annual Plan for the subject Fiscal Year. In the event Owner objects to the Annual Plan or any specific items expense in the Annual Plan and Owner and Operator are unable to reach agreement thereon as provided above prior to commencement of the Fiscal Year in question, pending such agreement, the Annual Plan or the specific item or items of expense (not revenue) in question shall be suspended and replaced for such period of disagreement by an amount equal to the actual Operating Expenses for the immediately preceding Fiscal Year subject to an adjustment equal to the percentage increase in the CPI over the last twelve (12) month period

immediately preceding the start of the Fiscal Year in question. Notwithstanding anything to the contrary contained herein, Owner shall not have the right to withhold its approval with respect to the following aspects of the Annual Plan: (i) employee wages, compensation, and benefit programs to the extent applied on a system-wide basis to the other hotels managed by Operator, taking into account fluctuation for local market conditions; (ii) the Centralized Services Charge, and (iii) costs over which Operator has no reasonable control, including, without limitation, taxes, insurance, utility rates, payments due under Mortgages and Legal Requirements.

(a) The proposed Annual Operating Budget shall incorporate Operator's good faith reasonable estimates of the items of revenue and expense contained therein and shall contain the proposed budget for operations for the succeeding Fiscal Year. When approved by Owner, the proposed Annual Operating Budget shall become the approved Annual Operating Budget. Any revisions, substitutions or additions to the Annual Operating Budget must be approved by Owner in writing.

(b) The Capital Budget shall contain the proposed budget for FF&E Expenditures from the Reserve and the budget for Capital Improvements for the succeeding Fiscal Year. Operator shall submit good faith reasonable estimates for Capital Improvements and for FF&E Expenditures for such succeeding Fiscal Year. When approved by Owner, the proposed Capital Budget shall become the approved Capital Budget. Approval of the Capital Budget constitutes an authorization for Operator to expend money for Capital Improvements and for FF&E as provided in the Capital Budget, unless Owner's approval thereof specifically requires Operator to obtain additional approvals prior to commencing such work. Any revisions, substitutions or additions to the approved Capital Budget must be approved by Owner in writing.

(c) Operator shall use commercially reasonable efforts to operate the Hotel in accordance with the approved Annual Plan. The parties acknowledge that: (i) the approved Annual Plan is an estimate only; (ii) unforeseen circumstances during the course of the applicable Fiscal Year may make adherence to the approved Annual Plan impracticable or impossible; and (iii) Operator shall be entitled to depart therefrom due to causes of the foregoing nature. Operator may (w) incur variable expenses directly attributable to occupancy or revenues above forecasted levels; (x) pay all taxes, utilities, insurance premiums and charges provided for in contracts and leases entered into pursuant to this Agreement that are not within Operator's ability to control; (y) make any expenditures reasonably required on an emergency basis to avoid or mitigate damage to the Hotel or injury to persons or property, provided that Operator notify Owner as promptly as reasonably possible; and (z) make any expenditures necessary to comply with, or to cure or prevent any violation of any Mortgage and Legal Requirements. In addition to, and without limiting the foregoing, Operator shall be permitted, in its discretion and without the approval of Owner, to deviate from the approved Annual Operating Budget as follows: by up to ten percent (10%) of the approved department expense line item, or by up to five percent (5%) of the aggregate total expenditures in the approved Annual Operating Budget. If Operator determines that circumstances will result in material changes between actual results and the approved Annual Plan during the course of the Fiscal Year, Operator shall, within thirty (30) days of such determination, notify Owner, which shall include a reforecast of revenues and expenses through the remainder of the Fiscal Year. Unless otherwise specified, all references to the Annual Plan in this Agreement shall be deemed to refer to the Annual Plan approved by Owner, subject to Operator's right to depart therefrom pursuant to this Section 4.2(c).

4.3 **Labor Relations**. Operator may negotiate with any union lawfully entitled to represent the Hotel Employees and may execute collective bargaining agreements or labor contracts resulting therefrom that have been approved by Owner in Owner's sole and absolute discretion, as provided in Section 2.1(d). Owner shall have the right to have one or more representatives attend and participate in all such negotiations.

4.4 **Liquor License**. Operator shall obtain all alcoholic beverage licenses either in its name or its designee and shall maintain the alcoholic beverage licenses in good standing and effect, free of all liens (with the exception of any lien granted to Owner herein) and in compliance with the conditions imposed upon such alcoholic beverage licenses by any alcoholic beverage control commission or other governmental authority or agency, pursuant to the License Agreement. Operator further covenants and agrees that upon termination of this Agreement, whether upon its expiration or at any sooner termination thereof, it shall execute any documentation and perform any other acts which may be reasonably necessary or appropriate to effect the transfer or issuance of an alcoholic beverage license to the subsequent owner or Operator of the Hotel, provided that Operator shall not incur liability or cost in connection with such transfer or issuance. Owner covenants and agrees to pay any and all costs (including reasonable attorney's fees) incurred by Operator or its designee in effecting the transfer or obtaining such licenses and such covenant and agreement shall survive the expiration or termination of this Agreement.

4.5 **Notice of Violations**. Operator shall promptly notify Owner in writing of any written notice received from any regulatory or governmental body regarding an actual or perceived violation of any Legal Requirements.

4.6 **Centralized Services**. To the extent not otherwise provided by Licensor pursuant to the terms and conditions of the License Agreement, Operator may provide or cause its affiliated companies to provide for the Hotel the benefit of certain reservation systems, centralized accounting services, IT services, purchasing services, revenue management services, training, satisfaction surveys, and/or other centralized services as may be made available generally to similar properties managed by Operator from time to time (individually and collectively, the "**Centralized Services**"). The cost of all Centralized Services ("**Centralized Services Charge**") shall be (a) set forth in the applicable Annual Operating Budget, (b) allocated to the Hotel on an equitable basis with all other hotels utilizing the Centralized Services of Operator or its Affiliates, (c) reimbursed to Operator on a cost reimbursement basis and without mark-up or profit to Operator, and (d) shall not exceed the costs which Owner otherwise would have incurred if such services otherwise were provided on-site at the Hotel, which costs may include, without limitation, salaries (including payroll taxes and employee benefits) of employees and officers of Operator and its Affiliates engaged in the provision of the Centralized Services, costs of all equipment employed in the provision of such Centralized Services, and a reasonable charge for the development costs of Operator or its Affiliates. The Centralized Services currently provided by Operator, along with the Centralized Services Charge as of the Effective Date, are described in Exhibit B attached hereto. The Centralized Services and the Centralized Services Charge shall be subject to change from time to time, subject to clauses (a)-(d) above.

4.7 **Multi-Property Programs**. Owner acknowledges and agrees that, subject to the applicable Annual Operating Budget, Operator may, in Operator's reasonable discretion, enter into certain purchasing, maintenance, service or other contracts with respect to the operation of

the Hotel and other hotels operated by Operator (collectively, "**Multi-Property Programs**") pursuant to which Operator or its Affiliates may receive rebates, discounts, cash or other incentives, administration fees, concessions, profit participations, stock or stock options, investment rights or similar payments or economic considerations (collectively, "**Operator Rebates**") from the vendors or suppliers of goods or services provided under such Multi-Property Programs. When taking bids or issuing purchase orders, Operator shall secure for, and shall credit to, Owner any Operator Rebates (less Operator's expenses related thereto) in connection with such purchase. Operator shall promptly remit to Owner's benefit in the Operating Account the value of all Operator Rebates (less Operator's expenses related thereto) received by Operator or any of its affiliates in connection with any purchases described herein.

ARTICLE 5
USE OF NAME

5.1 **Name**. During the Term of this Agreement, the Hotel shall at all times be known and designated by the name set forth in the applicable License Agreement or by such other name as from time to time may be approved by Owner. Operator shall make or cause to be made any fictitious name filings or disclosures required by the laws of the State with respect to the use of such name for or in connection with the Hotel.

ARTICLE 6
ADVERTISING

Subject to the provisions of the License Agreement, Operator shall arrange and contract for all advertising, which Operator may reasonably deem necessary, in accordance with Section 4.2, for the operation of the Hotel. So long as the License Agreement may be in effect, Operator generally shall advertise the Hotel under the name required by the License Agreement for the Hotel.

ARTICLE 7
RESERVE FOR FF&E

7.1 **Reserve for Replacement of FF&E**. The Reserve shall be funded pursuant to Section 7.2, and Operator shall be authorized to use amounts in the Reserve to pay for the cost of FF&E Expenditures and Capital Improvements.

7.2 **Transfers to Reserve for FF&E**. Commencing on the Commencement Date and continuing thereafter during the remainder of the Term, Operator shall deposit monthly into the Reserve for FF&E and Capital Improvements an amount equal to the amounts required by Lender and/or by Licensor; provided that in no event will the amounts to be deposited monthly into the Reserve be less than an amount equal to four percent (4%) of Gross Revenues throughout the Term.

7.3 **Annual Adjustment**. At the end of each Fiscal Year and following receipt by Operator of the annual accounting referred to in ARTICLE 10, an adjustment will be made if necessary and if available, so that the appropriate amount shall have been deposited in the Reserve for such Fiscal Year.

7.4 **Maintenance of Reserve**. The proceeds from the sale of FF&E no longer needed for the operation of the Hotel shall be deposited in the Reserve, but not credited against the obligation to deposit cash in such fund for the then current Fiscal Year. All interest earned or accrued on amounts invested from the Reserve shall be added to the Reserve (but shall not be credited against Owner's obligations to fund the Reserve), and shall not constitute Gross Revenues or be included therein.

7.5 **Accumulation of Reserve and Additional Cost of FF&E and Capital Improvements**. Owner and Operator acknowledge and agree that portions of the Reserve may, from time to time in accordance with the then-current Annual Plan, be used for more significant expenditures than could be reserved for in a single year. Accordingly, at the end of each Fiscal Year, any amounts remaining in the Reserve shall be carried forward to the next Fiscal Year, and shall be in addition to the amount to be reserved in the next Fiscal Year. In the event at any time there are insufficient funds in the Reserve for any Fiscal Year to pay the cost of FF&E Expenditures in accordance with the Annual Plan, then Owner will, within thirty (30) days after request therefor by Operator, provide the additional funds to Operator to pay for such excess.

ARTICLE 8
REPAIRS AND MAINTENANCE AND CAPITAL IMPROVEMENTS

8.1 **Repairs and Maintenance**. Operator shall, from time to time, make such expenditures from the Reserve (or, to the extent insufficient, from funds otherwise provided by Owner) for (a) FF&E Expenditures and (b) repairs and maintenance of HVAC, mechanical and electrical systems, exterior and interior repainting; resurfacing building walls and floors; resurfacing parking areas; replacing folding walls; and miscellaneous similar expenditures (collectively, "**Repairs and Maintenance**") as required by the License Agreement, any Mortgage, Legal Requirements, Annual Plan and otherwise in the condition required by this Agreement. Except in the event of an emergency, Force Majeure Event or otherwise under circumstances in which it would be unreasonable to seek to obtain prior approval (and provided that Operator shall notify Owner of any such expenditure within a reasonable time given the nature and scope of the emergency), all expenditures for the foregoing shall be as provided in the Annual Plan. If any such Repairs and Maintenance shall be made necessary by any condition against the occurrence of which Owner has received the guaranty or warranty of the builder of the Hotel or of any supplier of labor or materials for the Hotel or of any supplier of labor or materials for the construction of the Hotel, then Operator shall, at Owner's direction, invoke said guarantees or warranties in Owner's or Operator's name and Owner shall cooperate in all reasonable respects with Operator in the enforcement thereof.

8.2 **Capital Improvements**. Owner shall, from time to time, at its sole expense (which may include funds deposited in the Reserve), make such Capital Improvements in or to the Hotel as Owner shall determine are necessary to comply with the Operating Standards. If Capital Improvements shall be required at any time during the Term by the terms of the License Agreement, to maintain the Hotel in accordance with the Operating Standards or Legal Requirements, or because Operator and Owner jointly agree upon the desirability thereof, then in such event all such Capital Improvements shall be made with as little hindrance to the operation of the Hotel as reasonably possible. Notwithstanding the foregoing, as long as the Hotel can continue to operate without interruption, Owner shall have the right to contest the need for any

such Capital Improvements required by any Legal Requirements and may postpone compliance therewith, if so permitted by law and if such postponement will not expose Operator to any civil or criminal liability. All recommendations by Operator of Capital Improvements shall be submitted in conjunction with the Capital Budget for the Fiscal Year described in Section 4.2(b). In the event that Owner elects to perform Major Renovations to the Hotel, Owner may request Operator to oversee the performance of the Major Renovations, in which case the parties shall enter into an agreement for project management services in a form and on such terms and conditions (including the amount of any project management fees) mutually acceptable to both parties.

8.3 **Liens**. Owner and Operator shall cooperate and use all commercially reasonable efforts to prevent any liens from being filed against the Hotel that arise from any maintenance, changes, repairs, alterations, improvements, renewals or replacements in or to the Hotel.

8.4 **Notice of Force Majeure Event**. In the event of any occurrence constituting a Force Majeure Event, Operator shall promptly notify Owner of such occurrence and shall keep Owner informed as to the extent and impact thereof on the Hotel.

ARTICLE 9
WORKING CAPITAL AND OPERATING ACCOUNT; DISTRIBUTION OF EXCESS CASH

9.1 **Working Capital**. Owner shall provide initial Working Capital in an amount equal to $1,000 per guest room at the Hotel. Owner shall at all times cause sufficient Working Capital to be on hand in the Operating Account. In no event shall Owner permit the Working Capital in the Operating Accounts to be less than an amount equal to the estimated monthly operating expenses of the Hotel for the ensuing sixty (60) day period, as reflected in the then current Annual Operating Budget. From time to time, upon fifteen (15) days prior written notice from Operator that such funds are required, Owner shall furnish to Operator funds that Operator deems reasonably necessary to assure that the Hotel shall have adequate Working Capital as herein provided.

9.2 **Depository Account**. All monies received by Operator in the operation of the Hotel shall be received in trust by Operator for the benefit of Owner and shall be deposited in a "**Depository Account**" in Owner's name, with certain of Owner's employees as authorized signatories, in a bank or trust company selected by Owner. Such monies shall not be commingled with other funds belonging to Operator and shall be swept on a daily basis into the Operating Account.

9.3 **Operating Account**. Owner and Operator shall also establish an Operating Account for paying the Hotel's expenses permitted herein to be charged to the Hotel and/or Owner. The Operating Account shall be in Owner's name, with Operator's employees as the authorized signatories, in a bank or trust company selected by Owner. Operator shall pay all Operating Expenses of the Hotel and amounts owed Operator and its Affiliates hereunder (including the Management Fee and Centralized Services Charges) out of the Operating Account. Checks drawn on the Operating Account or other documents of withdrawal from such accounts shall be signed by a designated representative of Operator approved by Owner. The Operating Account shall provide that, upon Owner's written direction, Operator and its representatives may be removed

as authorized signatories of such account but only upon termination of this Agreement. Owner shall make arrangements to deposit from the Depository Account into the Operating Account on a daily basis any money which is required to cover payments from the Operating Account permitted herein, including any payments for capital expenditures permitted herein. If Owner fails to do so and such failure continues for three (3) business days after notice from Operator, such failure shall be deemed an Owner Event of Default and Owner shall indemnify and hold Operator harmless from any loss or expense Operator might incur as a result of such deposit not having been made, and Operator may exercise its right to terminate pursuant to Section 15.2. All risk of loss with respect to funds in the Operating Account shall be borne by Owner.

9.4 **Distribution of Excess Cash**. Within twenty-five (25) days of the close of each Accounting Period, Operator shall distribute to Owner all sums remaining in the Operating Account in excess of the then Working Capital requirements of the Hotel determined in accordance with Section 9.1 of this Agreement.

9.5 **Lender Requirements**. The provisions of this ARTICLE 9 shall be subject to the requirements of any Lender. Operator will cooperate with all cash management and other similar requirements reasonably imposed by any Lender, provided such cash management or other requirements acknowledge that so long as Operator is managing the Hotel, Operator shall continue to receive payment of Management Fees, Reimbursable Expenses and payroll expenses as contemplated herein.

ARTICLE 10
BOOKS, RECORDS AND STATEMENTS

10.1 **Books and Records**. Operator shall keep full and adequate books of account and other records reflecting the results of operation of the Hotel in accordance with the Uniform System of Accounts and GAAP. The books of account and all other records relating to or reflecting the operation of the Hotel shall be kept either at the Hotel or at Operator's corporate offices and shall be available to Owner and its representatives and its auditors or accountants, at all reasonable times for examination, audit, inspection and transcription at Owner's sole cost and expense. All of such books and records pertaining to the Hotel shall be the property of Owner. Upon any termination of this Agreement, all of such books and records forthwith shall be turned over to Owner at a location designated by Owner so as to insure the orderly continuance of the operation of the Hotel, but such books and records shall thereafter be available to Operator at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years. In addition to the Hotel's books and records, Operator shall maintain Guest Data in accordance with its privacy policy and the License Agreement; provided, however, Owner and Operator shall jointly own all Guest Data, and each may use such Guest Data in any commercially reasonable manner that: (a) does not violate the terms of this Agreement, (b) during the Term of this Agreement, does not interfere with and/or is not detrimental to the operation or financial performance of the Hotel, and (c) does not violate any Legal Requirements applicable to the use of Guest Data.

10.2 **Financial Reports**.

(a) Operator shall deliver to Owner within twenty (20) days following the close of each Accounting Period a monthly profit and loss statement reflecting a comparison of periodic and year-to-date actual revenues and expenses with the Annual Operating Budget as well as a periodic and year-to-date comparison of such actual revenues and expenses with those of the prior Fiscal Year.

(b) Within seventy-five (75) days after the end of each Fiscal Year, Operator shall deliver to Owner an annual accounting, showing the results of operation of the Hotel during the Fiscal Year and a computation of Gross Revenues, Operating Expenses, and Gross Operating Profit, if any, and any other information necessary to make the computations required hereby or which may be requested by Owner, all for such Fiscal Year. The annual accounting for any Fiscal Year shall be controlling over the interim accountings for such Fiscal Year.

(c) Operator shall prepare and deliver any additional reports or information as Owner is required to provide under the License Agreement.

10.3 **Audits by Owner**. Owner shall have the right to audit, conducted either by Owner's internal personnel or by a third party auditor retained by Owner, at its expense and not as an Operating Expense of the Hotel (except as provided below), all items of expense and revenue under this Agreement including, but not limited to, Gross Revenues, Operating Expenses, depreciation, the Management Fee and the Reserve. Operator shall cooperate and assist with such audit. In the event that an audit reflects an underpayment to Owner or Operator or an overpayment to Operator or Owner, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the audit results to Operator, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. In the event any audit establishes that Operator has overstated or understated Gross Revenues or Operating Expenses by more than five percent (5%), the costs of such audit shall be paid for by Operator (and shall not be an Operating Expense of the Hotel).

10.4 **Accounting Services**. Subject to the provision of sufficient input, review, approval and signoff by Owner, during the Term, Operator (or its Affiliate) shall render certain accounting services to and on behalf of Owner, which shall include:

(a) separate from the Hotel books and records, the maintenance of Owner's corporate books of account, including without limitation capital accounting (to be performed under Operator's capitalization policy) and check cutting services with respect to Owner's FF&E account for the payment of FF&E Expenditures;

(b) the provision of financial reporting services, utilizing Operator's standard reports, which shall be delivered within the reporting deadlines required by Lender, but in no event less than twenty (20) days monthly, forty five (45) days quarterly and ninety (90) days annually;

(c) the making of all of Owner's required payments with respect to (i) any Mortgage (on behalf of Owner in satisfaction of Owner's obligations under Section 23.5), (ii) Taxes (as set forth in Section 13.1) and (iii) Insurance Costs (as set forth in Section 12.1);

(d) if applicable, the processing of Lender requisitions from the Reserve;

(e) coordination of deliverables for Lender reporting requirements;

(f) cooperation with an independent accounting firm approved in Owner's sole discretion in connection with securitization vehicle reporting deadlines and audit procedures under Regulation AB; and

(g) other related services as mutually agreed by Owner and Operator from time to time (collectively, the "**Accounting Services**").

In consideration for its provision of the Accounting Services hereunder, Operator shall receive the Accounting Services Fee, which amount shall be payable pursuant to Section **Error! Reference source not found.**, and which reflects Operator's cost reimbursement only, without mark-up or profit to Operator. In the event the scope of the Accounting Services is materially increased (including through use of reports other than Operator's standard forms), the Accounting Services Fee may be increased as mutually determined by the parties. Owner may elect at any time to terminate the Accounting Services by delivery of seventy five (75) days' prior written notice to Operator, in which event the date of termination of the Accounting Services will be the last day of the calendar quarter following the month in which Operator receives Owner's written notice of termination, and the Accounting Services Fee shall cease to be due from and after the date of such termination.

ARTICLE 11
MANAGEMENT FEES AND OTHER PAYMENTS

11.1 **Management Fee**. For each Fiscal Year or portion thereof, Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, subject to delivery of the monthly reports described in Section 10.2(a) (except with respect to the Incentive Fee, which, if due, shall be paid at the end of each calendar quarter upon the submission of the reports described in Section 10.2(b) with respect to such calendar quarter) in respect of its management services hereunder, a management fee calculated as follows (collectively, the "**Management Fee**"):

(a) a base fee (the "**Base Fee**") in an amount equal to two and one half percent (2.5%) of Gross Revenues in respect of any applicable period; plus

(b) an incentive fee (the "**Incentive Fee**") in an amount equal to fifteen percent (15%) of Adjusted GOP for such Fiscal Year. A sample calculation of the Incentive Fee is attached hereto as Exhibit C.

(c) Notwithstanding the forgoing, the aggregate Management Fee payable in any given Fiscal Year shall not exceed four percent (4%) of Gross Revenues for such Fiscal Year.

11.2 **Payment of Management Fee**. The Incentive Fee shall be computed separately for each Fiscal Year and shall not be accumulated from Fiscal Year to Fiscal Year. The Incentive Fee shall be prorated for any partial Fiscal Year (provided that in the event this Agreement is terminated due to an Event of Default by Operator, no Incentive Fee shall be payable with respect to the Fiscal Year in which such termination occurs). The Incentive Fee shall be adjusted, if necessary, within sixty (60) days after receipt by Owner of the annual accounting for such Fiscal

Year or receipt by Operator of Owner's documentation supporting the calculation of Owner's Priority Return. Upon request by Operator, Owner shall provide sufficient evidence and back up documentation to support Owner's calculation of Owner's Priority Return, including without limitation sufficient evidence and back up documentation to allow Operator to properly verify Owner's Invested Capital and Owner's Additional Invested Capital. Owner or Operator shall be entitled to audit the determination and calculation of the Management Fee. In the event that an audit reflects an underpayment or overpayment of the Management Fee to Operator, Operator shall correct same by a corrective payment to Owner or Operator, as appropriate, within ten (10) days following notice of the results of such audit to the other party, subject to Owner's and Operator's right to challenge the audit results in accordance with the provisions of ARTICLE 27 of this Agreement. The calculation and payment of the Incentive Fee shall survive the termination of this Agreement.

11.3 **Other Payments**. Operator shall receive, by a distribution made by Operator out of the Operating Account at the end of each Accounting Period, the Centralized Services Charges and Accounting Services Fee for each Accounting Period concurrently with the payment of the Base Fee at the end of each Accounting Period. Operator shall also receive reimbursement from Owner for those reasonable out of pocket costs actually incurred by Operator which are or were directly and exclusively related to transitional management services provided by Operator prior to the Commencement Date, as outlined in the Transition Budget attached hereto as Exhibit D (the "**Transition Budget**"). Additionally, Operator shall, in accordance with the Annual Plan, be entitled to reimburse itself directly from the Operating Account for all Reimbursable Expenses incurred by it in connection with the performance of this Agreement. If requested by Owner, Operator shall provide a statement showing in reasonable detail the nature and amount of such expenses, together with supporting documentation reasonably requested by Owner.

11.4 **Treatment of Proceeds of Business Interruption Insurance and Condemnation Awards**. In the event of a casualty or condemnation for temporary use resulting in the payment of business interruption insurance (with respect to such casualty) or a condemnation award (with respect to such condemnation for temporary use), the amount of such proceeds shall be considered a part of Gross Revenues for the purpose of computing Operator's Management Fee, unless such Management Fees are paid directly to Operator by way of receipt of business interruption proceeds.

ARTICLE 12
INSURANCE

12.1 **Insurance Requirements**. Owner shall retain the right, upon written notice to Operator, to procure and maintain, as an Operating Expense of the Hotel, the policies required in subsections (a), (b), (c), (d), (e), (f), (g) or (l) of this Section 12.1 given, however, that such policies shall be placed with responsible and properly authorized companies, meet the minimum requirements as contained in this ARTICLE 12, the coverage provisions provided shall apply to Operator's benefit as provided in this Agreement, and with respect to subsection (l) of this Section 12.1, if there is a deficiency in the coverage of the Cyber Liability Insurance policy procured or maintained by Owner, Operator shall have the right to elect to procure Cyber Liability Insurance coverage addressing any such deficiency, as an Operating Expense of the Hotel. Operator will procure and maintain, as an Operating Expense of the Hotel, the policy required in subsection (h) of this

Section 12.1 with a responsible and properly authorized company that meets the minimum standards contained in this ARTICLE 12. Operator will procure and maintain, at Operator's sole cost and not as an Operating Expense of the Hotel, the policies required in subsections (i), (j) and (k) of this Section 12.1 with responsible and properly authorized companies that meet the minimum standards contained in this ARTICLE 12; provided, however, Operator shall only be responsible for the payment of the premiums for such policies as procured by Operator, and any deductibles payable in connection with any claim or loss, any losses suffered under such policies, or any other claims, costs or expenses associated with such policies, shall be borne by Owner. Notwithstanding Operator's agreement to pay the cost of the premiums associated with the policies required in subsections (i), (j) and (k), in the event Owner elects to modify the deductibles under such policies or otherwise adjust coverage under such policies and such modifications result in an increase in premium, Owner shall be responsible for any increase in premium associated with such modification. All policies evidencing such insurance in this ARTICLE 12 shall name both Owner and Operator as named or additional insureds as their interests may appear, and may, at Owner's election, name any mortgagee, lien holder or other security interest holder of all or any part of the Hotel as an additional insured thereunder, as its interest may appear. The party which procures the insurance required under subsections (d) and (e) of this Section 12.1 will procure such coverage on a primary and non-contributory basis to the other party.

(a) An "all risk" policy (including, at Owner's option, Difference in Conditions coverage which shall include earthquake, windstorm and flood) insuring all real and personal property, in an amount Owner and Operator shall mutually deem advisable.

(b) Insurance on the Hotel against loss or damage from an accident to and/or caused by boilers, heating apparatus, pressure vessels, pressure pipes, electrical or air conditioning equipment, in an amount as Owner shall deem advisable.

(c) Business interruption and extra expense insurance, on a loss sustained basis, against the perils enumerated in subsections (a) and (b) above, including Operator's Management Fees and the Centralized Services Charges as provided under this Agreement.

(d) Commercial General Liability Insurance, including coverage for bodily injury (including coverage for death, mental anguish), full liquor liability, inn keepers legal liability (this coverage can be provided through a 3rd party crime policy upon Owner consent), personal injury and advertising liability including premises-operations, independent contractors' protective, products-completed operations, broad form property damage (including coverage for explosion, collapse and underground hazards), and including cross liability and severability of interests, blanket contractual liability for liability and claims occurring upon, in on or about the Hotel and, without exclusion for assault, battery or sexual molestation. Coverage shall be extended to include liability arising out of spas, treatments, massages as applicable, with the following minimum limits:

(i) $1,000,000 Each Occurrence;
(ii) $2,000,000 General Aggregate;
(iii) $1,000,000 Personal and Advertising Injury; and
(iv) $2,000,000 Products-Completed Operations Aggregate.

Such policy shall provide coverage on a on a per occurrence basis and be endorsed to have the General Aggregate apply on a per location/ per project basis. The Contractual Liability Insurance shall include coverage sufficient to meet the indemnity obligations in this Agreement.

(e) Umbrella/Excess Liability Insurance on a follow form basis with a per occurrence and annual aggregate limit of $100,000,000 per location / project. Coverage shall be excess of Commercial General Liability Insurance, Auto Liability and Employers Liability with such coverage being concurrent with and not more restrictive than underlying insurance.

(f) Comprehensive Automobile Liability Insurance, including coverage for owned, non-owned, leased and hired autos, in the minimum amount of $1,000,000 combined single limit for Bodily Injury and Property Damage for automobiles used in the performance of Operator's obligations hereunder.

(g) Such additional insurance as may be required by any mortgagee or lessor of the Hotel or any part thereof, together with insurance against such other risks as Owner deems necessary and that is now, or hereafter is, customary to insure against in the operation of similar properties, considering the nature of the business and the geographic and climatic nature of the Hotel's location.

(h) Worker's Compensation coverage with statutory limits and employer's liability with limits not less $1,000,000 and similar insurance as may be required by law or as Operator shall deem advisable.

(i) Employment Practices Liability Insurance in amounts not less than $2,000,000 covering employee harassment, discrimination, retaliation, wrongful termination. Such policy shall contain an endorsement to provide for coverage relating to claims from third parties, with coverage including but not limited to third party discrimination.

(j) Fidelity or Crime insurance in such reasonable amounts as Owner and Operator shall deem advisable but not less than $1,000,000, which policy shall specify that any loss involving funds of Owner shall be payable to both Operator and Owner with Owner as primary loss payee. A contracting services endorsement or other endorsement to provide for coverage of employees of Operator taking money or property of Owner or guests shall be attached to said policy.

(k) Professional Liability (Errors and Omissions) Insurance in amount not less than $2,000,000 covering the management, marketing, and hospitality services provided on behalf of the Hotel by Corporate Personnel.

(l) Cyber Liability Insurance with limits of not less than $2,000,000 each claim and $2,000,000 general aggregate covering liabilities for financial loss resulting or arising from website media content liability, breaches of security, and damage, destruction or theft of data. If Operator shall have access to personally identifiable information, such insurance shall also cover liabilities for the failure to prevent unauthorized access to data containing such information including violations of privacy laws and regulations. Furthermore, the insurance shall cover data breach expenses, including but not limited to consumer notification, computer forensic investigations, public relations and crisis management firm fees, credit file or identity monitoring

or remediation services. The coverage shall be written on a claims made and reported basis. Operator's insurance shall be primary and required to respond to and pay prior to any other available coverage of Owner.

Owner and Operator may agree for Operator to procure and maintain the policies required in subsections (a), (b), (c), (d), (e), (f) or (g) of this Section 12.1, as an Operating Expense to the Hotel, on Owner's behalf and upon Owner's approval. Operator shall cause each contractor employed at the Hotel to maintain insurance coverages equivalent to those standard in the industry but in no event less than the primary Commercial General Liability Insurance and Worker's Compensation limits required above. Operator shall cause each contractor to include the same additional insured requirements and certificates of insurance as noted above for Operator.

12.2 **General Insurance Requirements.**

(a) Certificates of insurance, containing all conditions applying to the Hotel, shall be delivered to Owner or Operator, as applicable, upon renewal of all policies of insurance that must be maintained under the terms of this Agreement. All policies shall contain an endorsement providing a thirty (30) day written notice of cancellation, material change, or non-renewal to Owner and Operator.

(b) Each policy of insurance shall provide that the carrier shall have no right of subrogation against either party hereto, their agents or employees by separate endorsement.

(c) No deductible or self-insured retention required by Operator hereunder shall exceed $25,000 unless written consent is provided by Owner; provided, however, that:

(i) those policies associated with Sections 12.1(h) or (k) shall be excluded;

(ii) with respect to the policy associated with Section 12.1(j), the deductible or self-insured retention required by Operator hereunder shall not exceed $50,000 unless written consent is provided by Owner;

(iii) with respect to the policy associated with Section 12.1(l), the deductible or self-insured retention required by Operator hereunder shall not exceed $150,000 unless written consent is provided by Owner;

(iv) with respect to the policy associated with Section 12.1(i), the deductible or self-insured retention required by Operator hereunder shall not exceed $250,000 unless written consent is provided by Owner; and

(v) in the event Owner elects to modify the deductibles of those policies associated with Section 12.1(i), (j), or (l), or otherwise adjust the coverage under such policies, and such modifications or adjustments result in an increase in the premium, Owner shall be responsible for any increase in the premium associated with such modification or adjustment.

(d) All insurance shall be written with companies approved by Owner, licensed in the state in which the Hotel is located and having a Best's Rating of not less than A-XI, unless otherwise approved by Owner.

(e) At Owner's request, Operator shall provide information pertaining to Operator's policies and procedures governing claims, emergency preparedness, and loss prevention. This is to include regular reports on claim and insurance litigation activity at the Hotel.

(f) Any insurance required to be provided pursuant to this ARTICLE 12 may be provided under policies of blanket insurance which cover other properties and activities of Owner or Operator, as applicable. The cost of any blanket coverage shall be equitably prorated among the properties and activities covered, provided that the portion of such cost allocated to the Hotel shall be no greater than if the same insurance coverage were written separately. Upon request, any such proration by Owner or Operator of blanket coverage shall be subject to the reasonable approval of the other party.

(g) The parties acknowledge that, as of the Effective Date, Operator will not provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program; provided, however, that Owner may elect to have Operator provide such insurance at any time during the Term, in which case the provisions of this Section 12.2(g) shall apply. If at any time during the Term, Owner elects to have Operator provide the policies required in Sections 12.1(a), (b) and/or (c) within Operator's shared master property insurance program, certain coverage limits will be shared with other properties owned and/or managed by Affiliates of Operator. Owner agrees that if there is a loss at the Hotel that results in a reduction of the amount of insurance coverage with respect to other properties covered by such master property insurance program, all costs of reinstating the full amount of coverage with respect to such other properties to the coverage that was available for such other properties under such master property insurance program immediately prior to such loss at the Hotel shall be borne by Owner as an expense of the Hotel. Conversely, if there is a loss at another property covered by such master insurance program that results in a reduction of the amount of insurance coverage with respect to the Hotel, all costs of reinstating the full amount of coverage with respect to the Hotel shall not be borne by Owner as an expense of the Hotel, but shall be borne by Operator or the owner of the applicable property that suffered such loss. The obligations of Owner and/or Operator pursuant to this Section 12.2(g) shall survive (i) the expiration or termination of this Agreement or termination of similar agreements, if any, related to Operator's affiliated properties on the shared program; and (ii) any election of Owner or Operator to remove the Hotel from the master insurance program and/or the removal of any of Operator's affiliated properties from the shared master insurance program. Owner and Operator agree to use commercially reasonable efforts in reinstating the coverage limits to the amount of coverage available immediately prior to such loss; provided, however, Owner and Operator shall be required, at a minimum, to reinstate the amounts of coverage necessary to comply with the requirements of any third party mortgagee or franchisor of the properties covered by the master insurance program. Notwithstanding the foregoing, (A) after a loss the relevant party will only be required to reinstate coverage, if any, up to an amount that results in a total amount of coverage that is sufficient for all properties under the program that are also obligated to a reinstatement provision, if Owner and Operator mutually agree at their sole discretion that the remaining amount of coverage is sufficient; provided if Owner and Operator do not mutually agree, an independent third-party consultant (i.e., a consultant who has not had any

direct relationship with either party in the preceding twenty-four (24) month period) selected by Operator will make such determination, (B) the amount of coverage to be reinstated by the relevant party will be limited to what is sufficient only for the properties in Operator's master shared insurance program that are obligated by the same reinstatement provisions per this Section 12.2(g) and (C) the maximum amount of lost shared limit to be reinstated by the relevant party after a loss will be equal to the amount of lost shared limit that was lost due to a loss at the relevant party's property. Owner also agrees that it shall bear as an expense of the Hotel all costs for any additional limits or coverages that may be requested by Owner that are above the limits in such master insurance program. Owner may elect to remove the Hotel from Operator's master insurance program upon thirty (30) days prior written notice (or upon three (3) business days prior written notice if such termination is effective on the annual renewal date of such master insurance program). Any premium prepaid by Owner for such terminated coverage shall be credited to Owner in an amount calculated by the insurance carrier in its sole and absolute discretion. Operator will use reasonable efforts to give written notice to Owner within ten (10) business days after any property is added or removed from Operator's shared master insurance program and will confirm the same upon request by Owner.

ARTICLE 13
REAL AND PERSONAL PROPERTY TAXES; UTILITIES

13.1 **Taxes**. Operator shall pay, for and on behalf of Owner from funds of the Hotel, all real estate taxes, all personal property taxes and all betterment assessments levied against the Hotel or any of its component parts. Operator shall promptly deliver to Owner all notices of assessments, valuations and similar documents to be filed by Owner, which are received from taxing authorities by Operator.

13.2 **Utilities, Etc**. To the extent sufficient funds are available in the Operating Account or otherwise made available in a timely manner by Owner, Operator shall promptly pay all fuel, gas, light, power, water, sewage, garbage disposal, telephone and other utility bills currently as they are incurred in connection with the Hotel from the Gross Revenues or Working Capital.

ARTICLE 14
DAMAGE OR DESTRUCTION; CONDEMNATION

14.1 **Damage or Destruction**.

(a) If the Hotel or any portion thereof shall be damaged or destroyed at any time or times during the Term by fire, casualty or any other cause commonly covered by fire and extended coverage insurance, to the extent required or permitted by any Lender and to the extent insurance proceeds are made available by Lender for such purpose, Owner will at its own cost and expense and with due diligence, repair and/or restore the Hotel so that after such repair and/or restoration, the Hotel shall be in substantially the same condition as it was immediately prior to such damage or destruction.

(b) Owner shall notify Operator within thirty (30) days after Owner determines whether or not Lender will permit, and make insurance proceeds available to carry out, such repair and/or

restoration, in which case Owner shall complete such repair and/or restoration pursuant to the last sentence of Section 14.1(a).

(c) If Owner advises Operator as provided in clause (b) above that Lender will not permit, and make insurance proceeds available to carry out, such repair and/or restoration, or fails to advise Operator as provided in clause (b) above, Operator may terminate this Agreement by written notice to Owner, within one hundred fifty (150) days after such damage or destruction, in which case, Owner shall pay to Operator the Termination Fee (provided Owner's obligation to pay the Termination Fee shall be limited to the extent of insurance proceeds which are made available to pay such Termination Fee).

14.2 **Condemnation**. If the whole of the Hotel shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition or like proceeding by any competent authority or if such a portion thereof shall be taken or condemned as to make it imprudent or unreasonable, in the sole opinion of Owner, to use the remaining portion as a hotel of the type and class immediately preceding such taking or condemnation, then this Agreement shall terminate as of the date title vests in the condemning authority. Operator has no interest in any award paid to Owner; however, Operator shall have the right, in the case of a condemnation that results in the termination of this Agreement, to institute a separately available administrative proceeding or judicial action intended to determine just compensation in connection with the condemnation, for the purpose of representing Operator's compensable interest in this Agreement. If only a part of the Hotel shall be taken or condemned and the taking or condemnation of such part does not, in the opinion of Owner, make it unreasonable or imprudent to operate the remainder as a hotel of the type and class immediately preceding such taking or condemnation, this Agreement shall not terminate, and so much of any award to Owner shall be made available as shall be reasonably necessary for making alterations or modifications of the Hotel, or any part thereof, so as to make it a satisfactory architectural unit as a hotel of similar type and class as prior to the taking or condemnation.

14.3 **Reinstatement**. If within twelve (12) months following any termination of this Agreement pursuant to Section 14.1 or 14.2, Owner or any of its Affiliates intends to commence repair and/or restoration of the Hotel, Owner shall promptly give notice to Operator in writing of such intention, and at Operator's election (exercisable by giving written notice to Owner within thirty (30) days of the date upon which Operator receives such notice from Owner), this Agreement shall be deemed reinstated in accordance with all the terms and conditions hereof (and Operator shall repay to Owner any Termination Fee received by Operator within ten (10) days after the Hotel is substantially re-opened). Operator's duties shall be suspended until the Hotel is substantially reopened and the termination date (and Term) shall be extended to reflect the period of time the Hotel is closed. The provisions of this Section 14.3 shall survive the expiration or termination of this Agreement.

14.4 **Mortgage Requirements**. Actions as to damage or destruction and condemnation shall be taken only in a manner that is consistent with the terms and conditions of any Mortgage and any conflict between those terms and conditions and the provisions of this Agreement shall be resolved in favor of such Mortgage.

ARTICLE 15
EVENTS OF DEFAULT

15.1 **Operator Defaults**. Each of the following shall constitute an Event of Default by Operator:

(a) The failure of Operator to perform, keep or fulfill any of the covenants, undertakings, obligations or conditions to be kept, observed or performed by Operator and such failure shall continue for a period of (i) ten (10) days after written notice from Owner to Operator with respect to payment of any funds or delivery of any of the financial reports required under Section 10.2, or (ii) thirty (30) days after written notice from Owner to Operator with respect to any other obligations of Operator under this Agreement; provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Operator commenced the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion, not to exceed in any event ninety (90) days after Owner's delivery of such notice.

(b) If Operator shall apply for or consent to the appointment of a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Operator in any bankruptcy, reorganization or judgment or decree shall be entered by any court of competition jurisdiction, on the application of a creditor, adjudicating Operator bankrupt or insolvent or approving a petition seeking reorganization of Operator or appointing a receiver, trustee or liquidator of Operator or of all or a substantial part of its assets or a decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(c) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Operator, or Operator shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(d) The filing against Operator of a petition seeking adjudication of Operator as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Operator's assets, if such petition is not dismissed within ninety (90) days.

(e) Failure of Operator to maintain at all times throughout the term hereof all of the insurance required to be maintained by Operator under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Owner to Operator.

15.2 **Owner Defaults**. Each of the following shall constitute an Event of Default by Owner:

(a) The failure of Owner to pay or furnish to Operator any money Owner is required to pay or furnish to Operator in accordance with the terms hereof on the date the same is payable, if such failure is not cured within ten (10) days after written notice specifying such failure is given by Operator to Owner. If any sum of money is not paid within ten (10) days following the date the same becomes due and payable under this Agreement, and Operator has advanced such sum on behalf of Owner, such sum shall bear interest at the Default Rate from the date Operator advanced

such sum on behalf of Owner until the date Owner actually pays such sum. If the failure to pay relates to the Management Fee, such sum shall bear interest at the Default Rate from the date due until the date actually paid.

(b) The failure of Owner to perform, keep or fulfill any of the other covenants, undertakings, obligations or conditions set forth in this Agreement (other than a failure to pay or furnish to Operator any money Owner is required to pay or furnish to Operator), including without limitation, the failure of Owner to respond to written requests by Operator to approve expenditures or to authorize procedures necessary to maintain the standards of the Hotel in accordance with the Operating Standards, if such failure shall continue for a period of thirty (30) days after written notice by Operator or Licensor to Owner specifying the matters or conditions which constitute the basis for such Event of Default, provided that if such failure is incapable of cure within such thirty (30) day period, then the cure period shall be extended provided that Owner commences the cure during such initial thirty (30) day period and thereafter diligently and continuously pursues the cure thereof to completion.

(c) If Owner shall apply for or consent to the appointment of a receiver, trustee or liquidator of Owner of all or a substantial part of its assets, or admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, take advantage of any insolvency law, or file an answer admitting the material allegations of a petition filed against Owner in any bankruptcy, reorganization or insolvency proceeding, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating Owner a bankrupt or insolvent or approving a petition seeking reorganization of Owner or appointing a receiver, trustee or liquidator of Owner or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(d) The filing of a voluntary petition in bankruptcy or insolvency or a petition for liquidation or reorganization under any bankruptcy law by Owner, or Owner shall consent to, acquiesce in, or fail timely to controvert, an involuntary petition in bankruptcy, insolvency or an involuntary petition for liquidation or reorganization filed against it.

(e) The filing against Owner of a petition seeking adjudication of Owner as insolvent or seeking liquidation or reorganization or appointment of a receiver, trustee or liquidator of all or a substantial part of Owner's assets, if such petition is not dismissed within ninety (90) days.

(f) Failure of Owner to maintain at all times throughout the term hereof all of the insurance required to be maintained by Owner under ARTICLE 12, if such failure is not cured within fifteen (15) days after written notice specifying such failure is given by Operator to Owner.

ARTICLE 16
TERMINATION UPON EVENT OF DEFAULT; OTHER REMEDIES

16.1 **Termination**. Upon the occurrence of an Event of Default, in addition to and cumulative of any and all rights and remedies available to the non-defaulting party under this Agreement, at law or in equity, the non-defaulting party may: (a) terminate this Agreement without penalty, effective upon receipt of written notice of termination by the defaulting party; and (b) pursue any

and all other remedies available to the non-defaulting party at law or in equity. In addition to and cumulative of the foregoing, upon the occurrence of any Event of Default on the part of Owner, all Management Fees, Reimbursable Expenses, Accounting Services Fees and all other sums then due and payable to Operator under this Agreement shall be immediately due and payable without notice. In no event shall the provisions of this Agreement with respect to the payment of a Termination Fee upon the termination of this Agreement under certain circumstances be construed as defining or limiting the amount recoverable by Operator from Owner by reason of any Event of Default on the part of Owner.

16.2 **Operator's Rights to Perform**.

(a) If Owner shall fail to make any payment or to perform any act required of Owner pursuant to this Agreement, Operator may (but shall not be obligated to), without further notice to, or demand upon, Owner and without waiving or releasing Owner from any obligations under this Agreement, make such payment (either with its own funds or with funds withdrawn for such purpose from the Operating Accounts) or perform such act. All sums so paid by Operator from its own funds, together with interest thereon at the Default Rate from the date of making such expenditure by Operator, shall be payable to Operator on demand.

(b) Operator shall have the right to set-off against any payments to be made to Owner by Operator under any provision of this Agreement and against all funds from time to time in the Operating Accounts any and all liabilities of Owner to Operator. Operator may withdraw from the Operating Accounts from time to time such amounts as Operator deems desirable in partial or full payment of all or any portion of said liabilities, the amount of such withdrawals to be paid by Owner to Operator on demand and to be replaced in the respective account and fund.

(c) Owner shall have the right to set-off against any payments to be made to Operator by Owner any amounts owed by Operator to Owner under this Agreement.

ARTICLE 17
OWNER'S ADDITIONAL TERMINATION RIGHTS

17.1 **Termination on Sale**. If at any time during the Term, Owner sells, leases or otherwise transfers or conveys (a) the Hotel, or (b) seventy-five percent (75%) or more of the direct or indirect interests in Owner, in each case to a person or entity which is not an Affiliate of Owner in a bona fide arm's length transaction, Owner shall have the right to terminate this Agreement by giving prior written notice (the "**Sale Termination Notice**") to Operator; provided that if such transfer shall occur at any time prior to the third (3rd) anniversary of the Commencement Date, Owner shall pay to Operator, as a condition of such termination, the Termination Fee, subject to Section 21.2. The Sale Termination Notice shall set forth an estimate of the effective termination date of this Agreement, which date shall not be less than sixty (60) days subsequent to the date of the Sale Termination Notice. The actual termination shall be effective as of the closing of the sale, regardless of the estimate provided in the Sale Termination Notice. Accordingly, Owner shall, upon reasonable notice, have the right to extend the effective date of such termination for a reasonable period of time based on delays in the closing, provided that Owner shall pay all actual costs reasonably incurred by Operator in postponing the effectiveness of such termination. As a further condition of any termination of this Agreement by Owner under this Section 17.1, Owner

shall pay to Operator, on or before the effective date of such termination all amounts due Operator and its Affiliates under this Agreement for the period of time prior to the date of termination.

17.2 **Performance Termination**.

(a) Subject to the provisions of this Section 17.2, Owner may terminate this Agreement in accordance with the procedure described below, if for any full Fiscal Year from and after the expiration of Fiscal Year 2019 (i.e., commencing with Fiscal Year 2020) (each a "**Measurement Year**"), subsections (i) and (ii) below are applicable for such Measurement Year (collectively, the "**Performance Test**"):

(i) the Gross Operating Profit for such Measurement Year is less than ninety percent (90%) of the budgeted Gross Operating Profit set forth in the approved Annual Operating Budget for such Measurement Year (the "**GOP Test**"); and

(ii) the RevPAR of the Hotel for such Measurement Year is less than the following percentage of the annualized RevPAR for the Competitive Set (the "**RevPAR Test**"): (A) for Fiscal Year 2020, one hundred and ten percent percent (110%); (B) for Fiscal Year 2021, one hundred and fifteen percent (115%); (C) for Fiscal Year 2022, and every Fiscal Year thereafter for the remainder of the Term, one hundred and twenty percent (120%).

(b) If the Performance Test is not satisfied and Owner elects to exercise its right to terminate this Agreement pursuant to this Section, (i) Owner shall give written notice to Operator of such election within sixty (60) days after the receipt by Owner of the annual accounting (as set forth in Section 10.2) for such Measurement Year; and (ii) the notice shall specify a termination date no sooner than ninety (90) days after the giving of such notice. No Termination Fee shall be payable upon any termination of this Agreement pursuant to this Section 17.2. Within sixty (60) days following its receipt of Owner's notice of termination, Operator may elect, which election may be exercised only once during the Term, to pay to Owner an amount which, when added to the actual aggregate amount of the Gross Operating Profit for the Measurement Year in question, equals the amount of Gross Operating Profit that would have been necessary to satisfy the GOP Test for such Measurement Year. Upon such payment, the Performance Test shall be deemed to have been satisfied for such Measurement Year, Owner shall not have a right to terminate this Agreement based upon such Measurement Year and Owner's election to do so shall be of no further force and effect.

(c) In the event that there is a Threshold Adjustment Event, Owner and Operator will reasonably cooperate to equitably adjust the GOP Test and the RevPAR Test, as applicable. If the parties cannot agree as to the equitable adjustment within thirty (30) days following written request for adjustment by either party, the matter will be submitted to an Expert, as provided and in accordance with the procedures set forth in Section 27.1.

ARTICLE 18
TRANSFER AND REMITTANCE TO OWNER UPON TERMINATION

18.1 **Transfer to Owner**. Upon any termination of this Agreement, whether due to the occurrence of an Event of Default or otherwise, Operator shall cooperate with Owner and shall execute all documents or instruments requested by Owner in connection with the transfer to

Owner or its nominee of the Permits and the License Agreement used or useful in connection with the operation of the Hotel (including without limitation executing any interim beverage agreement or similar agreement reasonably required to allow alcoholic beverages to continue to be sold at the Hotel after such termination in accordance with Legal Requirements pending issuance of temporary or new Permits with respect to such sales to Owner or its designee, so long as such successor Owner provides Operator with an indemnity, in form and substance reasonably acceptable to Operator, indemnifying Operator from any and all claims and liability associated with such interim agreements and continued use of such Permits); provided, however, if such termination is due to a reason other than a default by Operator under this Agreement, Owner will reimburse Operator for Operator's reasonable expenses to effect such transfer, or the imposition of liability by Operator. Without limiting the generality of the foregoing, Operator shall cause its officials to execute any necessary documents to effectuate the orderly transfer to Owner or its designee of the Permits and the License Agreement or the renewal thereof to Owner or Owner's designee if appropriate. In the event that this Agreement terminates for any reason, a sufficient number of Hotel Employees will be hired by Owner or its successor, assign or designee, so as not to cause a "mass layoff" or "plant closing", as defined in the Workers Adjustment and Retraining Act, 29 USC, sec 2101 et seq. (the "**WARN Act**"). Owner hereby agrees to indemnify, defend and hold Operator harmless from and against any and all claims asserted against or incurred by Operator related to: (a) hiring, discharging, offering to hire or failing to hire any of the Hotel Employees; (b) termination of the Hotel Employees by reason of the termination of this Agreement; or (c) Owner's failure to take, or cause to be taken, the action necessary with respect to Hotel Employees so that Operator will not be required to comply with the WARN Act or any other similar Legal Requirements.

18.2 **Remittance to Owner**. Upon the expiration or termination of this Agreement, after payment of all Operating Expenses for which bills were received to such date, Operator's Management Fee, Reimbursable Expenses, Accounting Services Fee, any Termination Fee and any other amounts then due and payable to Operator, and after withholding a reasonable amount determined by Operator to be necessary to pay for any continuing liabilities or payables that may become due following such termination, all remaining amounts in: (a) the Reserve and (b) the Operating Account, shall be transferred by Operator to Owner.

ARTICLE 19
NOTICES

All notices, elections, acceptances, demands, consents and reports (collectively "**notice**") provided for in this Agreement shall be in writing and shall be given to the other party at the address set forth below or at such other address as any of the parties hereto may hereafter specify in writing.

To Owner: c/o Wheelock Street Capital LLC
660 Steamboat Road, 3rd Floor
Greenwich, CT 06830
Attention: Lawrence Settanni
Email: settanni@wheelockst.com

With a copy to:

Goodwin Procter LLP
601 S. Figueroa Street, 41st Floor
Los Angeles, CA 90017
Attention: Chauncey Swalwell
Email: cswalwell@goodwinprocter.com

To Operator: Merritt Hospitality, LLC
101 Merritt 7 Corporate Park
1st Floor
Norwalk, Connecticut 06851
Attention: Clark W. Hanrattie
Email: chanrattie@heihotels.com

With a copy to:

Dentons LLP
2398 East Camelback Road, Suite 850
Phoenix, Arizona 85016
Attn: Rick Ross and Meghan Cocci
Phone: (602) 508-3900
Email: rick.ross@dentons.com and meghan.cocci@dentons.com

Such notice or other communication may be given by personal delivery, by Federal Express or other nationally recognized overnight carrier, by electronic mail, or by United States registered or certified mail, return receipt requested, postage prepaid, deposited in a United States post office or a depository for the receipt of mail regularly maintained by the post office. All notices, demands, consents and reports shall be deemed received upon acceptance or rejection of delivery.

ARTICLE 20
CONSENT AND APPROVAL

Except as herein otherwise provided, whenever in this Agreement the consent or approval of Operator or Owner is required, such consent or approval shall not be unreasonably withheld or delayed. Such consent or approval shall also be in writing only and shall be executed only by an authorized officer or agent of the party granting such consent or approval.

ARTICLE 21
TRANSFERS

21.1 **Transfers**. Except as herein otherwise provided, neither party may cause or permit a Transfer without the prior written consent of the other party (which consent may be withheld or conditioned in such other party's sole discretion); provided however, that either party shall be entitled to assign this Agreement (a) to an Affiliate of such party and (b) in connection with a corporate transaction involving such party in which all or substantially all of such party's assets are transferred to an Affiliate of such party. Operator shall have the right to assign its economic rights to receive payments under this Agreement (as opposed to a pledge of the ownership interests in Operator) as security for indebtedness or other obligations. Additionally, Operator

may transfer this Agreement and its rights hereunder to a successor by merger, sale of all or substantially all of its assets or interest in Operator, as applicable, or otherwise by operation of law.

21.2 **Assignability upon Sale**. Notwithstanding anything to the contrary in Section 21.1, if Owner decides to enter into a Sale of the Hotel with a third party, then at such time as Owner enters into a firm commitment for the Sale of the Hotel, Owner shall deliver a written notice (the "**Notice of Proposed Sale**") of the proposed Sale of the Hotel to Operator stating the name of the prospective purchaser or tenant, as the case may be, and, thereafter shall provide all other information concerning the proposed purchaser or tenant reasonably requested by Operator and which such purchaser or tenant has provided to Owner or Owner's Affiliates. Within fifteen (15) days of Operator's receipt of the Notice of Proposed Sale, Operator shall notify Owner of its election to either: (a) continue operating the Hotel following such Sale of the Hotel, or (b) terminate this Agreement. In the event Operator enters into an agreement to operate the Hotel following such Sale of the Hotel, Operator shall not have the right to receive the Termination Fee in connection with such Sale of the Hotel. In the event Operator does not enter into an agreement to operate the Hotel following the closing of the Sale of the Hotel Operator shall have the right to receive the Termination Fee.

21.3 **Prohibited Sale**. Notwithstanding anything to the contrary in Section 21.2, Owner may not cause or permit a Transfer to any Prohibited Person.

ARTICLE 22
INDEMNITY

22.1 **Indemnity by Owner**. Owner shall indemnify, defend and hold Operator, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Operator Indemnified Parties**") harmless for, from and against any and all third-party liabilities, claims, demands, actions, causes of action, judgments, orders, damages, costs, expenses, and losses (including reasonable attorney's fees and costs) (collectively, "**Claims**") which Operator Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from: (a) this Agreement, including the negotiation of or entering into this Agreement; (b) the development, construction, ownership and/or operation of the Hotel from and after the Effective Date, (c) any reporting to the IRS, Owner's lenders or any party relying on Owner's books and records by Owner or by Operator (on behalf of and as directed by Owner, in connection with Operator's provision of the Accounting Services pursuant to Section 10.4 of this Agreement); and (d) other activities relating to the Hotel, except to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.2 **Indemnity by Operator**. Operator shall indemnify, defend and hold Owner, its Affiliates and their respective directors, trustees, officers, employees, agents and assigns (collectively the "**Owner Indemnified Parties**") harmless for, from and against any and all Claims which Owner Indemnified Parties might incur, become responsible for, or pay out for any reason, directly or indirectly arising out of, relating to or resulting from this Agreement, to the extent caused by Operator's Grossly Negligent or Willful Acts.

22.3 **Indemnification Procedure**. Any Indemnified Party shall be entitled, upon written notice to the Indemnifying Party, to the timely appointment of counsel by the Indemnifying Party for the defense of any claim, which counsel shall be subject to the approval of the Indemnified Party. If, in the Indemnified Party's reasonable judgment, a material conflict of interest exists between the Indemnified Party and the Indemnifying Party at any time during the defense of the Indemnified Party, the Indemnified Party may appoint independent counsel of its choice for the defense of the Indemnified Party as to such claim. Additionally, regardless of whether the Indemnified Party is appointed counsel or selects independent counsel (a) the Indemnified Party shall have the right to participate in the defense of any claim and approve any proposed settlement of such claim, such approval to be in such party's sole and absolute discretion, and (b) all costs, expenses and attorneys' fees of the Indemnified Party shall be borne by the Indemnifying Party. If the Indemnifying Party fails to timely pay such costs, expenses and reasonable attorneys' fees, the Indemnified Party may, but shall not be obligated to, pay such amounts and be reimbursed by the Indemnifying Party for the same, which amounts shall bear interest at the Default Rate until paid in full. The parties hereby acknowledge that it shall not be a defense to a demand for indemnity that less than all claims asserted against the Indemnified Party are subject to indemnification. If a claim is covered by the Indemnifying Party's liability insurance, the Indemnified Party shall not take or omit to take any action that would cause the insurer not to defend such claim or to disclaim liability in respect thereof. Further, the Indemnified Party shall cooperate with the Indemnifying Party in the defense of the claim (at the Indemnifying Party's cost), shall not settle the claim without the consent of the Indemnifying Party, and shall not take any action which prejudices the defense of the claim.

22.4 **Survival/Miscellaneous**. The provisions of this ARTICLE 22 shall survive the expiration or earlier termination of this Agreement. Owner and Operator mutually agree for the benefit of each other to look first to the appropriate insurance coverages in effect pursuant to this Agreement in the event any claim or liability occurs as a result of injury to person or damage to property, regardless of the cause of such claim or liability. In no event shall the settlement by either party of any claim brought by a third party (including Hotel Employees) in connection with the ownership or operation of the Hotel be deemed to create any presumption of the validity of the claim, nor shall any such settlement be deemed to create any presumption that the acts or omissions giving rise to such claim constituted Operator's Grossly Negligent or Willful Acts.

ARTICLE 23
MISCELLANEOUS

23.1 **Further Assurances**. Owner and Operator shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding and enforceable as between them and as against third parties.

23.2 **Waiver**. The waiver of any of the terms and conditions of this Agreement on any occasion or occasions shall not be deemed a waiver of such terms and conditions on any future occasion.

23.3 **Successors and Assigns**. Subject to and limited by ARTICLE 21, this Agreement shall be binding upon and inure to the benefit of Owner, its successors and permitted assigns, and shall be binding upon and inure to the benefit of Operator, its successors and permitted assigns.

23.4 **Governing Law**. This Agreement shall be construed, both as to its validity and as to the performance of the parties, in accordance with the laws of the State of New York.

23.5 **Compliance with Mortgage and License Agreement**. In carrying out their respective duties and obligations under the terms of this Agreement, Owner and Operator shall take no action that could reasonably be expected to constitute a material default under any Mortgage or the License Agreement and will take such actions as are reasonably necessary to comply therewith. Owner shall be responsible for making all payments under any Mortgage.

23.6 **Amendments**. This Agreement may not be modified, amended, surrendered or changed, except by a written document signed by Owner and Operator agreeing to be bound thereby.

23.7 **Estoppel Certificates**. Owner and Operator agree, at any time and from time to time, as requested by the other party, upon not less than ten (10) days' prior written notice, to execute and deliver to the other a written statement (a) certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same are in full force and effect as modified and stating the modifications), (b) certifying the dates to which required payments have been paid, and (c) stating whether or not, to the best knowledge of the signer, the other party is in default in performance of any of its obligations under this Agreement, and if so, specifying each such default of which the signer may have knowledge, it being intended that such statement delivered pursuant hereto may be relied upon by others with whom the party requesting such certificate may be dealing.

23.8 **Inspection Rights**. Owner shall have the right to inspect the Hotel and examine the books and records of Operator pertaining to the Hotel at all reasonable times during the Term upon reasonable notice to Operator, and Owner and the holder of any Mortgage shall have access to the Hotel and the books and records pertaining thereto at all times during the Term to the extent necessary to comply with the terms of any Mortgage, all to the extent consistent with applicable Legal Requirements and the rights of guests, tenants and concessionaires of the Hotel, and all to the extent the same will not interfere with the operation and management of the Hotel.

23.9 **Subordination**. This Agreement, any extension hereof and any modification hereof shall be subject and subordinate to a Mortgage as provided therein. The provisions of this Section shall be self-operative and no further instrument of subordination shall be required; however, Operator will execute and return to Owner (or to Lender, as designated by Owner) such documentation as Owner or Lender may reasonably request to evidence the subordination of this Agreement to the Mortgage (and, if required by a Lender, the assignment of this Agreement to such Lender as additional security in connection with such Mortgage).

23.10 **Effect of Approval of Plans and Specifications**. Owner and Operator agree that in each instance in this Agreement or elsewhere wherein Operator is required to give its approval of plans, specifications, budgets and/or financing, no such approval shall imply or be deemed to constitute an opinion by Operator, nor impose upon Operator any responsibility for the design or construction of additions to or improvements of the Hotel, including but not limited to structural integrity or life/safety requirements or adequacy of budgets and/or financing. The scope of Operator's review and approval of plans and specifications is limited solely to the adequacy and relationship of spaces and aesthetics of the Hotel in order to comply with the Operating Standards.

23.11 **Entire Agreement**. This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof, superseding all prior agreements or undertakings, oral or written.

23.12 **Time is of the Essence**. Time is of the essence in this Agreement.

23.13 **Interpretation**. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any party hereto by any court or other governmental or judicial authority by reason of such party having or being deemed to have structured or dictated such provision.

23.14 **Counterparts**. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement. Counterparts of this Agreement received by electronic transmission shall be deemed originals for all purposes.

23.15 **Partial Invalidity**. In the event that any one or more of the phrases, sentences, clauses or paragraphs contained in this Agreement shall be declared invalid by the final and unappealable order, decree or judgment of any court, this Agreement shall be construed as if such phrases, sentences, clauses or paragraphs had not been inserted, unless such construction would substantially destroy the benefit of the bargain of this Agreement to either of the parties hereto.

23.16 **Confidentiality**. The parties agree that the terms, conditions and provisions set forth in this Agreement are strictly confidential and the parties agree to keep strictly confidential any information of a confidential nature about or belonging to a party or to any Affiliate of a party to which the other party gains or has access by virtue of the relationship between the parties (collectively, "**Privileged Information**"). Except as disclosure may be required to obtain the advice of professionals or consultants, or financing for the Hotel from a Lender, or in furtherance of a permitted assignment of this Agreement, or as may be required to comply with Legal Requirements (including reporting requirements applicable to public companies), each party shall make commercially reasonable efforts to ensure that Privileged Information is not disclosed to the press or to any other third party without the prior consent of the other party. Notwithstanding the foregoing, the parties hereby acknowledge that Operator shall have the authority to release information regarding the Hotel to STR, Inc. (or a similar organization mutually agreed upon by the parties). The obligations set forth in this Section shall survive any termination or expiration of this Agreement. The parties shall cooperate with one another on all public statements, whether written or oral and no matter how disseminated, regarding their contractual relationship as set forth in this Agreement or the performance of their respective obligations under this Agreement.

23.17 **No Third Party Rights**. This Agreement shall inure solely to the parties hereto. Notwithstanding any other provision of this Agreement, no third party shall have any rights pursuant to the terms of this Agreement.

ARTICLE 24
NO REPRESENTATIONS AS TO INCOME OR FINANCIAL SUCCESS OF HOTEL

In entering into this Agreement, Operator and Owner acknowledge that neither Owner nor Operator has made any representation to the other regarding projected earnings, the possibility of future success or any other similar matter respecting the Hotel, and that Operator and Owner

understand that no guarantee is made to the other as to any specific amount of income to be received by Operator or Owner or as to the future financial success of the Hotel.

ARTICLE 25
REPRESENTATIONS OF OPERATOR

In order to induce Owner to enter into this Agreement, Operator does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Operator enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Operator, threatened, against or relating to Operator, the properties or business of Operator or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Operator to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Owner;

(c) neither the consummation of the transactions contemplated by this Agreement on the part of Operator or to be performed, nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Operator is a party or by which it is bound; and

(d) Operator is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("**OFAC**") of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action (such persons and entities being "**Prohibited Persons**").

ARTICLE 26
REPRESENTATIONS OF OWNER

In order to induce Operator to enter into this Agreement, Owner does hereby make the following representations and warranties:

(a) this Agreement has been duly authorized, executed and delivered and constitutes the legal, valid and binding obligation of Owner enforceable in accordance with the terms hereof;

(b) there is no claim, litigation, proceeding or governmental investigation pending, or as far as is known to Owner, threatened, against or relating to Owner, the properties or business of Owner or the transactions contemplated by this Agreement which does, or may reasonably be expected to, materially and adversely affect the ability of Owner to enter into this Agreement or to carry out its obligations hereunder, and there is no basis for any such claim, litigation, proceedings or governmental investigation, except as has been fully disclosed in writing to Operator;

(c) neither the consummation of the transactions contemplated by this Agreement by this Agreement on the part of Owner to be performed nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Owner is a party or by which it is bound; and

(d) Owner is not, and shall not become, a person or entity with whom U. S. persons or entities are restricted from doing business under regulations of OFAC of the Department of the Treasury (including those named in OFAC's Specially Designated and Blocked Person's List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, or Support Terrorism), or other governmental action.

ARTICLE 27
DISPUTE RESOLUTION

27.1 **Expert Determination**. Notwithstanding anything to the contrary in Section 27.2, any dispute, claim or issue arising under this Agreement with respect to: (a) the proper inclusion or exclusion of items in revenues, expenses and other financial computations contemplated herein, (b) the proper computation of the Base Fee, Incentive Fee, charges for Centralized Services, Accounting Services or Reimbursable Expenses, (c) disputes relating to the Annual Plan, including expenses related to satisfying Operating Standards, (d) disputes as to the Performance Test or changes in the Competitive Set, or (e) other matters as to which this Agreement expressly provides for dispute resolution by an Expert, shall be resolved in accordance with this Section by one Expert. Notwithstanding the foregoing, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The decision of the Expert shall be final and binding on the parties and shall not be capable of challenge, whether by arbitration, in court or otherwise, except to the extent of any manifest error in such Expert's determination. The costs of the Expert and the proceedings shall be borne as directed by the Expert unless otherwise provided for herein. In the event the parties are unable to agree on an Expert or otherwise disagree as to whether the disputed matter qualifies for Expert determination, either party shall have the right, prior to submitting such matter to an Expert, to initiate the mediation and arbitration procedures contemplated below.

27.2 **Mediation/Arbitration**. Except with respect to the matters described in Section 27.1 above, if any claim, dispute or difference of any kind whatsoever (a "**Dispute**") shall arise out of or in connection with or in relation to this Agreement whether in contract, tort, statutory, or otherwise, and including any questions regarding the existence, scope, validity, breach or termination of this Agreement, the following procedures shall apply:

(a) The parties shall first attempt to settle such Dispute by participating in at least ten (10) hours of mediation, which mediation shall be administered by JAMS (or if JAMS no longer exists, another mutually acceptable alternative dispute resolution provider) (the "**ADR Provider**"). A designated individual mediator who is a member in good standing of the ADR Provider will then be mutually selected by the parties to conduct the mediation; provided that such mediator must have at least ten (10) years' experience as a mediator and must not have any conflict of interest with either party (the "**Mediator**"). If the parties are unable to agree upon the identity of the

Mediator within five (5) days after the complaining party has notified the other party that a Dispute exists, then, subject to the requirements of this Section, the ADR Provider shall select a qualified Mediator of its choosing who shall act as the Mediator of the Dispute. The mediation will be a nonbinding conference between the parties conducted in accordance with the applicable rules and procedures of the ADR Provider. The mediation shall take place in New York, New York. Neither party may initiate litigation or arbitration proceedings with respect to any Dispute until the mediation of such Dispute is complete; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any claims solely relating to: (i) preserving or protecting proprietary information, (ii) emergency or injunctive relief, (iii) enforcement of the dispute resolution provisions of this Agreement, or (iv) enforcement of the decision and/or award by any Expert or Arbitrator hereunder ("**Litigation Claims**"). Any mediation will be considered complete: (a) if the parties enter into an agreement to resolve the Dispute; or (b) if the Dispute is not resolved after completion of ten (10) hours of such mediation. The parties shall share equally in the cost of the mediation.

(b) If any Dispute remains between the parties after the mediation is complete, then the Dispute shall be submitted to final and binding arbitration pursuant to the procedures set forth in this Section; provided, however, the parties shall have the right to commence litigation or other Legal Proceedings with respect to any Litigation Claims. The parties agree that the Arbitrator shall have the power to order equitable remedies, including specific performance and injunctive relief.

(c) An arbitral tribunal of one arbitrator (the "**Arbitrator**") shall be established in conformity with the Comprehensive Arbitration Rules and Procedures of JAMS or such other rules of a successor ADR Provider mutually agreed upon by the parties (the "**Rules**") in effect at the time such arbitration is commenced; provided, however, the parties agree that such Arbitrator shall have not less than ten (10) years' experience in or for the hospitality industry in the area of expertise on which the dispute is based (e.g. with respect to operational matters, experience in the management and operation of hotels of a similar nature as the Hotel or, with respect to financial matters, experience in the financial or economic evaluation or appraisal of hotels). Each party shall appoint a person to appoint the Arbitrator within five (5) days of the date of a request to initiate arbitration, and the two appointed persons will then jointly appoint the Arbitrator (provided that the Arbitrator shall not be the same person as the Mediator) within ten (10) days thereafter. If the appointed persons or the Arbitrator is not appointed within the time limits set forth in the preceding sentence, such person(s) or Arbitrator shall be appointed by the ADR Provider (subject to the hospitality qualification standards set forth above). In rendering a decision hereunder, the Arbitrator shall take into account the Operating Standards of the Hotel and other applicable provisions of this Agreement.

(d) The arbitration, regardless of the amount in dispute, shall be conducted in accordance with the Rules. Any arbitration shall take place in New York, New York. The Arbitrator shall apply the substantive law of the State of New York. No party to any Dispute shall be required to join any other party as a party to the Dispute pursuant to the arbitration provisions set forth in this ARTICLE 27.

(e) The Arbitrator's monetary awards may include a requirement that the losing party bear reasonable attorneys' fees and costs of the arbitration proceeding, but, in no event shall award punitive or exemplary damages of any kind. Unless the Arbitrator determines otherwise, each

party to an arbitration proceeding shall be responsible for all fees and expenses of such party's attorneys, witnesses, and other representatives, and one-half of the other fees and expenses of the Arbitrator, and the other costs of the arbitration shall be allocated to and paid by (a) the party or parties initiating the respective arbitration proceeding, and (b) the party or parties against whom the respective arbitration proceeding is brought. The award rendered in any arbitration commenced hereunder shall be final and binding upon the parties, and each party hereby waives any claim or appeal whatsoever against it or any defense against its enforcement.

(f) The obligation to arbitrate under this Section is binding on the parties and their respective successors and assigns.

Until such time as a final determination of any Dispute is obtained pursuant to this Section and, notwithstanding any termination of or default under, or alleged termination of or default under, this Agreement, all parties to this Agreement involved in such Dispute shall remain liable for, and shall be required to continue to satisfy, their respective obligations under this Agreement.

27.3 **Survival**. This Section shall survive the expiration or termination of this Agreement.

ARTICLE 28
TERMINATION OF THE LICENSE AGREEMENT

Owner reserves and shall have the right in its sole discretion, at any time and without the consent or approval of (but with notice to) Operator, to terminate the License Agreement, provided, however, that Owner shall have no such right in order to establish its own independent operations, such as an operation without a franchise or license or in its own hotel name.

ARTICLE 29
RELATIONSHIP OF PARTIES

29.1 Owner and Operator acknowledge and agree that in operating the Hotel, entering into contracts, accepting reservations, and conducting financial transactions for the Hotel, Operator acts on behalf of and as agent for Owner with respect to the rights and obligations contemplated by this Agreement and assumes no independent contractual liability nor shall Operator be obligated to extend its own credit with respect to any obligation incurred in operating the Hotel or performing its obligations under this Agreement.

29.2 The relationship between the parties hereto shall be that of principal, in the case of Owner, and agent, in the case of Operator, with respect to the rights and obligations contemplated by this Agreement. Nothing contained in this Agreement shall constitute, or be construed to constitute or create, a partnership, joint venture or lease between Owner and Operator with respect to the Hotel. This Agreement is for the benefit of Owner and Operator and shall not create third-party beneficiary rights.

29.3 This Agreement shall be interpreted in accordance with general principles of contract interpretation without regard to the common law principles of agency (except as expressly provided for in this Agreement), and any liability between the parties shall be based solely on principles of contract law and the express provisions of this Agreement. To the extent any duties,

fiduciary or otherwise, that exist or may be implied for any reason whatsoever, including without limitation those resulting from the relationship between the parties, and including without limitation all duties of loyalty, good faith, fair dealing, care, full disclosure, or any other duty deemed to exist under the common law principles of agency or otherwise (collectively, the "**Implied Fiduciary Duties**"), are inconsistent with, or would have the effect of modifying, limiting or restricting the express provisions of this Agreement, the terms of this Agreement shall prevail.

29.4 For purposes of assessing Operator's duties and obligations under this Agreement, the parties acknowledge that the terms and provisions of this Agreement and the duties and obligations set forth herein are intended to satisfy any fiduciary duties which may exist between the parties. The parties also hereby unconditionally and irrevocably waive and release any right, power or privilege either may have to claim or receive from the other party any punitive, exemplary, statutory, or treble damages or any incidental or consequential damages with respect to any breach of the Implied Fiduciary Duties. Furthermore, Owner specifically consents to all transactions and conduct by Operator and its Affiliates described in this Agreement, including those set forth below, and waives any Implied Fiduciary Duties which Operator may owe to Owner now, or which may arise in the future, in connection with such transactions or conduct. Owner acknowledges and agrees that its consent to the transactions and conduct by Operator described in this Agreement, and its waiver of any Implied Fiduciary Duties otherwise owed by Operator: (a) has been obtained by Operator in good faith; (b) is made knowingly by Owner based on its adequate informed judgment as a sophisticated party after seeking the advice of competent and informed counsel; and (c) arises from Owner's knowledge and understanding of the specific transactions and actions or inactions of operators that are normal, customary, and reasonably expected in the hotel industry generally for this segment of the hotel industry.

The rest of this page is intentionally left blank.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

OWNER:

WS HAA Owner, LLC a Delaware limited liability company

By:_____
Name: _____
Title: _____

OPERATOR:

MERRITT HOSPITALITY, LLC, a Delaware limited liability company

By:_____
Name: _____
Title: _____

SCHEDULE 1

HOTEL COMPONENTS

1. Total Guest Rooms - approximately 507

2. Meeting Space - approximately 34,000 square feet and 11,000 square feet of pre-function space across 16 meeting rooms, including the 10,000 square foot grand ballroom and a 7,200 square foot junior ballroom

3. Food and Beverage Facilities - four (4) food and beverage outlets, which are, as of the Effective Date, known as Andiamo, Finish Line Sports Bar, Herb N' Kitchen, and Magnolia Grill, and in-room dining

4. Other Facilities - indoor and outdoor pools, fitness center, business center, private club level lounge

5. Parking - valet and paid self-parking

EXHIBIT A

DESCRIPTION OF PREMISES

[*Attached*]

EXHIBIT B

CENTRALIZED SERVICES

[*Attached*]

EXHIBIT C

SAMPLE INCENTIVE FEE CALCULATION

EXHIBIT D

TRANSITION BUDGET

Stock Inventory List

Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner/Manager_____

Name of Product	Number of Cases/Bottles in stock or in store as of date above	Price (i.e. $2.00/glass; $15.00/case)
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.		

Employee List

List ALL employees. Use full complete names (No initials). Attach additional pages if needed.

Business Name & Address: Merritt Hospitality, LLC d/b/a Hilton Atlanta Airport – 1031 Virginia Avenue, Atlanta, GA 30354

Date and Signature of Owner _____

Name	Address/Phone	DOB	SSN	Employment Date	Position
Will be provided upon takeover of Merritt Hospitality, LLC as the hotel management company.					

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Effective Date: May 14th, 2019

Western Surety Company

LICENSE AND PERMIT BOND

KNOW ALL PERSONS BY THESE PRESENTS: Bond No. 64642660

That we, Merritt Hospitality, LLC dba Hilton Atlanta Airport

of Atlanta, State of Georgia, as Principal, and WESTERN SURETY COMPANY, a corporation duly licensed to do surety business in the State of Georgia, as Surety, are held and firmly bound unto the City of Hapeville, State of Georgia, as Obligee, in the penal sum of Five Thousand and 00/100 DOLLARS ($5,000.00), lawful money of the United States, to be paid to the Obligee, for which payment well and truly to be made, we bind ourselves and our legal representatives, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That whereas, the Principal has been licensed Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City o

by the Obligee.

NOW THEREFORE, if the Principal shall faithfully perform the duties and in all things comply with the laws and ordinances, including all amendments thereto, pertaining to the license or permit applied for, then this obligation to be void, otherwise to remain in full force and effect until May 14th, 2020, unless renewed by Continuation Certificate.

This bond may be terminated at any time by the Surety upon sending notice in writing, by First Class U.S. Mail, to the Obligee and to the Principal at the address last known to the Surety, and at the expiration of thirty five (35) days from the mailing of said notice, this bond shall ipso facto terminate and the Surety shall thereupon be relieved from any liability for any acts or omissions of the Principal subsequent to said date. Regardless of the number of years this bond shall continue in force, the number of claims made against this bond and the number of premiums which shall be payable or paid, the Surety's total limit of liability shall not be cumulative from year to year or period to period, and in no event shall the Surety's total liability for all claims exceed the amount set forth above. Any revision of the bond amount shall not be cumulative.

Dated this 15th day of May, 2019.

Merritt Hospitality, LLC DBA Hilton Atlanta Airport
Principal

Principal

WESTERN SURETY COMPANY

By
Paul T. Bruflat, Vice President

Form 532-12-2015

WESTERN SURETY COMPANY • ONE OF AMERICA'S OLDEST BONDING COMPANIES

Western Surety Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That WESTERN SURETY COMPANY, a corporation organized and existing under the laws of the State of South Dakota, and authorized and licensed to do business in the States of Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and the United States of America, does hereby make, constitute and appoint

Paul T. Bruflat of Sioux Falls,
State of South Dakota, its regularly elected Vice President,
as Attorney-in-Fact, with full power and authority hereby conferred upon him to sign, execute, acknowledge and deliver for and on its behalf as Surety and as its act and deed, the following bond:

One Retail Malt Beverage, Wine & Distilled Spirits Consumption on Premises City of Hapeville

bond with bond number 64642660

for Merritt Hospitality, LLC dba Hilton Atlanta Airport
as Principal in the penalty amount not to exceed: $ 5,000.00.

Western Surety Company further certifies that the following is a true and exact copy of Section 7 of the by-laws of Western Surety Company duly adopted and now in force, to-wit:

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, any Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys-in-Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

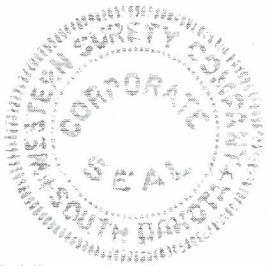
In Witness Whereof, the said WESTERN SURETY COMPANY has caused these presents to be executed by its Vice President with the corporate seal affixed this 15th day of May, 2019.

ATTEST

L. Nelson
L. Nelson, Assistant Secretary

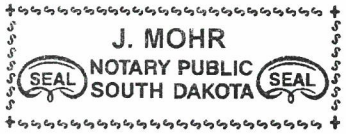
WESTERN SURETY COMPANY

By Paul T. Bruflat
Paul T. Bruflat, Vice President



STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, a Notary Public, personally appeared Paul T. Bruflat and L. Nelson who, being by me duly sworn, acknowledged that they signed the above Power of Attorney as Vice President and Assistant Secretary, respectively, of the said WESTERN SURETY COMPANY, and acknowledged said instrument to be the voluntary act and deed of said Corporation.



My Commission Expires June 23, 2021

J. Mohr
Notary Public

To validate bond authenticity, go to www.cnasurety.com > Owner/Obligee Services > Validate Bond Coverage.

Form F1975-1-2016

ACKNOWLEDGMENT OF SURETY
(Corporate Officer)

STATE OF SOUTH DAKOTA }
COUNTY OF MINNEHAHA } ss

On this 15th day of May, 2019, before me, the undersigned officer, personally appeared Paul T. Bruflat, who acknowledged himself to be the aforesaid officer of WESTERN SURETY COMPANY, a corporation, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

M. BENT
NOTARY PUBLIC
SOUTH DAKOTA
SEAL SEAL

M. Bent
Notary Public — South Dakota

My Commission Expires March 2, 2020

ACKNOWLEDGMENT OF PRINCIPAL
(Individual or Partners)

STATE OF Connecticut }
COUNTY OF Fairfield } ss

On this 20th day of May, 2019, before me personally appeared Anthony Rutledge, known to me to be the individual described in and who executed the foregoing instrument and acknowledged to me that he executed the same.

My commission expires September 30, 2012

Melanie EW Collier
Notary Public, State of Connecticut
My Commission Expires Sept 30, 2021

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL
(Corporate Officer)

STATE OF _____ }
COUNTY OF _____ } ss

On this _____ day of _____, _____, before me personally appeared _____, who acknowledged himself/herself to be the _____ of _____, a corporation, and that he/she as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/herself as such officer.

My commission expires

_____, _____

Notary Public

Western Surety Company

License or Permit No. _____

LICENSE AND PERMIT BOND

As _____ of _____

State of _____

Name of Applicant

Address

Filed _____, _____

Approved this _____ day of _____, _____

Control No. 11028875

STATE OF GEORGIA

Secretary of State

Corporations Division
315 West Tower
#2 Martin Luther King, Jr. Dr.
Atlanta, Georgia 30334-1530

CERTIFICATE OF AUTHORITY

I, **Brian P. Kemp**, the Secretary of State and the Corporations Commissioner of the State of Georgia, hereby certify under the seal of my office that

MERRITT HOSPITALITY, LLC
a Foreign Limited Liability Company

has been duly formed under the laws of Delaware and has filed an application meeting the requirements of Georgia law to transact business as a foreign Limited Liability Company in this state.

WHEREFORE, by the authority vested in me as Secretary of State, the above Limited Liability Company is hereby granted, on **04/08/2011**, a certificate of authority to transact business in the State of Georgia as provided by Title 14 of the Official Code of Georgia Annotated. Attached hereto is a true and correct copy of said application.

WITNESS my hand and official seal in the City of Atlanta and the State of Georgia on April 8, 2011

Brian P. Kemp
Secretary of State

Delaware

The First State

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "SMILEZZZZ, LLC", CHANGING ITS NAME FROM "SMILEZZZZ, LLC" TO "MERRITT HOSPITALITY, LLC", FILED IN THIS OFFICE ON THE TWELFTH DAY OF FEBRUARY, A.D. 2004, AT 4:23 O'CLOCK P.M.



Harriet Smith Windsor

Harriet Smith Windsor, Secretary of State

3448162 8100

040101165

AUTHENTICATION: 2929713

DATE: 02-13-04

CERTIFICATE OF AMENDMENT

OF

CERTIFICATE OF FORMATION

OF

SMILEZZZZ, LLC

Smilezzzz, LLC (the "LLC") is a limited liability company organized under the Delaware Limited Liability Company Act, 6 Del. C. §§18-101 et seq. (the "Act") on October 19, 2001. This Certificate of Amendment to the Certificate of Formation of the LLC, dated as of February 12, 2004, is duly executed and filed by the undersigned, as a duly authorized person, for the purpose of amending the Certificate of Formation of the LLC pursuant to Section 18-202 of the Act.

FIRST, the name of the LLC as set forth on the first Certificate of Amendment of the Certificate of Formation of the LLC is "Smilezzzz, LLC"

SECOND, the Certificate of Formation of the LLC is hereby amended to reflect that the name of the LLC shall now be "Merritt Hospitality, LLC."

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Amendment as of the date first written above.

David McCaslin,
Authorized Person

LIBC/1025382.2

State of Delaware
Secretary of State
Division of Corporations
Delivered 04:34 PM 02/12/2004
FILED 04:23 PM 02/12/2004
SRV 040101165 – 3448162 FILE

Printed 05/15/19 13:35

TIMES JOURNAL, INC.

P.O. BOX 1633
ROME GA 30161-1633

PHONE: 770-428-9411
FAX: 1888

Advertising Payment Receipt

Account number:	200382	**Credit Card #:**	**********6000
Account name:	SARD & LEFF LLC 3789 ROSWELL ROAD ATLANTA GA 30342	**Approval Code:**	180878[264451343]
		Credit Holder Name:	
Phone number:	770-644-0800		
Payment number:	184457		
Payment date:	05/15/19		
Amount:	240.24		
Payment description:	CREDIT CARD PAYMENTS		

Ad Number:	171911	**Class Code:**	A
Ad Taker:	jdoll	**Salesperson:**	M208
First Words:	MERRITT		

Legal Advertisement

On Premise Consumption

Applications have been made by Merritt Hospitality, LLC at 1031 Virginia Avenue, Atlanta, GA 30354 for the issuance of 2019 Alcohol Beverage On-Premise Consumption of Beer, Wine and Liquor. WS HAA Owner, LLC (hotel owner) and Edward M. Walls (hotel manager).

☐ **PROOF O.K. BY:** _____ ☐ **O.K. WITH CORRECTIONS BY:** _____

PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

MA-171911 (100%)

ADVERTISER: SARD & LEFF LLC
SALES PERSON: MAM208
SIZE: 2X2
PUBLICATION: MA-SOUTH FULTON

PROOF CREATED AT: 5/16/2019 12:59:37 PM
NEXT RUN DATE: 05/22/19
PROOF DUE: 05/22/19 19:00:00

Alcohol License Establishment Planning & Zoning Form

Date: May 28, 2019

Business Name: Merritt Hospitality, LLC DBA Hilton Atlanta Airport (Magnolia Grill)

Business Address: 1031 Virginia Avenue

Business Owner: Anthony R. Rutledge

Business Owner Address: 530 Main Street North, Southbury, CT 06488

Contact: Mindy L. Thompson, Esq. (Sard & Leff, LLC)

Contact Phone (770) 644-0800 Contact Email: mthompson@sardandleff.com

Building Square Footage: 505,000 SF Square footage of Business Unit: Not provided

Will the establishment provide patio/outdoor dining? No

Number of Parking Spaces Provided: 526

STAFF USE ONLY

Zoning Classification: C-2, General Commercial

Sec. 93-14-3. - Permitted uses.
The following uses are permitted within any C-2 zone:
(24) Hotels and Motels
(36) Restaurants, carry-out restaurants, drive-in restaurants or drive-through restaurants.

Does the proposed use require a Conditional Use Permit? No.

Number of parking spaces required by zoning: 507

Outdoor dining: Not applicable.

Staff Recommendation: The proposed location complies with zoning. The application may be approved.

Zoning Compliance

Zoning Classification: C-2, General Commercial. The business is a hotel restaurant which previously had an approved occupational tax permit in the C-2 district under the prior owner.

Alcoholic Beverage Ordinance Compliance

Sec. 5-3-4. – Standards for approval, denial, renewal, suspension or revocation.

(1) The nature of the neighborhood immediately adjacent to the proposed location, that is, whether the same is predominantly residential, industrial or business.
Property is located in a commercial district.

Sec. 5-6-3. - On-premises consumption regulations generally.

The following regulations shall apply to licensed on-premises consumption establishments:
(b)No licensee shall advertise or promote in any way, whether within or without the licensed premises, any of the practices prohibited under this article. (b) No pouring of liquor, malt beverages, or wine, or any other on-premises alcohol service shall be permitted between the hours of 12:00 a.m. and 8:00 a.m. for licensed establishments whose property lines abut an area zoned residential, and 2:00 a.m. and 8 :00 a.m. for all others. Except for bed and breakfasts and hotels, all patrons shall vacate such licensed establishments whose property lines abut an area zoned residential no later than 12:45 a.m., and 2:45 a.m. for all others. For purposes of this subsection, "residential" shall mean any parcel of land designated for use as a single or multifamily dwelling and duplexes.
There are no residential properties abutting the proposed location.

(2) The proximity of churches, school buildings, school grounds, college campuses, and alcoholic treatment centers owned and operated by the state or any county or municipal government therein.
There is no minimum distance required for on-site premises consumption from the nearest school/school grounds.

(3) Whether the proposed location has adequate off-street parking facilities or other parking available for its patrons.
Adequate parking exists.

(4) Whether the location would tend to increase and promote traffic congestion and resulting hazards therefrom.
There is no anticipated increase in traffic or concerns regarding congestion.

Inspection No:	IAL 19 - 008
Inspection Date:	5/23/2019
Inspection Time:	
Inspector:	Brian Eskew

Inspection Report

Inspection and Compliance Orders

Facility:	Hilton Magnolia Grill	**Address:**	1031 C Virginia AVE		
Phone:					
Fax:		**City:**	Hapeville		
Email:		**State:**	GA	**Postal Code:**	30354
Contact:	Mindy Thompson	**Work:**			
Email:	mthompson@sardandjeff.com	**Cell:**	(770) 644-0800		

Inspection Type:	Inspection Business License

Violation Code	Days to Correct *	Violation/Notes	Location

Inspection Notes

Approved For Alcohol License

Owner/Representative:

Inspector: B. C Gl

A variance procedure is available. Please contact the inspector named for further assistance with this or any other matter.

* Number of days to correct from date inspected.

700 Doug Davis Drive
Hapeville, GA 30354

Ph: 404-669-2111
Fax 404-669-2140

City of Hapeville 1891 GEORGIA
A Community with a Heart

Police, Code Enforcement, & Traffic Alcohol Establishment Inspection Report

Date: May 29, 2019
Business Name: Atlanta Airport Magnolia Grill
Address: 1155 Virginia Avenue, Ste F, Atlanta, GA 30054

Exterior Observations:
Condition of Signage: Satisfactory

Window Signage & Visibility: Satisfactory

Condition of Property: Satisfactory

Exterior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level

Employee ID Badges: ☑ In Compliance ☐ Non-Compliant ☐ N/A

Interior Observations:
Interior Illumination: ☐ Low Level ☑ Moderate Level ☐ High Level ☐ Unknown

Cameras: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Broken Packages: ☐ In Compliance ☐ Non-Compliant ☑ N/A

Traffic Considerations:
Private Property Accidents 0 Notes:

COMPLIANCE: To resolve this issue please N/A from premises within N/A days from receipt of this notice to be considered for an Alcohol License.

RIGHT TO APPEAL: Appeals are made thru the ARB, City of Hapeville Mayor and Council by contacting City Hall at 404-669-2100. Non-compliance may result in a Court Citation.

Additional Violations Noted:

History:
Law Enforcement: 33 calls Code Enforcement: 1 calls

Inspector's Signature

05/29/18

ALAN HALLMAN
MAYOR

MICHAEL RAST
ALDERMAN AT LARGE

TRAVIS HORSLEY
COUNCILMAN AT LARGE

MARK ADAMS
COUNCILMAN WARD I

CHLOE ALEXANDER
COUNCILMAN WARD II

TO: Mayor and Council

FROM: Tim Young

DATE: May 31, 20191

SUBJECT: 2019-20 Budget Memo

On May 15, 2019, the City made available the initial draft Fiscal 2019-20 Hapeville Proposed Budget. The City advertised the public hearing in the South Fulton Neighbor newspaper. A copy of the draft line item detail budget is posted to the City website along with a copy of the detailed line items supporting the budget proposal. City Manager and staff has made itself available to discuss budget in overall concept and in detail. This budget calls for approximately $13.8M in General Fund cash inflows and Expenditures. In comparison the 2018-19 original budget called for $12.5M in revenues and $12.35M in expenditures. At present the budget is at a break-even status with no significant planned add to the General Fund net fund balance. This budget is meant to be conservative, to best ensure the City will meet it's obligations. There are opportunities that may lessen the impact of General Fund cash expenditures and City Manager and staff continue to work toward improving the net financial condition of the City.

Of significant note for this upcoming fiscal year is a focus on strengthening the position of Public Safety in both staffing and equipment investments. To keep up with the current market conditions for First Responders, this budget call for investment in personnel with staffing increases and pay adjustments of approximately $700K. Capital investments for equipment approximates $800K, including a replacement fire engine and the replacement of several police and fire vehicles. Other particular highlights expected in the coming year are the completion of the Theater restoration, continued completion of railway beatification, new construction along Virginia Avenue, continued investments in the arts - all contributing to Hapeville being a desired destination for people to both play and stay.

The budget is an estimate and our projection of the next 12 months. As assumptions or actual circumstances significantly change, Mayor, Council and staff will revisit our plans to best steward the resources of the City.

City of Hapeville

Fiscal 2020 Budget

Summary Highlights Assumptions

Mayor and Council

Budget Summary

Fiscal 2020 Budget Draft is available for public view. The proposed initiatives by City staff which are reflected in the budget are:

- Investment in Public Safety
  - Police – personnel
  - Fire – personnel and equipment
- Website Upgrades
- Cost Savings
  - Change Pension Plan Administration

Receipts

The General Fund draft reflects receipts of **$13.8M** v **$12.5M**. Of the $1.4M increase, $900K are budgeted loan proceeds to finance Police and Fire Equipment Adds

- Replace 1990 Fire Engine
- Replace 1998 Crown Victoria Chief Vehicle
- Replace LifePAK and Fire Gear to maintain NFPA Standards
- Replace Bucket Truck for Community Services
- Replace 3 Police Cruisers
- Replace Grounds Lawnmower

The budget assumes a 5% net digest increase from 2018 from $4.1M (collected) – **$4.3M.** We do not have any information on the 2018 assessments yet. We generally receive our first look in mid-June.

The budget assumes additional court fines of $240K to $**450K** born through PD initiative with new traffic unit.

Local Option Sales Tax will continue to be our second largest funding source – **$1.9M**

Hotel Motel receipts are expected to continue to be strong at **$1.4M**.

Expenditures

Several initiatives requests and targets and assumptions are built into this budget:

Public Safety

Our pay level for public safety first responders is lagging further and further behind our neighbors. It is increasingly difficult to both attain new recruits and to retain the team we have. Both Chiefs have advised that the City cannot maintain quality service levels unless

we increase the pay levels. This budget includes an approximate 10K per person increase in pay.
Even with this amount, we have neighboring municipalities that are and will be offering more. It may still be a task to maintain the quality of Public Safety that the City deserves.

Additionally, the City is in dire need of replacing heavy equipment as noted in the Receipts discussion above.

Pension

In reviewing our pension plan, we strongly believe there are cost savings to be achieved by changing plans from Mass Mutual to GMEBS. The administrative fees are lower and the discount rate their plan assumes gives a better rate. We expect we should achieve savings in excess of $200K by making the change. We are providing information to GMEBS to review our plans for compliance and audit our census. We expect to have results before June 30. We expect a change along will also improve our reporting for year-end audit purposes.

Bonds

The city has three bond issues for which we make payments, 2004A&B, 2007 and 2014. This budget assumes general fund responsibility of $772K for bond payments. There may be opportunity that proceeds from prior property sales by the Development Authority may be available (dependent on the property schedule). Also, should Willingham close, proceeds should be transferred to the bond sinking fund.

Budgeting

This budget includes a factor for employee "churn" – percentage of staff not filled at any one time. Historical trends show actual personnel costs incurred are generally less than budgeted amounts, due to employee turnover, losses, and unfilled positions. This budget assumes a factor of 12%.

Fund Balance

Due to the above requests and assumptions, this budget does not project a significant add to fund balance, but essentially a net of receipts matching expenditures.

I recommend that should there be more cash inflows or savings identified (for example if the DA can fund a portion of the 2004B bonds) the City does not "replace" that cost with another add, unless mission critical.
Additionally – and a reminder, there are some functions that are interrelated

- Should equipment purchases be put off – the corresponding loan proceeds must be eliminated dollar for dollar
- Should council deny increases to public safety or reduce staff, there will be factors for both in personnel and to receipts.

Opportunities / Threats

Opportunities

Digest – Given historical trends the assessments may exceed a 5% increase

Bonds – Development Authority is reviewing its property sales list for 2018 to determine if any proceeds are related to 2004B bond purchases

Also, should Willingham close before July, there is opportunity for funding the bond payments for 2004B

Threats

Digest – could be flat or lower (unlikely)

Staffing – could be 100% for the year

Fund Balance – we have been advised to build reserves. Given the factors and assumptions, this budget does not reflect a direct increase to fund balance but does reflect a continued stabilization for the City with a view to future increases to fund balance.

DRAFT

STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO ADOPT AN ANNUAL BUDGET FOR FISCAL YEAR 2020 PURSUANT TO PURSUANT TO SECTION 17-2-2 ("ANNUAL BUDGET; APPROPRIATIONS ORDINANCE"), CHAPTER 17 ("FINANCE AND TAXATION"), ARTICLE 2 ("FINANCIAL ADMINISTRATION") OF THE CITY CHARTER, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the Mayor and Council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville's Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter "City") and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, existing ordinances, resolutions, rules and regulations of the City and its agencies now lawfully in effect not inconsistent with the provisions of the City's charter shall remain effective until they have been repealed, modified or amended; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it necessary to adopt the proposed budget, which is a balanced budget that anticipates revenues equal to the appropriated expenditures, attached and incorporated hereto as **Exhibit "A"**, as the City of Hapeville's budget for Fiscal Year 2019-2020.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. **Adoption of Budget for Fiscal Year 2020.** Pursuant to Section 17-2-2 (Annual budget; appropriations ordinance), Chapter 17 (Finance and Taxation), Article 2 (Financial Administration) of the City of Hapeville Code, the Mayor and Council hereby determines that proposed budget, labeled as **Exhibit "A"**, shall be the City of Hapeville's budget for Fiscal Year 2019-2020.

Section Two. **Codification and Certify.** This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

DRAFT

Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

_____

Alan Hallman, Mayor

ATTEST:

_____

Crystal Griggs-Epps, City Clerk

APPROVED BY:

_____

City Attorney

AEROTROPOLIS ATLANTA

LAND HERE. TAKE OFF.

Invoice

Date	Invoice #
1/1/2019	HAPE 2019

3800 Camp Creek Pkwy SW
Bldg 1400, Ste 132
Atlanta, GA 30331

Bill To

City of Hapeville
3468 N. Fulton Avenue,
Hapeville, GA 30354

Terms
Due on receipt

Quantity	Description	Rate	Amount
1	Aerotropolis Atlanta Alliance 2019 Gold Membership & Activities	10,000.00	10,000.00

Please make check payable to Aerotropolis Atlanta Alliance.

Thank you

Total $10,000.00

EIN# 46-5740551

CITY OF HAPEVILLE

STATE OF GEORGIA

RESOLUTION NO. _____

A RESOLUTION EXTENDING THE GRAVEL MORATORIUM REGARDING THE ENFORCEMENT OF ORDINANCE 2017-09 WHICH AMENDS CHAPTER 58 ("SURFACING AND MAINTENANCE OF DRIVEWAYS AND OFF-STREET PARKING AND LOADING FACILITIES") OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO AUTHORIZE THE MAYOR TO SIGN ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE THIS RESOLUTION; TO AUTHORIZE THE CITY CLERK TO ATTEST SIGNATURES AND AFFIX THE OFFICIAL SEAL OF THE CITY, AS NECESSARY; TO REPEAL INCONSISTENT RESOLUTIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

W I T N E S S E T H:

WHEREAS, the City of Hapeville ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia; and

WHEREAS, the Mayor and Council of the City of Hapeville amended Chapter 58 of the Code of Ordinances with Ordinance 2017-09 on May 2, 2017; and

WHEREAS, Ordinance 2017-09 addresses how the City will regulate the use of gravel parking lots; and

WHEREAS, the City Council chose to erect a moratorium on enforcement of gravel parking lots until July 31, 2018 to allow Mayor and Council to discuss and review the execution of the current ordinance as amended; and

WHEREAS, the Mayor and Council need additional time to discuss and review the execution of the current ordnance; and

WHEREAS, the Mayor and Council of the City of Hapeville, in the exercise of their sound judgment and discretion, after giving thorough consideration to all the implications involved, and keeping in mind the public interest and welfare of the citizens of the City, have determined that they would like to extend the moratorium until October 31, 2019.

THEREFORE, IT IS NOW RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA, AS FOLLOWS:

1. **Incorporation of Pre-Amble**. The pre-amble is incorporated herein as fully set forth above.

2. **Extension of Gravel Moratorium.** The Hapeville City Council wishes to extend a gravel moratorium in regards to the enforcement of Ordinance 2017-09 until October 31, 2019.

3. **Authorization for Mayor.** That the Hapeville City Council hereby authorizes the Mayor to execute any and all documents necessary to effectuate this Resolution. A copy of said documents shall be filed with the City Clerk.

4. **Attestation.** That the Hapeville City Council hereby authorizes the City Clerk or Assistant City Clerk to attest the signature of the Mayor appearing on the documents, to affix the official seal of the City thereto as necessary to effectuate this Resolution, and to place this Resolution and an executed copy of all documents among the minutes or official records of the City for future reference.

5. **Authorization for Attorney.** That the Hapeville City Council hereby authorizes the City Attorney to approve this Resolution as to its form and review any and all documents necessary for the City of Hapeville and to ensure all documents conform to state law.

6. **Severability.** To the extent any portion of this Resolution is declared to be invalid, unenforceable, or nonbinding, that shall not affect the remaining portions of this Resolution.

7. **Repeal of Conflicting Provisions.** All City resolutions are hereby repealed to the extent they are inconsistent with this Resolution.

8. **Effective Date.** This Resolution shall take effect immediately.

RESOLVED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

_____
ALAN HALLMAN, MAYOR

ATTEST:

_____
CRYSTAL GRIGGS-EPPS, CITY CLERK
(seal)

APPROVED BY:

_____
CITY ATTORNEY

AMS Proposal Summary

Vendors	Pricing	Experience	Technical features	Video Services included?	References	Project Timeline	Service & Support	Comments
CivicClerk	$10,300	CivicClerk launched in 2014; however, CivicPlus started in 1994	yes, have all required; vote tracking; file management; keywork search feature; live streaming and video on-demand; set access levels for users; electronic voting ; display pages	yes, live streaming and video on-demand; video archive; closed captioning	City of Kissimmee, FL; City of Watauga, TX; City of Clermont, FL; Village of McFarland, WI; Town of Firestone, CO; City of Port Orange, FL; Gulfport, MS;	6 weeks	7am-7pm to take calls, emails, and live chat. 24/7 for technical support issues (FOC)	guaranteed up-time; does not require users to buy encoder; however, recommends the Matrox Monarch HD
Granicus	$10,568	founded in 1999	yes, have all required; advanced search feature; approval workflows; records roll call, votes, motions; digital voting	yes, streams videos and events live with advanced searching of archives; with unlimited cloud bandwidth and storage with local live and on-demand streaming	Flowery Branch, GA; Miami Shores, FL; Bal Harbour, FL; Middleburg, VA; Blendon, OH	3-4 months	live chat available; support available 24/7 via after hours phone line; reg support 8-10	hosted infrastructure supports encoding appliance; city will need to provide encoder and camera to record)
Provox	$11,890	27 years; 26 employees dedicated to project	yes, have all required; electronic voting, tiered approval; compatible with iPad, Kindles, etc.	yes, audio and video streaming, live streaming (YouTube); close captioning	Davidson County, NC; Region of Peel; City of Thunder Bay; Hall County; City of Livermore	6 weeks	on-site training; support offered 7am-7pm, additional hours can be added	integration of existing Microsoft Office Suite so it will be familiar to users; can customize the application; ADA compliant format

CIVICCLERK®



Hapeville, Georgia

RFP #20190412 – Agenda Management Software and Video Services

Presented by | Jillian Algiere, CivicClerk Account Executive

CIVICPLUS®

THE Integrated Technology Platform for Local Government

April 12, 2019 / May 29, 2019

302 South 4th Street, Suite 500
Manhattan, Kansas 66502
888-228-2233

Crystal Griggs-Epps
City of Hapeville
3468 N Fulton Avenue
Hapeville, GA 30354

RE: Agenda Management System

Dear Ms. Griggs-Epps:

Saving time, effort, and delivering access to important meetings is essential to run an efficient and transparent government office. In today's virtual world, making your government work better can be a challenge if you don't have the tools and resources to get the job done right. So how do you meet the ever-increasing expectations of your staff, government officials, and citizens with already-constrained resources? As your partner, that's where CivicPlus, LLC ("CivicPlus") and our CivicClerk Agenda Management System (AMS) can help.

Our company is passionate about our mission to help make local government work better. We know we aren't just delivering a one and done software program. We are helping build a trusted and long-term relationship between you and your community through our state-of-the-art technology and process. Collaborating with you throughout the process ensures we deliver the right solution, that will be easy for your staff to maintain and your officials and citizens to access.

The CivicClerk AMS is a robust, flexible, and easy-to-use suite of cloud-based tools built specifically for local government that will help you evolve your agenda and meeting minutes to today's standards. You'll be able to inform and empower your citizens and staff in more efficient ways which makes it easier for you ***and*** easier for them.

Our included proposal remains valid for 90 days from the due date of the RFP. Further, CivicPlus and any individual who will perform work for the City is free from any conflict of interest.

A Hapeville and CivicPlus partnership will save you time and money and will deliver your office an agenda and meeting system that will grow with you and where your staff, officials and citizens can find what they need, when they need it.

Sincerely,

Jillian Algiere



Jillian Algiere
CivicClerk Account Executive
algiere@CivicPlus.com
Direct Line 785-370-7785

J. Logan



Jeff Logan
Vice President of Sales
(authorized to bind CivicPlus)



Table of Contents

1 Executive Summary

5 Company Information

7 Company Background

10 Company Qualifications

14 Proposed Solutions

26 Implementation Approach

34 Ongoing Support and Hosting Services

39 Hardware/Software Requirements

41 References

44 Pricing

47 Proposed Legal Agreement

56 Additional Information



Executive Summary

Introduction

Your staff, officials, and citizens live in an instant access world, where a wealth of information and knowledge is expected to be available with a few clicks of a mouse. Isn't it time your agendas and minutes were available this easily? Simplify your agenda and minutes process, access information from any device, and eliminate endless stacks of paper and time creating physical agenda packets. CivicClerk is ready to provide you with ease of use and robust flexibility when it comes to your agenda and minutes creation and storage. Staff and officials can access the system from any device with a standard browser including computers, tablets, and mobile phones.

Our responsive design allows users to view and create agendas, minutes, and packets from their desk, laptop, or even on the go with a tablet or smartphone. Intuitive navigation provides easy access to all of our features and functionality and even first-time users can quickly get started. We will never archive or delete your information, keeping your information available and easy to find. Our CivicClerk AMS solution will provide the following:

Agenda Management

- Simplify your entire process with user-friendly interface and agenda creation modules
- Create consistent agenda formats
- Add Agenda items with a specified deadline
- Eliminate time-consuming tasks for staff members

Board Portal

- Access to view meeting content - past, current, and future information
- View comments and discussions from previous meetings
- Access from any device with standard browser including computers, tablets, and mobile phones

Meeting Minutes

- Create meeting minutes with the built-in solution
- View status updates of each item - see if minutes have been completed or are in progress
- Include and view comments, motions, and votes for individual items
- Take meeting attendance with the Roll Call feature

Public Engagement

- Provide transparency and open communication for your citizens
- Allow citizens to view and download agendas, minutes, and complete packets
- Search keywords and filter to quickly find information
- Ability to share documents or add them to their personal Favorites
- Receive notifications when an agenda or packet is posted

Why CivicClerk?

Streamlined and Intuitive

Traditional agenda management systems had (and in many cases still have) dated designs and interfaces making them confusing and clunky to manage. The intuitive and innovative CivicClerk User Interface built in to your CivicClerk AMS solution launched in 2014 and brought a whole new level of streamlined efficiency to the agenda management software industry. As our society and its leaders become more technology savvy, our easy-to-use interface meets their expectations while also catering to those with lesser technology skills.

When our customers move from their older systems, the number one reason for changing products is because staff perceived their old product was too complex and cumbersome to use. CivicClerk delivers a design that is intuitive and provides our clients the ability to get in, input or review the necessary information, and get out. The CivicClerk streamlined and intuitive design automates an existing process for our clients – it doesn't create a new one.

Continuous Improvement and Depth of Product

CivicClerk has spent the last three years building a scalable and flexible system to compete with the largest competitors in the industry. We never slow down researching development and improvements for our product. CivicClerk has developed a business model of continuous improvement to enhance client experience and meet ever evolving needs.

As one of the most robust systems in the industry, CivicClerk's meeting management system addresses nearly every aspect of the meeting process. We also understand that not every community has the need to utilize the entire system. That's why CivicClerk is designed with modules that can be easily turned on or off based on our clients' current priorities. Clients know that if their priorities change, additional services can be activated with a simple flip of a switch, and they are off and running.

Depth of product is about customization. CivicClerk offers more than 150 site settings that can be turned on or off for each implementation. For our clients, having the ability to turn off unused functions is nearly as important as being able to turn them on when needed. It simplifies the interface and validates that the system can be customized to their unique business processes and needs.

Pricing Value

CivicClerk serves municipalities from 5,000 in population to over 1,000,000, so we have developed a pricing model that is designed to serve any size community while respecting their available budgets. We offer a clear path for customers of all sizes to utilize for our product to meet their current needs, knowing they can easily expand their services as their needs grow and evolve. We work with our clients to assist them in developing the right initial functionality in a cost-effective manner. CivicClerk wants to be sure the system our clients purchase is the right fit for them today and will be the right fit for their community as it continues to grow.

CivicClerk Overview

Your officials need instant access to all meeting content so that they can engage in meaningful discussions and to make informed decisions. CivicClerk's software for meetings makes it easy to compile and access all of the necessary documents, data, and paperwork. Eliminate the time wasted searching for paper files, emails, postings, and various folders. With CivicClerk, your officials have all of their need-to-know information at their fingertips, so they can hit the ground running at every meeting.

Eliminate Menial Tasks and Get More Done

We've been working with meeting preparers for years, so we know how much time it takes to manually create an agenda packet. CivicClerk's meeting software instantly eliminates those tedious manual tasks so you can focus on the important stuff. With our AMS, you can spend less time in front of copy machines and chasing down signatures, and more time serving citizens.

Empower Staff, Maintain Control

CivicClerk's agenda software focuses on ease-of-use. All processes are consistent, repeatable, and offer an intuitive way to submit items for approval and packet inclusion, all within administrator-set access limits. Deep user security provides each staffer with only the functions they need.

Deliver Packets to Any Device

Whether your officials prefer to use a desktop, laptop, tablet, Android or iOS phone, by using our meeting management software they will be able to easily access and manage meeting content. CivicClerk's mobile-optimized agenda management software, allows members to access, view, annotate, and comment on packets in the office, at home, or on the go. Have one or two officials that still require paper packets? Our meeting software makes it easy to print paper packets at any time.

Public Engagement with Meeting Data

CivicClerk supports open government. Our AMS makes transparency and disclosure requirements for meetings an effortless task. All public meeting content is instantly and automatically available once the agenda and packet is published, and email notices are automatically sent. Our powerful system makes it easy to understand key metrics by using our dashboards to track and analyze how the public is utilizing the system.





Company Information

Legal Name	CivicPlus, LLC
FEIN	48-1202104
Form of Business	Limited Liability Company
Subsidiary	CivicPlus, LLC is owned by PATTI Corporation.
Primary Contact Information	Jillian Algiere, CivicClerk Account Executive Direct Line: 785-370-7785 Email: algiere@CivicPlus.com
Company Headquarters	302 S. 4th Street, Suite 500 Manhattan, KS 66502 Toll Free: 888-228-2233 Fax: 785-587-8951
Ongoing Maintenance & Support	Ongoing maintenance and support is provided by the company headquarters in Manhattan, Kansas, and is available from 7 a.m. to 7 p.m. (CST) to field your calls, emails, and live chat. Emergency services are available free of charge after regular hours with our on-call staff 24-hours a day
CivicPlus Employees	CivicPlus currently has 335 employees.
Employees with CivicClerk	There are currently over 100 employees dedicated solely to the CivicClerk product.
Subcontractors	No aspect of the development or implementation of your project will be outsourced or subcontracted.
Pending Litigation	CivicPlus has no ongoing contract failures, civil or criminal litigations.
Bankruptcy or Insolvency	CivicPlus has not filed for bankruptcy or insolvency in the last 10 years.
Mergers, Acquisitions & Sales	In 2017, CivicPlus acquired Rec1, now called CivicRec (a recreation management system) as well as BoardSync, currently CivicClerk (an agenda and minutes management solution). In 2018, CivicPlus acquired Virtual Towns and Schools, now CivicCMS (an open-source content management system that allows CivicPlus to provide scalable website solutions for local governments).



Company Background

CivicPlus Company History

CivicPlus began in 1994 when our founder Ward Morgan decided to focus on helping local governments work better and engage their citizens through their web environment. CivicPlus was originally incorporated as a Kansas corporation in June of 1998 and was legally converted to an LLC in January of 2019. This business structure change was made by the owners of CivicPlus for estate and tax planning purposes and will have no impact on the business or our clients.

CivicPlus continues to implement new technologies and services to maintain the highest standards of excellence and efficiency for our clients. Our commitment to deliver the right solutions in design and development, end-user satisfaction, and secure hosting has been instrumental in making us a world leader in government web technology. We consider it a privilege to partner with our clients and provide them with solutions that will serve their needs today and well into the future.

BoardSync began in August 2014 and became CivicClerk in October of 2017. CivicClerk is the fastest, most intuitive way to automate agenda management, meeting minutes management, and the sharing of meeting content with board members, staff, and your citizens.

Demonstrated Financial Stability

As a private company, releasing confidential financial documentation, such as annual company revenues and profit, in an open RFP process, which could be obtained by our competitors, would be detrimental to our firm. We will be more than happy to discuss the need for and provide additional financial documents at the appropriate time in the process with the condition that any and all information shared would remain confidential between the City and CivicPlus. With that being said, we have included a letter from our bank stating our good financial standing in response to this RFP requirement.

KS StateBank
1010 WESTLOOP PLACE
MANHATTAN, KS 66502 | 785-587-4000

March 6, 2019

CivicPlus, LLC
302 S. 4th Street, Suite 500
Manhattan, KS 66502

RE: CivicPlus, LLC

To Whom It May Concern:

KS StateBank of Manhattan is pleased to provide this Bank Letter of Recommendation for our valued customer; CivicPlus, LLC. In addition to deposit accounts, we currently extend credit facilities to CivicPlus, LLC aggregating in the low eight figure proportions. All deposit and credit facilities have been handled in a very satisfactory manner.

The company's reported financial position is sound and supportive of current and future credit extensions. We enjoy a strong working relationship with CivicPlus, LLC and are pleased to call them a valued customer.

If you have any questions or require additional information, with CivicPlus, LLC approval, please do not hesitate to contact us.

Sincerely,

Lowell L. Kohlmeier
Executive Vice President

LLK/mlr



Company Qualifications

20+

years of experience with a focus to help local governments

3,500+

local government clients across the U.S. and Canada

300+

employees, many who have experience in local government organizations

60k+

internal admin users



75M+

online visitors (and counting!)

CivicPlus is the integrated technology platform for local government, delivering superior local government web technology, including website design & content management, human resources efficiency, mass notification communication tools, parks & recreation management functionality, and agenda & meeting management solutions.

Our Promise To You

We will deliver an agenda management system that meets your needs in usability, features, and functionality. The CivicClerk AMS solution is simple-to-use, yet flexible and powerful – with intuitive navigation for your citizens and an intuitive administration for your staff. Your system will be secure and continuously updated, as our experts develop further cutting-edge solutions designed specifically for local government.

CivicClerk has spent the last five years building a scalable and flexible system to compete with the largest competitors in the industry. Come along side CivicClerk and our over 180 clients utilizing this robust solution.

8-Time Inc. 5000 Honoree

GovTech 100 Company

Client Example

Port Orange, Florida

Before CivicClerk

Robin Fenwick, City Clerk and her team would spend hours each week compiling the necessary packets, chasing down paperwork that needed to be signed, and handling other aspects of the agenda management process. Robin estimated that dealing with the meeting process required eight or more hours per week. Time that could have been better spent serving the public, not standing in front of the copy machine and working on other mundane tasks.

City Stats

- Contact: Robin Fenwick, City Clerk
- 57,000 population
- Four Clerk Department staff
- Four Council Members & Mayor
- 18 Boards and Committees
- Over 1000 meetings per year

Product Determination Factors: Technology Integration | Limited Budget | Staff Adoption

After CivicClerk

After reviewing various agenda management platforms on the market and weighing their pros and cons, Robin chose CivicClerk. She found the platform to be more affordable than the others, without suffering any compromises. In October 2014, Robin tested CivicClerk to manage the process for one meeting. Within three months, all of Port Orange's meetings were being managed through CivicClerk.

Robin was able to secure total City's staff buy-in quickly with the new platform. Why? Because the platform proved to be extremely easy to use and the benefits were immediate and obvious. Robin and her staff save over eight hours of labor per week, documents and forms are easily signed with remote access and their meeting agendas are completed in a more timely fashion. This allows the Clerk Department's staff to better serve their citizens and focus on important strategic initiatives.

Results

Agendas Posted: Six Hours Earlier | Time Saved Per Week: Eight Hours



Client Example

Gulfport, Mississippi

Before CivicClerk

Before its transition to CivicClerk, the City of Gulfport was utilizing an automated agenda management system. It had been using the software for four years, but the tools were not meeting the city's financial needs.

With CivicClerk, the City of Gulfport would be able to benefit from such features as live video streaming, so the City decided to make the transition.

Product Determination Factors: Ease of Use | Budget | Functionality

City Stats

- Contact: Ronda Cole, Clerk of Council
- 72,000 population
- Seven Council Members & Mayor
- Over 15,000 Imported Files

After CivicClerk

According to Ronda Cole, since the implementation of CivicClerk, all the feedback she has received about the City's more robust, and more affordable agenda and meeting management solution has been positive.

"We've only had positive feedback about CivicClerk. Everyone is so comfortable with its features and functionality. Nothing is extremely hard. It's user-friendly. With the administrative training I received, I can answer any questions. I can also reset passwords and add users, which I like, rather than having to call a vendor for every little thing."

Not only are the City's staff enjoying the convenience and usability of the CivicClerk system, but it is also helping the City to meet its citizens' transparency expectations. Cole states, "Now, with CivicClerk, we can put everything online, unless it was from an executive session or contains confidential information. Now our citizens can go online to see everything our board and our mayor have provided for meetings."

According to Cole, with the ability for citizens to watch live and recorded videos of meetings, and access transparency documents on demand, more citizens are engaging with the City's activities, and they are doing it when and where it is convenient for them.





Proposed Solutions

Comprehensive Description

Agenda Management

Automate your meeting agendas and packets with a simple, consistent process. Eliminate time consuming manual tasks and focus on important issues instead. Let each board member manage content the way they want.

Features and Benefits

Countless hours are spent creating the agenda and packet for every council, board, and committee meeting. CivicClerk simplifies the entire meeting process from start to finish by providing staff a central location for all board and committee meetings with the same simple, consistent process. Customers choose CivicClerk for our features, ease of use, and modern design.

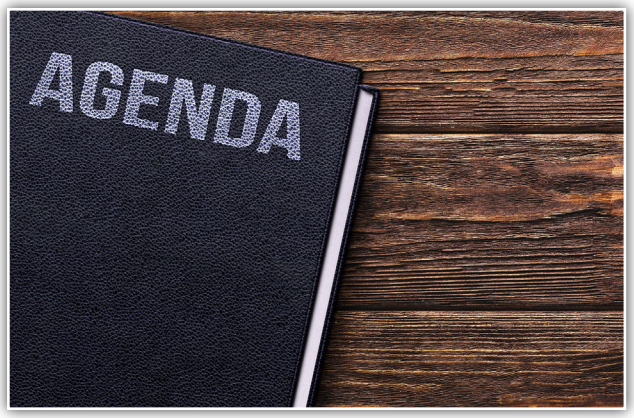
- Unlimited Meetings
- Unlimited Users
- Unlimited Storage
- Custom Agenda Design
- Electronic Approvals Engine
- Electronic File Management
- Confidential Attachments
- Roll Call, Motion, and Vote Tracking
- Minutes Comments and Discussions
- Speaker Management
- Task Management Pre and Post Meeting
- Comments Engine with Notifications
- Drag and Drop Re-ordering
- Approvals Progress Bars
- Automated Track Changes
- Standard Reporting
- Dash Analytics
- Pre-Defined Item Content
- Automatic Default Items
- Copy and Move Items
- Intelligent Keyword Search and Filters
- Custom Security Profiles
- Automatic Email Notifications
- Dropbox Integration for Delivery
- Board Member Portal
- Public Portal
- Live Streaming and Video-On-Demand
- Videos with Linked Agendas and Minutes
- Tablets Supported

Designed Just for You

CivicClerk's agenda management software is customized to suit your individual design needs and unique approval processes. Create and manage content with custom design templates, wording, numbering, and ordering. You can also utilize a public portal that matches your website.

Complete Security/Access Oversight

Fine-tune your content's security for different staff members. CivicClerk's agenda management system allows for in-depth user security. Administrators can set access levels for individual users, allowing you to control who can access what. You can also easily identify attachments for limited access based on staff or security level.



Create Agenda Items in Seconds

Intuitive process is simple for your organization's entire staff. Save hours each week with CivicClerk AMS that can easily track all key item information, create tasks and to-dos with reminders. CivicClerk supports PDF, Word, Excel, PowerPoint and image files, and utilizes a simple drag and drop ordering of all supporting documents.

Agenda Approvals Your Way

CivicClerk's flexible approvals engine adapts to your review process. No more chasing approvals, and playing phone or email tag. Our meeting management system's powerful approvals engine streamlines routing, email notifications, and manages backup approvers. Even last-minute changes are a breeze.

Large Packets? No Problem

Create agendas and packets of any size in just seconds. Easily build different versions based on confidential materials inclusion. CivicClerk is an open government system that allows you to immediately publish on your organization's public portal, thus allowing for instant transparency.

Deliver Content to Any Device

Let board members choose how to get meeting content. Efficiently deliver packets of any size by paper, email, Dropbox, download, or board portal. CivicClerk is optimized for all devices including desktops, laptops, tablets, and mobile phones.

Find What You Need Fast

Save time with powerful keyword and filtered search engine. CivicClerk automatically organizes and stores all of your meeting content, so it's easy to quickly retrieve what you're looking for. Our search tool includes past items, attachments, minutes, and agendas by keyword, date range, and more.

Analytics to Improve Performance

Clear reporting provides insight on progress and goals. Dashboards and built-in reporting provide key metrics on the entire agenda and meeting minutes process.

Meeting Minutes

Live Meeting Manager

Run the entire meeting from one spot and simplify votes, manage speakers, and streamline transparency. Our Live Meeting Manager system lets your board members access meetings online and vote electronically from any device. The vote results are then displayed to the attending public.

Easily Record Roll Calls, Motions and Votes

Capture all meeting actions in just one step. Stop retyping repeated entries. Record meeting actions on your desktop, laptop or tablet, and easily copy similar motions and votes to other items. Publish to your public portal for easy access and transparency. We make open governance easy.

Electronic Voting

Build public trust by letting meeting attendees see your finalized vote results in real time. CivicClerk's agenda management software offers a powerful, fully-integrated electronic voting system. Conduct clerk-initiated electronic votes any time and tally board member votes from any device. Once voting is closed, results are displayed and automatically entered into the minutes module for utmost accuracy and transparency. Additional fees apply for this feature.

Customize It and Forget It

No more typing and copying the same info over and over. Using our agenda software, you can set wording, formatting, and text snippets the way you want them - they'll pre-fill automatically, ending repeated entries. Motions, votes, and speaker info are all customizable, with full editing functions for comments and discussion notes.

Flexible Speaker Management

Organize speaker information for on-going and individual items. CivicClerk supports board members, staff and other public speakers, and offers integrated speaker and countdown timers. Last-minute speaker? No problem. CivicClerk lets you add new speakers before, during, and after the meeting.

Display Pages

These are dedicated web pages that are displayed on televisions or monitors in the meeting rooms or chambers. The follow along based on the actions of the Clerk that is running the meeting. They display a welcome screen (pre-meeting), the current item being discussed, the current speaker and speaker timer (if applicable), a speaker list, and the vote results once saved by the Clerk. Additional fees apply for this feature.

It's easy to create, manage, and finalize your minutes before, during, and after the meeting. CivicClerk automatically generates PDF and Word documents so you can deliver them electronically, by board and public portal, and hard copy.

Board Portal

Get meeting content and action data at your fingertips to make informed decisions. Create and access your own private notes. Get instantly notified when new content is made available, and review online or offline before, during, or after meetings.

Multiple Devices

Access meeting content from any location, anytime. Whether you're working from home, at the office or on the go, CivicClerk lets you access and manage all content with any standard internet browser on your desktop, laptop, tablet, or mobile phone.

Review, Comment, and Discuss

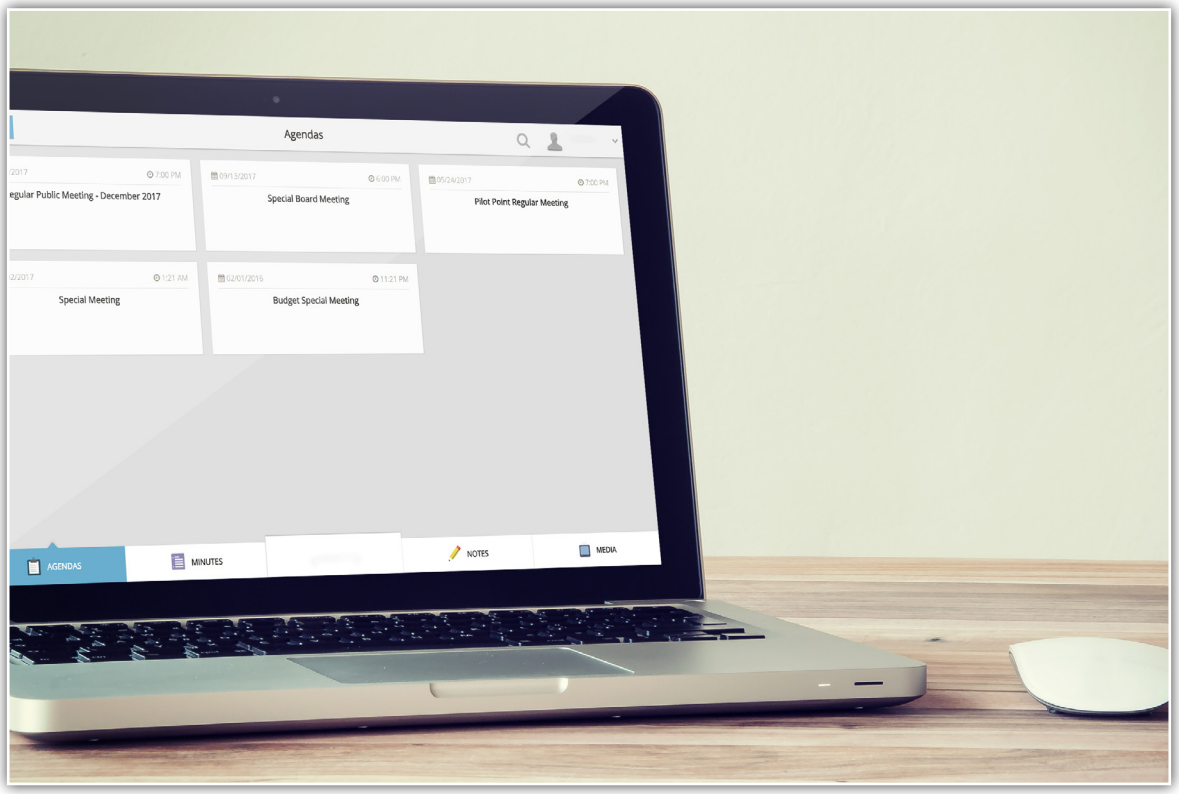
Making and reviewing comments just got a lot easier. Goodbye, fruitless searches for last month's comments. CivicClerk's powerful search and content filter lets you quickly access comments and discussion summaries from previous meetings at any time. Not only that, but you can easily provide your own feedback via email.

Research Past Meeting Content

Quick content retrieval means more productive meetings. Miss a meeting? Catch up when it's convenient for you. Our meeting management software allows complete access to your meeting video archive. All videos are fully integrated with each corresponding bookmarked meeting agenda.

CP Media™ – Live Streaming & On-Demand

Watch your meeting live or later. It's up to you. Miss a meeting? See it when it's convenient for you. Get complete access to your meeting video archive. All videos are fully integrated with each corresponding bookmarked meeting agenda.



Public Transparency

Subscriptions and Social Sharing

Get the word out to your stakeholders. Instantly share meeting content via email, LinkedIn, Facebook, and Twitter. Subscriptions makes it easy to automatically notify the public whenever new meeting content is available.

Keyword Search and Content Filter

Find what you need when you need it. Rifling through reams of paper is a thing of the past with CivicClerk's advanced search functions. Simply search by keyword to find all relevant content from current and past meetings. You can also easily download agendas, packets, minutes, and supporting documents.

Access Content Anywhere, Anytime

Manage, edit, and comment on any mobile device. Whether you're at work, at home, or on the go, our meeting management system allows easy access to meeting content via your laptop, desktop, tablet, or smartphone. Delivering complete transparency and engagement with the public.

Public Portal Dashboard

Get to know your community better. CivicClerk's public portal helps you understand how the public is interacting with your meeting publications by providing keyword analysis and user-friendly usage metric analytics. This will allow you to conduct an in-depth analysis of citizen behavior and help you discover what issues the public finds most pressing.

Live Streaming and On-Demand Video

Public engagement just got a lot easier. CP Media simplifies live streaming of your organization's meetings and seamlessly integrates all video content with the meeting agenda. On-demand meeting content videos feature clear bookmarking and navigation so viewers can quickly find their area of interest.

Automatic Upgrades

Customers automatically receive all future version upgrades of the system upon release. New features and functions are based on feedback and customers requests.

Accessible records and data help increase your organization's productivity by encouraging public engagement and fostering a better informed, more involved community. CivicClerk's public portal also satisfies public disclosure and posting requirements, and reduces the number of public record requests.

Functionality Disclosure

As CivicPlus continues to evolve and improve our solution to support our clients' needs and goals, we reserve the right to upgrade, replace, modify, or terminate any of the features and functionality elements listed, at our sole discretion, and when feasible, providing reasonable notice to our clients of any changes. These features and functionality are offered on a gratuitous basis to our clients (no monetary value per feature) and should any changes be enacted, will not affect any terms in a signed agreement with CivicPlus.

Meeting Your Requirements

2.1 Agenda Management Software

Automated workflow system to prepare, track, modify, approve and monitor the progress of agenda items.

CivicClerk has an automated workflow process that is configured based on the meeting type, department submitting and the type of item being created. The workflow provides users the ability to visually track where items are in the workflow process, allows for collaboration and revision of agenda items, and allows approvers ultimately to easily approve or deny the items.

Version control for development of agenda items and tracks changes/edits.

CivicClerk has in-app version control that tracks edits to individual fields within the item being drafted within the system. As an item moves through the workflow, versioning is used to track edits/changes. The versioning will show who made the change, exactly what was changed, and when. Users can also revert to previous versions. CivicClerk also offers integrations with OneDrive and Google Drive to allow users to store and use the "track changes" functions in those applications for the purposes of tracking changes on attachments to the agenda item.

Ability for the item author to insert a formal caption, the presenter name(s), background information including attachments, and a recommendation.

In CivicClerk, the items are creating using a customized configuration that is tailored to your process. All of the above can be included.

Ability for the agenda item author to retain control over edits of the agenda write-up.

Users have the ability to lock/unlock the item or revert to previous versions.

Ability for the agenda item author to retrieve items at any time during the routing process.

Users have the ability to recall their item if needed.

Capability to add or delete staff from the agenda item workflow/routing review/approval process uniquely for an individual agenda item.

CivicClerk's workflow engine is flexible and allows administrators the ability to modify workflows as needed.

Ability to delete a staff member universally from the agenda workflow for employee terminations.

User settings are at the global level, so if a staff member is deleted, they will automatically be removed from any associated workflow.

Ability to move a staff member from one workflow/approval process to another to facilitate employee transfers between departments or different reporting structures.

CivicClerk's workflow engine is flexible and allows administrators the ability to modify workflows as needed.

Provides strong word processing and editing capabilities that allows such functionality as: Uploading and/or building tables and graphs with ease, copying and pasting from other documents/software such as word processors and spreadsheets, changing fonts, highlighting text, bold, italic, etc.

CivicClerk provides users an editor that performs a variety of editing functions including copy/paste, convert to plain text, embed links and images, spell check, print, find and replace, create tables, set bulleted or numbered lists, and control font properties. The editor is available on every text input area within the system, from the creation of items to the drafting of meeting minutes. Users may also import content directly from a Microsoft Word document while retaining the formatting from the original document.

Retains an easy to use search function for items no matter where they exist within the agenda process. This includes using various options including agenda number, keywords, etc.

Save time with powerful keyword and filtered search engine. CivicClerk automatically organizes and stores all of your meeting content, so it's easy to quickly retrieve what you're looking for. Our search tool includes past items, attachments, minutes, and agendas by keyword, date range, and more.

Supports creating, editing and approving agenda items using the web, tablets, smartphone sand other electronic devices.

CivicClerk is mobile responsive to allow for access from any device.

Assembles documents into a single cohesive agenda packet and generate reports to help manage agenda creation process. In addition, it must allow the administrator to see status of agenda items moving through their respective approval processes.

Users can upload items in a variety of common file formats and CivicClerk will convert to PDF when creating the agenda packet. CivicClerk has over 30 available reports on a variety of topics including: Agenda Portal Usage, Agendas List, Approvals by Due Date, Attendance, Average Approval Response Time, Citizen Report, Closed Caption, Current Open Approvals, Current Users, Events Lists, Items, Motions, Ordinance and Resolution Numbers, Overdue Tasks, Tasks, Task Completion Time, Users, and Votes. The administrator will be able to track the status of agenda items throughout the approval process, showing exactly where in the process the agenda item is and includes a visual representation of the progress.

Facilitates easy electronic posting, emailing and other electronic communication. Must support easily accessing agenda and agenda packet information using tablets, smart phones and other electronic devices.

CivicClerk will automatically post the video to the web portal immediately following your meeting. In addition, the Citizen Portal provides access to documents as a separate link or through an iframe embedded in your website. The portal has it's own designated search functionality and allows users to sign up to receive email notifications as new agendas are posted. Citizens can access PDF copies of published agendas, minutes, and packets as well as a full clickable HTML version of the agenda and all attachments. With CP Media™, the portal will also provide same window access to the video, with bookmarks to the agenda content, and the HTML version of the agenda. CivicClerk is mobile responsive to allow for easy access from any device.

Ability for Council members and staff to annotate or make private notes electronically directly into agendas and agenda backup using electronic devices such as tablets or smartphones.

The CivicClerk board portal allows elected, appointed, and other officials to make personal annotations to their meeting materials through a mobile responsive web browser from any device. No separate application is required.

Provides a searchable document archive and capabilities to copy and paste agenda items to create new agenda items and backup.

Agenda administrators in CivicClerk can easily move items including all attachments and information such as the workflow status from agenda to agenda within the system. Administrators may also copy items from agenda to agenda and choose whether or not attachments, workflow, etc are included or excluded from the copy.

Facilitates timely creation of minutes, by pre-populating staff recommendations/recommended motions in advance of the meeting.

This can be done in advance of a meeting. While it is not automatic, it is extremely easy.

Seamlessly creates a consolidated agenda package in pdf format that includes the ability to create and use pdf bookmarks to navigate each item and its attachments.

CivicClerk creates a bookmarked PDF packet for easy navigation.

Ability to define both unique agenda templates for each meeting type and/or a standard template that can then be applied to multiple meeting types.

CivicClerk will develop a custom agenda, templates based on your requested format.

Allows the agenda administrator to create and enforce deadlines. Once a deadline is passed, users cannot submit additional information, delete late items, or re-order of agenda item at the last minute.

CivicClerk allows administrators to customize the type and frequency of email notifications for the organization, including the ability set and enforce deadlines as described.

Ability to modify automatically generated minutes to reflect actual order items were taken up in meeting which may differ from order on published agenda.

CivicClerk allows the minutes-taker to make changes in real-time, including the independent reordering of items in the minutes without altering the original agenda content.

Ability to create an unlimited number of tasks for any agenda item before, during or after meetings.

CivicClerk has a task tracking feature that allows users to assign tasks before or after the meeting and include deadlines and send automated follow-ups.

Automatically generates a report indicating post-meeting action items for a particular individual/department and automatically deliver notice to relevant contact(s).

This is a future enhancement.

Allows task recipients to access minutes and resolution data from the agenda item to aid incompletion of the task.

This is a future enhancement.

Ability to access reports and documents directly from networked drive for upload into agenda package.

CivicClerk has several ways users can upload documents such as agenda attachments, including uploads from local or network drives.

Compatible with Microsoft Office products and Google products.

Yes, CivicClerk is compatible with Microsoft Office products and Google products.

Ability to have separate sections in the agenda item which could include background, discussion, fiscal impact, recommendation, strategic goal alignment, options, etc. The software should have the capability for different sections to be completed by different departments, with edit security for certain sections.

Yes, the background sheets will be configured according to your current process or template. However, we request to have further conversations around the capability for different sections to be completed by different departments with edit security for specific sections.

2.2 Video Services

Ability to index and cross link with the agenda management software.

Yes, CP Media is integrated with the CivicClerk solution to index and bookmark with the AMS. We would love the chance to visit with the City to discuss your specific requirements.

Ability to create points within the video tied to the relevant agenda item.

Bookmarks can be created within the video and can be tied to the agenda items.

Link to agendas and minutes within the same module accessible through the website.

Visible through the citizen portal on your website, your citizens will be able to access agendas, minutes, and videos. All videos are fully integrated with each corresponding bookmarked meeting agenda.

Archival capabilities.

Keep your meetings available for your citizens through our unlimited on-demand video storage.

Indexed and searchable content based off of meeting agendas.

All meeting content is run through an OCR process and indexed with your site search, so full-text searching is available.

24/7 Technical support for issues.

Our Technical support is available 7 a.m. – 7 p.m. (CST) Monday – Friday (excluding holidays), with 24/7 emergency support available.

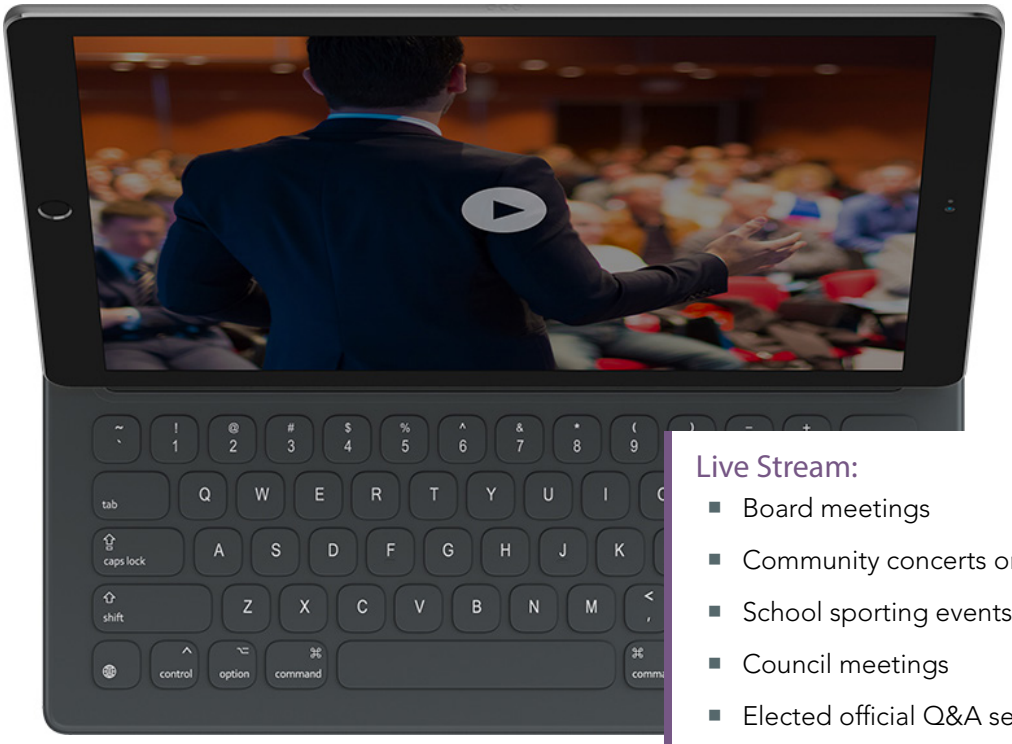
Ability to record Council meetings and provide live streaming of meetings.

Live streaming is available with CP Media.

Additional Proposed Feature

Engage Your Citizens with Live and Recorded Video

Today's digitally-minded citizens are logging more hours watching online video than ever before, and they are searching for content that ranges from entertaining, to informative. For local governments, video is a powerful mechanism for sharing news and events, encouraging civic participation, meeting transparency requirements, building a brand, recruiting employees, and encouraging citizens to develop a sense of civic pride.



Live Stream:

- Board meetings
- Community concerts or parades
- School sporting events
- Council meetings
- Elected official Q&A sessions
- Press conferences

Live and On-Demand Video Streaming

CP Media is a core component of the CivicPlus Platform and is accessible by all our unified applications, including our CivicEngage website design and hosting solution and our CivicClerk agenda and meeting management solution. With CP Media, you can integrate live or recorded videos of meetings and events anywhere on your CivicEngage website that are easily accessible by citizens from any desktop computer or mobile device—no technical or coding skills necessary.

Modern Functionality for Modern Communities

CivicPlus offers a robust video experience with CP Media. Consumption of video is continuing to grow, and providing this option as part of your services to your community is a must have to drive engagement. With CP Media, Hapeville will be able to offer live video streams to your board and committee meetings, as well as on-demand access after adjournment.



Immediate availability of recorded videos for on-demand viewing - no additional steps or manual file uploads.



Convenient integration with social media platforms including Facebook, YouTube, and Twitter.



High-definition video for professional quality presentations.



Link meeting agendas and bookmarks.



Auto-start recordings of meetings, so video viewers never miss a moment of live proceedings.



Create event templates for effortless set up of recurring meetings.



Pause live streaming and post a custom message to viewers.



Accommodate unlimited events and viewers.



Closed captioning support.

Video Streaming Equipment

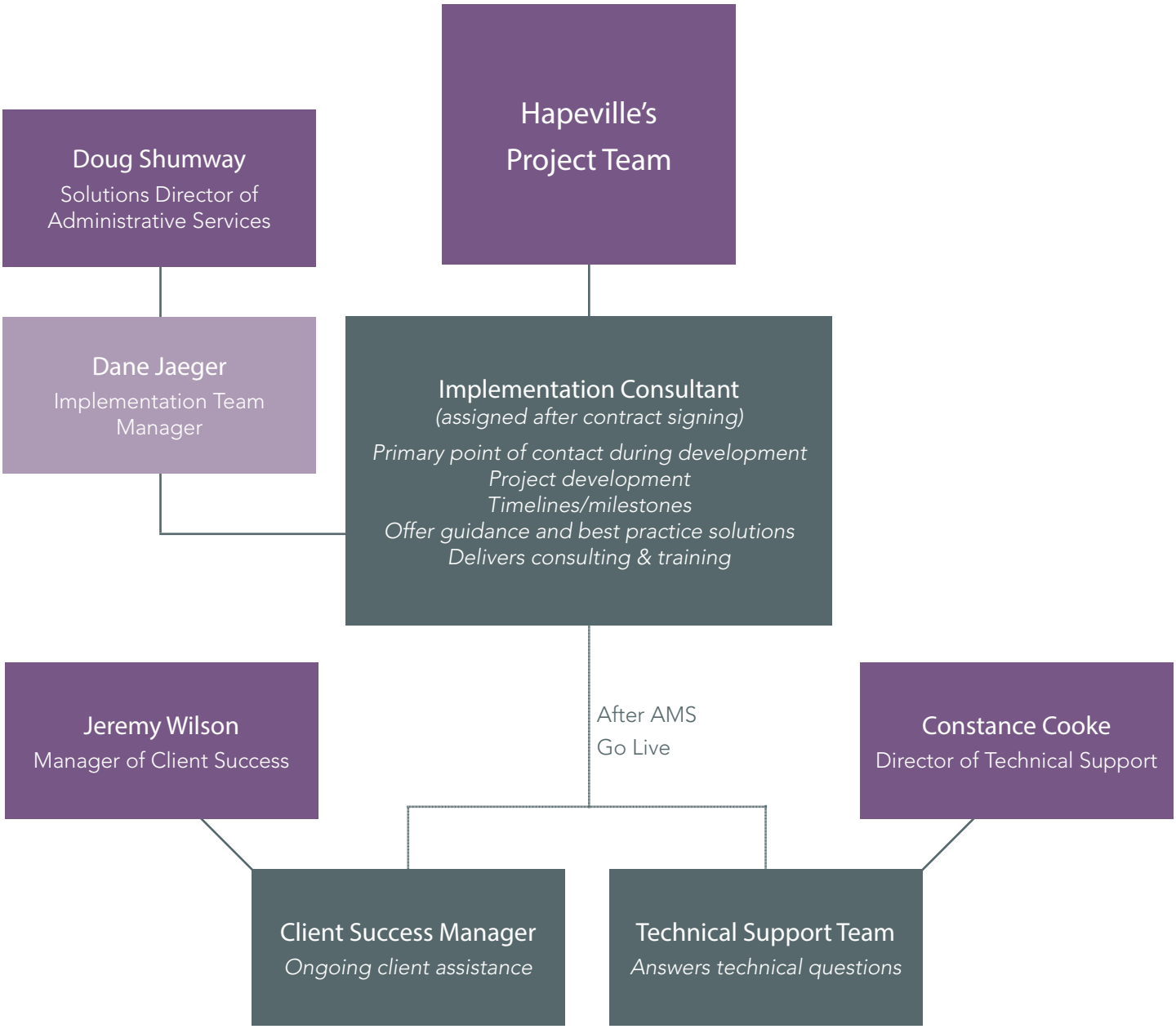
CivicClerk does not require users to buy a proprietary encoder. However, we recommend the Matrox Monarch HD. We can work with any encoder capable of generating an RTMP stream, but we prefer the Matrox based on our integration with the box and the ability to record locally and stream simultaneously at different resolutions. The setup process is very simple with the video feed going into the box via SDI or HDMI inputs, along with a network cable. We will provide an XML file with all the configuration settings pre-defined, that will upload to the Matrox. In addition, we will provide the necessary IP and port information to add to the network/firewall. Once configured, we will jointly test and confirm the stream receives video with the expected quality.



Implementation Approach

Project Team

From project management to development to training and support, a dedicated project team will assist you throughout the development process to ensure your project's success and your complete satisfaction. Our expert project leaders will coordinate your needs with qualified specialists who will work directly with you throughout your project development and beyond. Your dedicated project manager and team members will be determined just prior to kickoff, so we can be sure they will be available to begin your project immediately and work directly with you throughout the entire process.





Doug Shumway – Solutions Director of Administrative Services

Doug brings over 15 years of local government software experience, including being the co-founder of BoardSync and SuiteOne Media, and the founder of FOIA Systems. He oversees our CivicClerk Agenda Management and CivicHR Human Resources Management systems, leading the product strategy and overall vision and personally engages customers for continuous product enhancements.

Education
AS in Digital Media

Resume
General Manager
CEO
Sales Director

15+ Years of Experience
Business Leadership
Sales Leadership
Product Development



Dane Jaeger – Implementation Team Manager

Dane leads our project management, web development, and training/consulting teams for CivicClerk, CivicHR, and CP Connect. These teams oversee the implementation of your software from contract signing through launch and ensure your experience with CivicPlus is positive and impactful.

Education
BS Business Administration
Management
Information Systems Economics

Resume
Project Manager
Software Consultant/Developer

4+ Years of Experience
Project Management
Business Analysis
Software Implementation
Customer Service



Jeremy Wilson – Manager of Client Success

Upon launch of your website to the public, Jeremy will assign a Client Success Manager to your account. Your dedicated Client Success Manager is a specialized team member that will ensure you stay current on CivicPlus solutions. By partnering together, you'll create an ongoing strategy to better engage your citizens by utilizing the tools and products that CivicPlus has to offer.

Education
BS Political Science

Resume
Assistant Manager of Account Management
Solutions Specialist

5+ Years of Experience
Customer Service
Leadership
Sales
Team Building



Constance Cooke – Director of Technical Support

Constance Cooke manages the technical support team for all CivicPlus products. This specialized team operates on a three-tier, product specific, escalation process to report technical issues to the products development team and works hand-in-hand with our Help Center to continually improve online assistance content and best practices information.

Education
BA English, Communication

Resume
Technical Support Specialist
Documentation and Communications Manager

5+ Years of Experience
Technical Support
Business Management
Team Building
Customer Service



Jim Flynn – Director of Information Security and Infrastructure

Jim is a passionate advocate for Information Security and performs a critical role in aligning CivicPlus Security Strategy with the needs of clients like you. He coordinates and manages our in-house experts on the technical aspects of your project. From data center operations to security and compliance, his team will ensure that your hosting and security needs are met.

Education
BA Computer Information Systems

Resume
Chief Systems Architect
Information Technology Director
Software Engineer

18+ Years of Experience
Cybersecurity
Network Infrastructure
System and Software Architecture

Methodology & Approach

CivicPlus and Hapeville will jointly develop a detailed schedule and implementation plan as your project kicks-off complete with milestones and deadlines. This serves as your implementation process flow and any changes can be addressed throughout the process. Once your system is launched you will continue to receive both technical and consultative support from our Support and Client Success teams.

We meet with all our clients virtually through email, phone, video conferencing, or if the client prefers we will be on-site. Because of the nature of our technology industry, working remotely is the "norm" and of no project concern for the development of your AMS.

Project Management Communication Tools

The City will have access to your project via Mavenlink, project management software. Mavenlink offers task management with a multi-level work breakdown structure, Gantt Chart-based project plan and centralized communication.

- Centralized project communication and task management tools in a cloud based project workspace. Conversations are linked to files and tasks for easy reference.
- Tasks, deliverables and milestones aligned to the scope of work.

The tools available through Mavenlink combined with regular check-ins with your Implementation Consultant provide you with ample opportunities to quickly and efficiently review your project, check deliverables, and communicate any positive feedback or concerns.

Roles and Responsibilities

Please see our sample project schedule provided on the following pages for details on the roles and responsibilities during implementation.

Level of Effort and Skillset of City Staff

Standard users will need basic knowledge of using an internet browser to navigate a website. Administrators can function with basic knowledge of using and internet browser, but will need moderate to advanced knowledge of the City's agenda process. We estimate that the total project takes around 10-15 hours of effort from the City's team.

Project Schedule

Typical Project Timeline: 6 Weeks

A CivicClerk development plan typically expands a six-week timeframe. Exact development timelines can vary due to scope, client availability, milestones set, and other factors.

We will work with you until your system is up and running and your staff has reached a level of comfort to confidently maintain your new system.

1	~2 Weeks
2	~1 Week
3	~1 Week
4	~2 Weeks
5	As needed

Phase 1 | Weeks 1-2

Gather information regarding agendas and how current processes function. This information will be used to initially configure the system.

CivicPlus Will:	What We Need From You:
■ Create production site request ■ Review the implementation plan ■ Configure templates from Word versions of agendas and minutes ■ Input questionnaire data	■ Complete implementation questionnaire ■ Provide Word versions of agendas and item reports

Phase 2 | Week 3

Only initial configuration is complete, gain feedback on final results. Any necessary configuration changes will be identified for completion.

CivicPlus Will:	What We Need From You:
■ Schedule and conduct a first look call ■ Provide any template changes required	■ Schedule a 30-45 minute call for system review ■ Provide feedback on any needed changes

Phase 3 | Week 4

Any remaining changes will be made, and the list of users will be added to the system. All configurations will be finalized.

CivicPlus Will:	What We Need From You:
■ Enter user list with appropriate security settings ■ Make necessary changes to templates and configuration	■ Provide a list of users ■ Provide any additional feedback and changes

Phase 4 | Weeks 5-6

Begin in-depth training for administrators followed by a faster training for end users.

CivicPlus Will:	What We Need From You:
■ Schedule and hold administrator and end user trainings	■ Schedule administrator training ■ Schedule end user training

Phase 5 | As Needed

Now that the main implementation is complete, and there is some data in the system. Any additional service(s) contracted for can be configured.

CivicPlus Will:	What We Need From You:
■ Configure the templates in the system ■ Schedule and conduct minutes training	■ Provide Word versions of your most recent minutes ■ Provide a list of your Board/Council members ■ Schedule a 30-minute call for minutes training

Acceptance Testing

Methodology and Criteria for Success

After the initial configuration of the system and the first board, we will meet with you to perform our First Look Training. The First Look Training will teach the administrators of your system how to navigate the User Menu (user preferences and system settings), create events, create agendas, add or remove items from agendas, and set up your approval routing, if you utilize one.

After the First Look Training is completed, the Implementation Consultant will explain the expectations for User Acceptance Testing. We ask you test your system by creating five events, creating five agendas, and adding or removing one item from each agenda you create.

Upon the completion of these testing scenarios, the representatives from your project team will work with our Implementation Consultant to troubleshoot any issues your team may have come across during testing and to gather any revisions that need to be made to your first board. If any issues were found during testing, these issues will be addressed and we will move into the next phase of our implementation methodology.

Responsibilities of City Staff

Your staff will be responsible for testing the initial configuration of the system and your first board. They will do so by attending a high-level administrator training followed by one business week for testing. During the testing period, they will be asked to create five events, create five agendas, and add or remove one item from each agenda they create.

Upon the completion of these testing scenarios, your staff will work with our Implementation Consultant to communicate any issues that were discovered during testing, whether it be with the system or the board we have created for you. Following the resolution of those items, your staff will be asked to provide any additional agendas, item reports, or minutes you wish to have us develop. This will signify the completion of User Acceptance Testing and we will move forward with the training of your non-administrator users.

Training Strategy

Included in this project is four hours of virtual training for up to six staff members/session. This ensures your team is positioned for a seamless transition to an electronic agenda management process.

- Basic Administrative Training: The initial training available to system administrators provides a high-level walkthrough of the agenda process and available tools. This session provides system administrators with the baseline knowledge needed to manage agendas.
- Advanced Administrative Training: The follow-up administrative training builds on the basic training session. We provide in-depth explanations on system capabilities and discussion of other available functions.
- Standard User/Approver Training: The user training session will prepare your staff for using the electronic management tools, which includes item management and approval workflows.
- Video Tutorials: The video repository includes tutorials covering several commonly asked questions and basic functions within the system. All users can access video content directly through the module.

We find that hands-on experience with the system, prior to your go-live date, is the best way to ensure that administrators and users are comfortable with the electronic management process. Your staff will be given the opportunity to access the system and manage a mock-agenda.

Support is available throughout all implementation phases and after your go-live date.

Ongoing Training Resources

We want your AMS to be an investment that holds its value over time rather than a big expense that you have to budget for every few years. We apply this same thinking to our approach toward training and support. After the launch of your AMS, you should be able to keep current staff as well as new hires trained and supported. Stay up to date and always informed with unlimited access to the CivicPlus Help Center.

With CivicPlus Help Center, you can:

- Access online training manuals and videos to learn the tips, tricks and processes to become the expert at using your AMS
- Attend webinar series for refresher trainings or for sneak peeks at the newest features and functionality in development
- Stay up to date on the latest trends in web technology, design and government processes through blogs, webinars and informational updates tailored to local government professionals
- Access our always-available online support center for our clients that is easy to navigate with predictive search



Ongoing Support and Hosting Services

Ongoing Support & Services

Around-the-Clock Service & Support

With technology, unlimited support is crucial. Our live support personnel based in the United States are ready to answer your staff members' questions and ensure their confidence. When you choose CivicPlus, our knowledgeable staff is available from 7 a.m. to 7 p.m. (CST) to field your calls, emails, and live chat. Emergency services are available free of charge after regular hours with our on-call staff 24-hours a day.

CivicPlus Support has formalized support procedures that involve the following three tier escalation path:

Tier 1: Simple usability issues, 'How do I?' questions, and intended functionality inquires
Tier 2: Complex functional questions
Tier 3: Technical issues

CivicPlus is also proactive in identifying any potential system issues. Through regularly scheduled reviews of site logs, error messages, servers, router activity, and the internet in general, our personnel often identify and correct issues before they ever affect our clients' websites.

Technical Support

- Dedicated support personnel available 7 a.m. – 7 p.m. (CST) Monday – Friday (excluding holidays)
- Four-hour response during normal hours
- 24/7 emergency support

Maintenance

- Full backups performed daily
- Regularly scheduled upgrades, including fixes and other enhancements, and OS system patches

In February of 2019, CivicPlus Technical Support was presented with a Bronze Stevie® Award in the Front-Line Customer Service Team of the Year – Technology Industries category in the 13th annual Stevie Awards for Sales & Customer Service.

The Stevie Awards are the world's top honors for customer service, contact center, business development, and sales professionals.

Continuing Partnership

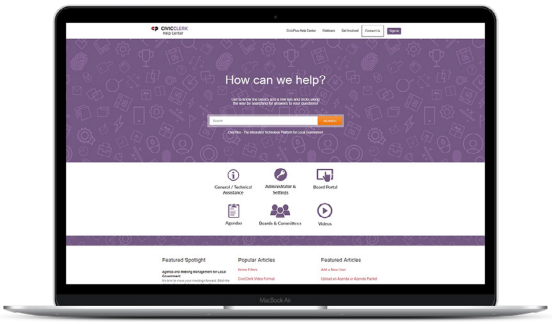
CivicPlus has a dedicated Client Success team to help you implement the tools needed to successfully meet the level of community engagement that you desire. Upon website launch, you will have a dedicated member of this team to provide you with further information on how to utilize the tools in your new website. Your Client Success Manager will keep you informed of new CivicPlus products and ways to optimize your site.

CivicPlus Help Center

We want your website to be an investment that holds its value over time rather than a big expense that you have to budget for every few years. We apply this same thinking to our approach toward training and support. After the launch of your Agenda Management System, you should be able to keep current staff as well as new hires trained and supported as they update and maintain your AMS. CivicPlus offers ongoing training and support, as well as the incredible interactive community of more than 3,500 other municipalities that use CivicPlus products. Stay up to date and always informed with unlimited access to the CivicPlus Help Center.

With CivicPlus Help Center, you can:

- Access online training manuals and videos to learn the tips, tricks and processes to become the expert using your RMS solution
- Attend webinar series for refresher trainings or for sneak peeks at the newest features and functionality in development
- Share ideas and contribute to bettering our community through opinion polls, surveys and group discussions
- Stay up to date on the latest trends in web technology, design and government processes through blogs, webinars and informational updates tailored to local government professionals



- Access our always-available online support center for our clients that is easy to navigate with predictive search
- Sign up to be a part of the CivicPlus beta testers to get your hands on the newest features and functionality first

Ongoing Support & Services

Service Level Metrics

Over the last 24 months, uptime has been 99.9%. Further details on the associated ongoing service level commitments, as well as a Service Level Agreement, can be provided upon request.

Hosting & Security

Redundant power sources and internet access ensures consistent and stable connections. We invest over $1.0M annually to ensure we adapt to the ever-changing security landscape while providing maximum availability. CivicPlus' extensive, industry-leading process and procedures for protecting and hosting your site is unparalleled.

The CivicClerk infrastructure is fully hosted within the Azure Cloud environment using their Infrastructure as a Service (IaaS) model. Using a mix of Azure Virtual Machines and Storage Accounts, all processing and data storage in done within this environment. All users need is a web browser to access to utilize the application. Your system is monitored 24/7/365 with a 99.9% guaranteed up-time (excluding maintenance). Additional details regarding our hosting and security services can be provided upon request.

Hosting Facility Tier

The hosting facility where the AMS will be hosted is a Tier II facility.

Storage

There are no storage limitations to the amount of data housed. In addition, there are no restrictions to how long data can be stored.

Disaster Recovery

CivicClerk utilizes Azure's Site Recovery Services and Geographically Redundant Storage Accounts (GRS) to provide disaster recovery between Azure regions. All data is written to a GRS account which creates copies of that data in data centers across multiple Azure regions, so access to the data is always available. Site Recovery Services allows us to quickly spin up and failover to clones of our Azure VMs.

Our stated Recovery Point and Recovery Time Objectives is 4 hours.

Release/Update Frequency

The CivicPlus Development Team develops software using the Agile development methodology. We currently work in 2-week sprints with several teams addressing new functionality and services and additional teams and select members dedicated to software fixes and minor enhancements. Enhancements are released monthly. Prior to any software update or rollout, all code changes go through an internal testing process which includes an alpha testing phase, a beta testing phase, and a final Release Candidate testing phase. Separate internal servers, isolated from our client hosts, are used for these various stages of testing. At times, we do ask for Beta clients to test our Release Candidate on their site. This is an opt-in program. At any time during these testing phases, any member of the CivicPlus team can report an issue that needs to be addressed before rollout, essentially removing the product from the deployment schedule.

A separate and isolated testing environment that mirrors our production servers is maintained for internal testing of not only our own codebase, but any updates to the host operating system as well. All updates are logged and tested prior to rollout to ensure compatibility with our CMS.

System changes are communicated via the CivicPlus Help Center as well as your admin dashboard (users will see a notice upon login). For major changes that may require additional staff training (e.g., a brand new module is being released), we will notify clients in advance and schedule the rollout with you as appropriate.



Hardware/Software Requirements

Required Software

System Requirements

As a hosted solution, the City will not bear the responsibility of maintaining the server side hardware in support of the application. Because CivicClerk is cloud-based, all the City needs to operate the software is a reasonably modern PC, tablet, or mobile device and an internet connection. We recommend running it on a high-speed internet connection.

Permissions

CivicClerk provides administrators access to a variety of individual system settings allowing tailored access for your individual groups or users. Administrators can create custom security profiles based on roles.



References

Lifetime Customer Retention

Annual Services, including hosting, maintenance, and support is actively provided to 100% of our clients.

References

Village of McFarland, Wisconsin

Cassandra Suettinger | Village Clerk / Treasurer
608-838-3153 | cassandra.suettinger@mcfarland.wi.us
Project included AMS implementation, development, and deployment as well as continuing hosting, maintenance, and support.
Client since January 2018 | Continues to receive ongoing hosting, maintenance, and support

Town of Firestone, Colorado

Jennifer Weinberger | Assistant Town Manager
303-833-3291 | jweinberger@firestoneco.gov
Project included AMS implementation, development, and deployment as well as continuing hosting, maintenance, and support.
Client since November 2017 | Continues to receive ongoing hosting, maintenance, and support

City of Kissimmee, Florida

Austin Blake | Assistant City Manager
407-518-2319 | ablake@kissimmee.org
Project included AMS implementation, development, and deployment as well as continuing hosting, maintenance, and support.
Client since December 2017 | Continues to receive ongoing hosting, maintenance, and support

City of Watauga, Texas

Zolaina Parker | City Secretary
817-514-5825 | zparker@wataugatx.org
Project included AMS implementation, development, and deployment as well as continuing hosting, maintenance, and support.
Client since December 2017 | Continues to receive ongoing hosting, maintenance, and support

City of Clermont, Florida

Tracy Ackroyd | City Clerk
352-241-7332 | tackroyd@clermontfl.org
Project included AMS implementation, development, and deployment as well as continuing hosting, maintenance, and support.
Client since May 2013 | Continues to receive ongoing hosting, maintenance, and support



Pricing

Investment Proposal

All quotes are priced per project and presented in US dollars. Pricing is valid for 60 days from April 12, 2019 / May 29, 2019.

Implementation, Development, and Deployment		Price
CivicClerk AMS & Implementation	■ Up to Seven Boards ■ Up to 15 MB file uploads ■ Agenda Management ■ Meeting Minutes ■ Public Portal ■ Board Portal	$700
Training & Consulting	■ One Hour of Virtual Consulting ■ Four Hours of Virtual CivicTraining®	$660
CP Media™	■ Live Streaming and On-Demand Video Service	$800
Annual Services		**Annual Price**
Hosting, Maintenance, & Support	■ Hosting and Security ■ Software Maintenance Including Service Patches and System Enhancements ■ 24/7 Technical Support and Access to the CivicPlus Community ■ Dedicated Client Success Manager ■ Annual Services are subject to a cumulative annual 5% technology fee increase beginning Year 3 and beyond	$3,060
CP Media™	■ All Annual Services from above ■ Unlimited Storage	$4,980

Total Investment – 3-Year Term Option		
Year 1	Year 2	Year 3
$10,300	$8,040	$8,442

Total Investment – 5-Year Term Option				
Year 1	Year 2	Year 3	Year 4	Year 5
$10,300	$8,040	$8,442	$8,864	$9,307

Investment Proposal

CivicPlus Project Pricing & Invoicing

CivicPlus prices on a per-project, all-inclusive basis. This type of pricing structure eliminates surprise costs, the uncertainty of paying by the hour, and is overall more cost effective for our clients. It provides you with a price based on the products and features listed in this proposal that only varies if additional functionality of work, outside of the original project scope, is requested. We understand that local governments must look beyond just functionality and that multiple factors come into play when determining which vendor can meet not only your functional needs, but also your budgetary needs. CivicPlus offers:

- Standard CivicClerk Invoicing – Your Total Investment – Year 1 fees (detailed on the previous page) are due at contract signing.
- Customized Billing/Invoicing – Although not available with all products offered by CivicPlus, we will be happy to discuss other billing options with you prior to contract signing and if feasible, develop a plan that works for both of us. Please contact your sales representatives for more details.
- Annual Services – Your first-year annual fee is included with your Total Investment – Year 1 cost. Subsequent annual invoicing occurs on the anniversary of the contract signing date, subject to a 5% technology fee uplift each year starting in Year 3 of your contract.

CivicPlus wants our clients to succeed in delivering a viable, sustainable, and flexible web environment for their communities and we will work with you prior to contract signing to determine which of our billing processes will meet both your needs for budget planning and our accounting processes.



Proposed Legal Agreement

Sample Agreement

CivicPlus respectfully reserves the right to negotiate all terms and conditions of the RFP, proposal, and agreement prior to contract signing. See the following pages for our sample agreement.

Master Services Agreement

THIS Master Services Agreement ("Agreement") is agreed to by and between CivicPlus, Inc., d/b/a CivicPlus ("CivicPlus") and [ENTITY] ("Client") (referred to individually as "Party" and jointly as "Parties") and shall be effective as of the later date of signing indicated at the end of this Agreement ("Effective Date").

RECITALS

I. **WHEREAS,** CivicPlus is engaged in the business of developing, marketing and selling custom community engagement and government management platforms and services that include but are not limited to web sites, web interfaces and portals and proprietary software systems and associated modules; in addition to project development, design, implementation, support and hosting services for same;

II. **WHEREAS,** Client wishes to engage in a relationship with CivicPlus for such services and/or license for the development and use of proprietary software developed and owned by CivicPlus;

III. **WHEREAS,** Client and CivicPlus have agreed to certain terms as set forth in this Agreement by this written instrument duly executed by the Parties;

NOW, THEREFORE, Client and CivicPlus agree as follows:

Term & Termination

1. This Agreement shall commence on the date set forth below and shall remain in full force and effect during the term of any associated or attached Statement of Work ("SOW") between CivicPlus and Client. This Agreement and any associated or attached SOW will continue under the conditions set forth herein until terminated by either Party as specifically authorized herein.
2. Either Party may terminate this Agreement or any associated SOW at the end of the SOW term by providing the other Party with 60 days' written notice prior to the SOW renewal date.
3. Upon termination of this Agreement or any associated or attached SOW, the licenses granted for such relevant SOW by Section 15, below, will terminate; Client shall cease all use of the CivicPlus Property (as defined herein) associated with the terminated SOW.
4. Notwithstanding the above, in the event this Agreement or any SOW is terminated, for any reason, prior to payment in full being made by Client for work completed by CivicPlus, any outstanding invoices or future planned billing for the development of Client's chosen government management platform and/or services, as defined in the SOW ("Project Development"), shall immediately become due in full.

Statements of Work

5. CivicPlus agrees to perform services and/or produce deliverables in accordance with the SOW in consideration of the fees owed by Client in described in the same SOW. Multiple and successive SOW may be entered into and shall be attached hereto. Such SOWs are incorporated into this Agreement by reference and subject to the terms & conditions contained herein pursuant to Section 27.

Invoicing & Payment Terms

6. Invoices shall be sent electronically to the individual/entity designated in the SOW's contact sheet, to be filled out and submitted by Client. Client shall provide accurate, current and complete information of Client's legal business name, address, email address, and phone number, and maintain and promptly update this information if it should change. Upon request CivicPlus will mail invoices, and the Client will be charged a $5.00 convenience fee.
7. Payment is due 30 days from date of invoice. Unless otherwise limited by law, a finance charge of 1.5 percent (%) per month or $5.00, whichever is greater, will be added to past due accounts. Payments received will be applied first to finance charges, then to the oldest outstanding invoice(s).
8. If the Client's account exceeds 60 days past due, support will be discontinued until the Client's account is made current. If the Client's account exceeds 90 days past due, Annual Services will be discontinued, and the Client website, modules, interfaces or portals will no longer be active until the Client's account is made current. Client will be given 30 days' notice prior to discontinuation of services for non-payment.
9. If the Client requests a change in the timeline set forth and agreed upon at the beginning of the services, and such change causes CivicPlus to incur additional expenses (i.e. airline change fees, consultant fees), Client agrees to reimburse CivicPlus for those fees. Not to exceed $1,000 per CivicPlus resource per trip. CivicPlus shall notify

CivicPlus • 302 S. 4th Street, Suite 500 • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-2233 • Accounting Ext. 291 • Fax 785-587-8951

SAMPLE

Client prior to incurring such expenses and shall only incur those expenses which are approved by Client.

Ownership & Content Responsibility

10. Upon full and complete payment of submitted invoices for any SOW Project Development Fees, Client will own the website graphic designs, webpage or software content, module content, importable/exportable data, and archived information as created by CivicPlus on behalf of Client pursuant to this Agreement ("Customer Content").
11. Upon completion of any SOW Project Development, Client will assume full responsibility for website, software or module content maintenance and administration. Client, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Content.
12. Client agrees that CivicPlus shall not migrate, convert, or port content or information that could reasonably be construed to be time-sensitive, such as calendar or blog content, in any Project Development.
13. Client will make a reasonable attempt to work with CivicPlus, if requested, to create a news item to be released in conjunction with their project Go-Live date. Client will provide CivicPlus with contact information for local and regional media outlets. CivicPlus may use the press release in any marketing materials as desired throughout the term of this Agreement.

Intellectual Property & Ownership

14. Intellectual Property of any software or other original works created by CivicPlus prior to the execution of this Agreement ("CivicPlus Property") will remain the property of CivicPlus. Client shall not (i) license, sublicense, sell, resell, reproduce, transfer, assign, distribute or otherwise commercially exploit or make available to any third party any CivicPlus Property in any way; (ii) modify or make derivative works based upon any CivicPlus Property; (iii) create Internet "links" to the CivicPlus Property software or "frame" or "mirror" any CivicPlus Property administrative access on any other server or wireless or Internet-based device; or (iv) reverse engineer or access any CivicPlus Property in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of any CivicPlus Property, or (c) copy any ideas, features, functions or graphics of any CivicPlus Property. The CivicPlus name, the CivicPlus logo, and the product and module names associated with any CivicPlus Property are trademarks of CivicPlus, and no right or license is granted to use them.
15. Provided Client complies with the terms and conditions herein, the relevant SOW, and license restrictions set forth in Section 14, CivicPlus hereby grants Client a limited, nontransferable, nonexclusive, license to access and use the CivicPlus Property associated with any valid and effective SOW associated with this Agreement, for the term of the respective SOW.

Indemnification

16. To the extent permitted by the law of Client's state, Client and CivicPlus shall defend, indemnify and hold the other Party, its partners, employees, and agents harmless from and against any and all lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses including attorney's fees of any kind, without limitation, arising out of the negligent actions and omissions, or intentionally malicious actions or omissions of the indemnifying Party or its partners, employees, and agents, directly associated with this Agreement and the operations and installation of software contemplated by this Agreement. This section shall not apply to the extent that any lawsuits, claims, demands, penalties, losses, fines, liabilities, damages, and expenses is caused by the negligence or willful misconduct on the part of the other Party.

Client Responsibilities

17. CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier, licensor or other third-party service provider whose facilities or services are used in furnishing any portion of the service received by the Client.
18. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by Client or any entity employed/contracted on the Client's behalf.
19. Client agrees that it is solely responsible for any solicitation, collection, storage, or other use of end-users' personal data on any website or online service provided by CivicPlus. Client further agrees that CivicPlus has no responsibility for the use or storage of end-users' personal data in connection with the website or the consequences of the solicitation, collection, storage, or other use by Client or by any third party of personal data.
20. To the extent it may apply to any service or deliverable of any SOW, user logins are for designated individuals chosen by Client ("Users") and cannot be shared or used by more than one User. Client will be responsible for the confidentiality and use of User's passwords and User names. Client will also be responsible for all electronic communications, including those containing business information, account registration, account holder information, financial information, Client data, and all other data of any kind contained within emails or otherwise entered electronically through any CivicPlus Property or under

CivicPlus • 302 S. 4th Street, Suite 500 • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-2233 • Accounting Ext. 291 • Fax 785-587-8951

SAMPLE

Client's account. CivicPlus will act as though Client will have sent any electronic communications it receives under Client's passwords, user name, and/or account number. Client shall use commercially reasonable efforts to prevent unauthorized access to or use of any CivicPlus Property and shall promptly notify CivicPlus of any unauthorized access or use of any CivicPlus Property and any loss or theft or unauthorized use of any User's password or name and/or user personal information.

21. Client shall comply with all applicable local, state, and federal laws, treaties, regulations, and conventions in connection with its use of any of the services or CivicPlus Property.

Limitation of Liability

22. CivicPlus' liability arising out of or related to this Agreement, or any associated SOW, will not exceed the Annual Services Fee paid by Client in the year prior to such claim of liability.
23. In no event will CivicPlus be liable to Client for any consequential, indirect, special, incidental, or punitive damages arising out of or related to this Agreement.
24. The liabilities limited by Section 22 and 23 apply: (a) to liability for negligence; (b) regardless of the form of action, whether in contract, tort, strict product liability, or otherwise; (c) even if Client is advised in advance of the possibility of the damages in question and even if such damages were foreseeable; and (d) even if Client's remedies fail of their essential purposes. If applicable law limits the application of the provisions of this Limitation of Liability section, CivicPlus' liability will be limited to the maximum extent permissible.

Force Majeure

25. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civic disturbance, riot, war, national emergency, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

Taxes

26. It is CivicPlus' policy to pass through sales tax in those jurisdictions where such tax is required. If the Client is tax-exempt, the Client must provide CivicPlus proof of their tax-exempt status, within fifteen (15) days of contract signing, and the fees owed by Client under this Agreement will not be taxed. If the Client's state taxation laws change, the Client will begin to be charged sales tax in accordance with their jurisdiction's tax requirements and CivicPlus has the right to collect payment from the Client for past due taxes.

Other Documents

27. The following, if applicable, are to be attached to and made part of this Agreement:
    a. Any Addendum and/or Amendment to this Agreement signed by both Parties;
    b. Exhibit A - Statement(s) of Work;
    c. Service Agreement Sales Forms;
    d. Service Agreements previously executed between the Parties; and
    e. Custom Development / Retainer Agreement
28. In the event of conflict with an attachment to this Agreement, any addendum and/or amendment made to the main body of this Agreement will govern. Notwithstanding the foregoing, no SOW or other attachment incorporated into this Agreement after execution of this main body of this Agreement will be construed to amend this main body unless it specifically states its intent to do so and cites the section or sections amended.
29. This Agreement and all attachments hereto sets forth the entire agreement of the Parties and supersedes all prior or contemporaneous writings, negotiations, and discussions with respect to its subject matter.

Interlocal Purchasing Consent

30. With the prior approval of CivicPlus, which may be withheld for any or no reason within CivicPlus' sole discretion, this Agreement and any attached SOWs may be extended to any public entity in Client's home-state to purchase at the SOW prices and specifications in accordance with the terms stated herein.

Miscellaneous Provisions

31. The invalidity, in whole or in part, of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
32. No amendment, assignment or change to this Agreement or any included SOW shall be effective unless by a written instrument executed by each of the Parties.

SAMPLE

CivicPlus • 302 S. 4th Street, Suite 500 • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-2233 • Accounting Ext. 291 • Fax 785-587-8951

33. This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts will constitute a single instrument.
34. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such Party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and consent to the terms & conditions of this Agreement.

Client	**CivicPlus**
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

Sign and E-mail the entire contract with exhibits to:

Contracts@CivicPlus.com

Signature pages sent without the entire contract attached will not be accepted. We will e-mail a counter-signed copy of the contract back to you once we begin your project.

CivicPlus does not require a physical copy of the contract, however, if you would like a physical copy of the contract, mail one (1) copy of the contract with original signature to:

CivicPlus Contract Manager
302 S. 4th Street, Suite 500
Manhattan, KS 66502

Upon receipt of signed original, we will counter-sign and return the copy for your files.

SAMPLE

CivicPlus • 302 S. 4th Street, Suite 500 • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-2233 • Accounting Ext. 291 • Fax 785-587-8951

Exhibit A.1 – CivicClerk Statement of Work #1

All Quotes are in US Dollars and Valid for 30 Days from [DATE]

Project Development and Deployment
• Implementation and configuration of **CivicClerk** system, including:
  ○ [XX]
  ○ Up to [X] hours of [Type] training for up to [X] Client staff members
  ○ First Year Annual Services
	$[XX]

Total Fees Year 1	**$[XX]**
Annual Services (Continuing CivicClerk Enhancements, Maintenance, Support and Hosting) *Billed 12 months from SOW signing; subject to annual 5% increase year 3 and beyond*	$[XX]
Total Annual Services	**$[XX]**

1. Performance and payment under this SOW shall be subject to the terms & conditions of the Agreement by and between Client and CivicPlus, to which this Statement of Work #1 (SOW #1) is hereby attached as Exhibit A.1.
2. This SOW #1 shall remain in effect for an initial term of one year (12 months) from signing. In the event that neither party gives 60 days' notice to terminate prior to the end of the initial or any subsequent renewal term, this Agreement will automatically renew for an additional 1-year Renewal Term.
3. The Total Fees Year 1 will be invoiced at signing of this SOW #1.
4. Renewal Term Annual Services shall be invoiced on the date of signature of relevant calendar years. Annual services, including but not limited to hosting, support and maintenance services, shall be subject to a 5% annual increase beginning in Year 3 of service.
5. CivicPlus will use commercially reasonable efforts to perform the Services in a manner consistent with applicable industry standards including, maintaining Services availability 24 hours a day, 7 days a week and responding to Client's requests for support during the hours of 7:00 AM to 7:00PM CT, Monday through Friday and any critical support requests 24 hours per day, 7 days a week.
6. Client shall have sole control and responsibility over the determination of which data and information shall be included in the content that is to be transmitted to CivicPlus. Client shall not provide to CivicPlus or allow to be provided to CivicPlus any content that (a) infringes or violates any 3rd party's Intellectual Property rights, rights of publicity or rights of privacy, (b) contains any defamatory material, or (c) violates any federal, state, local, or foreign laws, regulations, or statutes.
7. The service(s) are provided on an "as is" basis, and Client's use of the service(s) is at its own risk. CivicPlus does not warrant that the service(s) will be uninterrupted or error-free or unaffected by force majeure events.
8. The Client will be invoiced electronically through email. Upon request CivicPlus will mail invoices and the Client will be charged a $5.00 convenience fee.

SAMPLE

Acceptance

We, the undersigned, agreeing to the conditions specified in this document, understand and authorize the provision of services outlined in this Agreement.

CivicPlus • 302 S. 4th Street, Suite 500 • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-2233 • Accounting Ext. 291 • Support Ext. 307 • Fax 785-587-8951

Client	CivicPlus
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

SAMPLE

CivicPlus • 302 S. 4th Street, Suite 500 • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-2233 • Accounting Ext. 291 • Support Ext. 307 • Fax 785-587-8951

Addendum 1 to Exhibit A.1 - Project Development Division of Work

Phase 1 – Introduction and Initial Configuration

CLIENT RESPONSIBILITY	CIVICPLUS RESPONSIBILITY	
• Complete the implementation questionnaire • Provide Word versions of your agendas and item reports	• Create a production site request and assign a PL request in JIRA • Reach out to Client to explain the Implementation plan • Schedule and conduct a kick-off call with Client, if requested	• Once supplied Word versions of the agendas and item reports, configure the templates in the system • Input questionnaire data

Phase 2 – Initial Review

CLIENT RESPONSIBILITY	CIVICPLUS RESPONSIBILITY	
• Be prepared to schedule a call for system review • Provide feedback on any needed changes	• Schedule and conduct a first look call with Client.	• Provide any template changes needed to CivicPlus.

Phase 3 – Final Configuration and Review

CLIENT RESPONSIBILITY	CIVICPLUS RESPONSIBILITY	
• Provide a list of users • Provide any additional feedback and changes	• Enter user list with appropriate security settings	• Make necessary changes to templates and configuration

Phase 4 – Training

CLIENT RESPONSIBILITY	CIVICPLUS RESPONSIBILITY
• Schedule a presentation for administrator training • Schedule a presentation for end user training	• Schedule and conduct administrator and end user trainings

Phase 5 (As Needed) – Additional Services

CLIENT RESPONSIBILITY	CIVICPLUS RESPONSIBILITY	
• Provide Word versions of your most recent minutes • Provide a list of your Board/Council members • Schedule a 30 minute call for minutes training • Schedule a 30 minute call for BoardView training	• Once supplied Word versions of the minutes, configure the templates in the system	• Schedule and conduct minutes training • Schedule and conduct BoardView training

SAMPLE

CivicPlus • 302 S. 4th Street, Suite 500 • Manhattan, KS 66502 • www.CivicPlus.com
Toll Free 888-228-2233 • Accounting Ext. 291 • Support Ext. 307 • Fax 785-587-8951



Additional Information

User, Administrative, and Training Manuals

CivicPlus does not print documentation or training materials. However, we do maintain our online Help Center where clients can search, browse, or print from as they wish. Our Help Center is continually monitored and updated by our dedicated team of support specialists to ensure we are providing the information and resources you need to optimize your CivicClerk solution. The Help Center specifically dedicated to the CivicClerk product is located at www.civicclerk.civicplus.help/hc/en-us.

Record Management System

CivicPlus does not offer a record management system at this time.

GRANICUS

RFP #20190412 for
Agenda Management Software and Video Services
for the City of Hapeville, GA

Response prepared for
City of Hapeville
Attn: Crystal Griggs-Epps
3468 N Fulton Avenue
Hapeville, GA 30354
cepps@hapeville.org

Response Submitted by Granicus
Proposal Contact:
Moussa.Diallo@granicus.com
Submitted on
April 12, 2019

Transmittal Letter

Dear whom it may concern,

Thank you for considering Granicus for the opportunity to strengthen our relationship with Hapeville. We are confident that our Peak Agenda Management and Granicus Video platform will be the best fit for Hapeville's needs.

At Granicus, we recognize that great products are only part of what keeps our clients satisfied. We provide 24/7/365 technical support to take full responsibility for maintaining and monitoring the technology that powers your solution and that of 1,300 other government agencies. Should you have any questions or if you would like us to clarify any aspects of our proposal, we look forward to hearing from you.

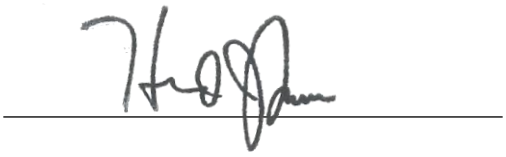
From our experience with clients to our expertise in deploying solutions of this size, we have included with this response success stories of current citizen engagement platform users. Our solution allows clients to maximize efficiency, eliminate manual process bottlenecks, and have a purely electronic method that is more transportable across other technologies in the future.

In this response, we will detail why Hapeville should choose the Granicus platform. Along with our amazing customer service, Hapeville will be provided an ongoing learning resource with Granicus University. Additionally, Granicus will continue to provide support before, during, and after the implementation of the proposed system. This is why Granicus is the leader in solutions to support government transparency and civic engagement.

Granicus employees are free of any conflicts of interest with the City of Hapeville.

Sincerely,

Moussa Diallo
Account Specialist
202.559.3533
Moussa.Diallo@granicus.com



Howard Langsam
Executive Vice President of Sales

Granicus' statements regarding its plans, directions, and intent are subject to change or withdrawal without notice at Granicus' sole discretion. The information mentioned regarding potential future products is not a commitment, promise, or legal obligation to deliver any material, code, or functionality. Unless otherwise stated, this proposal is valid for 120 days.

Table of Contents

Transmittal Letter 2
Table of Contents 3
Executive Summary 5
Granicus Management Team 6
Company Information 7
Legal name, EIN, Form of Business, and Subsidiary Information 7
Primary Contact 7
Office Locations 7
Support information 7
Current Number of Employees 8
Subcontractors 8
Pending Litigation 8
Bankruptcy 8
Mergers and Acquisitions 8
Company Background 9
Vendor Background 9
Age of Solution(s) 9
Financial Information 9
Company Qualifications 10
Experience Implementing Agenda Management Systems 10
Examples and amount of clients 10
Proposed Solution 11
Granicus Open Platform 11
Granicus Video 12
Granicus Encoding Appliance 14
iLegislate® 15
Agenda Management 16
Peak Agenda Management 17
Additional Proposed Features 19
Hapeville System Requirements 21

Implementation Approach and Training 26
Key Staff 26
Implementation Methodology, Milestones, and Deliverables 26
Project Teams 29
Project Schedule 32
Testing 32
Training 33
Ongoing Support and Hosting Services 34
Scheduled Maintenance 34
How to contact Granicus 34
Security Overview 37
Data Retention and Storage Limits 37
Hardware/Software Requirements 38
Peak Agenda Management Requirements 38
Encoding Appliance Requirements 38
References 39
Pricing 40
Proposed Legal Agreement 41
Software licensing 41
Proposed Legal Agreement 41
Additional Information 51
Scope of Work 52
1. Introduction and Background 52
2. Project Scope 52
3. Out of Scope 55
4. Project Teams 56
5. Project Timeline 59
6. Milestones 59
7. Assumptions 65

Executive Summary

Granicus provides technology that empowers government organizations to create better lives for the people they serve. By offering the industry's leading cloud-based solutions for communications, meeting and agenda management, and digital services to more than 4,000 government customers, Granicus helps turn government missions into quantifiable realities. Granicus products connect more than 150 million people, creating a powerful network to enhance government transparency and citizen engagement. By optimizing decision-making processes, Granicus strives to help government realize better outcomes and have a greater impact for the citizens they serve.

As a company, Granicus helps empower some of the most creative people in the world who innovate within complex public-sector organizations. We help make policies more effective and to transform the citizen experience so that everything from road closures to fostering programs are better communicated, understood, and ultimately successful.

Granicus was founded in 1999 and merged with GovDelivery (also founded in 1999) in late 2016. While Granicus had traditionally been focused on innovation in the legislative and rule-making process, GovDelivery led the way in transforming how governments communicate with the public on a day-to-day basis to support everything from flu shot programs to new veterans' benefits. The two companies' missions aligned perfectly to cover the full range of government's mission – to craft the rules and laws we live by while delivering services that bring value to the public. This powerful alignment allows us to bring even more scale and innovation to the clients we serve.

Washington D.C. 1152 15th Street NW, Suite 800 Washington, DC 20005 P: 202.407.7500 F : 202.407.7501	Denver (HQ) 1999 Broadway, Suite 3600 Denver, CO 80202 P: 720.240.9586 F: 720.501.5171
St. Paul 408 St. Peter St, Suite 600 St. Paul, MN 55102 P: 651.726.7309 F: 651.665.0943	United Kingdom The Beehive, City Place, Gatwick, RH6 0PA P: 0800.032.5769
El Segundo, CA 222 N. Pacific Coast Highway #1500 El Segundo, CA 90245 P: 888.263.8847	

Website: www.granicus.com

GRANICUS MANAGEMENT TEAM

Mark Hynes – Chief Executive Officer
Mark currently serves as CEO of Granicus, the leading provider of cloud-based government software solutions. Prior to Granicus and since 2010, Mark served as Chief Strategy and Development Officer as well as President, Technology Services, for Altisource, a public real estate and mortgage technology and services company. Before joining Altisource, he served as President of Digi-Net Technologies, Inc., an early pioneer in marketing analytics software-as-a-service solutions. Mark also co-founded Xevo, Inc., a leading provider of service provisioning technologies to application service providers, where he held the position of Chief Operating Officer. Mark began his career with Bain & Company as a consultant. He holds a Bachelor of Business Administration from James Madison University and a Master of Business Administration from Harvard University.

Eric Gibson – Chief Finance Officer
As the Granicus Chief Financial Officer, Eric is a client-focused executive with a proven track record in leading and managing change and impacting business results by leveraging a broad experiential base of strategic planning, financing, acquisitions, financial management, and process improvement. Prior to coming to Granicus, Eric served as an Executive Vice President and CFO for Dimension Data.

Scott Macfee – Chief Operating Officer
Scott is Granicus' Chief Operating Officer and leads the organization's client-centric operations. Scott comes to Granicus from Dimension Data, an $8 billion IT services company, where he spent over 15 years in operations and rose to Chief Operating Officer of the Americas in 2013 and President in 2016. Scott is a graduate of Bucknell University in Lewisburg, PA, where he received his Bachelor of Arts in Sociology. He has also completed executive coursework at several prestigious Executive Leadership programs in the U.S. and abroad.

Susan Ganeshan – Chief Marketing Officer
Susan leads Granicus' marketing strategy and brand awareness efforts as Chief Marketing Officer. Susan offers in-depth, cross-functional software marketing experience gained during her 25-year career, which includes leadership roles at Clarabridge, newBrandAnalytics (acquired by Sprinklr), webMethods (acquired by Software AG), Checkfree (now Fiserv) and Deloitte Consulting.

Bob Ainsbury – Chief Product Officer
A Silicon Valley technologist with roots in engineering and a rich history in high-growth companies of all sizes. His business and technology perspectives have been quoted in the Wall Street Journal, The Financial Times, on CBS Radio, and on National Public Radio.

Company Information

LEGAL NAME, EIN, FORM OF BUSINESS, AND SUBSIDIARY INFORMATION

Granicus, LLC DBA Granicus.

FEIN #: 41-1941088

Granicus is a privately held LLC with a C-Corporation tax classification.

Granicus is not a subsidiary of a larger company but is owned by Vista Equity Partners.

PRIMARY CONTACT

Moussa Diallo
Account Specialist
202.559.3533
Moussa.Diallo@granicus.com

OFFICE LOCATIONS

Washington D.C. 1152 15th Street NW, Suite 800 Washington, DC 20005 P: 202.407.7500 F : 202.407.7501	**Denver (HQ)** 1999 Broadway, Suite 3600 Denver, CO 80202 P: 720.240.9586 F: 720.501.5171
St. Paul 408 St. Peter St, Suite 600 St. Paul, MN 55102 P: 651.726.7309 F: 651.665.0943	United Kingdom The Beehive, City Place, Gatwick, RH6 0PA P: 0800.032.5769
El Segundo, CA 222 N. Pacific Coast Highway #1500 El Segundo, CA 90245 P: 888.263.8847	

SUPPORT INFORMATION

The Customer Care staff at Granicus may be contacted by the customer via Internet, email, or telephone.

CONTACT INFORMATION

Online (recommended) support.granicus.com
Email support@granicus.com
Phone (for urgent issues) 800.314.0147

SUPPORT HOURS

US Regular Hours 8:00 AM – 10:00 PM Eastern Monday – Friday
Urgent After-Hours Support is also available at 800.314.0147

CURRENT NUMBER OF EMPLOYEES

We currently employ approximately 470 FTE positions and 11 part-time positions, many of whom are dedicated to both our Agenda Management and Video Streaming (Government Transparency) products.

SUBCONTRACTORS

We will not be employing any subcontractors if awarded the business.

PENDING LITIGATION

Granicus has no past, current, or pending litigation resulting from professional services rendered over the past five years.

BANKRUPTCY

Granicus has not filed for bankruptcy or insolvency in the last 10 years.

MERGERS AND ACQUISITIONS

While we have acquired some businesses in the last five years, Granicus has not been merged, acquired, or sold within that time.

Company Background

VENDOR BACKGROUND

Granicus provides technology that empowers government organizations to create better lives for the people they serve. By offering the industry's leading cloud-based solutions for communications, meeting and agenda management, and digital services to more than 4,000 government customers, Granicus helps turn government missions into quantifiable realities. Granicus products connect more than 150 million people, creating a powerful network to enhance government transparency and citizen engagement. By optimizing decision-making processes, Granicus strives to help government realize better outcomes and have a greater impact for the citizens they serve.

As a company, Granicus helps empower some of the most creative people in the world who innovate within complex public-sector organizations. We help make policies more effective and to transform the citizen experience so that everything from road closures to fostering programs are better communicated, understood, and ultimately successful.

Granicus was founded in 1999 and merged with GovDelivery (also founded in 1999) in late 2016. While Granicus had traditionally been focused on innovation in the legislative and rule-making process, GovDelivery led the way in transforming how governments communicate with the public on a day-to-day basis to support everything from flu shot programs to new veterans' benefits. The two companies' missions aligned perfectly to cover the full range of government's mission – to craft the rules and laws we live by while delivering services that bring value to the public. This powerful alignment allows us to bring even more scale and innovation to the clients we serve.

AGE OF SOLUTION(S)

Granicus has been providing Video Streaming (Government Transparency) services since 1999. Our Peak Agenda Management product was originally released in 2016.

FINANCIAL INFORMATION

Granicus is a privately held company owned by Vista Equity Partners. As a result, we are unable to share our financial results during the proposal process. Upon contract signature, we agree to share a copy of our most recent audited financials. In addition, the information cannot be shared with others and will not be provided in a form that is subject to FOIA.

Company Qualifications

EXPERIENCE IMPLEMENTING AGENDA MANAGEMENT SYSTEMS

We currently serve over 4,000 government organizations, of which over 130 are active Peak Agenda Management customers. We also have 296 active accounts using our Legistar Agenda Management solution for high-population cities and counties. We currently have 49 active Peak Agenda Management accounts in cities and municipalities with a population of less than 20,000.

EXAMPLES AND AMOUNT OF CLIENTS

As mentioned above, Granicus currently has just under 50 municipalities with populations of 20,000 or below using our Peak agenda solution and over 450 using our video solution in the same population tier. Some in our client base include:

- Milton, GA
- Flowery Branch, GA
- Milton, GA
- Key Biscayne, FL
- South Miami, FL

Proposed Solution

Granicus is pleased to present our platform of new technology and expert professional services to provide Hapeville with a solution that meets and exceeds the requirements set forth in this Request for Proposal. Our 100% cloud-hosted software solutions were designed specifically for governments like yours to spend less time managing the manual artifacts of the legislative process and more time engaging important stakeholders in productive ways. We make this possible by providing our clients with all the hardware and software necessary to streamline and automate everything from online video streaming to paperless agenda creation and publication. Additionally, our user-friendly and easy-to-deploy software solutions were built to make installation and deployment as effortless as possible.

Below you will find a description of each of the proposed Granicus Suites, as well as a narrative of our implementation methodology, timeline of milestones, and a support and training overview.

GRANICUS OPEN PLATFORM

The Granicus Open Platform is the cloud-based foundation for all Granicus applications. It allows government organizations to manage and store an unlimited amount of government public meeting data. It is the core of our content management, administration, and distribution tools and includes free access to our APIs and SDKs, helping you seamlessly connect your new solution to existing systems. The Granicus Platform includes:

The Granicus Open API and SDK

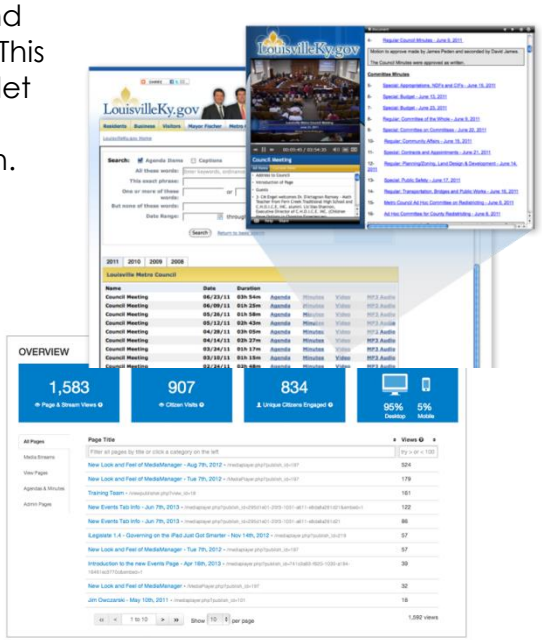
We can provide a fully-documented and supported Application Programmatic Interface (API) and Software Developer Kit (SDK). This open architecture enables customers and developers to seamlessly integrate existing or future enterprise systems with Granicus. Developers typically use the API to add, update, extract, delete, and ultimately customize how information is presented.

We believe open systems and interoperability are critical components of any modern software solution. Granicus is committed to building open architectures, standards, and lasting partnerships with industry leaders. We want to offer clients the most complete solutions on the market, without forcing them into a single system for all enterprise tasks.

GRANICUS VIDEO

Granicus Video gives your citizens greater access to public meetings and records online. Take the next step towards transparency by streaming meetings and events live, linking related documents to your video, and providing advanced searching of archives.

Granicus Video gives you unlimited cloud bandwidth and storage as well as local live and on-demand streaming. This solution also allows you to connect agenda data to tablet devices to review agendas and supporting documents, take notes, and more through the iLegislate® application.



- Give citizens convenient access to live and archived streaming through your website
- Reduce public inquiries with searchable, self-service access online
- Import agendas and index video live to eliminate hours of work
- Manage and distribute unlimited meetings and events—all completely automated
- Reach a broader audience - integrate closed captions with video
- Understand and measure public participation with in-depth video analytics

Easy-to-Use Public Website

Publish live and archived videos to a media portal on your website to make it easy for the public to access your content. Enable audiences to share videos over social networking sites or via email to drive greater visibility and viewership.

Mobile-Enabled Delivery

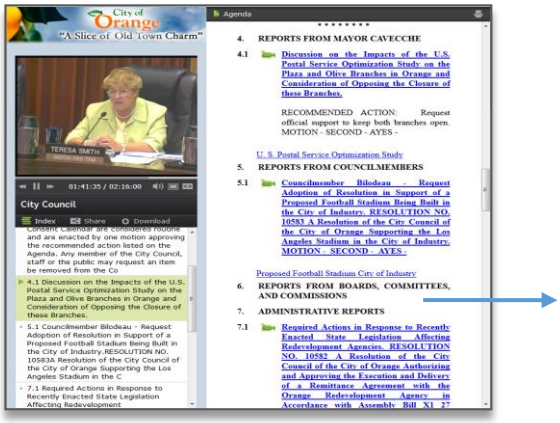
The Government Transparency Suite allows citizens to view videos, agendas, minutes, and supporting documents on mobile devices. By providing live and on-demand streaming via mobile devices, you will always be able to reach the broadest audience possible.

"We had resistance from members of our staff who did not want to change their in-meeting process, so we needed to make sure that any integration we built was as seamless as possible and did not affect workflows."
Karen Rodriguez, Senior Systems Analyst II, City Clerk Systems Division, Los Angeles, CA

Agenda Index Points

Deliver a rich user experience by synchronizing and cross-linking materials to the video. Citizens can watch indexed videos, browse agendas, and view supporting materials—staff reports, memos, and ordinances—all within a single multimedia player.

Supporting documents are displayed alongside the video. Viewers can use jump-to points and links within documents to watch those



Advanced Search "Drill Down"

Empower residents to find the information they need through a self-service search engine. Search across public meeting archives—meeting or event data, including: agendas, minutes, notes, motions, votes, and captions. With advanced filters for date range, data type, and more, the public can accurately define their search criteria to find the information they need.

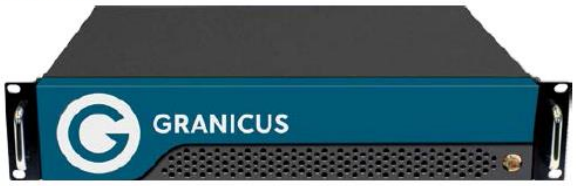
Downloadable Media & Alerts:

- **DOWNLOADABLE MEDIA:** Offer downloadable podcasts for citizens. Media files can be easily delivered as downloadable video (MP4) formats. Reach more citizens using mobile devices and popular media and social media networks.
- **RSS:** Viewers can setup RSS subscriptions to receive automatic notifications when the most recent content is available: specific files, agendas, or minutes. This feature simplifies the ability for citizens to get real-time updates straight to their inbox.
- **USER SEARCH ALERTS:** Just as RSS subscriptions allow residents to receive updates on specific information, our user search alerts update citizens as information they care about becomes available in the system.

"Granicus is my front line for research requests. Now that we've built two or three years-worth of meetings in there and all the items attached to it, it's very, very comprehensive and puts it all right in front of you quickly."
Bill Dow, Records Manager / Deputy City Clerk, Keene, NH

GRANICUS ENCODING APPLIANCE

Front View



Rear View



The Granicus Encoding Appliance is designed and built for our platform and streaming protocols to provide government organizations with superior live and on-demand webcasting performance. The hardware is pre-configured and delivered ready to stream. Simply connect power, network and an analog or Digital (SDI audio/video source). Full appliance control is available through a web browser or locally-installed client application.

- Dell OptiPlex 7040
- Intel Core i7-6700
- 8GB RAM
- 1TB hard disk space
- 180W auto-switching Power Supply
- 1-year warranty (from Dell)
- 64-bit Windows 7 Embedded OS
- Dimensions 11.4 x 11.5 x 3.6
- Optional 3U rack mount shelf
  - Shelf can be used in a round or square hole and 2-post or 4-post rack
  - Dimensions 19" rack, 3U Tall, 14" Deep

Granicus' hosted infrastructure supports the encoding appliance and offers unlimited bandwidth, storage and the highest security standards through a cloud-based platform. The Granicus team works around-the-clock to ensure your applications are protected and operating smoothly. This ensures long-lasting success with our technologies while maximizing your solution's performance.

ILEGISLATE®



Granicus' paperless agenda application, iLegislate®, enables governments to review meeting agendas, supporting documents, and archived videos over iPad, Android, or Windows tablet. iLegislate is a free app that can be downloaded from iTunes or the Google Play Store, and works with any Granicus suite. Suite integrations increase data access and add functionality such as digital one-touch meeting voting. Granicus also offers a Windows and OSX desktop application which can be downloaded at ilegislate.com.

- Convenient access to meeting agendas and supporting documents
- Reduce paper consumption and move to a paperless environment
- Explore agendas and attachments offline and on-the-go
- Easily take notes and email agenda items
- View indexed, archived meeting videos (with Government Transparency Integration)
- Public opinion placed at elected officials' fingertips (with Citizen Participation integration)
- Real-time meeting voting (with Meeting Efficiency integration)

AGENDA MANAGEMENT

Legislative workflows often require a significant commitment from clerical staff. Drafting legislation, getting items approved, compiling information from various departments, and creating an agenda are integral parts of the pre-meeting process, yet can be very time-consuming. Then, there are live and post-meeting processes that staff must follow to ensure an accurate account of a meeting.

With so many moving parts, steps can be overlooked, or items can be inadvertently dropped. Using a completely automated, round-trip legislative workflow solution can save staff countless hours while helping them maintain legislative accuracy.

Granicus' Agenda Management tools allow government staff to easily manage the entire legislative and agenda creation process from start to finish. From drafting files, through assignment to various departments, to final approval, these software tools are designed to reduce workloads and create a more efficient method for managing decisions.

- Eliminate manual workflows. Create and manage items for agendas in one system.
- Automate agenda item approvals with electronic approval processes.
- Simplify agenda creation—automatically compile files and supporting materials for upcoming meetings.
- Organize, store and retrieve electronic documents.
- Easily track legislation and generate historical reports for staff, citizens, and council.

Our Agenda Management offerings – Legistar and Peak Agenda Management – help governments organize, store, and easily retrieve items for agenda creation all in one system. Legistar also maintains all legislative data and tracks each item's path through the entire process. Both systems allow staff to quickly and easily publish agenda and minutes documents to the Web, helping ensure records availability and promote government transparency.

"We had an increased commitment to transparency. When we made the shift to Legistar, it was so easy to become transparent. So, with transparency obligations, it made sense to unify everything."
Lyndsy Willette, Agenda Coordinator, Commerce City, CO

PEAK AGENDA MANAGEMENT

Peak Agenda Management is browser based and has no upfront cost for the software. The elegantly designed agenda creation interface, built with the most advanced technology in the market, provides government officials with a paperless solution that is easy to use, incredibly fast, and the most supported in the industry.

Peak Agenda Management will allow users to spend less time on administrative chores, and more time doing the job they love.

Peak's distinguishing features include:

- In-app live chat support
- The same advanced technology used by Facebook and Netflix for a noticeably faster user experience
- Auto-population of fields
- Sequential or concurrent approval phases
- PDF and document conversion
- Cross-platform support
- Simple agenda packet creation

Key Benefits of Peak Agenda Management

Peak performs all the duties of the agenda creation process from the convenience of any web browser. The sleekly-designed dashboard provides quick access to relevant information in the agenda creation process. As agendas are approved, they can easily be published online. Peak is supported by a top-of-the line customer care team and an ever-expanding library of educational content, developed just for Granicus clients.

Technology to keep you ahead of the curve

Built using the ReactJS framework, originally developed by Facebook, Peak offers the fastest, most responsive agenda software solution available.

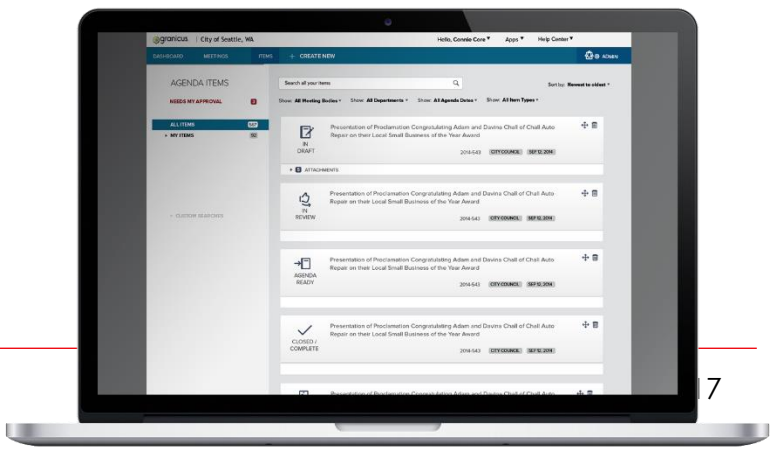
This technology also not only allows for a lightning fast user experience, but also allows Granicus to rapidly deploy new features and enhancements into the application over time, delivering government users more value faster than any other competing software.

A Sleek and Intuitive Design

Users can quickly access important information from the colorful, easy-to-navigate interface. Large buttons and clear iconography guide users to effectively manage the tools, and real-time updates provide clerks and managers information about the agenda status.

Customized Administrative Settings

Peak's administrative toolbox allows clients to create custom objects, such as departments, meeting bodies and user types. Based on these customized permissions, users can create, manage and approve agenda items from start to publication.



Agenda Creation

Assign agendas items by submitting departments, meeting bodies or meeting date through Peak to start an approval workflow.

Approval Workflows

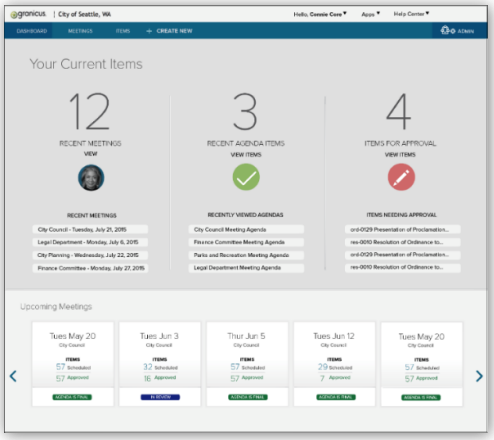
Once an agenda has been created, the approval process begins. Route items through a sequential or concurrent approval workflow and send it to notify assigned users by email that new items are available for their review, FYI, or approval.

Agenda Packet Publication

Agenda packets with all supporting attachments are generated into a single PDF file. This easy process provides governing bodies the ability to easily publish agendas for public consumption while also allowing for the ability to publish to Granicus' iLegislate tablet app for a truly paperless agenda experience.

Simple, Elegant Dashboard

The Peak dashboard shows a user's action items based on permissions, like recently viewed agenda items and meetings and any outstanding approvals.



Excellent Customer Service with Guide Me and Live Chat

One of the key features of Peak is the ability to communicate with a live person for support, as well as a helpful Guide Me feature that helps guide users through the crucial workflow processes. With Live Chat, clients can communicate with a live representative for support with Peak Agenda.

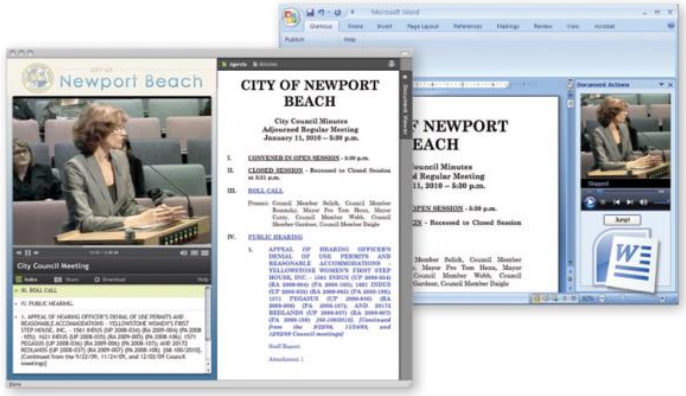
Freedom from Hardware

Peak Agenda is a browser-based application with no installed hardware requirements. The application can be accessed through any major browser on any operating system. Users are not confined to a workstation and can access the program at any time from a URL.

ADDITIONAL PROPOSED FEATURES

Meeting Efficiency

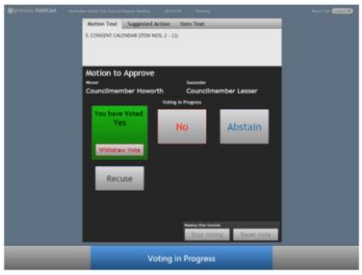
The Meeting Efficiency Suite is a live meeting workflow solution that combines minutes with a meeting's recording. Capture and publish minutes, saving staff time and cutting administrative costs. Record roll-call, agenda items, speakers, motions, votes, and notes through a simple interface. After the meeting, finalize minutes quickly and easily in Microsoft Word™. Allow the public to track legislation, ordinances, and even voting member records through your website with VoteLog.



- Meeting preparation tools
- Live minutes automation
- Quick notes and text expansion
- Minutes editing and publishing
- Generate linked minutes

Traditional VoteCast™

Paper-based methods of recording votes can be cumbersome for legislative staff, often slowing the pace of meetings. As part of the Granicus Meeting Efficiency toolset, VoteCast™ modernizes the voting process by eliminating the tedium of hand counting, paper voting, and the use of outdated standalone systems.



- Easy one-touch voting
- Real-time meeting synchronizing
- Paperless exploration of agenda item details, text, and supporting documentation
- Maintain perfect voting accuracy
- Track meeting progress as it occurs
- Request to speak functionality & management
- Review detailed snapshot of item status, speaker queue, motion, mover, and seconder
- Instantly send vote tabulations to digital meeting minutes & public displays

"Before Granicus it could take us anywhere from two to five hours to complete our minutes. Today, it takes me 20 minutes to an hour at most to complete them."
Melinda Sayre-Castro, Assistant City Clerk, Hesperia, CA

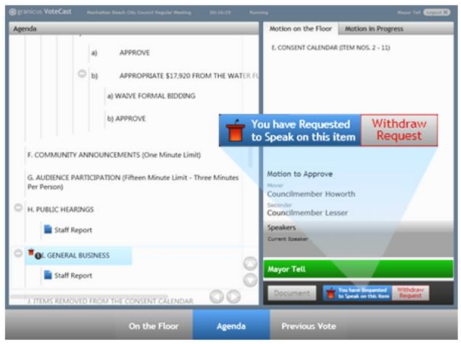
VoteCast Key Functionalities

MEETING VOTING MADE EASY: Designed for simplicity, efficiency, and accuracy.



- Clear and simple touch motioning and voting on either a Microsoft Surface Pro 3 or a Dell CPU & Touchscreen combo
- Request to speak functionality, view speakers list, and speaker timer
- Real-time results on public displays

STREAMLINE THE MEETING PROCESS: Keep track & stay organized with real-time data flow that simplifies minutes' creation

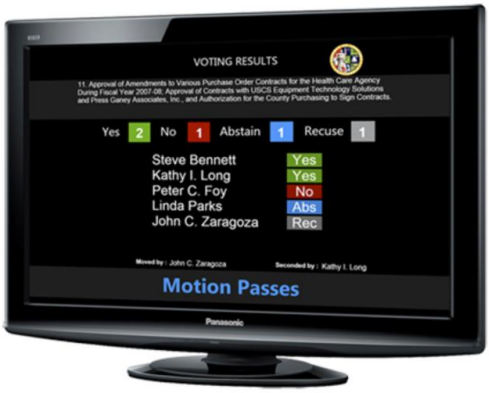


- Maintain perfect voting accuracy
- Track meeting progress as it occurs
- Speaker management
- Review detailed snapshot of item status, speaker queue, motion, mover, and seconder
- Instantly send vote tabulations to digital meeting minutes & public displays

MEETING CHAIR CONTROLS: Stay in control

- Manage the speaker queue
- Start and stop voting

PUBLIC DISPLAY: Allow the public to follow along during meetings and have a clear view of the voting results.



- Automatically display the agenda item on the floor to the public
- Configure the look and feel of the displayed information from Granicus' templates
- Show the current speaker's name and a timer that changes color to indicate duration
- As an Item progresses through a motion and vote display relevant information like; mover, seconder, and voting results
- Provide a clear voting summary

HAPEVILLE SYSTEM REQUIREMENTS

Agenda Management Software

- **Automated workflow system to prepare, track, modify, approve and monitor the progress of agenda items.**

  Our solution complies with this requirement. Peak provides comprehensive workflow functionality for an unlimited number of approvals which are fully customizable by department and user rights/permissions. Each item's status is shown in Peak as either 1) In Draft, which means that an item has been created but is not yet going through an approval process, 2) In Review, meaning the item is currently in the workflow process of approvals, or 3) Peak Agenda Management Approved, which indicates that the item has completed the workflow process and has been approved by all assignee's.

- **Version control for development of agenda items and tracks changes/edits.**

  Peak has version control for items.

- **Ability for the item author to insert a formal caption, the presenter name(s), background information including attachments, and a recommendation.**

  Peak allows for an unlimited number of customer defined fields to put this type of information

- **Ability for the agenda item author to retain control over edits of the agenda write-up.**

  Peak can be configured to allow drafters to make edits or to take that ability away, whatever the customer prefers

- **Ability for the agenda item author to retrieve items at any time during the routing process.**

  Peak has the ability for the submitter to retrieve with read access at any time during the process, the ability to edit at any time would be determined by that user's permissions.

- **Capability to add or delete staff from the agenda item workflow/routing review/approval process uniquely for an individual agenda item.**

  This is a standard feature of the Peak Agenda Management system and is dependent upon user permissions.

- **Ability to delete a staff member universally from the agenda workflow for employee terminations**

  Approvals in Peak do not use roles so if a user is on multiple approvals and leaves the organization they would need to be removed from each approval. They can, however, be deleted from the system easily for terminations

- **Ability to move a staff member from one workflow/approval process to another to facilitate employee transfers between departments or different reporting structures.**

  If the user has permissions to do so workflows can be edited permanently or temporarily.

- **Provides strong word processing and editing capabilities that allows such functionality as: Uploading and/or building tables and graphs with ease, copying and pasting from other documents/software such as word processors and spreadsheets, changing fonts, highlighting text, bold, italic, etc.**

  These are all features of the Peak Agenda Management System, except the building of graphs. Graphs and tables cannot be inserted into item fields/forms, but they can be used in native document applications (e.g., Word, Excel, etc.) and attached to items.

- **Retains an easy to use search function for items no matter where they exist within the agenda process. This includes using various options including agenda number, keywords, etc.**

  This is a standard feature of the system. You can also sort/filter by Item Title, Suggested Action, Item Type, Drafter, Meeting Date, Submitting Department, Meeting Body, Item ID and Attachment Search. If your Peak Administrator has set up custom fields, you can search by these as well.

- **Supports creating, editing and approving agenda items using the web, tablets, smartphones and other electronic devices.**

  Peak is a browser-based agenda management application and will work with any type of device that has a current web browser.

- **Assembles documents into a single cohesive agenda packet and generate reports to help manage agenda creation process. In addition, it must allow the administrator to see status of agenda items moving through their respective approval processes.**

  Assembling the agenda packet into a single cohesive .pdf agenda packet and the flexible reporting tool which helps manage the agenda creation process are standard features of the Peak Agenda Management system.

  Each item's status is shown in Peak as either 1) In Draft, which means that an item has been created but is not yet going through an approval process, 2) In Review, meaning the item is currently in the workflow process of approvals, or 3) Peak Agenda Management Approved, which indicates that the item has completed the workflow process and has been approved by all assignees.

- **Facilitates easy electronic posting, emailing and other electronic communication. Must support easily accessing agenda and agenda packet information using tablets, smartphones and other electronic devices.**

iLegislate works on all OS's and the agenda/Minutes software is web-based, so it will work with any type of device that has a current web browser.

- **Ability for Council members and staff to annotate or make private notes electronically directly into agendas and agenda backup using electronic devices such as tablets or smartphones.**

  Peak allows users to make private notes directly into the agenda and/or document with any type of device that has a current web browser.

- **Provides a searchable document archive and capabilities to copy and paste agenda items to create new agenda items and backup.**

  These are all standard features and functions of Peak Agenda Management.

- **Facilitates timely creation of minutes, by pre-populating staff recommendations/recommended motions in advance of the meeting.**

  These are standard features of the Peak Agenda Management system.

- **Seamlessly creates a consolidated agenda package in pdf format that includes the ability to create and use pdf bookmarks to navigate each item and its attachments.**

  Yes, this happens automatically when a packet is generated.

- **Ability to define both unique agenda templates for each meeting type and/or a standard template that can then be applied to multiple meeting types.**

  You can have as many templates as you would like. However, templates must be designed by Granicus and can have formatting limitations.

- **Allows the agenda administrator to create and enforce deadlines. Once a deadline is passed, users cannot submit additional information, delete late items, or re-order of agenda item at the last minute.**

  Peak does not support workflow deadlines.

- **Ability to modify automatically generated minutes to reflect actual order items were taken up in meeting which may differ from order on published agenda.**

  This is a standard feature of Peak Agenda Management.

- **Ability to create an unlimited number of tasks for any agenda item before, during or after meetings.**

  Peak provides comprehensive workflow functionality for an unlimited number of approvals, fully customizable by department and user rights/permissions. It does not have tasks.

- **Automatically generates a report indicating post-meeting action items for a particular individual/department and automatically deliver notice to relevant contact(s).**

This is not currently a feature of Peak Agenda Management.

- **Allows task recipients to access minutes and resolution data from the agenda item to aid incompletion of the task.**

  Peak does not have a task functionality.

- **Ability to access reports and documents directly from networked drive for upload into agenda package.**

  Peak has the capability to either have staff reports created by the system, or to have them uploaded as attachments. Clients can select their preferred method.

- **Compatible with Microsoft Office products and Google products.**

  Peak is supported by modern standard browsers including: Safari, Chrome, Internet Explorer and Edge. Peak supports file attachments from common Office product documents.

- **Ability to have separate sections in the agenda item which could include background, discussion, fiscal impact, recommendation, strategic goal alignment, options, etc.. The software should have the capability for different sections to be completed by different departments, with edit security for certain sections**

  Peak has an unlimited number of customer defined fields available and has the capability for different sections to be completed by different departments.

Video Services

- **Ability to index and cross link with the agenda management software**

  These are standard features of the proposed solution.

- **Ability to create points within the video tied to the relevant agenda item.**

  Yes, video index points are captured live during the meeting or added post meeting.

- **Link to agendas and minutes within the same module accessible through the website.**

  This a standard feature of the proposed solution.

- **Archival capabilities.**

  The system automatically creates and uploads an archive to the view page when your archive's status is set to Public. Our system provides the ability to record video for different meetings (e.g., a committee meeting vs. a city council meeting) which can then be uploaded into a specific meeting-type archive.

- **Indexed and searchable content based off of meeting agendas.**

Users can perform keyword searches to jump directly to specific topics and can also subscribe to agendas or keyword searches to get real-time notifications when new relevant content becomes available.

- **24/7 Technical support for issues.**

  Technical support is available 24/7 via our after-hours support line (800.314.0147). Regular support hours are 8:00am-10:00pm Eastern via the channels outline in the Ongoing Support and Hosting Services section of our proposal.

- **Ability to record Council meetings and provide live streaming of meetings. (please provide quote for video equipment in proposal).**

  Recording equipment (e.g., cameras and microphones) would need to be supplied by your A/V vendor. Granicus will provide the encoding appliances, but not the recording equipment itself.

Implementation Approach and Training

KEY STAFF

While we cannot assign staff prior to being selected, we can assure you that our project teams and Project Managers are highly qualified and will be selected in direct coordination with Hapeville if we are awarded the business. We may be able to provide an org chart to Hapeville once an NDA is in place because we cannot provide this information when it is subject to a FOIA request from a potential competitor.

IMPLEMENTATION METHODOLOGY, MILESTONES, AND DELIVERABLES

For each milestone, Client's authorized representative shall give final, written approval that individual deliverables and milestones have been completed.

MILESTONE 1: PROJECT START UP

Staffing and Project Management

Success of the project is dependent on both Granicus's and Client's commitment to collaborating and performing the tasks and obligations described in this SOW. Both Granicus and Client shall provide reasonable turnaround times (to be mutually agreed upon) on critical decisions, information requests, and approvals that are required to ensure that project tasks and deliverables are completed on time.

Project Plan

Client and Granicus will work together to develop a comprehensive project plan consisting, at a minimum, of the components outlined below which are broken out by responsibility and ownership.

Deliverables:

1. Communication Plan: Client and Granicus will collaborate on and document processes to communicate project information to Client and vice versa. The plan, at minimum, should include:

a. **Regularly Scheduled Status Calls:** Members of both Client and Granicus project teams should participate in regularly scheduled calls to provide status updates, discuss open issues, project risks, etc.
b. **Written Status Updates**: Both Client and Granicus Project Managers should also provide written status updates at regularly scheduled intervals (e.g., weekly) to an agreed upon distribution of stakeholders, project team members and other appropriate personnel at both Client and Granicus.
c. **Escalations:** In the event that the Granicus Project Manager does not respond to Client's needs, Client shall directly contact Granicus's Director of Professional Services (please email implementation@granicus.com to contact the Director of Professional Services).

2. Resource Plan: Client and Granicus will collaborate to compile a list of all personnel from Client and Granicus that are associated with the project. The list should include each person's role in the project and contact information as well as their allocation to the project.

3. Training Plan: Granicus will provide Client with the Training Plan on the Project Kickoff Call.

Document Review and Technical Information Gathering

The Granicus Design team conduct a Document Assessment, during which it will review Client's current agenda and minutes documents and determine how they will integrate with the Granicus solution and what changes, if any, should be made to optimize the solution for Client.

1. Document Assessment: Granicus will complete a review of Client's current agenda and minutes documents and document any recommended changes. Granicus will submit a request to Client Project Manager listing the documents needed. Client will provide the requested documents to Granicus in a timely manner. Client will provide any other process documentation (e.g. process flows, requirements, etc.) to aid the Granicus project team in gaining a sufficient understanding Client's legislative process and requirements.

2. Technical Information Gathering: Granicus will work with Client to gather general technical information and analyze the existing technology set-up to ensure that the proposed project meets all requirements necessary to deliver a successful solution. Granicus will send a URL for the Technical Information Gathering Form to Client for completion. Client will complete and submit the electronic form to Granicus.

3. Solution Validation Call: This call provides an opportunity to discuss Client's current workflow process and existing technology set-up to ensure that the proposed plan meets all requirements necessary to deliver a successful solution. At a minimum, Client's Project Manager, IT Lead, and Client Council Project Sponsor should participate in the call.

Deliverables: Granicus will document the minutes of the call as well as confirm the technical compatibility of the proposed solution and distribute to Client Project Manager for review and approval.

MILESTONE 2: IMPLEMENTATION

Granicus will deliver any required and purchased hardware to Client. Granicus will install and configure solution software for Client.

1. Customization and Configuration Design Phase: Granicus will collaborate with Client to develop the architecture and configuration design for each module of the overall solution.

Deliverables:

a. Architecture Design Document
b. Summary of Configuration Design Document

2. Open Platform: The Granicus Open Platform is the cloud-based foundation for all Granicus applications. It allows government organizations to manage and store an unlimited amount of government public meeting data and includes free access to Granicus's APIs and SDKs. The Granicus Open Platform includes the ability to upload and publish content including videos and documents.

Deliverables: MediaManager. MediaManager is a web-based platform that allows data to flow among the various Granicus modules included in the solution. For example, agendas created in Legistar can be accessed during meetings via LiveManager and from mobile devices using the iLegislate app. Also, meeting videos recorded through LiveManager can be trimmed from MediaManager. MediaManager is a hosted on the Granicus cloud, therefore it will not have to be installed on individual user machines.

MediaManager Deliverables:

a. Granicus will provide a MediaManager URL (usually *clientname*.granicus.com).
b. Granicus will provide a username and password for the primary stakeholder (usually the Client Project Manager).
c. Client will receive a public-facing citizen web portal.

3. Government Transparency: The Government Transparency product provides the ability to stream meetings and events live, to link related documents to video, and to improve the search of archives. It includes unlimited cloud bandwidth and storage as well as local live and on-demand streaming. This product connects agenda data to Apple and Android tablets to enable the review of agendas and supporting documents, note taking, and more through the iLegislate application.

Requirements: In order to use Government Transparency, Client must have an encoder or purchase an Encoding Appliance with the solution.

Deliverables:

a. Custom player
b. View page
c. Agenda documents

4. iLegislate: iLegislate, enables elected officials to review meeting agendas, supporting documents and archived videos on any iPad or Android tablet. Users can bookmark items on the agenda (and pdf attachments) while offline. iLegislate is a free app that can be downloaded from iTunes or Google Play and works with any Granicus suite.

Deliverable: iLegislate App

5. Encoding Appliance: The Granicus Encoding Appliance provides clients with live and on-demand webcasting performance. The hardware is pre-configured and delivered ready to stream. A combination of web-based and Client-installed applications will give users access and control of the Appliance's Streaming Media Services.

The Encoding Appliance also has the ability to have the Performance Accelerator module installed to allow for up to 50 concurrent live and on demand streams as well as for local archive storage. However, if Client expects more than 50 concurrent internal users viewing the live stream, Client may want to consider the Granicus standalone physical or virtual server setup as described in section 6.2.7 below. The Encoding Appliance is a Microsoft Windows server recording in H.264 compatible MP4s. More specific server details—including size, weight, power requirements, and network requirements—please see the Granicus Encoding Appliance (Windows 7) Technical Solutions Guide.

Client is responsible for receiving the hardware on its end and installing the hardware components as agreed to in the network diagram. The Granicus Project Manager will be available to support Client remotely in installing the servers and verifying their set-up and functionality at the Client site. Before Granicus can begin the remote installation of the transparency solution, Client must confirm that the network's security and firewall requirements are in place as discussed in the Pre-Deployment Activity Phase. Granicus PM will confirm remote access to the server in preparation for the software installation. Granicus PM will complete a server-side update to the streaming component. Granicus recommends allowing one day's time for the Client IT Lead to run and test the installation of the software solution in Client's environment.

Deliverables:

a. Hardware components
b. Email confirmation that testing is complete
c. LiveManager: The LiveManager application allows for full meeting control with the ability to start, stop, pause, index, and annotate events. Other key functionality includes recording roll call, time stamping video, and recording motions and votes. It is recommended to be installed on one primary workstation and at least one backup. LiveManager will be installed the day(s) of the encoder installation.

LiveManager Deliverables:

a. LiveManager installation URL
b. Technical Solutions Guide

6. Peak Agenda Management: Peak Agenda Management is an application creating and managing meetings and agenda items. It provides a citizen-facing portal for publishing agenda and agenda packets.

Requirements:

a. Current web browser (pursuant to the Granicus Web Browser Compatibility Matrix and the Granicus Tablet Applications Support Matrix)
b. Internet connection

Deliverables:

a. URL to access Peak
b. Training and training materials
c. iFrame code (for public display of information)
d. Agenda template (to be selected from four design options)

7. Testing: Granicus Development conducts solution and unit testing during development. Granicus will be responsible for conducting all aspects of the solution in Client's environment. Granicus will not be responsible for end-user testing.

PROJECT TEAMS

GRANICUS PROJECT TEAM

Granicus will assign the following team members to Client's implementation project:

1. **Project Manager (Granicus PM):** This is the primary person responsible for the implementation of and adherence to project plans. See below for the full job description.
2. **Designer:** The Designer is responsible for customizations and modifications of Granicus products that relate to web design.
3. **Solution Validation Engineer:** This team member is responsible for reviewing Client's technical compatibility with new or existing Granicus solutions. He or she will confirm the solution will work in Client environment and ensure Client will maximize the intended and desired benefits from the solution.
4. **Product Trainer:** The Trainer delivers instructor-led online or in-person training.
5. Granicus reserves the right to make adjustments to the project team roles as deemed appropriate.

The Granicus resources assigned to this project will be knowledgeable of the Granicus modules included in the solution and Client's business processes and requirements. These resources shall be fully capable of performing assigned duties, fulfilling project commitments, and communicating with Client team members effectively.

Granicus Project Manager Responsibilities

The Granicus Project Manager will manage the Granicus project team and work with Client's Project Manager to establish a framework for communication, documentation, and reporting to be used throughout the project. The Granicus Project Manager responsibilities include, but are not limited to:

1. Collaborating with Client's Project Manager to establish a project plan, including the project schedule and deliverables
2. Giving Granicus team members a clear understanding of their respective responsibilities throughout the project
3. Managing the activities of the Granicus project team to help maintain on-time completion of deliverables
4. Ensuring Granicus completes all unit and integration testing on all configurations and interfaces prior to training
5. Monitoring the progress of the project and advising Client Project Manager of any risks that could impact an on-time completion of specific tasks and deliverables
6. Maintaining regular communications with Client Project Manager
7. Managing escalations and timely resolution of any issues
8. Managing the approval and timely completion of change orders
9. Maintaining documentation of decisions made, commitments and follow-up items, deliverables, and other items/issues associated with the project for which Granicus is responsible

HAPEVILLE PROJECT TEAM

Hapeville will assign the following team roles:

Project Manager (Hapeville PM): This is the main point of contact responsible for the implementation and adherence to project plans. See below for the full job description.

Clerk: It is important that the Clerk is an integral part of the Project Team to be the expert on the legislative process of the Council, from the approval process of legislation to the creation of minutes. This person will also be responsible for indexing the recording during the meeting if video/audio recording is involved.
IT Lead: The IT Lead works closely with the Project Manager to ensure that the solution is deployed properly and helps solve IT issues that might arise.
Solution Administrator: The Solution Administrator should be a person who is closely involved with the legislative and meeting processes: from the approval process of legislation to the creation of minutes to the online publication of meetings. The Solution Administrator's responsibilities will include, but not be limited to: collaboration with Granicus resources on the project schedule deliverables; and coordination with key stakeholders, representatives, and decision makers.
Backup Solution Administrator: This Backup Solution Administrator will serve as the backup to the Solution Administrator and preferably has a solid understanding of the legislative and meeting processes of Client jurisdiction as well as a good level of technological skills.
Video Indexer: Should the solution include video, the Video Indexer will be indexing/time-stamping the video in LiveManager if the Clerk cannot. This person can be from the Clerk's staff or a member of the A/V team depending on Client's unique workflow.
Subject matter experts (SMEs), including but not limited to: Client Council Secretary, Legislative Analyst(s), and other representatives, as deemed appropriate, from Client Attorney's Office, Mayor's Office, Clerk & Recorder's Office, Budget Management Office, etc.

Granicus will work with Client to make adjustments to the project team roles as deemed appropriate. The allocation of Client resources to the project may be variable according to:

a. The duration of the project
b. The level of internal Client agreement
c. The number of customizations required in the solution

Client resources assigned to this project shall be fully capable of performing assigned duties, fulfill project commitments and communicate with Granicus team members effectively.

Client Project Manager Responsibilities

Client Project Manager shall manage Client's project team and work with the Granicus Project Manager to establish a framework for communication, documentation and reporting to be used throughout the project. Client's Project Manager Responsibilities include, but are not limited to the following:

1. Collaborate with the Granicus Project Manager to establish the project schedule and deliverables

2. Ensure that all members of Client project team have a clear understanding of their respective responsibilities throughout the project
3. Manage the activities of Client's project team and partner resources to ensure the on-time completion of tasks and deliverables; create, maintain/update and complete all required project artifacts and other documentation
4. Monitor the progress of the project and advise the Granicus Project Manager of any risks that could impact an on-time completion of deliverables
5. Manage and track the project budget; flag for the project sponsors if additional funds are needed to complete the project
6. Maintain regular communications with the Granicus Project Manager and Client's project sponsors
7. Ensure that members of the Granicus Project Team have to Client's legislative process documentation and other Client resources to gain a sufficient understanding Client's legislative process and requirements to ensure a successful and effective implementation of the solution
8. Ensure that any customizations to the solution are fully specified and documented
9. Ensure that change orders contain a complete description and specification of the changes required

PROJECT SCHEDULE

Work shall be performed according to the target milestone timeline below, based on projects similar to Client's. Timelines may change based on mutual agreement between Client and Granicus.

	Phase	**Scheduled Completion**
1	Project Start-Up	2 weeks from contract execution
2	Implementation	1-9 week(s) from contract execution
3	Implementation Completion	1-10 week(s) from contract execution
4	Training	11-14 weeks from contract execution
5	Scope of Work Completion	12-15 weeks from contract execution

TESTING

Granicus performs unit and end to end testing as part of the normal development process. Granicus will conduct unit testing and integration testing using the following script for this implementation. (Please note this testing may be limited to one client machine and/or Granicus Encoding Appliance residing at Client.) Client is responsible for all client end-to-end testing.

Granicus will resolve all defects and complete any change requests that arise during testing and will review the fixes for all defects with Client. A change request is defined as request to add, modify, or delete a specific unit of functionality from what was

documented in the original requirements. A defect is defined as any error, flaw, mistake, failure, or fault that prevents a unit of functionality, or the system, from working as intended, or to produce an incorrect result. Any and all security flaws (in any application layer) shall also be classified as defects. Client will test and sign off on defects as they are resolved. Any presence of defects or process of resolving defects will not impede milestone close out without Granicus's express approval.

Deliverable: Written confirmation of the successful completion of testing

TRAINING

Granicus will provide online training to Hapeville's designated System Administrators and on-site training for user training, which will be administered in a train-the-trainer approach.

Ongoing Support and Hosting Services

Our support team includes dedicated personnel to handle web, email, and phone support. Clients also have access to the Granicus Support Portal for self-training and issue submission.

SCHEDULED MAINTENANCE

govMeetings (including VoteCast). Scheduled maintenance will take place between 11:00 pm – 4:00 am ET on Fridays. Granicus, will provide the customer with at least two (2) days' notice for any scheduled maintenance. All system maintenance will be performed during these times, except for emergency maintenance. In the case that emergency maintenance is required, the customer will be provided as much advance notice as possible. Granicus will clearly post that the site is down for maintenance and the expected duration of the maintenance.

All Solutions. Notifications will be posted on status.granicusops.com. Email notifications for these products can be subscribed to from that page.

HOW TO CONTACT GRANICUS

The Customer Care staff at Granicus may be contacted by the customer via Internet, email, or telephone.

CONTACT INFORMATION

Online (recommended)	support.granicus.com
Email	support@granicus.com
Phone (for urgent issues)	800.314.0147

SUPPORT HOURS

US Regular Hours 8:00 AM – 10:00 PM Eastern Monday – Friday

Urgent After-Hours Support is also available at 800.314.0147

System Status

Granicus System Status: status.granicusops.com

How We Rank Cases

PRIORITY 1: EMERGENCY

Target Initial Response: within 1 hour

Severe application problem that causes productivity to cease for a large number of staff or complete loss of service to either website or intranet (application-related site outage).

Examples:

- Web server is running but application is non-functional
- SQL-server errors not related to hardware
- Page watch is not working as expected

PRIORITY 2: URGENT

Target Initial Response: within 4 business hours

Application/service is available, but in a degraded mode. A workaround is possible or a brief loss of service is acceptable. Impacts only a small group or causes work to cease for an individual.

Examples:

- Site is operational, but search, calendar, or other modular functionality is non-operational or impaired
- Application is operational but bulletin sending is disrupted

PRIOIRTY 3: MEDIUM

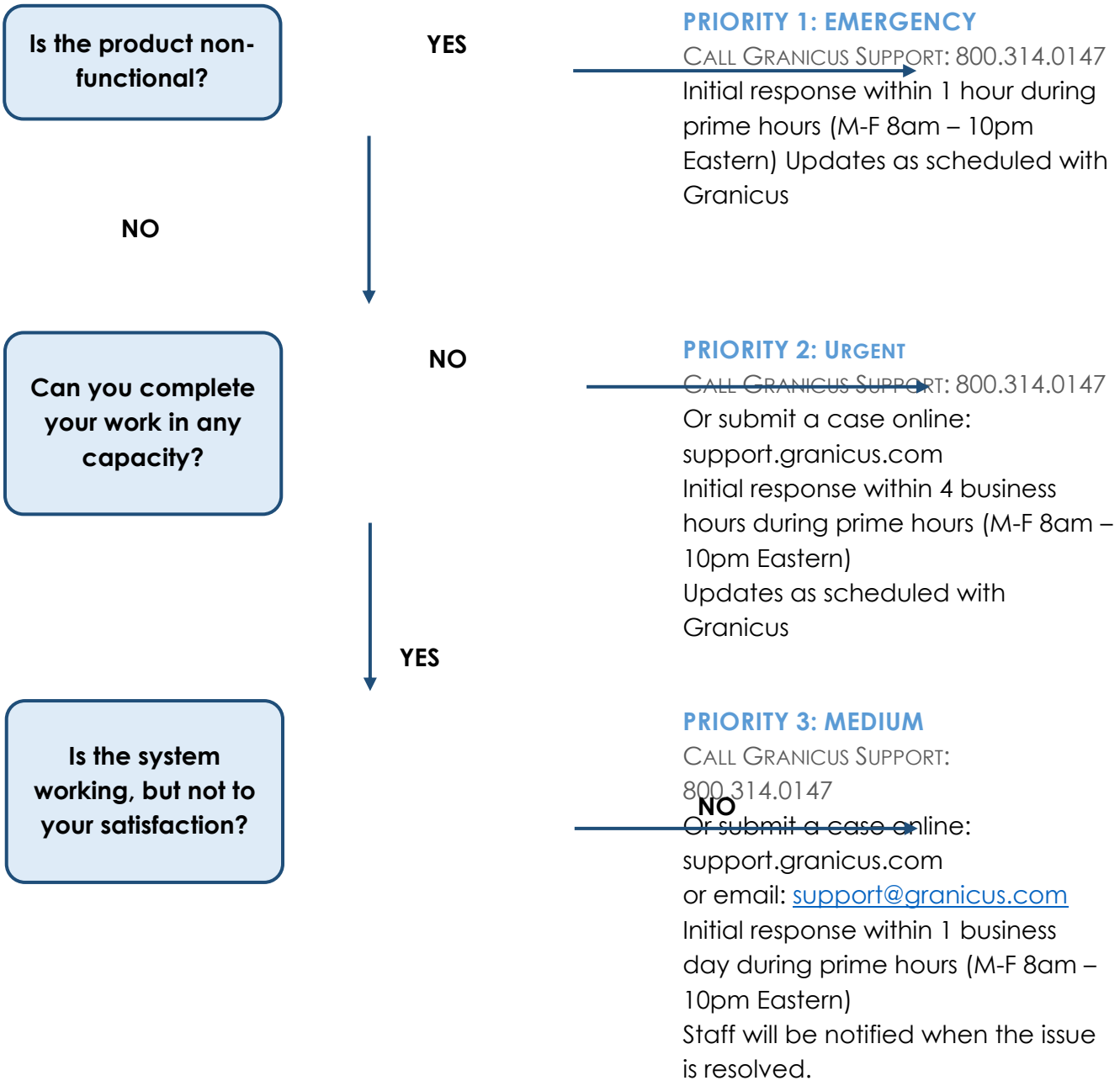
Target Initial Response: within 1 business day

Moderate business impact; issues have affected productivity. A workaround may exist or the problem is for a non business-critical task.

Examples:

- File attachments won't upload
- Text is not rendering correctly
- Bulletins are sending but sending not as quickly as expected or with higher than usual bounce rates

Note: The initial response represents the ideal target time for assignment of the case to a Customer Support Engineer and the initial acknowledgement of the issue. The resolution time will depend on the severity and complexity of the issue and the nature of the resolution required.


Is the product non-functional?
YES
PRIORITY 1: EMERGENCY
CALL GRANICUS SUPPORT: 800.314.0147
Initial response within 1 hour during prime hours (M-F 8am – 10pm Eastern) Updates as scheduled with Granicus
NO
Can you complete your work in any capacity?
NO
PRIORITY 2: URGENT
CALL GRANICUS SUPPORT: 800.314.0147
Or submit a case online: support.granicus.com
Initial response within 4 business hours during prime hours (M-F 8am – 10pm Eastern)
Updates as scheduled with Granicus
YES
Is the system working, but not to your satisfaction?
NO
PRIORITY 3: MEDIUM
CALL GRANICUS SUPPORT: 800.314.0147
Or submit a case online: support.granicus.com
or email: support@granicus.com
Initial response within 1 business day during prime hours (M-F 8am – 10pm Eastern)
Staff will be notified when the issue is resolved.

SECURITY OVERVIEW

Data Center Security

Having a robust and secure data center implementation is a necessity, not an option. Granicus Data Centers are designed for reliability and redundancy. Our data centers are guided by a "defense-in-depth" security strategy to ensure reliable access of government data. With a 99.9% uptime, we are confident that customer data are always available.

Data Center Requirements

- Secure - SSAE-16 Accreditation
- Reliable Network
- Data Availability: 99.98% Uptime
- Redundant Backups

Granicus Server Locations

- Primary Data Center in Ashburn, VA
- Backup Data Center in San Francisco, CA

Architecture & Data Center Redundancy

The Granicus Primary Data Center is architected with redundant systems to ensure that there is no single point of failure and disruptions have no impact on the availability of Granicus applications.

Robust Security Layers

Granicus implements a series of protective layers so that no single solution is relied upon to provide security, including:

- Hosting facilities that meet or exceed Tier III standards that are engineered to ensure application and data availability and security
- Edge-to-edge security, visibility, and carrier-class threat management and remediation. We utilize industry-leading tools to compare real-time network traffic and flag any anomalies such as: Denial of Service (DoS) and Distributed Denial of Service (DDoS) attacks, worms or botnets.
- Network issues: traffic and routing instability, equipment failures, or misconfigurations
- Hardened, stateful inspection firewall technology
- An Intrusion Detection System (IDS) utilizing signature-, protocol-, and anomaly-based inspection methods
- 24/7/365 firewall, VPN, and IDS support and maintenance
- Security policies and procedures that are constantly maintained, tested, and updated

A Security Incident Response team/SSAE-16 accreditation ensures all customer data is secure from any tampering.

DATA RETENTION AND STORAGE LIMITS

There are no limits on the amount of data storage and there are no restrictions on how long the data can be stored.

Hardware/Software Requirements

PEAK AGENDA MANAGEMENT REQUIREMENTS

Peak only requires the following to be installed on each user's machine:

- Current web browser (pursuant to the Granicus Web Browser Compatibility Matrix and the Granicus Tablet Applications Support Matrix)
- Internet connection

There are no further requirements and the software does not need to be installed locally because it is browser-based. Permissions are granted by the System Administrator, and basic internal users will require a username and password to login.

ENCODING APPLIANCE REQUIREMENTS

The Encoding Appliance is a Microsoft Windows server recording in H.264 compatible MP4s. More specific server details—including size, weight, power requirements, and network requirements—please see the Granicus Encoding Appliance (Windows 7) Technical Solutions Guide. You will also need to have LiveManager installed – which will be provided by Granicus.

References

Client Reference	*Flowery Branch, GA*
Address	*5410 W.Pine St. Flowery Branch, GA. 30542*
Main Contact	*Melissa McCain – City Clerk*
Contact	*(770) 967-6371*
Client since	*2015*
Solution/Scope	*Peak Agenda Solution & Granicus Streaming solution*
Public view page	*https://www.flowerybranchga.org/meetings*

Client Reference	*Miami Shores, FL*
Address	*10050 Northeast 2nd Avenue Miami Shores, Florida 33138*
Main Contact	*Ysabely Rodriguez – Village Clerk*
Contact	*(954) 457-1469*
Client since	*2018*
Solution/Scope	*Peak Agenda Solution & Granicus Streaming solution*
Public view page	*http://www.msvfl.gov/miami-shores-village/livestream.html*

Client Reference	*Bal Harbour, FL*
Address	*655-96th St. Bal Harbour, Florida 33154*
Main Contact	*Dwight Danie – Village Clerk*
Contact	*(305) 866-4633*
Client since	*2017*
Solution/Scope	*Peak Agenda Solution & Granicus Streaming solution*
Public view page	*https://balharbourfl.gov/government/agenda*

Client Reference	*Middleburg, VA*
Address	*10 West Marshall St. Middleburg, VA 20118*
Main Contact	*Rhonda North – Town Clerk*
Contact	*(540) 687-5152*
Client since	*2018*
Solution/Scope	*Peak Agenda Solution*
Public view page	*https://www.middleburgva.gov/video-agenda---town-meetings-1.html*

Client Reference	*Blendon, OH*
Address	*6350 S. Hempstead Rd. Westerville, OH 43081*
Main Contact	*Bryan Rhoads – Town Administrator*
Contact	*(614) 839-2013*
Client since	*2017*
Solution/Scope	*Peak Agenda Solution*
Public view page	*https://blendontwp.granicus.com/ViewPublisher.php?view_id=1*

Pricing

Please refer to our attached Cost Proposal.

Proposed Legal Agreement

SOFTWARE LICENSING

The licensing for this solution is considered to be a site license with an unlimited number of seats for the City of Hapeville.

PROPOSED LEGAL AGREEMENT

Master Subscription Agreement

This Master Subscription Agreement ("**Agreement)** is entered into and effective _____, 2019 ("Effective Date") by and between the City of Hapeville ("**Customer**") and Granicus, LLC, a Minnesota Limited Liability Company d/b/a Granicus ("**Granicus**"). Customer and Granicus may each be referred to herein as "Party" or collectively as "Parties".

By accessing the Granicus Products and Services, Customer accepts this Agreement. Due to the rapidly changing nature of digital communications, this Agreement may be updated from time to time at Granicus' sole discretion. Notification to Customer will be via email or posting to the Granicus website.

1. **Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms shall have the meaning specified:

   "Agreement Term" means the total time covered by the Initial Term and all Extension Terms for each Order or SOW under this Agreement, further specified in Section 7.1.
   "Extension Term" means any term that increases the length of the Initial Term of this Agreement or an Order Term of an Order or SOW.
   "Granicus Products and Services" means the products and services made available to Customer pursuant to this Agreement, which may include Granicus products and services accessible for use by Customer on a subscription basis ("Software-as-a-Service" or "SaaS"), Granicus professional services, content from any professional services or other required equipment components or other required hardware, as specified in each Order or SOW.
   "Initial Term" shall have the meaning specified in Exhibit A or Order or SOW between Granicus and Customer for the first duration of performance that Customer has access to Granicus Products and Services.
   "Order" means a written order, proposal, or purchase document in which Granicus agrees to provide and Customer agrees to purchase specific Granicus Products and Services.
   "Order Term" means the then-current duration of performance identified on each Order or SOW, for which Granicus has committed to provide, and Customer has committed to pay for, Granicus Products and Services.
   "**Statement of Work"** or **"SOW"** means a written order, proposal, or purchase document that is signed by both Parties and describes the Granicus Products and Services to be provided and/or performed by Granicus. Each Order or SOW shall describe the Parties' performance obligations and any assumptions or contingencies associated with the implementations of the Granicus Products and Services, as specified in each Order or SOW placed hereunder.
   "Support" means the ongoing support and maintenance services performed by Granicus related to the Granicus Products and Services as specified in each Order or SOW placed between the Parties.

2. **Ordering and Scope**
   - **2.1. Ordering Granicus Products and Services.** The Parties may execute one or more Order or SOW related to the sale and purchase of Granicus Products and Services. Each Order or SOW will generally include an itemized list of the Granicus Products and Services as well as the Order Term for such Granicus Products and Services. Each Order or SOW must, generally, be signed by the Parties; although, when a validly-issued purchase order by Customer accompanies the Order or SOW, then the Order or SOW need not be executed by the Parties. Each Order or SOW shall be governed by this Agreement regardless of any pre-printed legal terms on each Order or SOW, and by this reference is incorporated herein.
   - **2.2. Support.** Basic support related to standard Granicus Products and Services is included within the fees paid during the Order Term. Granicus may update its Support obligations under this Agreement, so long as the functionality purchased by Customer is not materially diminished.
   - **2.3. Future Functionality.** Customer acknowledges that any purchase hereunder is not contingent on the delivery of any future functionality or features.
   - **2.4. Cooperative Purchasing.** To the extent permitted by law and approved by Customer, the terms of this Agreement and set forth in one or more Order or SOW may be extended for use by other municipalities, school districts and governmental agencies upon execution of an addendum or other duly signed writing setting forth all of the terms and conditions for such use. The applicable fees for additional municipalities, school districts or governmental agencies will be provided by Granicus to Customer and the applicable additional party upon written request.

3. **Use of Granicus Products and Services and Proprietary Rights**
   - **3.1. Granicus Products and Services.** The Granicus Products and Services are purchased by Customer as subscriptions during an Order Term specified in each Order or SOW. Additional Granicus Products and Services may be added during an Order Term as described in Section 2.1.
   - **3.2. Permitted Use.** Subject to the terms and conditions of this Agreement, Granicus hereby grants during each Order Term, and Customer hereby accepts, solely for its internal use, a worldwide, revocable, non-exclusive, non-transferrable right to use the Granicus Products and Services to the extent allowed in the relevant Order or SOW (collectively the "Permitted Use"). The Permitted Use shall also include the right, subject to the conditions and restrictions set forth herein, to use the Granicus Products and Services up to the levels limited in the applicable Order or SOW.
     - **3.2.1. Data Sources.** Data uploaded into Granicus Products and Services must be brought in from Customer sources (interactions with end users and opt-in contact lists). Customer cannot upload purchased contact information into Granicus Products and Services without Granicus' written permission and professional services support for list cleansing.
     - **3.2.2. Passwords.** Passwords are not transferable to any third party. Customer is responsible for keeping all passwords secure and all use of the Granicus Products and Services accessed through Customer's passwords.
     - **3.2.3. Content.** Customer can only use Granicus Products and Services to share content that is created by and owned by Customer and/or content for related organizations provided that it is in support of other organizations but not as a primary communication vehicle for other organizations that do not have a Granicus subscription. Any content deemed inappropriate for a public audience or in support of programs or topics that are unrelated to Customer, can be removed or limited by Granicus.

3.2.3.1. Disclaimers. Any text, data, graphics, or any other material displayed or published on Customer's website must be free from violation of or infringement of copyright, trademark, service mark, patent, trade secret, statutory, common law or proprietary or intellectual property rights of others. Granicus is not responsible for content migrated by Client or any third party.

3.2.4. Advertising. Granicus Products and Services shall not be used to promote products or services available for sale through Customer or any third party unless approved in writing, in advance, by Granicus. Granicus reserves the right to request and review the details of any agreement between Customer and a third party that compensates Customer for the right to have information included in Content distributed or made available through Granicus Products and Services prior to approving the presence of Advertising within Granicus Products and Services.

3.3. Restrictions. Customer shall not:

3.3.1. Misuse any Granicus resources or cause any disruption, including but not limited to, the display of pornography or linking to pornographic material, advertisements, solicitations, or mass mailings to individuals who have not agreed to be contacted;

3.3.2. Use any process, program, or tool for gaining unauthorized access to the systems, networks, or accounts of other parties, including but not limited to, other Granicus customers;

3.3.3. Customer must not use the Granicus Products and Services in a manner in which system or network resources are unreasonably denied to other Granicus clients;

3.3.4. Customer must not use the Services as a door or signpost to another server.

3.3.5. Access or use any portion of Granicus Products and Services, except as expressly allowed by this Agreement or each Order or SOW placed hereunder;

3.3.6. Disassemble, decompile, or otherwise reverse engineer all or any portion of the Granicus Products and Services;

3.3.7. Use the Granicus Products and Services for any unlawful purposes;

3.3.8. Export or allow access to the Granicus Products and Services in violation of U.S. laws or regulations;

3.3.9. Except as expressly permitted in this Agreement, subcontract, disclose, rent, or lease the Granicus Products and Services, or any portion thereof, for third party use; or

3.3.10. Modify, adapt, or use the Granicus Products and Services to develop any software application intended for resale which uses the Granicus Products and Services in whole or in part.

3.4. Customer Feedback. Customer assigns to Granicus any suggestion, enhancement, request, recommendation, correction or other feedback provided by Customer relating to the use of the Granicus Products and Services. Granicus may use such submissions as it deems appropriate in its sole discretion.

3.5. Reservation of Rights. Subject to the limited rights expressly granted hereunder, Granicus and/or its licensors reserve all right, title and interest in the Granicus Products and Services, the documentation and resulting product including all related intellectual property rights. Further, no implied licenses are granted to Customer. The Granicus name, the Granicus logo, and the product names associated with the services are trademarks of Granicus or its suppliers, and no right or license is granted to use them.

4. Payment

4.1. Fees. Customer agrees to pay all fees, costs and other amounts as specified in each Order or SOW. Annual fees are due upfront according to the billing frequency specified in each Order or

SOW. Granicus reserves the right to suspend any Granicus Products and Services should there be a lapse in payment. A lapse in the term of each Order or SOW will require the payment of a setup fee to reinstate the subscription. All fees are exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is Customer's responsibility to provide applicable exemption certificate(s).

4.2. Disputed Invoiced Amounts. Customer shall provide Granicus with detailed written notice of any amount(s) Customer reasonably disputes within thirty (30) days of the date of invoice for said amount(s) at issue. Granicus will not exercise its rights under 4.1 above if Customer has, in good faith, disputed an invoice and is diligently trying to resolve the dispute. Customer's failure to provide Granicus with notice of any disputed invoiced amount(s) shall be deemed to be Customer's acceptance of the content of such invoice.

4.3. Price Increases. Any price increases not negotiated in advance shall be provided by Granicus to Customer at least thirty (30) days prior to the end of the Order Term. Upon each yearly anniversary during the term of this Agreement (including the Initial Term, all Extended Terms, and all Order Terms), the Granicus Product and Services fees shall increase from the previous term's fees by up to ten (10) percent per year.

5. Representations, Warranties and Disclaimers

5.1. Representations. Each Party represents that it has validly entered into this Agreement and has the legal power to do so.

5.2. Warranties. Granicus warrants that it takes all precautions that are standard in the industry to increase the likelihood of a successful performance for the Granicus Products and Services; however, the Granicus Products and Services are provided "AS IS" and as available.

5.3. Disclaimers. EXCEPT AS PROVIDED IN SECTIONS 5.2 ABOVE, EACH PARTY HEREBY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY NATURE WHATSOEVER WHETHER ORAL AND WRITTEN, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE. GRANICUS DOES NOT WARRANT THAT GRANICUS PRODUCTS AND SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE.

6. Confidential Information

6.1. Confidential Information. It is expected that one Party (Disclosing Party) may disclose to the other Party (Receiving Party) certain information which may be considered confidential and/or trade secret information ("Confidential Information"). Confidential Information shall include: (i) Granicus' Products and Services, (ii) non-public information if it is clearly and conspicuously marked as "confidential" or with a similar designation at the time of disclosure; (iii) non-public information of the Disclosing Party if it is identified as confidential and/or proprietary before, during, or promptly after presentation or communication and (iv) any information that should be reasonably understood to be confidential or proprietary to the Receiving Party, given the nature of the information and the context in which disclosed.

Each Receiving Party agrees to receive and hold any Confidential Information in strict confidence. Without limiting the scope of the foregoing, each Receiving Party also agrees: (a) to protect and safeguard the Confidential Information against unauthorized use, publication or disclosure; (b) not to reveal, report, publish, disclose, transfer, copy or otherwise use any Confidential Information except as specifically authorized by the Disclosing Party; (c) not to use any Confidential Information for any purpose other than as stated above; (d) to restrict access

to Confidential Information to those of its advisors, officers, directors, employees, agents, consultants, contractors and lobbyists who have a need to know, who have been advised of the confidential nature thereof, and who are under express written obligations of confidentiality or under obligations of confidentiality imposed by law or rule; and (e) to exercise at least the same standard of care and security to protect the confidentiality of the Confidential Information received by it as it protects its own confidential information.

If a Receiving Party is requested or required in a judicial, administrative, or governmental proceeding to disclose any Confidential Information, it will notify the Disclosing Party as promptly as practicable so that the Disclosing Party may seek an appropriate protective order or waiver for that instance.

6.2. Exceptions. Confidential Information shall not include information which: (i) is or becomes public knowledge through no fault of the Receiving Party; (ii) was in the Receiving Party's possession before receipt from the Disclosing Party; (iii) is rightfully received by the Receiving party from a third party without any duty of confidentiality; (iv) is disclosed by the Disclosing Party without any duty of confidentiality on the third party; (v) is independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information; or (vi) is disclosed with the prior written approval of the Disclosing Party.

6.3. Storage and Sending. In the event that Granicus Products and Services will be used to store and/or send Confidential Information, Granicus must be notified in writing, in advance of the storage or sending. Should Customer provide such notice, Customer must ensure that Confidential Information or sensitive information is stored behind a secure interface and that Granicus Products and Services be used only to notify people of updates to the information that can be accessed after authentication against a secure interface managed by Customer. Customer is ultimately accountable for the security and privacy of data held by Granicus on its behalf.

6.4. Return of Confidential Information. Each Receiving Party shall return or destroy the Confidential Information immediately upon written request by the Disclosing Party; provided, however, that each Receiving Party may retain one copy of the Confidential Information in order to comply with applicable laws and the terms of this Agreement. Customer understands and agrees that it may not always be possible to completely remove or delete all personal data from Granicus' databases without some residual data because of backups and for other reasons.

7. Term and Termination

7.1. Agreement Term. The Agreement Term shall begin on the date of the initial Order or SOW and continue through the latest date of the Order Term of each Order or SOW under this Agreement, unless otherwise terminated as provided in this Section 7. Each Order or SOW will specify an Order Term for the Granicus Products and Services provided under the respective Order or SOW. Customer's right to access or use the Granicus Products and Services will cease at the end of the Order Term identified within each Order or SOW, unless either extended or earlier terminated as provided in this Section 7. Unless a Party has given written notice to the other Party at least ninety (90) days prior to the end of the then-current Order Term, the Granicus Products and Services will automatically renew at the end of each term for an Extension Term of one (1) year.

7.2. Effect of Termination. If the Parties agree to terminate this Agreement and an Order or SOW is still in effect at the time of termination, then the terms and conditions contained in this Agreement shall continue to govern the outstanding Order or SOW until termination or expiration thereof. If the Agreement is terminated for breach, then unless otherwise agreed to

in writing, all outstanding Orders or SOWs shall immediately terminate as of the Agreement termination date. Unless otherwise stated in this Agreement, in no event shall Customer be entitled to a refund of any prepaid fees upon termination.

7.3. Termination for Cause. The non-breaching Party may terminate this Agreement upon written notice if the other Party is in material breach of this Agreement and fails to cure such breach within thirty (30) days after the non-breaching Party provides written notice of the breach. A Party may also terminate this Agreement immediately upon notice if the other Party: (a) is liquidated, dissolved, or adjudged to be in a state of bankruptcy or receivership; (b) is insolvent, unable to pay its debts as they become due, makes an assignment for the benefit of creditors or takes advantage or any law for the benefit of debtors; or (c) ceases to conduct business for any reason on an ongoing basis leaving no successor in interest. Granicus may, without liability, immediately suspend or terminate any or all Order or SOW issued hereunder if any Fees owed under this Agreement are past due pursuant to Section 4.1.

7.4. Rights and Obligations After Termination. In the event of expiration or termination of this Agreement, Customer shall immediately pay to Granicus all Fees due to Granicus through the date of expiration or termination.

7.5. Survival. All rights granted hereunder shall terminate upon the latter of the termination or expiration date of this Agreement, or each Order or SOW. The provisions of this Agreement with respect to warranties, liability, choice of law and jurisdiction, and confidentiality shall survive termination of this Agreement and continue in full force and effect.

8. Limitation of Liability

8.1. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES. UNDER NO CIRCUMSTANCES SHALL GRANICUS BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, GRANICUS SHALL NOT BE LIABLE FOR: (A) ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF CUSTOMER DATA; (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (C) LOSS OF BUSINESS; (D) DAMAGES ARISING OUT OF ACCESS TO OR INABILITY TO ACCESS THE SERVICES, SOFTWARE, CONTENT, OR RELATED TECHNICAL SUPPORT; OR (E) FOR ANY MATTER BEYOND GRANICUS' REASONABLE CONTROL, EVEN IF GRANICUS HAS BEEN ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING LOSSES OR DAMAGES.

8.2. LIMITATION OF LIABILITY. EXCEPT FOR CUSTOMER'S BREACH OF SECTION 3.3, IN NO INSTANCE SHALL EITHER PARTY'S LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR OTHERWISE) EXCEED THE FEES PAID BY CUSTOMER FOR THE GRANICUS PRODUCTS AND SERVICES DURING THE SIX (6) MONTHS IMMEDIATELY PRECEDING THE DATE THE DAMAGED PARTY NOTIFIES THE OTHER PARTY IN WRITING OF THE CLAIM FOR DIRECT DAMAGES. GRANICUS SHALL NOT BE RESPONSIBLE FOR ANY LOST PROFITS OR OTHER DAMAGES, INCLUDING DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES, HOWEVER CAUSED. NEITHER PARTY MAY INSTITUTE AN ACTION IN ANY FORM ARISING OUT OF NOR IN CONNECTION WITH THIS AGREEMENT MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION HAS ARISEN. THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 4 ABOVE.

9. Indemnification

9.1. Indemnification by Granicus. Granicus will defend Customer from and against all losses, liabilities, damages and expenses arising from any claim or suit by a third party unaffiliated with either Party to this Agreement ("Claims") and shall pay all losses, damages, liabilities, settlements, judgments, awards, interest, civil penalties, and reasonable expenses (collectively, "Losses," and including reasonable attorneys' fees and court costs), to the extent arising out of any Claims by any third party that Granicus Products and Services infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW. In the event of such a Claim, if Granicus determines that an affected Order or SOW is likely, or if the solution is determined in a final, non-appealable judgment by a court of competent jurisdiction, to infringe a valid U.S. copyright or U.S. patent issued as of the date of the applicable Order or SOW, Granicus will, in its discretion: (a) replace the affected Granicus Products and Services; (b) modify the affected Granicus Products and Services to render it non-infringing; or (c) terminate this Agreement or the applicable Order or SOW with respect to the affected solution and refund to Customer any prepaid fees for the then-remaining or unexpired portion of the Order or SOW term. Notwithstanding the foregoing, Granicus shall have no obligation to indemnify, defend, or hold Customer harmless from any Claim to the extent it is based upon: (i) a modification to any solution by Customer (or by anyone under Customer's direction or control or using logins or passwords assigned to Customer); (ii) a modification made by Granicus pursuant to Customer's required instructions or specifications or in reliance on materials or information provided by Customer; or (iii) Customer's use (or use by anyone under Customer's direction or control or using logins or passwords assigned to Customer) of any Granicus Products and Services other than in accordance with this Agreement. This section 9.1 sets forth Customer's sole and exclusive remedy, and Granicus' entire liability, for any Claim that the Granicus Products and Services or any other materials provided by Granicus violate or infringe upon the rights of any third party.

9.2. Indemnification by Customer. Customer shall defend, indemnify, and hold Granicus harmless from and against any Claims, and shall pay all Losses, to the extent arising out of or related to (a) Customer's (or that of anyone authorized by Customer or using logins or passwords assigned to Customer) use or modification of any Granicus Products and Services; (b) any Customer content; or (c) Customer's violation of applicable law.

9.3. Defense. With regard to any Claim subject to indemnification pursuant to this Section 9: (a) the Party seeking indemnification shall promptly notify the indemnifying Party upon becoming aware of the Claim; (b) the indemnifying Party shall promptly assume sole defense and control of such Claim upon becoming aware thereof; and (c) the indemnified Party shall reasonably cooperate with the indemnifying Party regarding such Claim. Nevertheless, the indemnified Party may reasonably participate in such defense, at its expense, with counsel of its choice, but shall not settle any such Claim without the indemnifying Party's prior written consent. The indemnifying Party shall not settle or compromise any Claim in any manner that imposes any obligations upon the indemnified Party without the prior written consent of the indemnified Party.

10. General

10.1. Relationship of the Parties. Granicus and Customer acknowledge that they operate independent of each other. Nothing in this Agreement shall be deemed or construed to create a joint venture, partnership, agency, or employee/employer relationship between the Parties for any purpose, including, but not limited to, taxes or employee benefits. Each Party will be solely responsible for the payment of all taxes and insurance for its employees and business operations.

10.2. **Subcontractors.** Granicus agrees that it shall be responsible for all acts and omissions of its subcontractors to the same extent Granicus would be responsible if committed directly by Granicus.

10.3. **Headings.** The various section headings of this Agreement are inserted only for convenience of reference and are not intended, nor shall they be construed to modify, define, limit, or expand the intent of the Parties.

10.4. **Amendments.** This Agreement may not be amended or modified except by a written instrument signed by authorized representatives of both Parties. Notwithstanding the foregoing, Granicus retains the right to revise the policies referenced herein at any time, so long as the revisions are reasonable and consistent with industry practices, legal requirements, and the requirements of any third-party suppliers.

10.5. **Severability.** To the extent permitted by applicable law, the Parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

10.6. **Assignment.** Neither Party may assign, delegate, or otherwise transfer this Agreement or any of its rights or obligations hereunder, either voluntarily or by operation of law, without the prior written consent of the other Party (such consent not to be unreasonably withheld); provided, however, that either Party may assign this Agreement without the other Party's consent in the event of any successor or assign that has acquired all, or substantially all, of the assigning Party's business by means of merger, stock purchase, asset purchase, or otherwise. Any assignment or attempted assignment in violation of this Agreement shall be null and void.

10.7. **No Third-Party Beneficiaries.** Subject to Section 10.6, this Agreement is binding upon, and insures solely to the benefit of the Parties hereto and their respective permitted successors and assigns; there are no third-party beneficiaries to this Agreement.

10.8. **Notice.** Other than routine administrative communications, which may be exchanged by the Parties via email or other means, all notices, consents, and approvals hereunder shall be in writing and shall be deemed to have been given upon: (a) personal delivery; (b) the day of receipt, as shown in the applicable carrier's systems, if sent via FedEx, UPS, DHL, or other nationally recognized express carrier; (c) the third business day after sending by U.S. Postal Service, First Class, postage prepaid, return receipt requested; or (d) sending by email, with confirmed receipt from the receiving party. Either Party may provide the other with notice of a change in mailing or email address in which case the mailing or email address, as applicable, for that Party will be deemed to have been amended. The mailing and email addresses of the Parties are as follows:

Granicus		**City of Hapeville, GA**
ATTN:	Contracts	**ATTN:**
Address:	408 St. Peter Street Suite 600 Saint Paul, MN 55102	**Address:**
Phone:	(651) 757-4154	**Phone:**
Email:	contracts@granicus.com	**Email:**

10.9. **Force Majeure.** Any delay in the performance by either Party hereto of its obligations hereunder shall be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such Party, including, without limitation, any act of God; any fire, flood, or weather condition; any computer virus, worm, denial of service attack; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, that written notice thereof must be given by such Party to the other Party within twenty (20) days after occurrence of such cause or event.

10.10. **Choice of Law and Jurisdiction.** This Agreement shall be governed by and interpreted under the laws of the State of Minnesota, without reference to the State's principles of conflicts of law. The Parties expressly consent and submit to the exclusive jurisdiction of the state and federal courts of Ramsey County, Minnesota.

10.11. **Entire Agreement.** This Agreement, together with all Orders or SOWs referenced herein, sets forth the entire understanding of the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior oral and written understandings, quotations, communications, and agreements. Granicus and Customer agree that any and all Orders or SOWs are incorporated herein by this reference. In the event of possible conflict or inconsistency between such documents, the conflict or inconsistency shall be resolved by giving precedence in the following order: (1) the terms of this Agreement; (2) Orders; (3) all other SOWs or other purchase documents; (4) Granicus response to Customer's request for RFI, RFP, RFQ; and (5) Customer's RFI, RFP, RFQ.

10.12. **Reference.** Notwithstanding any other terms to the contrary contained herein, Customer grants Granicus the right to use Customer's name and logo in customer lists and marketing materials.

10.13. **Injunctive Relief.** Granicus is entitled to obtain injunctive relief if Customer's use of Granicus Products and Services is in violation of any restrictions set forth in this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly-authorized representatives on the Effective Date as set forth above.

Granicus	**City of Hapeville, GA**
By:	**By:**
(Authorized Signature)	(Authorized Signature)
Name:	**Name:**
(Print or Type Name of Signatory)	(Print or Type Name of Signatory)
Title:	**Title:**

Date:

(Execution Date)

Date:

(Execution Date)

Additional Information

Because our User Guides are quite dense, we have provided links to our User Guides so you can view them at your convenience:

Granicus Platform User Guide:
https://support.granicus.com/s/article/Granicus-Platform-User-Guide?p=&q=granicus+platform+user+guide&c=Legislative+and+Agenda+Management+Suite&at=Granicus+Platform+User+Guide&aid=kA246000000M6e6CAC&an=000004395

Peak Agenda Management User Guide:
https://support.granicus.com/s/article/Peak-Agenda-Management

MediaManager User Guide:
https://support.granicus.com/s/article/MediaManager-User-Guide?p=MediaManager&q=mediamanager+user+guide&c=Legislative+and+Agenda+Management+Suite&at=MediaManager+User+Guide&aid=kA246000000M6bfCAC&an=000004259

Live Manager User Guide:
https://support.granicus.com/s/article/LiveManager-User-Guide?p=&q=livemanager+user+guide&c=Legislative+and+Agenda+Management+Suite&at=LiveManager+User+Guide&aid=kA246000000M6hUCAS&an=000004605

Scope of Work

1. INTRODUCTION AND BACKGROUND

This Scope of Work ("SOW") defines deliverables, responsible parties and timelines for the implementation, and post-implementation service and support, of the legislative management solution provided by Granicus, Inc. ("Granicus") to the City of Hapeville ("Client"). This SOW is an integrated component of the final contract between Client and Granicus.

Client has selected Granicus to provide a(n) Peak Agenda Management and Video Streaming solution. Business objectives to be achieved by this solution are as follows:

Open Platform and Government Transparency

- Give citizens access to live and archived streaming through Client website
- Import agendas and index video live
- Manage and distribute unlimited meetings and events automatically
- Integrate closed captions with video
- Measure participation with in-depth video analytics
- Streamline live meeting processes into a workflow that combines minutes with meeting recordings
- Record roll call, agenda items, speakers, motions, votes, and notes through a simple interface

Peak Agenda Management

- Digitally create and manage agenda items
- Enable collaboration on agenda items to improve efficiency
- Schedule and maintain meetings for the primary meeting bodies
- Automate the agenda creation process
- Easily create and distribute paperless agenda packets to mobile and web
- Generate a searchable repository of agendas and agenda items

All Solutions

- Receive training for all members of the organization through a "train-the-trainer" concept
- Substantially reduce hardcopy printing of documents related to meetings and legislation

2. PROJECT SCOPE

2.1. GRANICUS MODULES

Included in this solution, Client will receive the following Granicus modules:

1. Open Platform provides the ability to upload and publish content such as videos and documents to the Internet. The feature list includes:

a. Unlimited government public meeting content storage and distribution
b. Archived video editing and indexing
c. An internal and public-facing citizen web portal
d. Live and on-demand streaming to computers, tablets, and other mobile devices (Note: only if Client has an encoder or uploads a video to MediaManager (see 2.1.7 below).)

2. Government Transparency provides the ability to stream meetings and events live, to link related documents to video, and to improve the search of archives. It includes unlimited cloud bandwidth and storage as well as local live and on-demand streaming. The feature list includes:

a. A media portal for publishing live and archived videos on Client website
b. A single video player webpage providing indexed videos, agendas and supporting materials such as staff reports, memos, and ordinances
c. Searchable, self-service access to online public meeting or event data, including: agendas, minutes, notes, motions, votes, and captions. Includes advanced filters for date range, data type, and more.
d. Live importing of agendas and video indexing of materials such as agendas and minutes
e. Automated management and distribution of unlimited meetings and events
f. Option for closed captioning integration for video
g. In-depth statistics on video views
h. Viewing of videos, agendas, minutes, and supporting documents on computers, tablets, and other mobile devices
i. Downloadable video in MP4 format
j. Facilitation of sharing videos over social networking sites or through email RSS subscriptions and user search alerts supported

3. iLegislate connects agenda data to tablets and mobile devices to enable the review of agendas and supporting documents, note taking, and more, on the go. The feature list includes:

a. Viewing of videos, agendas, minutes, and supporting documents on mobile devices that use Apple iOS (iPhone and iPad) and some Android devices (Note: only if Client has an encoder or uploads a video to MediaManager [see 2.1.7 below].)
b. Review of agendas and attachments offline and on-the-go
c. Note taking, bookmarking, and emailing of agenda items
d. Review of indexed, archived meeting videos

4. Encoding Appliance hardware is pre-configured and includes:

a. Live and on-demand streaming on computers, tablets, and other mobile devices
b. Granicus maintenance updates
c. Extraction and display of embedded closed captions to help maintain ADA compliance
d. H.264 video codec encoding
e. HTML5 and Flash compatible streaming delivery
f. Available encoding quality settings

Encoding Quality	Dimensions		Combined Bitrate	Video Bitrate	Audio Bitrate
Profile	**Width**	**Height**	**kbps**	**kbps**	**kbps**
Low	320	240	**350**	350	96
Medium	480	360	**696**	600	96
High	640	480	**1096**	1000	96
Widescreen (Low)	480	288	**516**	420	96
Widescreen (Medium)	640	360	**816**	720	96
480p	720	480	**1096**	1000	96
720p*	1280	720	**2096**	2000	96

* 720P "HIGH DEFINITION" STREAMING AND ARCHIVING IS AN ADDITIONAL COST. GRANICUS STRONGLY ENCOURAGES USING A PERFORMANCE ACCELERATOR WHEN HIGH DEFINITION IS IMPLEMENTED.

6. LiveManager allows for full meeting control with the ability to start, stop, pause, index, and annotate events. Other key functionality includes: recording roll call, time stamping agenda items/video, and recording motions and votes.

7. MediaManager allows system administrators to have granular control over the actions that users are allowed to perform. The administration feature in MediaManager is a central hub for preparing and publishing content in Client's Granicus solution. In addition to publishing content, Client can manage user access and view usage reports (non-Legistar clients only. Legistar is Granicus's legislative management solution.)

8. Peak Agenda Management offers a complete, web-based solution for managing the agenda workflow process. Features include the following:

a. Initial configuration for one meeting body and one agenda template and ongoing support of Peak for the meeting bodies that Client chooses to maintain in Peak
b. Automation of the following business processes to support a streamlined workflow, with modifications to achieve the best practices as necessary:
    i. Agenda Item Creation: Creating and managing agenda items and supporting attachments
    ii. Agenda Item Review and Approval: Routing agenda items through sequential or concurrent approval phases
    iii. Meeting Scheduling: Scheduling one time or recurring meetings
    iv. Real-Time, Dynamic Agenda Management: Creating draft and final agendas made up of approved agenda items
    v. Paperless Publishing and Distribution: Publishing agenda and agenda packets to iLegislate and the web.
c. Selection of one agenda report template to be used for all meeting bodies
d. Dashboard for quick access to important data
e. Admin section to configure and maintain system information

2.2. LICENSING, TRAINING, MANAGED SERVICES, AND SUPPORT

1. The licensing for this solution is considered to be a site license.
2. Software configuration and installation as included in the upfront and managed service fees
3. Installation of the software system into one environment
4. Configuration, support, and software updates for one meeting body are included in the monthly managed service fees. A meeting body is understood to mean a body that requires any combination of the following:
   a. A unique agenda template
   b. A unique minutes template
   c. Any other unique template
   d. A separate meeting type, title, or purpose

   Additional meeting bodies are considered out of scope.
5. Integration and validation with existing Granicus solution and content
6. Go-Live support
7. Training Classes. Granicus will provide online training to Client's designated System Administrators and on-site training for user training, which will be administered in a train-the-trainer approach.
8. Access to reference and support materials and documentation
9. API Integrations. Granicus makes available the use of its various APIs to its Clients to enable them to extend their Granicus data in a variety of ways. Examples include leveraging the API to import data from a third-party system into Granicus and, conversely, exporting data to a third-party system. Granicus will provide its APIs, as well as any existing documentation, to Client upon request. Any modification to the API is considered out of scope.

3. OUT OF SCOPE

This section captures the most common out-of-scope scenarios that Granicus encounters during the lifecycle of any given project. Granicus will not engage in any out-of-scope work without prior written approval from Client. Any product change or enhancement not explicitly listed in the project scope in Section 2 is considered out-of-scope.

1. Creation of custom reports

a. A custom report is defined as a report that requires modifications to either the core code of Legistar or the reporting engines.
b. Examples of out-of-scope custom reports include, but are not limited to:
   i. Creating a brand-new data field that does not exist on any report or existing database
   ii. Having data that displays on one type of report display on another
   iii. Adding a second logo to a report

c. The creation of any custom reports requires a separate assessment and project scope. Billing for custom reports is assessed on an hourly basis at the current professional services rate.

2. API Integrations

a. Examples of out-of-scope API requests include, but are not limited to:

i. Requests to make modifications to API functionality to accommodate any third-party integration
ii. Any feasibility/data gap analysis to determine whether or not an API will be suitable for any Client integration or business need
iii. Any custom programming/configuration done by a Granicus staff member or contractor to accomplish or in pursuit of accomplishing any API integration
iv. Any request for support regarding a third-party integration not created by Granicus or its contractors
v. Any other API integration not clearly defined by this original scope of work
vi. Billing for out-of-scope API integrations is assessed on an hourly basis at the current professional services rate.

3. DATA CONVERSION AND MIGRATION OF HISTORICAL DATA INTO GRANICUS. A data conversion/migration is defined as a service whereby Client requests Granicus to move, convert, upload, or otherwise make available any data not originally generated by a Granicus product to appear or be utilized in Client's Granicus solution. Common scenarios include (but are not limited to):

a. Moving previous video data captured by another system or process into the Granicus solution
b. Moving previous agenda, minutes, legislative documents or data into the Granicus solution
c. Ensuring the video data and meeting documents remain associated with a specific meeting

4. PRODUCT CHANGES OR ENHANCEMENTS. If Client wishes to make a feature request, it may do so at any time through its Granicus Project Manager during this implementation. Granicus, at its sole discretion, will then choose whether to and how to implement any given product request.

4. PROJECT TEAMS

4.1. GRANICUS PROJECT TEAM

Granicus will assign the following team members to Client's implementation project:

1. **Project Manager (Granicus PM):** This is the primary person responsible for the implementation of and adherence to project plans. See below for the full job description.
2. **Designer:** The Designer is responsible for customizations and modifications of Granicus products that relate to web design.
3. **Solution Validation Engineer:** This team member is responsible for reviewing Client's technical compatibility with new or existing Granicus solutions. He or she will confirm the solution will work in Client environment and ensure Client will maximize the intended and desired benefits from the solution.
4. **Product Trainer:** The Trainer delivers instructor-led online or in-person training.
5. Granicus reserves the right to make adjustments to the project team roles as deemed appropriate.

The Granicus resources assigned to this project will be knowledgeable of the Granicus modules included in the solution and Client's business processes and requirements. These resources shall be fully capable of performing assigned duties, fulfilling project commitments, and communicating with Client team members effectively.

Granicus Project Manager Responsibilities

The Granicus Project Manager will manage the Granicus project team and work with Client's Project Manager to establish a framework for communication, documentation, and reporting to be used throughout the project. The Granicus Project Manager responsibilities include, but are not limited to:

1. Collaborating with Client's Project Manager to establish a project plan, including the project schedule and deliverables
2. Giving Granicus team members a clear understanding of their respective responsibilities throughout the project
3. Managing the activities of the Granicus project team to help maintain on-time completion of deliverables
4. Ensuring Granicus completes all unit and integration testing on all configurations and interfaces prior to training
5. Monitoring the progress of the project and advising Client Project Manager of any risks that could impact an on-time completion of specific tasks and deliverables
6. Maintaining regular communications with Client Project Manager
7. Managing escalations and timely resolution of any issues
8. Managing the approval and timely completion of change orders
9. Maintaining documentation of decisions made, commitments and follow-up items, deliverables, and other items/issues associated with the project for which Granicus is responsible

4.2. Client Project Team

Client will assign the following team roles:

Project Manager (Client PM): This is the main point of contact responsible for the implementation and adherence to project plans. See 4.2.1 below for the full job description.

Clerk: It is important that the Clerk is an integral part of the Project Team to be the expert on the legislative process of the Council, from the approval process of legislation to the creation of minutes. This person will also be responsible for indexing the recording during the meeting if video/audio recording is involved.

IT Lead: The IT Lead works closely with the Project Manager to ensure that the solution is deployed properly and helps solve IT issues that might arise.

Solution Administrator: The Solution Administrator should be a person who is closely involved with the legislative and meeting processes: from the approval process of legislation to the creation of minutes to the online publication of meetings. The Solution Administrator's responsibilities will include, but not be limited to: collaboration with Granicus resources on the project schedule

deliverables; and coordination with key stakeholders, representatives, and decision makers.

Backup Solution Administrator: This Backup Solution Administrator will serve as the backup to the Solution Administrator and preferably has a solid understanding of the legislative and meeting processes of Client jurisdiction as well as a good level of technological skills.

Video Indexer: Should the solution include video, the Video Indexer will be indexing/time-stamping the video in LiveManager if the Clerk cannot. This person can be from the Clerk's staff or a member of the A/V team depending on Client's unique workflow.

Subject matter experts (SMEs), including but not limited to: Client Council Secretary, Legislative Analyst(s), and other representatives, as deemed appropriate, from Client Attorney's Office, Mayor's Office, Clerk & Recorder's Office, Budget Management Office, etc.

Granicus will work with Client to make adjustments to the project team roles as deemed appropriate. The allocation of Client resources to the project may be variable according to:

d. The duration of the project
e. The level of internal Client agreement
f. The number of customizations required in the solution

Client resources assigned to this project shall be fully capable of performing assigned duties, fulfill project commitments and communicate with Granicus team members effectively.

Client Project Manager Responsibilities

Client Project Manager shall manage Client's project team and work with the Granicus Project Manager to establish a framework for communication, documentation and reporting to be used throughout the project. Client's Project Manager Responsibilities include, but are not limited to the following:

1. Collaborate with the Granicus Project Manager to establish the project schedule and deliverables
2. Ensure that all members of Client project team have a clear understanding of their respective responsibilities throughout the project
3. Manage the activities of Client's project team and partner resources to ensure the on-time completion of tasks and deliverables; create, maintain/update and complete all required project artifacts and other documentation
4. Monitor the progress of the project and advise the Granicus Project Manager of any risks that could impact an on-time completion of deliverables
5. Manage and track the project budget; flag for the project sponsors if additional funds are needed to complete the project
6. Maintain regular communications with the Granicus Project Manager and Client's project sponsors
7. Ensure that members of the Granicus Project Team have to Client's legislative process documentation and other Client resources to gain a sufficient

understanding Client's legislative process and requirements to ensure a successful and effective implementation of the solution
8. Ensure that any customizations to the solution are fully specified and documented
9. Ensure that change orders contain a complete description and specification of the changes required

5. PROJECT TIMELINE

Work shall be performed according to the target milestone timeline below, based on projects similar to Client's. Timelines may change based on mutual agreement between Client and Granicus.

	Phase	Scheduled Completion
1	Project Start-Up	2 weeks from contract execution
2	Implementation	1-9 week(s) from contract execution
3	Implementation Completion	1-10 week(s) from contract execution
4	Training	11-14 weeks from contract execution
5	Scope of Work Completion	12-15 weeks from contract execution

6. MILESTONES

For each milestone, Client's authorized representative shall give final, written approval that individual deliverables and milestones have been completed.

6.1. Milestone 1: Project Start Up

6.1.1. Staffing and Project Management

Success of the project is dependent on both Granicus's and Client's commitment to collaborating and performing the tasks and obligations described in this SOW. Both Granicus and Client shall provide reasonable turnaround times (to be mutually agreed upon) on critical decisions, information requests, and approvals that are required to ensure that project tasks and deliverables are completed on time.

6.1.2. Project Plan

Client and Granicus will work together to develop a comprehensive project plan consisting, at a minimum, of the components outlined below which are broken out by responsibility and ownership.

Deliverables:

1. Communication Plan: Client and Granicus will collaborate on and document processes to communicate project information to Client and vice versa. The plan, at minimum, should include:

a. **Regularly Scheduled Status Calls:** Members of both Client and Granicus project teams should participate in regularly scheduled calls to provide status updates, discuss open issues, project risks, etc.
b. **Written Status Updates**: Both Client and Granicus Project Managers should also provide written status updates at regularly scheduled intervals (e.g., weekly) to an agreed upon distribution of stakeholders, project team members and other appropriate personnel at both Client and Granicus.
c. **Escalations:** In the event that the Granicus Project Manager does not respond to Client's needs, Client shall directly contact Granicus's Director of Professional Services (please email implementation@granicus.com to contact the Director of Professional Services).

2. Resource Plan: Client and Granicus will collaborate to compile a list of all personnel from Client and Granicus that are associated with the project. The list should include each person's role in the project and contact information as well as their allocation to the project.

3. Training Plan: Granicus will provide Client with the Training Plan on the Project Kickoff Call.

6.1.3. Document Review and Technical Information Gathering (OP/GT/ME without Legistar)

The Granicus Design team conduct a Document Assessment, during which it will review Client's current agenda and minutes documents and determine how they will integrate with the Granicus solution and what changes, if any, should be made to optimize the solution for Client.

1. Document Assessment: Granicus will complete a review of Client's current agenda and minutes documents and document any recommended changes. Granicus will submit a request to Client Project Manager listing the documents needed. Client will provide the requested documents to Granicus in a timely manner. Client will provide any other process documentation (e.g. process flows, requirements, etc.) to aid the Granicus project team in gaining a sufficient understanding Client's legislative process and requirements.

2. Technical Information Gathering: Granicus will work with Client to gather general technical information and analyze the existing technology set-up to ensure that the proposed project meets all requirements necessary to deliver a successful solution. Granicus will send a URL for the Technical Information Gathering Form to Client for completion. Client will complete and submit the electronic form to Granicus.

3. Solution Validation Call: This call provides an opportunity to discuss Client's current workflow process and existing technology set-up to ensure that the proposed plan meets all requirements necessary to deliver a successful solution. At a minimum, Client's Project Manager, IT Lead, and Client Council Project Sponsor should participate in the call.

Deliverables: Granicus will document the minutes of the call as well as confirm the technical compatibility of the proposed solution and distribute to Client Project Manager for review and approval.

6.2. Milestone 2: Implementation

Granicus will deliver any required and purchased hardware to Client. Granicus will install and configure solution software for Client.

1. Customization and Configuration Design Phase: Granicus will collaborate with Client to develop the architecture and configuration design for each module of the overall solution.

Deliverables:

c. Architecture Design Document
d. Summary of Configuration Design Document

2. Open Platform: The Granicus Open Platform is the cloud-based foundation for all Granicus applications. It allows government organizations to manage and store an unlimited amount of government public meeting data and includes free access to Granicus's APIs and SDKs. The Granicus Open Platform includes the ability to upload and publish content including videos and documents.

Deliverables: MediaManager. MediaManager is a web-based platform that allows data to flow among the various Granicus modules included in the solution. For example, agendas created in Legistar can be accessed during meetings via LiveManager and also from mobile devices using the iLegislate app. Also, meeting videos recorded through LiveManager can be trimmed from MediaManager. MediaManager is a hosted on the Granicus cloud, therefore it will not have to be installed on individual user machines.

MediaManager Deliverables:

d. Granicus will provide a MediaManager URL (usually *clientname*.granicus.com).
e. Granicus will provide a username and password for the primary stakeholder (usually the Client Project Manager).
f. Client will receive a public-facing citizen web portal.

3. Government Transparency: The Government Transparency product provides the ability to stream meetings and events live, to link related documents to video, and to improve the search of archives. It includes unlimited cloud bandwidth and storage as well as local live and on-demand streaming. This product connects agenda data to Apple and Android tablets to enable the review of agendas and supporting documents, note taking, and more through the iLegislate application.

Requirements: In order to use Government Transparency, Client must have an encoder or purchase an Encoding Appliance with the solution.

Deliverables:

d. Custom player
e. View page
f. Agenda documents

4. iLegislate: iLegislate, enables elected officials to review meeting agendas, supporting documents and archived videos on any iPad or Android tablet. Users can bookmark

items on the agenda (and pdf attachments) while offline. iLegislate is a free app that can be downloaded from iTunes or Google Play and works with any Granicus suite.

Deliverable: iLegislate App

5. Encoding Appliance: The Granicus Encoding Appliance provides clients with live and on-demand webcasting performance. The hardware is pre-configured and delivered ready to stream. A combination of web-based and Client-installed applications will give users access and control of the Appliance's Streaming Media Services.

The Encoding Appliance also has the ability to have the Performance Accelerator module installed to allow for up to 50 concurrent live and on demand streams as well as for local archive storage. However, if Client expects more than 50 concurrent internal users viewing the live stream, Client may want to consider the Granicus standalone physical or virtual server setup as described in section 6.2.7 below. The Encoding Appliance is a Microsoft Windows server recording in H.264 compatible MP4s. More specific server details—including size, weight, power requirements, and network requirements—please see the Granicus Encoding Appliance (Windows 7) Technical Solutions Guide.

Client is responsible for receiving the hardware on its end and installing the hardware components as agreed to in the network diagram. The Granicus Project Manager will be available to support Client remotely in installing the servers and verifying their set-up and functionality at the Client site. Before Granicus can begin the remote installation of the transparency solution, Client must confirm that the network's security and firewall requirements are in place as discussed in the Pre-Deployment Activity Phase. Granicus PM will confirm remote access to the server in preparation for the software installation. Granicus PM will complete a server-side update to the streaming component. Granicus recommends allowing one day's time for the Client IT Lead to run and test the installation of the software solution in Client's environment.

Deliverables:

d. Hardware components
e. Email confirmation that testing is complete
f. LiveManager: The LiveManager application allows for full meeting control with the ability to start, stop, pause, index, and annotate events. Other key functionality includes recording roll call, time stamping video, and recording motions and votes. It is recommended to be installed on one primary workstation and at least one backup. LiveManager will be installed the day(s) of the encoder installation.

LiveManager Deliverables:

c. LiveManager installation URL
d. Technical Solutions Guide

6. Peak Agenda Management: Peak Agenda Management is an application creating and managing meetings and agenda items. It provides a citizen-facing portal for publishing agenda and agenda packets.

Requirements:

a. Current web browser (pursuant to the Granicus Web Browser Compatibility Matrix and the Granicus Tablet Applications Support Matrix)
b. Internet connection

Deliverables:

e. URL to access Peak
f. Training and training materials
g. iFrame code (for public display of information)
h. Agenda template (to be selected from four design options)

7. Testing: Granicus Development conducts solution and unit testing during development. Granicus will be responsible for conducting all aspects of the solution in Client's environment. Granicus will not be responsible for end-user testing.

6.3. Milestone 3: Implementation Completion

Granicus performs unit and end to end testing as part of the normal development process. Granicus will conduct unit testing and integration testing using the following script for this implementation. (Please note this testing may be limited to one client machine and/or Granicus Encoding Appliance residing at Client.) Client is responsible for all client end-to-end testing.

Granicus will resolve all defects and complete any change requests that arise during testing and will review the fixes for all defects with Client. A change request is defined as request to add, modify, or delete a specific unit of functionality from what was documented in the original requirements. A defect is defined as any error, flaw, mistake, failure, or fault that prevents a unit of functionality, or the system, from working as intended, or to produce an incorrect result. Any and all security flaws (in any application layer) shall also be classified as defects. Client will test and sign off on defects as they are resolved. Any presence of defects or process of resolving defects will not impede milestone close out without Granicus's express approval.

Deliverable: Written confirmation of the successful completion of testing

6.4. Milestone 4: Training

Granicus will conduct training for Client identified staff that will cover the essential concepts and standard navigation of the solution and tasks related to Client's legislative business processes. Client will utilize a train-the-trainer approach for end user training. Scheduling of all training sessions shall be coordinated with and approved by Client. Granicus will authorize Client to videotape training sessions for internal use and to reproduce any the training materials such as training guides, screenshots, in part or whole, for its own purposes. Training is comprised of the following components, depending on Client's solution:

Module or Software Solution	Training Provided
Open Platform and Government Transparency	Three 2-hour sessions 1. Pre-/During Meeting Steps 2. Post-Meeting Steps 3. Review/iLegislate

Module or Software Solution	Training Provided
iLegislate Voting	1. Self-led online training OR option to purchase instructor-led onsite or instructor-led online training
Legislative Management	Admin Training: Two 2-hour online, instructor-led sessions prior to onsite training. Three days onsite **Day 1:** Project Overview, Drafter Training, Approver Training, and Agenda Generation Prep **Day 2:** Agenda Generation, LiveManager, and MediaManager **Day 3:** Minutes Processing, Workflow Review, and iLegislate
Peak Agenda Management	One one-hour setup call, two 90-minute sessions, and one 90-minute review call 1. Pre-Training Setup Call 2. Two 90-minute, instructor-led training sessions for stakeholders: technical and business Post-Go-Live Review Call
	3.

Requirements:

1. Client will ensure that training participants have a working familiarity with the standard Microsoft Windows conventions and terminology.
2. On-site training locations will include one computer for use by each participant. Granicus will provide Client with instructions regarding the set up required for Client computers that will be used in training. Client will prepare all computers per the instructions provided prior to the training class start time.

Deliverables:

1. Class outline and user roles involved
2. Training materials
3. Electronic copies of user manuals and quick reference guides for each functional module covered in training

6.5. Milestone 5: Scope of Work Complete

Final acceptance will be based on successful testing and implementation of the system, defined as:

1. Integration tested (with ability to provide evidence of testing upon Client's request)
2. End-to-end configuration and functionally tested

6.5.1. Documentation

Granicus will provide documentation to support the software. Any software tools or utilities that are desirable to tune, test, maintain, or support the software shall be specified by Granicus.

Documentation will include but is not limited to:

1. Technical administration
2. Software configuration
3. Technical architecture diagram
4. Data flow diagram
5. Application administrator guide
6. End-user day-to-day operation guide
7. Quick Reference Guides by job function

6.5.2. Close-Out Process

1. Close out invoicing
2. Finalize and deliver remaining documentation, recorded trainings, etc.
3. Granicus will provide a plan to Client for post-implementation support and maintenance. After Milestone 4: Training, Client will be introduced to assigned Client Success Manager (CSM) who will serve as the primary contact for any issues Client encounters or questions remaining in the first 30 days of solution usage. CSM will educate Client on how best to engage with and access the Granicus Customer Support Team. After the initial 30-day period with the dedicated CSM, the Customer Support Team will be responsible for assisting Client with any issues.

7. ASSUMPTIONS

This proposal is based upon the assumptions below. If for some reason these assumptions are false, it may result in a scope change and an impact on the proposed project.

7.1. PROJECT MANAGEMENT ASSUMPTIONS

1. Success of the project is dependent on both Granicus and Client's commitment to collaborating on and performing the tasks and obligations described in this SOW. Granicus assumes that Client will provide reasonable turnaround time (to be mutually agreed upon) on critical decisions, essential information, and approvals that are required to continue with work in progress or that is critical to meeting a deliverable due date. Granicus expects that a decision will be elevated to the appropriate Client management level to make a decision in a timely manner.
2. Client will perform its obligations and render the assistance described in this SOW in a timely manner and in a manner as to adhere to the final schedule. In the event that Granicus is delayed or prevented from performing its obligations, to the extent that the delay is caused by factors beyond the reasonable control of Granicus, including without limitation, the inability of Client to perform its responsibilities (i.e. finalizing the requirements) in a timely manner, Granicus will be entitled to an equitable adjustment in the timetable.

3. Project initiation will occur upon signature of the Agreement by both parties. All dates in this SOW are subject to a mutually agreed upon schedule after execution of the Agreement.

7.2. Technical Assumptions

1. Remote Management: Granicus maintains and monitors the software performance of its solutions. All software patches and Granicus software updates are performed on a determined schedule. Remote support, management, patching, reporting and logging are performed using ScreenConnect. Installation of third party software not specifically approved by Granicus may detrimentally impact the server's performance. In extreme cases, the server may need to be reimaged to restore normal operations; in this case, a reimaging fee may be charged.

2. Video Streaming Technical Requirements: Video streaming typically requires the use of media plug-ins. While the necessary plug-ins will often come pre-installed, Client may need to install or enable plug-ins to watch streaming video. Granicus recommends installing the plug-in if it is available for Client's system. While Granicus recommends certain platforms and Web browsers, many other operating systems and Web browsers can successfully stream videos. For example, Mozilla Firefox and Google Chrome are both known to work on many platforms. Please note that not all features are available to all Web browsers on all platforms.

Recommended Platforms and Browsers:

Platform	Browser
Microsoft Windows (version XP SP2 or newer)	Microsoft Internet Explorer, version 9 or newer
Mac OS X (version 10.5 or newer)	Apple Safari, version 5 or newer
iOS (version 4.2.1 or newer)	--
Android (version 2.2.1 or newer)	--

Please note: performance on Android devices may vary depending on the version, phone manufacturer, and carrier.

3. Software Technical Requirements: The Encoding Appliance and Performance Accelerator are managed through Granicus's hosted software program known as MediaManager. The administration feature in MediaManager is a central hub for preparing and publishing content in Client's Granicus solution. In addition to publishing content, Client can manage user access and view usage reports. MediaManager administration requires use of a system that meets the following specifications:

Computer	Windows-based PC
Recommended Browser	Internet Explorer 9 or newer
Internet Access	Access to Client MediaManager site (*clientname*.granicus.com)

MediaManager allows system administrators to have granular control over the actions that users are allowed to perform. In addition to meeting the system requirements that are listed above, each user must have been granted access rights to the tools that they wish to use.

7.3. Scope and Cost Assumptions

1. Both Granicus and Client will follow a Change Order process for handling any work that is not defined in this Scope of Work. The Change Order process is jointly managed by the Granicus and Client Project Managers. All changes must be documented in a Change Log, and approved by both parties prior to work being undertaken.
2. Requested Client changes to the Scope of Work may increase project costs or introduce timeline delays.

7.4. Training Assumptions

1. Client will have appropriate staff members attend and participate in the training sessions as to allow the training sessions to be completed in the time designated in the project plan. It is critical that senior personnel from Client attend all necessary training in that they will be the people that the junior people come to for assistance.
2. Granicus assumes that Client will provide a training facility suitable for those purposes and in a timeframe supported by the project plan.
3. Granicus will train a core group of users onsite. These users will be responsible for educating others within Client organization after formal Granicus training ends (the "train-the-trainer" approach).

PROVOX Systems, Inc.
8951 Synergy Drive, Ste. 223
McKinney, Texas 75070

(PH) 972-547-0504
(FX) 972-215-7656
www.provox-systems.com
sales@provox-systems.com
Tax-ID: 22-3964006

Go Green!

With our Paperless Agenda Management System

REQUEST FOR PROPOSAL

Agenda Management Software and Video Services

4/8/2019

Prepared for: **City of Hapeville**
Crystal Griggs-Epps

Prepared by: **PROVOX Systems, Inc.**
MarkusVogt, President

Markus Vogt, President

Transmittal Letter

April 8, 2019

City of Hapeville
Crystal Griggs-Epps
3468 N Fulton Avenue
Hapeville, GA 30354

Submitter:
PROVOX Systems, Inc.
Markus Vogt, President
8951 Synergy Drive, Ste. 223
McKinney, Texas 75070
(972) 547-0504 / (972) 215-7656 FAX

Dear Crystal,
Dear Evaluation Team,

PROVOX Systems is pleased to provide the enclosed proposal for the installation and implementation of our well-established and fully featured Paperless Agenda and Meeting Management Suite for the City of Hapeville in response to the RFP for **"Agenda Management Software and Video Services".**

PROVOX has a long history (since 1991) of modern and paperless Agenda and Meeting Management applications and has successfully installed the system in more than 950 locations worldwide.

PROVOX has experience with the replacement and data conversion of existing solutions and can provide the City with a deep knowledge and an experience project team. PROVOX has replaced other applications (e.g. SIRE, Granicus, Novusagenda, etc.) in the past several years in many projects in the USA. PROVOX has also experience in the conversion of existing video in our Audio- and Video-streaming solution.

PROVOX has developed the proposed solution fully in-house and has not outsourced any development or support. PROVOX is the manufacturer and owner of the application for more than 27 years and was the first company in 1991 which has presented a complete and comprehensive Agenda and Meeting Management in the Government Market. The City will get a comprehensive and Out-of-the-Box Agenda and Meeting Management, based on the latest Microsoft.NET Technology (4.X) and not an old Microsoft.NET 2.0 or other application.

PROVOX is offering a fully managed server, which will combine the best advantages from a fully hosted (no extra work for the IT Department) and an On-Site (24/7/365 full access to application, data and documents, even if an Internet connection is not available, best speed, highest security and flexibility) installation.

As a long time Microsoft Gold Certified Partner (since 1995) and member of several different Microsoft Projects (e.g. CSP – Citizen Service Platform and "OurMunicipality") we can show our clients the benefits of our partnership with new innovations and standards in this market. High customer satisfaction and integration in future developments is one of our primary goals.

With Agenda.NET™, the City of Hapeville will be equipped with the most customizable, flexible, and easy-to-use Agenda and Meeting Management Suite worldwide. Based on and certified for Microsoft.NET, Agenda.NET™ is secure, easy to install and maintain, and individually customizable.

The City of Hapeville will not only get an Agenda and Meeting Management, it will also get a fully featured and innovative Agenda and Meeting Management Suite. This will give the City the ability to integrate our Audio- and Video-Streaming, Electronic Voting, Mobile Devices (e.g. Apple iPad, iPhones, Android, Microsoft Surface, Amazon Kindle, etc.), Document Management, and GIS in an Out-of-the-Box solution.

The City can use the proposed solution for the City Council and other committees, commissions, and boards, without an additional license fee.

With the experience gained over numerous similar projects and the knowledge in this market gathered over 27 years, we will manage and finish this great project to the complete satisfaction of the City of Hapeville in a very short timeframe (the estimated project time is about six (6) weeks) This time frame will include installation, configuration, project meetings, trainings, and several practice phases for the end users.

PROVOX will provide the City with on-site trainings and **not** with only web based trainings as many other vendors. This will guarantee better training results and a faster implementation. Users will be trained by using the environment, data, templates, processes, and workflows from the City of Hapeville.

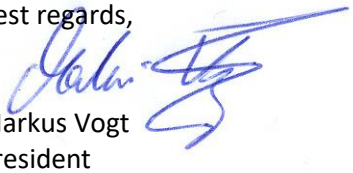
Based on our understanding of our customers' requirements and desired functionality, and the City Clerk experience we have, we included features and components to satisfy those needs. The features include the ability to completely manage the entire legislative workflow process, manage the customers committees, boards, commissions, people and rooms, prepare and route agenda items in an electronic and flexible workflow, create agendas and minutes via mouse click, manage the approval process electronically, and make legislative and other important information available via the database based Internet Information Portal. In a password protected area, authorized users will get additional information and can communicate with other members and Staff.

PROVOX Systems, Inc. provides services out of its US Headquarter in McKinney, Texas. Markus Vogt will be the Project Manager for this project. If there are any questions concerning this proposal, please feel free to contact me at (972) 547-0504.

PROVOX will help the City of Hapeville to be one of the most innovative Municipalities in the USA and will support them to grow with the application in the future.

Thank you for this opportunity to provide you with this proposal and I look forward to this successful project and a long-time partnership with the City of Hapeville. PROVOX will accept the conditions of the RFP. The proposal remains valid for 120 days. PROVOX's staff is free of any conflict of interest and has never done any work so far for the City of Hapeville.

Best regards,



Markus Vogt
President

Table of Contents

Transmittal Letter 2
Table of Contents 4
Executive Summary 5
PROVOX Highlights 9
Scope of Services 10
Company Information / Background 15
Partnerships and Alliances 16
Company Information Questions from the RFP 18
Company Qualifications 20
Client References 22
Proposed Solution 24
General Description 24
Audio- and Video-Streaming (Optional) 34
Other Features 40
Innovative Concepts 43
Implementation Approach 45
Timeline and Implementation Services 47
PROVOX's Testing Methodology (Testing Plan) 48
Project Plan 49
Training Plan 50
Test- and Training-Database 52
Project Schedule 53
Services 53
Ongoing Support and Hosting Services 55
Questions from RFP 56
Proposed application software and computing environment 57
Pricing 58
Proposed Innovations 60
Opportunities 62
Technical Innovations 63
Summary of proposal 64

Executive Summary

The City of Hapeville is seeking proposals for an Agenda Management Software and Video Streaming. The solution should be innovative, future save and easy-to-use. It should be an Out-of-the-Box solution that will not require any customer specific development.

PROVOX is offering a comprehensive Agenda and Meeting Management Suite, which is not only managing an unlimited number of meeting bodies and members (incl. their memberships); it will also streamline the current process to create and submit agenda items, agendas, minutes, and provide the City with an innovative and flexible meeting management. This can include Audio- and Video-Streaming, Electronic Voting, Minutes creation, and an Internet Information Portal as well.

The City of Hapeville has found the most flexible, fully featured market leader in Agenda and Meeting Management worldwide. The application is designed for all size of municipalities and will allow the City to manage unlimited meeting bodies, users, meetings, and other content. The City can integrate all internal and external meeting bodies, without any additional license fees. Unlimited users are also included in the proposed Municipal License.

The City of Hapeville will receive an Out-of-the-Box and comprehensive Agenda and Meeting Management Suite, which is designed to meet the City's requirements, current needs and future wishes. The application has been continuously in development since 1991 and has more than 950 customers worldwide. PROVOX is developing the proposed solution from the first day in-house and with its own and fully employed development team. PROVOX has never been sold or restructured. This will guarantee the best customer support and future innovative development for decades to come. The application is the most innovative, flexible, customizable, secure, and easy-to-use application for Legislative Management and Agenda and Meeting Management on the market.

PROVOX has experience with the implementation of Agenda and Meeting Management solutions for similar and much larger municipalities and will guarantee a fast implementation, seamless data and document conversion, and professional on-site trainings for the City's staff.

PROVOX is offering the proposed solution on a fully-managed server, which will combine the best advantages from hosted solutions (e.g. no effort from the IT Department) and on-site installations (e.g. 24/7/365 full access to data and documents (even if a network connections is not available), best speed, individual updates, and more).

Large documents, attachments, and complete agenda packages (some of our customers have packages with over 4,000 pages) can be easily and quickly created and stored, because the City will not have any limitations based on the transfer volume and the Internet speed in an on-site installation. Updates of information will be immediately possible, without any down- and uploads.

Agenda.NET™ is the most innovative and intuitive Agenda and Meeting Management worldwide and part of Microsoft's Citizen Service Platform.

All modules, functions, and features are in <u>one</u> application and not in different independent modules. Information from agenda items and agendas are for instance available in the Agenda.NET™ Minutes Maker <u>without</u> any export and import (like in many other Agenda Management Solutions).

The City will have the ability to use the application for <u>all</u> meeting bodies without any additional license fees. The Departments will have the ability to add their agenda items directly into the application or submit them via the Web Form for Agenda Item Creation, which is included in this proposal.

The City Clerk's or City Manager's Office will have the ability to create a public (without confidential information) and a private agenda package and publish the information with a simple mouse click in the Internet Information Portal.

Citizens and meeting body members will have the ability to download the packages with simple mouse clicks on any mobile device (e.g. Apple iPad, iPhone, Android, Microsoft Surface, Windows 8 Tablet, and Amazon Kindle). They can add notes or other annotations into their personal packages. These packages can be used at any time, even if an Internet or network connection is not available.

The Councilors and other authorized users will have access to the private agenda packages and other confidential information via a username and password protected private work area in the Internet Information Portal. They will also see changes since their last visit in their personal Welcome Page.

Internet users can also create a personal package with only selected items, if they are not interested in all items on the agenda.

Agenda.NET™ will create the agenda packages automatically on the server and in a PDF ISO-19005 format, which is designed for long-term storage and usable for Americans with Disabilities as well.

All documents and data will be stored within the application (in the Microsoft SQL Server database). This will eliminate numerous different versions of agenda items or other relevant information somewhere in the City's network or on local devices.

Authorized users will have the current information available at any time and accessible with simple mouse clicks. They can see the status, workflow process, and all other relevant information at any time.

Agenda.NET™ will help integrate existing templates and processes and streamline the whole process; from agenda item submission to meeting minutes creation and web publishing. It will offer the City of Hapeville's Councilors a powerful and secure workspace and its citizens a transparent and easy-to-use Internet Information Portal.

Agenda.NET™ has a complete integration of the existing Microsoft Office Suite, so users will find a familiar environment and will have the ability to use all Microsoft Word functions and features (e.g. spell checker, track changes, tables, fonts, etc.).

<u>PROVOX will integrate the existing data and documents from the current environment into Agenda.NET™ and guarantees a fast and secure implementation. Existing processes and workflows can be integrated, automated, and streamlined. Agenda.NET™ will not only replace the existing solutions, it will offer the end-user a more user-</u>

friendly, flexible, and intuitive working environment. It will also offer the Councilors, Board and Committee Members, and the public a better and easier information portal.

Agenda.NET™ is an Out-of-the-Box application, which is easy to install, maintain, and is customizable (without any development knowledge needed by the client). This will guarantee a fast Return on Investment and secure the investment of the City of Hapeville for the next decades.

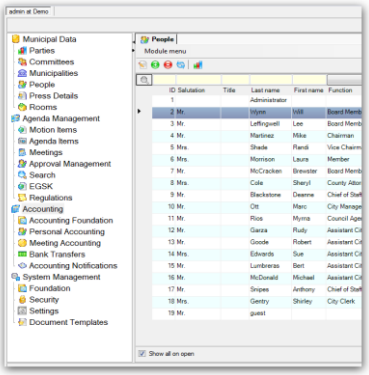
Agenda.NET™ has an open web service for Audio- and Video-Streaming and Document Management Solutions or can be bundled with our own flexible solutions.



The application will send notifications via text messages and e-mail (GroupWise, Outlook, Google Mail, or other SMTP mail solutions).

Agenda.NET™ is developed in Microsoft.NET (C#) and certified by Microsoft and VeriSign as a secure and flexible solution. It is also part of the CSP-Project (Citizen Service Platform) and "Our Municipalities", both Microsoft projects.

PROVOX supports the Microsoft SQL Server databases (2008, 2008R2, 2008 Express, 2012, 2014, and 2016) and MySQL (free of charge). It is certified for the latest Microsoft Technologies and Operation Systems.



PROVOX can offer a bundle of Microsoft SQL Server and Agenda.NET™ as well.

The flexible structure makes it easy to customize the application to meet every customer's expectations and fulfill their wishes.

PROVOX Systems is the market leader in modern Agenda and Meeting Management applications worldwide and has developed this kind of product for over 27 years very successfully.

Agenda.NET™ contains: Powerful meeting management, a flexible workflow facility for reviewing and approving workflows, a database based Internet and Intranet module, an automated update service for the Internet information, a hands free audio- and video-streaming, automated packet creation, and many more helpful features.

The PROVOX Agenda and Meeting Management Suite include:

- *Municipal Data (City of Hapeville Contact Information, People, Organizations (Council, Boards, Committees, Commissions, and Agencies), Rooms,*
- *Agenda Items and Agenda Management*
- *Minutes Maker*
- *Agenda/Report Creation Web Form*
- *Electronic Voting*

- *Audio- and Video-Streaming*
- *Notes Taker*
- *Database based Internet & Intranet Module*
- Mobile Computing and Paperless Agenda Management via Apple iPad, iPhone, Android, Microsoft Surface, Amazon Kindle, Windows Mobile, etc.
- Flexible and Electronic Workflows for reviewing, signature, approval, follow-up, and action workflows
- *Localization Tool (easy customization of the Agenda.NET™ Layout)*
- *PV-Migration and Replication (automatic data upload into the Internet Module)*
- *Web services and standard interfaces for Document Management Solutions, Electronic Voting, Audio- and Video-Streaming, Accounting Software, GIS, Microsoft Office, etc.*
- *Accounting Module*
- *Electronic Forum*
- *And more…*

*We license the product as a "Municipality License" **with unlimited users**. The license model enables you to expand our software to other departments and users without additional cost.*

With the development based on the Microsoft.NET Technology, the City of Hapeville has found the most innovative and future-ready product.

It is well established in more than 950 Cities, Counties, Universities, and Organizations, ranging in size from 1 to 1,600 users.

Based on collaborative work with a City Clerk, an application was created that is designed specifically as a modern Agenda and Meeting Management system in a modern and transparent Municipality.

Agenda.NET™ is usually integrated into an existing environment in less than four (4) hours. The City of Hapeville will see the first results within a few hours after installation.

The current Agenda Process can be adapted in Agenda.NET™ in just a few hours. Processes will be controlled and routed via the electronic workflow management and will guarantee a transparent and fast reviewing process.

Agendas, Meetings, Agenda Packages, and Meeting Minutes can be created within a few minutes.

Authorized users can publish selected information with a simple mouse click in the Internet/Intranet module.

The paperless Agenda Management "Agenda.NET™" will save the City of Hapeville time and money.

Agenda.NET™ guarantees an implementation in less than six (6) weeks and a Return on Investment (ROI) in less than 6 months.

PROVOX Highlights

- 1st Agenda and Meeting Management Suite presented in 1991
- 1st Company that has developed Agenda and Meeting Management under Microsoft.NET (2000)
- 1st Internet Information Portal in 1994
- 1st Integration of an Item Tracker
- 1st Microsoft certified .NET application for Agenda and Meeting Management
- Microsoft Gold Certified and Development Partner
- In-house development of Agenda.NET for more than 27 years
- Never been sold or restructured
- Specialist on Agenda and Meeting Management
- 26 full time employees for Agenda and Meeting Management
- US company (founded in the State of Delaware)
- 1st Out-of-the-Box Internet Information Portal
- 1st AODA compliant Internet Information Portal (since 2004)
- First-Level remote and hotline support (the County will reach an application expert and NOT a Call Center with each call)
- 1 or 2 updates per year guaranteed
- Worldwide Market Leader in Agenda and Meeting Management with over 950 installations and the experience from more than 27 years
- Complete Integration of Microsoft Office (2003 – 2019 (32 and 64 Bit)) and certified for Windows XP - 2010

Scope of Services

Functions and Features		Included	Not Included	Response
AGENDA MANAGEMENT SOFTWARE				
1.	Automated workflow system to prepare, track, modify, approve and monitor the progress of agenda items.	X		Agenda.NET™ has integrated an innovative and flexible pre-meeting and post-meeting workflow management. Users can setup an individual workflow process or select a workflow template. Each workflow can have numerous tasks, reviewers/approvers, deadlines, attachments, and personal notes.
2.	Version control for development of agenda items and tracks changes/edit	X		Users will have the ability to create numerous versions of agenda items and supporting materials. Reviewers and approvers can use Microsoft Word Track Changes or the designated fields in the Workflow Management to highlight any changes.
3.	Ability for the item author to insert a formal caption, the presenter name(s), background information including attachments, and a recommendation.	X		This can be entered and managed in the Agenda Item Creation. Users have the ability to add numerous attachments of any format and size to agenda items, agendas, and meetings. Background and recommendations can be created in the integration with Microsoft Word. Users can use all Microsoft Word functions and features (e.g. spell checker, track changes, copy & paste, tables, auto text, etc.). Presenter's name and other information will be managed in the designated fields for each item.
4.	Ability for the agenda item author to retain control over edits of the agenda write-up	X		This can be easily managed with default and individual security settings for each agenda item.
5.	Ability for the agenda item author to retrieve items at any time during the routing process.	X		Users will have the ability to see the status of an item, where it is in the process flow, and all responses and actions from a workflow process at any time.
6.	Capability to add or delete staff from the agenda item workflow/routing review/approval process uniquely for an individual agenda item	X		This can be done with simple mouse clicks. Users will have the ability to create individual or template-based workflows for each item. Each workflow process can have numerous tasks, reviewers/approvers, deadlines, personal notes, and attachments. Reviewers also have the ability to re-route, accept and reject processes.

7.	Ability to delete a staff member universally from the agenda workflow for employee terminations	X		Application administrators will have the ability to create and modify workflow templates within the application and without using external tools (e.g. Visio, SharePoint, etc.) or vendor development. This makes it really easy to create workflow templates on the fly.
8.	Ability to move a staff member from one workflow/approval process to another to facilitate employee transfers between departments or different reporting structures	X		See previous answer. This can be done in a few minutes within the application.
9.	Provides strong word processing and editing capabilities that allows such functionality as: Uploading and/or building tables and graphs with ease, copying and pasting from other documents/software such as word processors and spreadsheets, changing fonts, highlighting text, bold, italic, etc.	X		Agenda.NET™ will integrate the existing Microsoft Office (2007 – 2019 and 365) for text creation and editing. PROVOX will integrate existing document templates as part of the Implementation Phase. All templates are Microsoft Word documents with merge fields and bookmarks and can be created from staff members as well. Users will have all Microsoft Word functions and features available in the documents.
10.	Retains an easy to use search function for items no matter where they exist within the agenda process. This includes using various options including agenda number, keywords, etc.	X		Agenda.NET™ is offering searches in designated search fields and a full text search in all documents created in the application. Users will have the ability to search in different areas and fields at the same time. PROVOX can also integrate existing documents in the full text search archive.
11.	Supports creating, editing and approving agenda items using the web, tablets, smartphones and other electronic devices.	X		Reviewers/Approvers will have the ability to review, edit and approve items from outside the network by using mobile devices. PROVOX is offering a Web Form for Workflow Management as part of the application. Inexperienced users can also submit items and supporting materials by using a standard browser.
12.	Assembles documents into a single cohesive agenda packet and generate reports to help manage agenda creation process. In addition, it must allow the administrator to see status of agenda items moving through their respective approval processes.	X		Authorized users will have the ability to create agendas, minutes, and agenda packets with simple mouse clicks. They can change the order of items via drag & drop, add and remove items. The application will automatically create agenda packets and integrate the agendas, agenda items, attachments, and a Table of Contents with links to each item and attachment. The packets will be created in an ADA compliant PDF format (PDF/A-1) and can be automatically uploaded into the Internet Information Portal.
13.	Facilitates easy electronic posting, emailing and other electronic communication. Must support easily accessing agenda and agenda packet information using tablets, smartphones and other electronic devices	X		Agenda.NET™ has integrated an innovative, secure, and easy-to-use Internet Information Portal. PROVOX will adapt the existing layout from the City's current web pages, so the webmaster only needs to integrate a link. The Internet Information Portal is in a fully responsive design and can be used in any standard browser – on

				any mobile and desktop device. PROVOX can offer an iMeeting App for Councilors and staff members. The app will automatically push meeting information, documents, and agenda packets to tablet devices (Android and iOS). Users can add annotations (notes, drawings, text highlighter, etc.) and use the packets and personal notes in offline and online mode.
14.	Ability for Council members and staff to annotate or make private notes electronically directly into agendas and agenda backup using electronic devices such as tablets or smart phones.	X		See previous answer. This can be done by using a standard PDF Reader or the iMeeting App.
15.	Provides a searchable document archive and capabilities to copy and paste agenda items to create new agenda items and backup.	X		All documents and data will be stored in a Microsoft SQL Server database for unlimited time. Users will have the ability to search in data via designated search fields and in documents by full text. PROVOX is offering the integration (conversion and converting documents in an ADA compliant PDF format) of existing documents as well. The search functions are also available in the Internet Information Portal. Users can create a new agenda item, by using an existing item and create a copy.
16.	Facilitates timely creation of minutes, by pre-populating staff recommendations/ recommended motions in advance of the meeting.	X		This can be done in the integrated Minutes Maker of Agenda.NET™.
17.	Seamlessly creates a consolidated agenda package in pdf format that includes the ability to create and use pdf bookmarks to navigate each item and its attachments.	X		Agenda.NET™ will automatically create agenda packets as a single and ADA compliant PDF documents. The packet will include a Table of Contents with links to each item and attachment for easy navigation.
18.	Ability to define both unique agenda templates for each meeting type and/or a standard template that can then be applied to multiple meeting types.	X		PROVOX will integrate existing document templates as part of the Implementation Phase. All templates are Microsoft Word documents with merge fields and bookmarks, so the City can create and integrate its own templates. It will be possible to create numerous templates in each section (e.g. agendas, agenda items, recommendations, backgrounds and minutes).
19.	Allows the agenda administrator to create and enforce deadlines. Once a deadline is passed, users cannot submit additional information, delete late items, or re-order of agenda item at the last minute.	X		Deadlines can be managed as part of the workflow management. Agendas can be only created and edited from authorized users. Authorized user will have the ability to add last minute and late items on an existing agenda (if desired).
20.	Ability to modify automatically generated minutes to reflect actual order items were taken up in meeting which may differ from order on published agenda.	X		This can be easily done from authorized users in the integrated Minutes Maker. Changes in the Minutes Agenda, will not affect the original and already posted agenda. Users can track changes between the two agendas at any time.

21.	Ability to create an unlimited number of tasks for any agenda item before, during or after meetings.	X		Agenda.NET™ has integrated the most innovative and flexible pre-meeting and post-meeting workflow management on the market. Users can create multiple workflows prior and past meetings for each item. Each workflow can have numerous tasks, reviewers, deadlines, notes, and attachments. It will be possible to use workflow templates or create individual workflow processes.
22.	Automatically generates a report indicating post-meeting action items for a particular individual/department and automatically deliver notice to relevant contact(s)	X		This can be done as part of the Workflow Management or by using Minutes Excerpts in the application.
23.	Allows task recipients to access minutes and resolution data from the agenda item to aid in completion of the task.	X		This is depending on the security rights. It will be possible to give users only read rights on meeting information and minutes.
24.	Allows task recipients to access minutes and resolution data from the agenda item to aid in completion of the task.	X		Agenda packets will be automatically created in Agenda.NET™ and will include the agenda, agenda items and attachments for the selected meeting. It will not be required to manually add documents from a network drive into the packets. All agenda items, attachments and other relevant information will be managed in the application to make sure, that the correct documents and information will be integrated and managed within the application. This will also make sure, that the City will not have any longer many different versions of the same document on local devices, emails, and network drives.
25.	Compatible with Microsoft Office products and Google products.	X		Agenda.NET™ can be integrated with existing Microsoft Office installations (2007 – 2019 and 365) and other text editors that can manage .docx formats (e.g. OpenOffice, Libre Office, etc.). Agenda.NET™ can also use different SMTP Server (Outlook/Exchange, Google, Groupwise, etc.) for email integration.
26.	Ability to have separate sections in the agenda item which could include background, discussion, fiscal impact, recommendation, strategic goal alignment, options, etc. The software should have the capability for different sections to be completed by different departments, with edit security for certain sections	X		PROVOX will integrate existing document templates. This will include templates for backgrounds, recommendations, agendas items, etc. The read and edit access to agenda items can be managed on default or individually.

VIDEO SERVICES				
1.	Ability to index and cross link with the agenda management software.	X		This can be done with simple mouse clicks in Agenda.NET™ for YouTube and Vimeo or by using the web interface for our own audio- and video-streaming solution.
2.	Ability to create points within the video tied to the relevant agenda item	X		See previous answer. Links to agenda items and meetings can be automatically integrated and published into the Internet Information Portal, so users can access the whole video or specific items in a meeting.
3.	Link to agendas and minutes within the same module accessible through the website.	X		See previous answers.
4.	Archival capabilities.	X		PROVOX is providing hosting and streaming services for audio and video files created in our solution. Hosting from YouTube and Vimeo content will be done by the other companies.
5.	Indexed and searchable content based off of meeting agendas.	X		Compliant
6.	24/7 Technical support for issues	X		PROVOX is monitoring and maintaining 24/7 our solution.
7.	Ability to record Council meetings and provide live streaming of meetings. (please provide quote for video equipment in proposal)	X		PROVOX is offering different options for live and OnDemand audio- and video-streaming. The City can use free solutions (YouTube or Vimeo) or our solution. Our solution is automatically coming with an Encoder. Video equipment must be provided from the City or a 3rd party vendor. Existing equipment can be easily connected with our Encoder.

Company Information / Background

Microsoft GOLD CERTIFIED Partner | ISV/Software Solutions

PROVOX Systems, Inc.
8951 Synergy Drive, Ste. 223
McKinney, Texas 75070

Markus Vogt, President
(972) 547-0504
(972) 215-7656 FAX
www.provox-systems.com
markus@provox-systems.com

PROVOX Systems, Inc. is a privately owned McKinney, Texas based manufacturer and solution provider with over 27 years of experience in Agenda and Meeting Management solutions for municipalities, organizations, education and health.

City Clerks originally designed Agenda.NET™, with input from the public sector staff, to specifically address your needs and requirements. Over the years, the application continued to add new features, evolve, and further improve to always meet the needs of cities and counties and to address the information demands of the public and an ever-changing technological environment.

PROVOX has been a Microsoft Certified Partner since 1995 and Gold Certified Partner since 2004. We have signed a contract with Microsoft, to develop our software under the latest Microsoft Technology (Microsoft.NET). Agenda.NET™ has been certified for Microsoft.NET since 2001.

PROVOX Systems, Inc. is a US based company with Headquarters in McKinney, Texas. PROVOX has 22 employees and the primary business focus is the development, implementation, training and support from the Agenda and Meeting Management Suite Agenda.NET™ and the individual software development based on Microsoft.NET as a Microsoft Gold Certified Partner.

PROVOX has customers in the range from 1 client up to 1,600 users (worldwide largest installation of an Agenda Management application).

As a Microsoft Gold Certified Partner since 2004, PROVOX must prove each year a high customer satisfaction, successful implemented projects and certified application. Agenda.NET™ is certified for Microsoft.NET, Windows 7, Windows 8, Office 2007, Office 2010 (32 Bit), Microsoft SQL Server 2005 and 2008, and Windows Server 2008 as well.

PROVOX Systems, Inc. has implemented Agenda.NET™ in several state and local government projects in the US within a short time frame.

PROVOX is the manufacturer and owner of the source code from Agenda.NET™ and has developed this kind of application for 27 years.

Partnerships and Alliances

PROVOX Systems has formed strategic partnerships with the following companies and organizations. Leveraging our relationships with these leading resources will ensure that the end result of the project is very successful.

- **Microsoft**

  As a Microsoft Gold Certified Partner we are contractually committed to our customers using our products in conjunction with existing Microsoft products for optimal support. Furthermore, we are working with them on technical development of various projects (for example the CSP project (Citizen Service Platform) and the European “UnsereVerwaltung” project).

- **DELL Computers**

  PROVOX is a certified DELL Partner and has integrated Agenda.NET™ in the ASAP Program. Municipalities in up to 34 States can purchase Agenda.NET™ without a RFP/Bid process.

- **SHI**

  SHI is one of the largest Microsoft VAR worldwide and Reseller of Agenda.NET. Municipalities in all States of the USA can purchase the Agenda.NET™ application without a RFP or Bid process, depending on the existing State Contracts.

- **Laserfiche**

  Laserfiche is a PROVOX Strategic Partner for the integration of their Document Management System

- **M-Files**

  M-Files are one of the market leaders in innovative Document Management System. PROVOX is premium Partner and has implemented the solution in several Municipalities.

- **Docubase Systems Inc.**

  Docubase is an international partner for Document Management Solution. The Us Headquarter is in Tampa, Florida.

- **TR Network Consulting**

  TR Network is our Florida partner for implementations and maintenance.

- **IBT Corp.**

  IBT specializes in support for various Microsoft products and Agenda.NET™ for the US market.

- **IBM, Intel, Infoma, Disserto , PC-Ware, Healy Hudson, ekom21 and Fritz &Macziol**

  These great companies are all in the “UnsereVerwaltung” Project in Europe. PROVOX presented this project on the WPC 2008 in Houston (Microsoft World Partner Conference) and it has been recognized as one of the projects in the Best Network Projects for Microsoft Worldwide.

- **Earth Channel, Georgia**

  Earth Channel is one of the leading provider of Audio- and Video-Streaming in the USA.

- **Concero Tech, LLC – Dallas, Texas**

  Concero Tech is sales and marketing partner for the US.

- **United Solutions, US**

  United Solutions is our hosting partner for Software as a Service and Cloud installations.

- **Fleetwood, Inc.**

  Fleetwood is one of the newest PROVOX partners. They are one of the market leader in Electronic Voting and will provide this functionality in Agenda.NET.

- **E-Computech, Caribbean**

  E-Computech is a successful Microsoft Gold Certified Partner in the Microsoft CSP Project and will sell Agenda.NET™ for Latin America, the Caribbean, and South America.

- **Infoges, Mexico**

  Infoges is one of our certified sales and support partner for Mexico and Latin America.

- **LatUSA, Arizona**

  LatUSA is our strategic partner for the south part of the USA and Latin America.

Company Information Questions from the RFP

- Provide the legal entity name, Federal Employer Identification Number (EIN), and form of business (i.e. Corporation, LLC, etc.).

  PROVOX Systems, Inc.
  Privately owned US Corporation
  22-3964006

- Identify if the vendor is a subsidiary of a larger company. If so, whom?

  No. PROVOX also never been sold.

- Provide a primary contact name, address, phone number, and email address.

  Markus Vogt
  PROVOX Systems, Inc.
  8951 Synergy Drive, Ste. 223
  McKinney, Texas 75070
  (972) 547-0504
  sales@provox-systems.com

- Identify the location of company headquarters and offices, which will support the implementation.

  McKinney, Texas

- Identify the location, hours of operation, and contact information of ongoing maintenance and support staff.

  McKinney, Texas
  Office hours: Monday – Friday between 7:00 am and 7:00 pm CST
  Additional hours can be added to the First-Level Maintenance Agreement

- Provide the current number of employees at the company.

  26

- Provide the current number of employees dedicated to the solution you are proposing.

  26

- Identify all subcontractors and associated scope of work.

  None

- Identify any pending litigation against the vendor.

  None

- Identify if vendor has filed any bankruptcy or insolvency processing in the last 10 years.

  None in over 27 years

- Identify any mergers, acquisitions, or sales of the vendor company within the last five years (if so, an explanation providing relevant details).

  None in over 27 years

- A description of the Vendor's background, nature of business and organizational history.

  PROVOX is the worldwide market leader in Agenda and Meeting Management with the experience from more than 950 projects and over 28 years in the business of Agenda and Meeting Management. Our main products are our Agenda.NET and an innovative Document Management Solution.

  PROVOX is a US company with Headquarters in McKinney, Texas.

- A statement of how long the Vendor has been providing the solution you are proposing, as required by this RFP.

  Over 28 years

- Disclose the Vendor's annual company revenues and profit for the last 3 company fiscal years. It is acceptable to include this information as an appendix in the proposal.

  See attachment

Company Qualifications

PROVOX Systems understands that the City of Hapeville is seeking an innovative software company to provide a turn-key comprehensive, flexible, and intuitive Agenda and Meeting Management solution As the Prime Contractor; PROVOX has assembled a team for the implementation and technical/application support to meet the high expectations and unique requirements of the City of Hapeville.

The proposed solution will cover all the requirements and provide the City with additional unique features and functions to grow with the application.

The application is a Microsoft certified .NET application, which can be easily installed on an existing server, virtual server, or terminal server or can be used as a hosted solution.

The application is designed for midsize and enterprise customers and is the worldwide leading Agenda and Meeting Management. It is one of the key applications in Microsoft's Citizen Service Platform.

PROVOX is the owner and manufacturer of the proposed solution and has developed the application in-house and with its own and fully employed development team. PROVOX has never been sold or merged with other companies. PROVOX concentrated on the development, implementation, and support of its own Agenda and Meeting Management and is not selling different other software as many other vendors. We are specialist on Agenda Management and will provide the City with the best possible support during and after implementation.

PROVOX has the experience in replacing other Agenda and Meeting Management solutions and the data and document conversion in numerous projects.

The City will get an Agenda Management solution which is based on the latest Microsoft.NET Technology (4.x) and not an application that is based on much older .net versions or other outdated development tools.

This will guarantee an innovative and future save development and use of the application.

PROVOX was the first company which has developed Agenda and Meeting Management in Microsoft.NET and has the experience in this development technology for more than 15 years. The first version of our Agenda and Meeting Management was presented in 1991 and installed in the same year in many large cities.

The proposed solution can be used for unlimited meeting bodies and from unlimited users without additional license fees. The City will have the ability to manage external and internal meeting bodies, create its own workflow templates (without using external tools or vendor development), and provide the citizens and meeting body members with a unique, secure, innovative, and easy-to-use Internet Information Portal.

External users will find an ADA compliant and intuitive Legislative Information Portal, embedded into the City's existing web pages. They can search in all published documents via full text, download complete or individual agenda packets (with only selected items), access live and video-on-demand meeting content, add meeting information into their personal calendars, response to agenda items and meetings via an electronic forum, and much more. They can also subscribe to RSS Feeds and access all the above information and much more on any mobile device. PROVOX is also providing users with an optimized Portal layout for small screens (e.g. Smart Phones, iPad Mini, etc.).

PROVOX is also offering open web service for the integration of any Document Management System and Audio- and Video-Streaming.

PROVOX can also offer its own Audio- and Video-Streaming in the following options:

- Live Streaming
- Audio- and Video on-Demand
- Integration of an existing Audio- and Video-Streaming
- Integration of existing Audio- and Video-Files and time stamping in Agenda.NET
- Integration of external and not meeting related content (e.g. sport events, news, City events, etc.)
- Broadcasting
- Close Captioning
- Mobile Audio- and Video-Streaming

The application also comes with the most innovative, flexible, and easy-to-use pre-meeting (reviewing and approval) and post-meeting electronic workflow management. Existing workflow processes can be easily integrated and streamlined. The City can create its own workflow templates without using external tools (e.g. Visio, SharePoint, Scripts, or Macros) or vendor development. Each workflow process can have numerous tasks, reviewers (users, groups, roles), due dates, and personal notes.

The electronic workflow management will guarantee a transparent and efficient document routing, approving, and signing process.

The application will also use the existing Microsoft Word installations for the text creation (embedded into the application). The will increase the acceptance from end-users and will offer them a familiar environment. They will have the ability to use all Microsoft functions and features (e.g. spell checker, track changes, copy & paste, tables, document templates, auto text, etc.).

Agenda.NET™ will convert documents into an ADA compliant PDF format (ISO-19005) and will automatically upload the documents into the Internet Information Portal, which is ADA compliant as well.

The City will get a turn-key and comprehensive Agenda and Meeting Management Suite, from the most established and experience company in Agenda and Meeting Management.

PROVOX is offering a trial period, so the City can test the proposed solution in its existing network and not on a pre-prepared server.

Client References

PROVOX is the worldwide market leader in Agenda and Meeting Management with more than 950 customers and the experience from over 27 years. PROVOX was never been sold or has outsourced any development or support.

Customer/client name	Davidson County, NC			
Reference name	Debbie Harris			
Title	Clerk to the Board			
Phone number	336-242-2202			
Mailing address	Debbie.Harris@DavidsonCountyNC.gov			
Fax number	336-248-8440			
Customer Organization Size	Implementation Description	Start Date	End Date	
169,000	Full implementation incl. Internet Information Portal, Audio- and Video-Streaming integration (YouTube), Electronic Voting, Minutes Maker	2011	In less than 8 weeks	

Customer/client name	Region of Peel			
Reference name	Kristopher Dubuque			
Title	Legislative Specialist			
Phone number	905-791-7800			
Mailing address	Kristopher.dubuque@peelregion.ca			
Fax number				
Customer Organization Size	Implementation Description	Start Date	End Date	
1,400,000	Full Implementation incl. Workflow Management	2013	In less than 10 weeks	

Customer/client name	City of Thunder Bay			
Reference name	Gordon Stover			
Title	Committee & Meeting Management System Coordinator			
Phone number	807-625-2897			
Mailing address	gstover@thunderbay.ca			
Fax number	807-623-5468			
Customer Organization Size	Implementation Description	Start Date	End Date	
111,000	Complete Integration	2014	In less than 6 weeks	

Customer/client name	Hall County			
Reference name	Lisa Ritchie			
Title	Board of Commissioners Clerk			
Phone number	770-718-5713			
Mailing address	lritchie@hallcounty.org			
Fax number	770-531-3972			
Customer Organization Size	Implementation Description	Start Date	End Date	
200,000	Complete Integration	2017	10 weeks	

Customer/client name	City of Livermore			
Reference name	Neal Snedecor			
Title	IT Director			
Phone number	925-960-4144			
Mailing address	nhsnedecor@cityoflivermore.net			
Customer Organization Size	Implementation Description	Start Date	End Date	
90,000	The City is currently in the Implementation Phase. It is an interesting project, because they have experience with other solutions. It is a replacement of their latest solution	3/2019	9/2019	

Proposed Solution

PROVOX has developing and continuously improving the Agenda and Meeting Management Suite since 1991.

Agenda.NET™ is a fully featured, the most flexible, easy-to-use, secured, and customizable application in the whole market of agenda and meeting management solutions. The customer base from cities with a population from 5,000 to over 1 million shows the flexibility of the application.

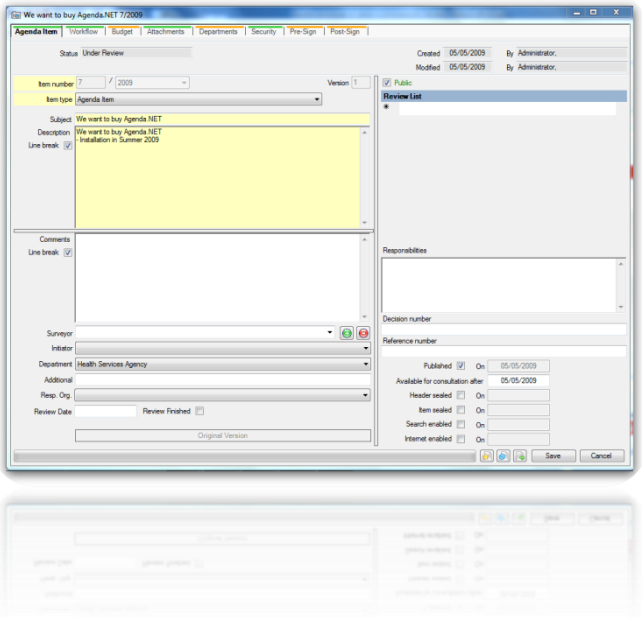
General Description

Agenda.NET™ has Windows conform icons, menus, and structures. It has integrated dynamic menus for each user, depending on the security settings in the background.

Users will be supported with well-arranged forms and customizable fields. Online-Help and numerous tool-tips will help users do their daily work. The estimated training for end-users is between two (2) and four (4) hours.

Agenda Items

Departments and other entities can create, edit, and manage their agenda items in Agenda.NET™ and integrate them into an electronic, template based, and/or individual workflow for the reviewing and approval processes.



Inexperienced users will be supported with an agenda item and meeting management wizard, with colored tabs and required fields. Status information will be provided directly in the main screen or in other important areas of the application.

Workflows (reviewing, approval, and action workflows) can be individually designed by authorized users and be integrated into required processes.

Agenda.NET™ offers the users three kinds of workflows (priority based, sequential and broadcast) and the ability to manage numerous individual workflow templates. Workflows can be equipped with a timeout for single users and/or groups. Users will have the ability to integrate an ad-hoc workflow in an active process if necessary.

Involved users and groups will get a message about pending actions via the internal messaging system and/or Microsoft Outlook Mail.

Users will have the ability to create a meeting workflow to an agenda item. They can select a specific meeting from the meeting calendar, define a first meeting date (for long range items), and/or use a dynamic sequence

for each committee. Agenda.NET™ will post the agenda items after publishing them automatically on the defined committee meetings.

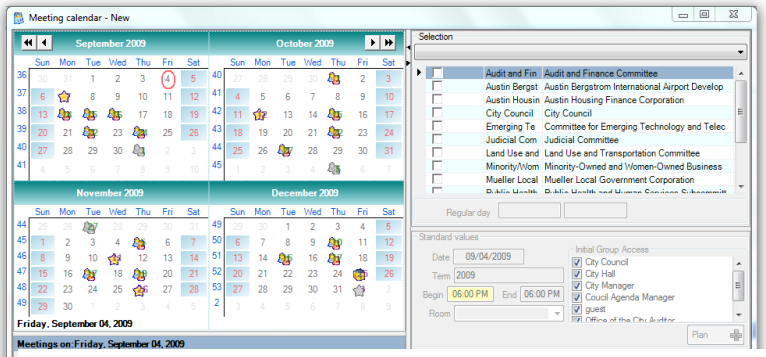
Agenda.NET™ can manage numerous attachments of any format and size to an agenda item and/or a meeting. Users will have the ability to browse for new attachments and integrate them with a simple mouse click.

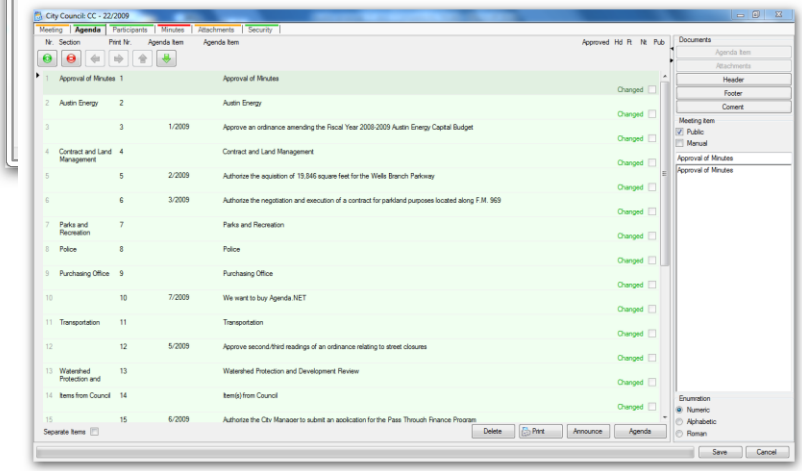
Agenda.NET™ will have the ability to integrate URL's and live links to GIS applications. With this integration, council members, members and, if desired, the public will have the ability to scroll within and zoom into attachments to an agenda item and/or meeting.

Recommendations and background information will be added, edited and formatted in the existing Microsoft Word application. Users can integrate text, graphics, tables, and format the text.

Agenda.NET™ will merge the complete agenda items depending on the existing word templates.

A complete "Approval Management Console" will help the key persons to track the process in a reviewing and/or an approval/action process. They can for example search for all open activities for a specific meeting, single agenda item and/or selected department.





Agenda Process

The agenda process will be supported perfectly by Agenda.NET.

Authorized users can add and manage meetings in a monthly meeting calendar. They can prepare a complete meeting calendar for the whole year, for a few months and/or add individual meetings.

Agenda.NET™ will also support assembly meetings with two or more committees.

Agenda.NET™ will suggest a meeting room and a meeting start time depending on the default settings for the selected committee.

Users will have the opportunity to change the recommended dates, times, and rooms.

Involved Departments can be reminded of pending actions with the internal messaging system.

Authorized users can create a draft agenda with a single mouse click. Depending on the default definitions, Agenda.NET™ will integrate committee specific headers and standard topics on the agenda.

Agenda.NET™ will search for all unfinished and published agenda items for the selected committee, depending of the definition in the items workflow. It will post the items based on their settings under the different headers of the agenda.

Users can re-order, add, and remove items on the agenda. They can build numerous sub-items with a simple mouse click as well.

Users will have the ability to open the agenda item document and the attachments directly in the agenda screen.

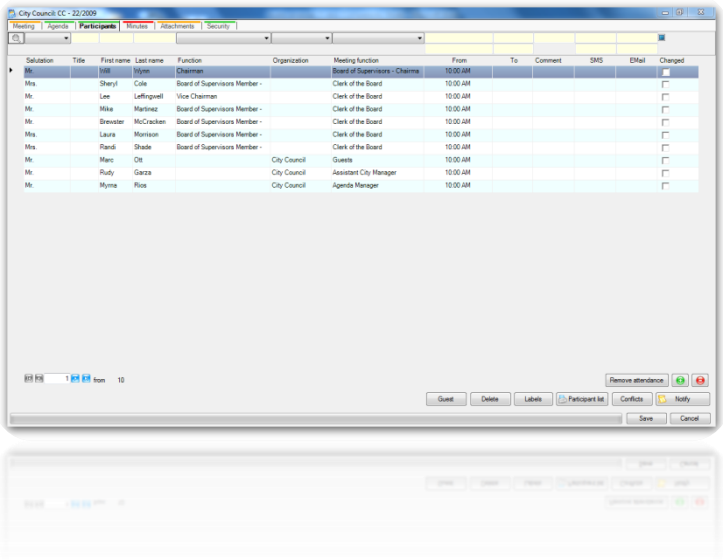
When a user removes an agenda item, Agenda.NET™ will post this item in a dynamic workflow automatically on the following agenda for this committee. Users can add new items on the drafted agenda, without deleting the original agenda.

Ad-Hoc Agenda Items and Placeholders

Users will have the ability to integrate ad-hoc agenda items and/or placeholders on the agenda.

At any time, authorized users can convert a placeholder into an original agenda item with a simple mouse click. Agenda.NET™ will integrate the existing description, the meeting workflow and other important information into the agenda item. Users can add additional information and will be routed automatically back into the agenda after saving.

Last minute or late items can be integrated into an existing agenda at any time. Authorized users can add them on any place of the agenda, without deleting the original agenda. The actual agenda with the new items and supporting materials will be automatically updated in the Internet/Intranet Module. Last minute or late items can be distinguished by a red border in the Internet Module.



Users will have the ability to print an agenda and/or a public notice at any time. These documents will be merged in Microsoft Word depending on the customizable Word templates.

Meetings and Agendas will be uploaded into the Internet and/or intranet module with one mouse click.

Participant Lists and Guests

Users will have the ability to create a participant list depending on the defined members and other attendees for the selected committee. They can add numerous guests to the participant list, print labels, participant lists, and will see if there are any planning conflicts with other meetings.

They can add and remove attendees and send an electronic invitation and/or agenda packet via E-Mail and/or Text Messages.

Agenda.NET™ will support a mixed environment of paperless (electronic agenda packets) and hardcopies for other receptions.

Members, the public, and other authorized users can add specific or a complete list of all meetings into their personal Outlook calendar. They can create a complete or private agenda packet in the Internet module; depending on their user rights.

Agenda and Meeting Packages on Amazon Kindle devices



Agenda.NET™ will give the City of Hapeville the opportunity to deliver complete Agenda and Meeting Packages on Amazon Kindle devices.

The Council Members don't need to connect to the internet and download any information; Agenda.NET™ can deliver the complete agenda package via GPRS technology.

Council Members will receive their package wherever they are. They can review the information, add annotations and notes, and store their work progress later on their personal computer. The Amazon Kindle device can store up to 10,000 packages and read the document for the user.

Agenda and Meeting Packages on IPad's, Microsoft Surface, Android Devices, Windows Mobile, netbooks, laptops, etc.



Users will have the ability to access legislative information on their IPad's, Microsoft Surface, Android Devices, Windows Mobile, Windows 8, netbooks, laptop, IPhone, and other devices.

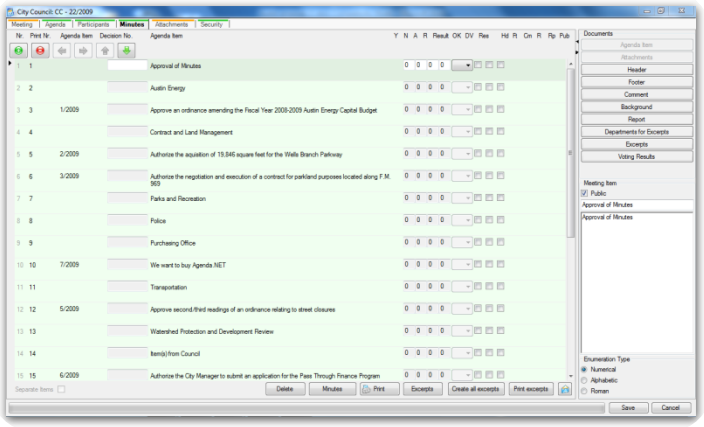
This includes the live streaming and the integrated Audio- and Video-Files in Agenda.NET™.

Meetings

Agenda.NET™ has the ability to manage unlimited meetings and their referenced information.

Users will have the ability to use the meeting module before, during, and after a meeting with few restrictions.

Authorized users can seal the agenda after the final signature, and can unseal it when necessary.



After an agenda is sealed, users will have the ability to create a “minutes” agenda with a single mouse click. Agenda.NET™ will duplicate the original agenda and store it in the “minutes” screen. From here, authorized users will have the ability to re-order, add and remove agenda items. They can build sub-items and change the status from “public” to a closed session item.

Users will get detailed information during a live meeting. They will have the opportunity to open the agenda item and/or the attachment, without any changes in the working area. They can add header and footer text to each item.

They can add comments and other important information to each item. Staff, Councilors, and the attendees can follow up with the agenda live in the meeting.

Agenda.NET™ will support global and member voting.

Users will have the ability to create their “minutes” document and “minutes” excerpts with a single mouse click, depending on the customized Word templates.

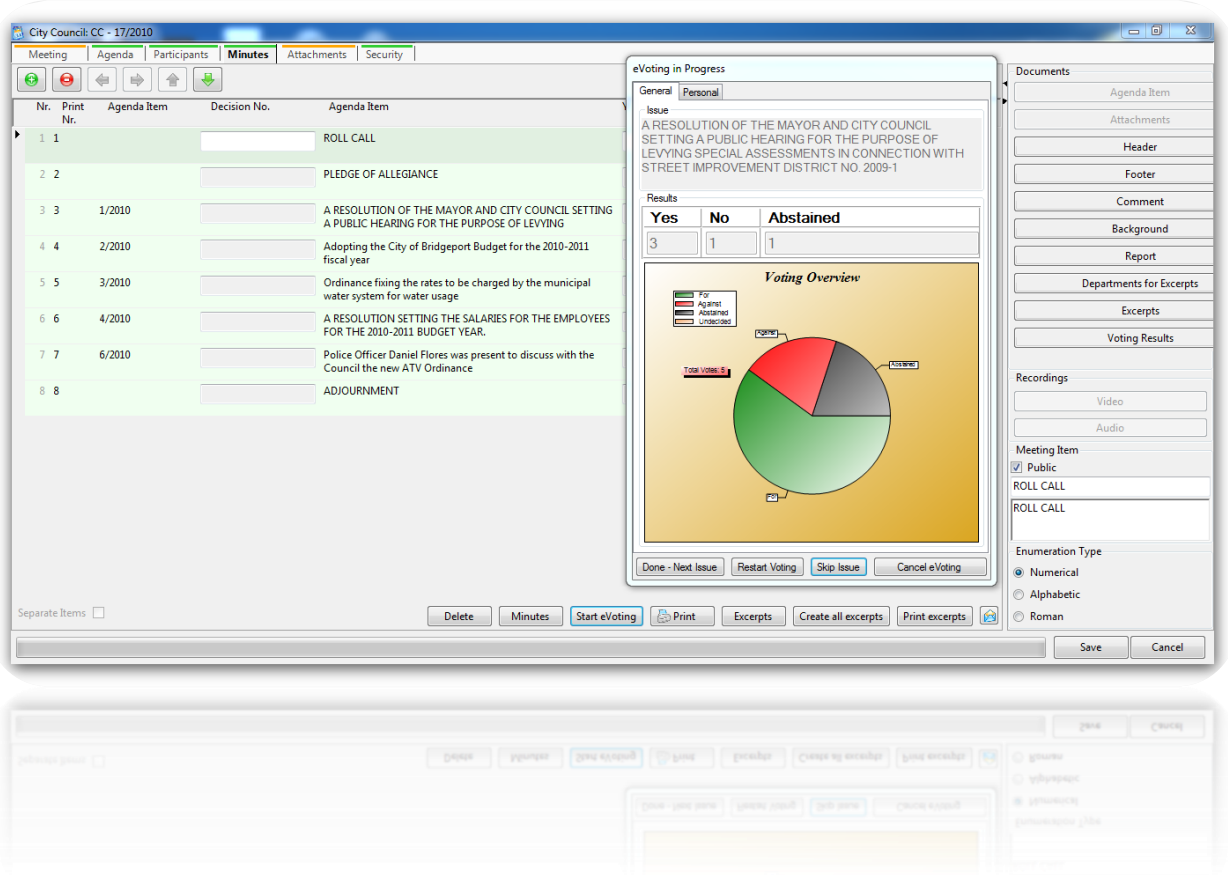
“Minutes” excerpts can be sent via E-Mail to the different departments.

Agenda.NET™ has the ability to manage two minutes documents; one public and one private document. Both documents can be uploaded with different user rights into the Internet module.

Users can create the “minutes” document before the meeting and only add changes during the meeting.

Agenda.NET™ will upload new or modified information after it has been published by an authorized user. Depending on the defined security settings, users will have the access to selected information via web module.

Electronic Voting



The Agenda and Meeting Management Suite has integrations with electronic voting devices. PROVOX has developed an open web service for the integration with different electronic devices. PROVOX offer customizable wireless voting devices (manufactured in the United States of America).

These devices have six (6) customizable buttons. Customers can define these buttons generally or for each meeting different. They can define user functions for each button (e.g. 1 = Yes, 2 = No, 3 = Absent, 4 = Right to speak, 5 = Motion, 6 = Second).

The Meeting Clerk or meeting moderator can start, stop, re-start, skip items, and store the result via the Agenda.NET™ user interface. Agenda.NET™ has integrated a timer and different graphics as well.

Electronic Workflow Management

The City of Hapeville will have the ability to create numerous own pre-meeting (reviewing and approval) and post-meeting (follow-up and action) workflows and workflow templates. These templates can be easily created within the application and without any vendor development or external tools (e.g. Visio, Visual Basic, or other).

Users can select one of the existing templates, and add or remove reviewers or group of reviewers/roles in this workflow. They can also create individual workflows for specific items.

Each workflow can have numerous reviewers or roles. A combination of both kinds of reviewers is possible in one workflow as well.

Each workflow task can have a deadline, personal notes and other important information.

Agenda.NET™ will send notification via e-mail and the internal messaging system during the workflow process. Reviewers will have all important information regarding the workflow process available on a fingertip. They can add their responses in the designated fields and/or use the Microsoft Track Changes function within the documents (based on their security settings). They can also reject, accept, or re-route the workflow process at any time.

All information and responses will be stored with the item in the Agenda.NET™ database and can be reviewed at any time.

Audio-/Video-Streaming Integration



Agenda.NET™ has the ability to integrate different Audio-/Video-Streaming solutions or be bundled with PROVOX's solution.

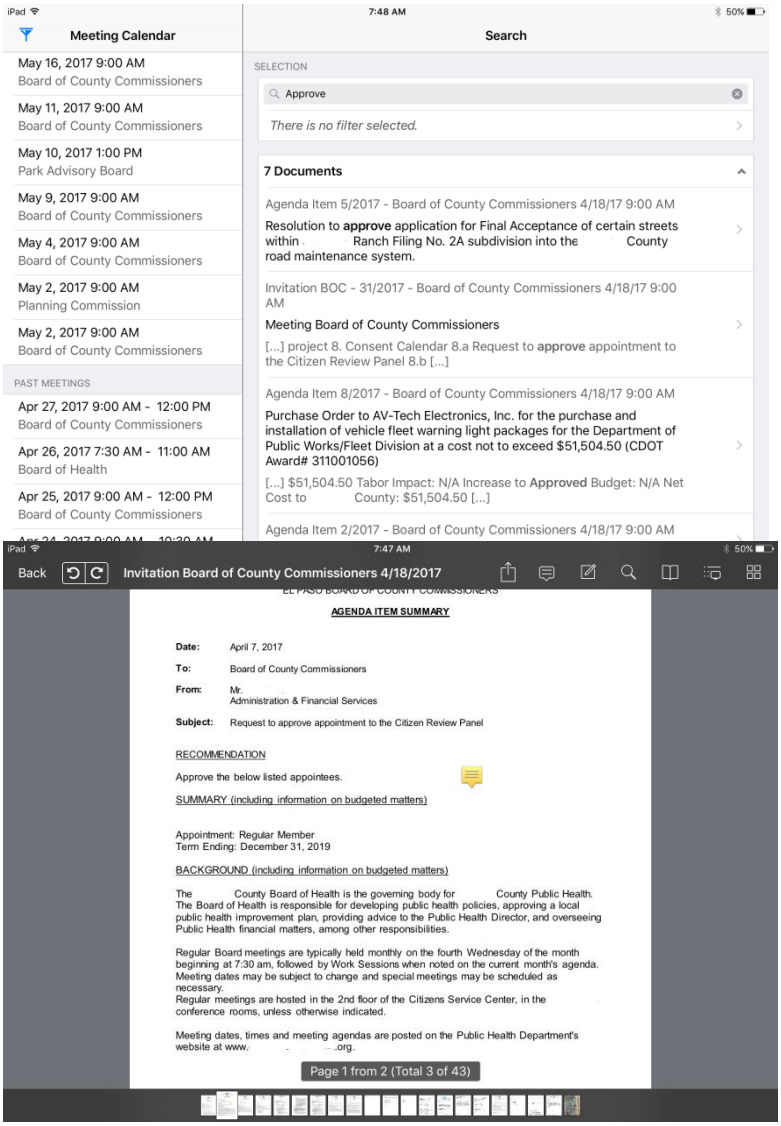
PROVOX has developed open web services for the integration of existing solutions. The web services will export the necessary information and import the links back into the application after the meeting has finished.

The City of Hapeville will also have the ability to upload existing audio and video files and index them during or after the meeting with simple mouse clicks within Agenda.NET™.

Users will have the ability to see selected items and/or the whole meeting in the Internet Information Portal of Agenda.NET™.

The video and audio information will be available in the Agenda.NET™ Meeting Minutes Maker module as well.

iMeeting App – the Legislative Meeting App



iMeeting is the innovative Legislative Meeting App for Councilors, Commissioners, Staff Members and the General Public to go Paperless with Agenda.NET™.

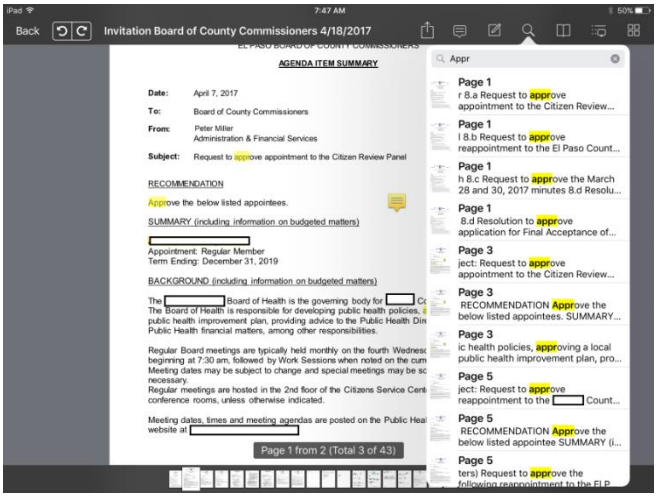
The app can be used on Apple (iOS) and Android devices. Users can get the information fast, easy and paperless.

The app will automatically update all meeting information and download the latest agenda packages and other meeting documents with each login.

Users will have all future and past meeting available in the app.

They can easily add annotations (e.g. ink annotations, notes, drawings, etc.) and search in all documents via full text. Hits will be automatically displayed and highlighted on the screen.

The users can easily navigate by using the Table of Contents (with links to each item and attachment) for each meeting.



Annotations that were made on an agenda item in one meeting will be carried forward to other meetings, if the item will be posted again on a later meeting.

Documents can be easily printed, emailed and stored in other cloud or local location if desired. They can also be saved in other formats.

Integration to DMS

Agenda.NET™ has the ability to integrate different Document Management applications. A Document Management System is not required for the use of the complete Agenda and Meeting Management Suite.

Users can export items with a simple mouse click. Agenda.NET™ will store the items with the necessary metadata via web service in a folder structure. The DMS application will control this folder and import the documents in their own database.

Users will have the ability to search in both applications.

Internet Information Portal

Agenda.NET™ integrated a unique, fully featured, secure, and "database" based Internet Information Portal.

The existing layout of the City's webpage can be adapted in a few hours. With a simple link on the current web pages, users will be routed in the Agenda.NET™ Internet Information Portal.

Users will enter a dynamic menu, depending on their security settings in Agenda.NET.

After it is published, new and changed data will be uploaded into the internet module. Agenda.NET™ will automatically convert Word documents into a PDF ISO-19005 (PDF/A) format, which is designed for long term storage and usable for users with disabilities.

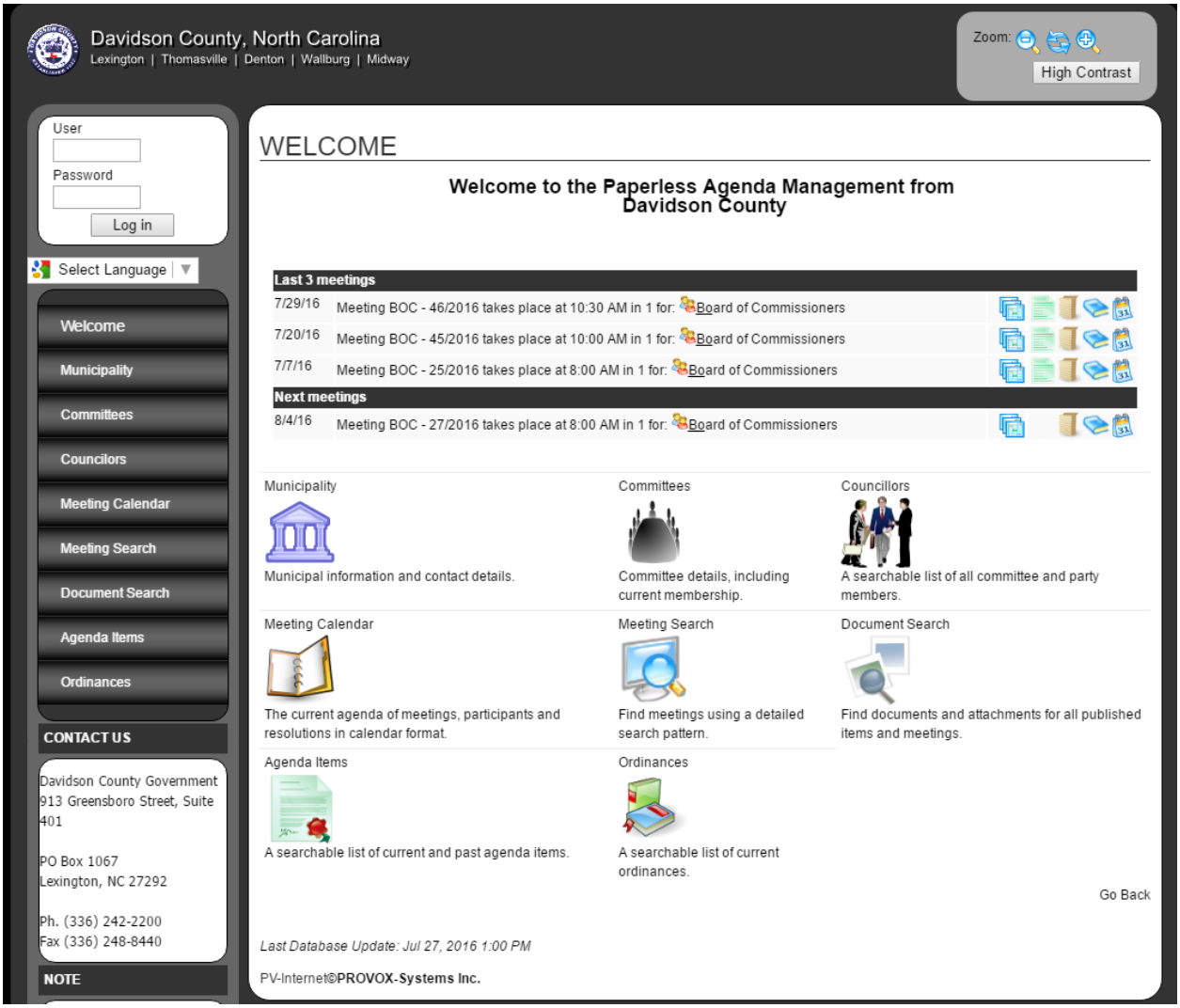
Councilors and other members will have a private and password protected workspace. They need to log in with their own user name and password to get private (closed session items) and public information. They will see their last meetings, upcoming meetings, and the changes since their last visit in a personal welcome page.

The public and other users will get information about the councilors and committee members, committee details, a dynamic meeting calendar, meeting and agenda item search, Ordinances and Resolution, and municipal data.

They can also subscribe to RSS Feeds, so they will get a notification every time when information has been changed or new information were posted.

They can also download complete agenda packages, create individual packages with selected items, open the audio- and video-files to each agenda item, get a complete Legislative History to each item, search in documents via full text, and much more.

Agenda.NET™ will not only post agendas and meeting information on a web page, it will create a unique and user friendly Information Portal for the County's meeting body members and the general public.



Other Application Features

Agenda.NET™ has many more features and functionalities integrated. The City of Hapeville can start small and add more and more features over time.

Some of the other features are:

- Motion Items
- Electronic Forum
- Regulations and Ordinances
- E-Government Starter Kit
- Web Form for the Agenda Item Creation
- Legislative Agenda Item History
- Item Tracker
- Accounting Module
- And much more

Audio- and Video-Streaming (Optional)

PROVOX provides the City of Hapeville with different options for Audio- and Video-Streaming. The City can select one of the following options, but will have the ability to switch to another option at any time:

- **Live Streaming only**
- **Self-indexing in Agenda.NET with Live Streaming**
- **Integration of own audio- and video-recording and self-indexing in Agenda.NET**
- **Broadcasting**
- **Close Captioning**
- **Audio only**
- **Integration of external and not meeting related content**

Some of these options can also combine with each other.

Archiving

Client audio/video can be stored securely on the PROVOX Content Network indefinitely. Fault tolerance and high availability is assured through replication of audio/video content to multiple, geographically redundant, Storage Area Networks (SAN). Our standard packages includes unlimited audio- and video-streaming and on-Demand for 5 years.

As clients approach prearranged storage allowances, they may choose to extend those allowances or begin removing old audio/video content in accordance with a storage horizon plan. Alternatively, PROVOX can assist clients in adding supplemental storage to their PROVOX Encoder, directly or externally, to facilitate more cost effective long-term archiving of content while still maintaining online availability.

Presentation

Once integrated into the linking structure of the existing website, the customized video library becomes the portal through which users access your audio/video content. As new content is added, it automatically becomes available in the City's library without any work by the webmaster.

By navigating through the video library, users can view a list of meetings chronologically or unleash the power of the jump-to markers to search for specific points within individual audio/video clips. When it comes time to view these clips they are presented in a similarly customized player, presenting a consistent look to all aspects of the City of Hapeville website.

Video Podcasting, as offered by PROVOX, is a great way to extend accessibility and adoption of your audio/video content. Building on the popularity of Apple's iPod video player, Podcasting technology allows users to subscribe to automatically published content feeds. New content becomes immediately available in their audio/video library and is subsequently synched to their portable devices the next time they are connected.

Delivery

In order to deliver on-demand content to end users in a format that is native to their computer's operating system, PROVOX can deliver content in all major streaming video formats

Our local points of presence ensure your audio/video content is delivered to your citizens and staff in the most efficient manner, minimizing buffering time and providing optimal viewing quality.

Monitoring and Statistics

PROVOX is constantly monitoring all aspects of the PROVOX Content Network to ensure its health and availability. This monitoring extends to cover remote PROVOX Encoders deployed on client premises. In the rare event of trouble our engineers are promptly notified so that they may dispatch a swift response in accordance with our support procedures.

PROVOX collates log files from our streaming servers monthly and processes them with the industry recognized Google Analytics. Google Analytics generates reports ranging from high-level, executive overviews to in depth quality of service statistics. These reports help to highlight growth trends and identify popular content.

Support

Beyond our proactive monitoring and response, PROVOX offers ongoing, 24/7 technical support for any issues our clients may encounter.

While our choice of quality hardware vendors and a thorough pre-installation testing phase go a long way toward ensuring trouble free operation of our EASE Encoders, we do recognize that occasionally unforeseen issues arise. In the event that our engineers detect a fault, they will work to diagnose the issue. If necessary, next business day replacement of parts will be completed.

PROVOX offers continual software updates and feature enhancements to our services and products for the life of your managed services contract.

PRIMARY FEATURES / MODULES LIST

Foundation Data

- Accounts
- Address Types
- Agenda Item Types
- Ballot Codes
- Banks
- Boroughs/Districts
- Cost Center
- Cost Objects
- Counties
- Departments
- Gifts
- Impersonal Accounts
- Initiators
- Inventory
- Marital Status
- Meeting Free Periods
- Meeting Term/Numeration
- Nationality
- Organizational Function
    - Committees
    - Commissions
    - Boards
    - Participant List
    - Other
    - And more…
- Organizations
    - Committees
    - Commissions
    - Boards
    - Participant List
    - Other
    - Free customizable other
- Product Numbers
- Reviewers
- Salutation
- Telecommunications
- Transport
- Workflow Abbreviation

Municipal Data

Political Parties

- Name, Address, Chairperson
- Logo/Picture and Comment
- Additional Comments
- Status
- Members
- Personal Substitutes
- Substitutes

City of Hapeville Data

- Name
- Address
- State
- Population
- Telecommunication Data (unlimited)

Committees/Boards/Commissions

- Name, Description, Address
- Contact information
- Chairperson
- Regular Meeting Date and Time
- Regular Meeting Room
- Account for Compensation
- Internet enable check box
- Activation/Inactivation
- Number of members and additional members
- Logo/Picture
- Comment
- Remarks
- Standard Document Templates
- Default Headers
- Standard Topics
- Status
- Members
- Substitutes
- Personal Substitutes
- Civil Servants
- Type of Committee
- Address Labels
- Reports

People

- Check box active/inactive
- Check box Elected
- Check box System user
- Function
- Salutation, First Name, Last Name, Title
- Nationality
- Primary Address
- Username, Password

People (cont.)

- Check boxes for Agenda.NET™ enabled, Internet publishing and Internet enable
- Picture
- Digital Signature
- Numerous Telecommunication Data with Internet publishing check box
- Messaging Information
- Send Function for Text and/or E-Mail Messages
- Personal Data
  - Date of Birth
  - Wedding Date
  - Partner Details
  - Comment
  - Deceased with date
- Post Addresses (unlimited)
- Bank (for Accounting Module)
- Employment Information
- Awards and Honors
- Additional Declarations
- Complete Membership History (incl. actual and past member ships, election terms, function, etc.)
- Address lists
- Birthday Lists
- Labels
- Personal Datasheet
- And much more

Press Details

- Name, Address, Contacts, Telecommunication Data

Rooms

- Room Number, Description, Address
- Number of Seats for Audience and Committee
- Telecommunication Data
- Inventory

Agenda Management

- Agenda Items
- Numerous Versions of an Agenda Item
- Search functionality
- Colored Agenda Item Assistant
- Required Fields
- Item Status (e.g. In Preparation, Under Review, etc.)
- Creation and Modification Date
- Name of Creator and Modifier
- Item Number
- Item Type
- Subject
- Description
- Surveyor
- Initiator
- Department
- Additional Persons/Departments
- Public/Private Check Box
- Reviewer List
- Responsibilities
- Decision and Reference Number
- Check Boxes (with extra security) for:
  - Publishing
  - Header sealed
  - Item sealed
  - Search enable
  - Internet enable
- Committee Workflows
- Budget information
- Attachments
- Involved Departments
- Security
- Reviewing Workflows
- Approval Workflows
- Recommendation Document
- Background Document
- Agenda Item Document
- Reviewing History
- Clone Function
- Reports

Motion Items

- Same Functionality as Agenda Items
- Converting Function for the conversation to an Agenda Item

Meetings

- Clearly arranged Meeting Calendar with symbols for each meeting
- Holidays and meeting free periods
- Meeting definition via mouse click
- Single Meetings
- Assembly Meetings
- Meeting Room and Time
- Initial user rights

Meetings (cont.)

- Background check for blocked meeting rooms in Agenda.NET

Agenda

- Agenda creation with one mouse click
- Automated integration of committee specific standard topics
- Committee specific Headers and Titles
- Different colors for public and closed sessions
- Reordering and creating of numerous Sub-Items via icon
- Automated numbering after each process
- Subject and description of each Item
- Add and remove from items via mouse click
- Item document can be directly opened in the window
- Attachments can be directly opened
- Header and Footer text to each item
- Comments on each Item
- Items can be marked as public or private
- Agenda Document creation with a single mouse click
- Public Notice creation with a single mouse click
- And more…

Participant List

- Creation of a standard Participant List via mouse click
- Guest and other persons can be individually integrated
- Staff and other persons can be individually integrated
- Address Labels and Participant List generation
- Planning Conflicts
- Electronically invitation via E-Mail and/or Text messages
- Private and Public Agenda Packets creation via mouse click
- Comments, Time and other information pro Attendee

Minutes

- Minutes module can be used directly in the meeting
- Separate Agenda (the initial Agenda will be automated copied from the Agenda area)
- Global and private voting
- Additional voting information
- The Item and Attachments can be directly opened in the form, without closing the module
- Header- and Footer-Text to each item
- Comment Field (Word Text)
- Directly access to the recommendation and background information from the Agenda Item
- Minutes excerpts will be generated automatically
- Electronic delivery from Minutes Excerpts
- One or optional two Minutes Documents
- Approval processes
- And much more

Resolution Management

- Management Console for the control of reviewing and approval processes
- Search by Department, Committee, Meeting, Person and Action
- Printable reports

Search

- Full-text retrieval in:
  - Agenda items
  - Agendas
  - Invitations
  - Attachments
  - Minutes
  - Resolutions and Ordinances
  - Archive (Legacy Data)
- Combination of:
  - And/or
  - Time Frame
  - Committee/Organization
  - Different Search Areas

Regulations

- Integration of Ordinances, Resolutions and Regulations with search functionality and internet publishing

EGSK (E-Government Starter Kit)

- Motion Items via Internet

Accounting Module

- Management of monthly and/or meeting based compensations

Security

- Customizable Security Definition

Settings

- Customizable Settings

Document Templates

Internet Module

- Database based internet/intranet module
- Easy adaptation of the existing web pages
- Automatically migration and replication of new and modified data
- Conversation from Microsoft SQL to MySQL
- Login and password secured area for councilors and other members
- Personal welcome page with next meetings, last meetings and changes since the last login
- Municipal Data
- Committees with detail information
- Councilors and other members with customizable data
- Meeting calendar with a monthly and a yearly view
- Single meeting view
- Direct access to the agenda items, attachments, reviewing history and a summary
- Direct access to all documents in an original or PDF-Format
- Meeting and Agenda Item search
- Full-text retrieval in agenda items, agendas, invitations, public notices, minutes and attachments
- Publishing and full-text retrieval in Ordinances and Regulations
- Electronic Forum
- Scalable Text
- High or low contrast
- And much more

General

- Search capabilities in nearly each form
- Online-Help
- Automated backup from records
- Records can be opened with an simple double click
- Open records will be displayed with a red background for other users
- Users will have the ability to work in different areas at the same time
- Versioning by Agenda Items
- Mixed Environment of different Office versions
- Dynamic menus depending on the security settings
- Internal messaging system for individual messages
- Integration of E-Mail and Text Message functionalities
- Standard formatting from text based on the document templates
- Nearly all features can be used in the integrated Microsoft Word Documents
- Automated database backups
- Automated PDF conversion on the server
- Integration of the Active Directory
- Single Sign-On
- Security settings will be automated uploaded into the internet module

Localization Tool

- System Administrator can customize Text, Labels, Buttons, and Messages with the Localization Tool
- Changes will be converted in new Updates
- Individual customization

Support

- Unlimited Hotline E-Mail and Phone support
- Unlimited Remote Support
- Unlimited Updates
- Access to User Conferences

And much more…

This list makes no claim of totality; it is only a small portion of the many features in our application and the services for you.

Other Features

With Agenda.NET™ the City of Hapeville has found the most flexible and innovative product in the market of Agenda and Meeting Management solutions worldwide.

Agenda.NET™ has integrations with several 3rd party applications and offers open interfaces to these applications.

Here are some unique features in Agenda.NET™:



Integration with Amazon Kindle devices, Apple iPad's, Microsoft Surface, Android Devices, Windows Mobile, Windows 8, Smart Phones, and others

Complete agenda packages and supporting materials can be directly delivered on the Amazon Kindle devices of council members and other users. They do not need to connect to the internet and download manually the packages; Agenda.NET™ will deliver the information via Wi-Fi or 3G/4G.

Users can add annotations, highlight and redact text. They can store their work process on the private laptop or desktop.

Apple iPads, Microsoft Surface, Android, Windows Mobile, Windows 8, Laptops, Netbooks, Smartphones users, etc. will have the same functionality. Users can download the application via an app with a simple mouse click and add notes, highlight text, share information with other members, print, and email information with simple fingertips.

Integration of electronic Voting devices

Agenda.NET™ has integrations of electronic (wired or wireless) voting devices. The Clerk can control these devices via Agenda.NET™. He/she can start and stop the voting, record motion and secondary, and the right to speak. A timer and different graphs are available in the application.

Integration with Audio- and Video-Streaming

Agenda.NET™ has standard integrations with different Audio- and Video-Streaming applications. The application can export the agenda and agenda items and import the link to the different audio- and video-files.

Users will have the ability to open these files in the Internet/Intranet Module and the Agenda.NET™ application as well.

Ad-Hoc Items

Users can create placeholders on an agenda. They can click on these placeholders and create an agenda item directly in the agenda form.

Electronic Minutes Excerpts / Final or Draft Council Orders

Users will have the ability to create electronic minutes excerpts/final or draft council orders with a simple mouse click. They can send them automatically via e-mail to the different departments and users.

Accounting Module

Agenda.NET™ has integrated an Accounting Module. Agenda.NET™ can calculate monthly or meeting based salaries.

Approval Management Console

The Clerk and other key users will have the ability to search and review past, running, overdue, and pending approval and reviewing workflow processes. They can additionally search for specific departments, groups, and users.

Electronic Forum

An electronic Forum is an option available in the Internet module.

Personal Welcome Page

Authorized users will be routed into their personal welcome page with their username and password. They will see past and future meetings and changes since their last visit in the Internet Module. They can directly open the agendas, agenda items, minutes, and other supporting materials from their welcome page.

Database based and dynamic Internet/Intranet Module

Agenda.NET™ has a unique, flexible, and easy-to-use Internet/Intranet Module. PROVOX can adapt the existing web layouts from the City of Hapeville. Agenda.NET™ will automatically upload new and modified data into this Internet Module.

Localization Tool

The City of Hapeville has the ability to customize the Agenda.NET™ application with the PROVOX Localization Tool. System Administrators can change nearly each title, label, description, and message in Agenda.NET™ and build the necessary resource files with a simple mouse click. They can restore their customizations in a few seconds after an update. Changes can be made on the run.

Agenda and Meeting Managed Service

PROVOX has designed a hands free and no staff involved “Agenda and Meeting Managed Service”. With this service, PROVOX will do the customers work. We will create the agenda items, agendas, agenda packages, draft minutes and upload everything into the customers Internet Information Portal.

The customers only need to send the documents via e-mail or drop box.

Customers can purchase this service in packages of 25, 50 or 100 meetings. A software installation, training or long-term contracts are not required.

Innovative Concepts

The City of Hapeville has not only found the market leader in Agenda and Meeting Management; it has also found the most innovative and comprehensive solution in the market.

PROVOX has continuously developed the proposed solution with its own and fully employed development team for the past 27 years and will guarantee one (1) or two (2) updates per year.

PROVOX has redeveloped the application in the past few years from Microsoft.NET 2.0 to 4.X, to make sure that our customers will have the ability to use the application on any new Windows Server, SQL Server, and with the latest versions of Microsoft Office. This will also make sure that new features and enhancements in Microsoft.NET 4.X will find their way into the application. (Other solutions are still based on Microsoft.NET 2.0 or other outdated development tools).

PROVOX has also collected the feedback from it's over 950 customers in the past years to update the application with new features and other enhancements.

PROVOX is running regular international and national user conferences to discuss new ideas and features with its customers. It will also give the customers the ability to be part of any future development.

The Internet Information Portal is the most innovative, flexible, secure, and easy-to-use Legislative Information Portal in the market. PROVOX will adapt the existing layout from the City's webpages, so the webmaster only need to integrate a link. All published information and data will be automatically converted and uploaded into the Internet Information Portal, based on a predefined schedule. Live Streaming will be combined with the meeting information, so users can see the live stream and will have the agenda and item information available at any time.

Even if users are only a few minutes too late for the live stream, they will have the ability to already access the video on-demand files, even if the meeting is still running. They don't need to wait hours or days for this information like in other solutions.

The Internet Information Portal also has a password protected area for Councilors, other committee members, staff, and other authorized users (Attorneys, etc.). Each user will have its own user name and password for the portal. The City will have the ability to share draft and confidential information with these users in this unique personal working space.

The application is also offering an electronic forum for citizen feedback and participation.

Users can use the Internet Information Portal and its information on any local and mobile device. Agenda.NET™ comes with an optimized portal for small screen devices (e.g. Smart Phones).

The audio- and video-files, additional video content and live streaming can be used on any mobile device as well. PROVOX is offering a better quality and larger screen as other vendors in this area.

PROVOX also have a Video Production Team, which can create professional and individual video content.

Another huge innovation and unique feature is the Electronic Workflow Management, which can be used for pre- and post-meeting workflows, as a ToDo list, and for any other events.

Users will have the ability to review and finish processes by using the application or an innovative web page.

PROVOX is also offering wireless voting devices (instead of expensive touch screens or tables), which can be used in any meeting room with or without Internet or network connection.

The application can manage up to 1,500 devices for one receiver. The voting solution can also be used without the minutes maker.

PROVOX is also offering a Web Form for Agenda Item Submission and an Offline Module. The Offline Module can be used for meetings outside of the City's network or in case that a network connection is temporary not available.

Agenda.NET™ is one of the key applications in Microsoft's Citizen Service Platform, the European Project "Our Municipality" and different global Government Projects all over the world.

Implementation Approach

PROVOX Systems has been the manufacturer of the Agenda and Meeting Management Suite for more than 27 years and has project experiences from more than 950 projects worldwide. The City of Hapeville will get all services and support from the PROVOX US Headquarters in McKinney, Texas.

The services break down into the following project phases:

- *Planning Phase*
    - Product Presentation (Live presentation of Agenda.NET™ with data and document templates from the City of Hapeville)
    - Final Proposal Acceptance
    - Project Plan Creation
    - Assign Project Team
    - Agenda.NET™ presentation for stakeholders, Councilors, and Project Team
    - Q & A Session
    - Final Project Plan acceptance
- Implementation Phase
    - Installation of Agenda.NET™ on an existing or new server (0.5 days)
    - Configuration and definition on initial security settings (2 hours)
    - Integration of existing Word Document Templates
    - Conversion and implementation of existing documents and legacy data (agenda items, agendas, and meeting minutes from the past years
    - Video-Encoder installation and configuration
    - Player Layout adaption
- Training Phase
    - 1st PowerUser Training (PowerUser are the user, which are managing the basic information (e.g. People, Organizations (Council, Boards, Committees, Commissions, and Agencies) and the whole legislative process) (1 Day)
    - Data integration phase
    - Test Phase
    - PowerUser Workshop
    - 2nd PowerUser Training (2 Days)
    - Definition of the training content for the end user
    - 3rd Test Phase
    - End user training – Agenda Creators/Report Reviewers (0.5 days for each group)
    - 4th Test Phase
    - Workshop and Q&A session
    - Database cleaning after test phase
- Layout Phase

- Internet Layout adaption (PROVOX will adapt the existing layout from the City of Hapeville into the Agenda.NET™ Internet Module)
- Internet Module installation (2 hours)
- Final layout for the Word Templates (for agenda items, agendas, meeting minutes, Final Council Orders, Backgrounds, Recommendations, Labels, Participant Lists, etc.)

- GO Live!

  - Final Project Presentation from the Project Team and PROVOX
  - Final Project Meeting
  - Presentation for Council and other Organizations
  - GO Live!
  - Follow up project meeting (3 or 4 weeks after GO Live!)

- Optional Services

  - Integration of existing data (PROVOX will integrate the existing Organizations (Council, boards, committees, commissions, and agencies), People, Foundation Data, and other base data) – Effort two (2) days
  - Installation and configuration of a hands free Audio- and Video-Streaming
  - Interface configuration
  - Web based follow up trainings (Train on the job, update trainings, etc.)
  - Customizations

All project phases have integrated different on-site project meetings.

All trainings will be held as on-site trainings in the offices of the City of Hapeville. The training content will be defined with the Project Team and will include the data, document templates, workflows, and structures from the City of Hapeville.

The City of Hapeville will have one point of contact during the entire project and after the project for ongoing support, update and upgrade services. The City of Hapeville will have direct access to all application and technical services and will get first-level support.

PROVOX will build a long-term partnership with the City of Hapeville and will support them on the way to going paperless and become one of the most innovative entities in the USA.

Most of PROVOX's customers have been in a successful partnership with the company for decades.

The Agenda and Meeting Management Suite "Agenda.NET" will automate the current City of Hapeville Council agenda preparation process and can be adapted to other legislative bodies as well.

Timeline and Implementation Services

In most projects, PROVOX Systems uses the “Event Chain Method” or the “Critical Chain Method”.

PROVOX will create a complete Project Plan with weekly Action Item lists with the City of Hapeville Project Team.

In this Project Plan (based on Microsoft Project 2007) we will integrate milestones and regular Project Team meetings.

With the knowledge from the RFP we will recommend an “Event Chain Method”, where both partners will prepare the different milestones and the final GO Live date.

Based on the GO Live or Project Starting Date, we will develop a complete Project Plan with the installation, training and test phase and the final sign-off.

We will also integrate the involved persons and project teams.

In similar projects we have broken down a project in the following steps:

- Project plan definition
- Project plan acceptance and Kick-Off Meeting
- Installation
- PowerUser Training
- Test Phase
- Customization
- Creation of a training guide
- Test of the training guide
- Customization
- User trainings
- Test phase
- Workshop
- Final customizing
- GO Live

The different project stages and the success of each step will be evaluated in meetings every one to two weeks. We estimate to require four meetings for this project.

The City of Hapeville will need to assign a Project Manager to be the coordinator and primary liaison for the whole project. This person should have authority to provide approval of project scheduling, customization/modification request, and tasks delivered, and perform all the City of Hapeville side project organization tasks. The project management responsibilities include:

- Analysis scheduling with staff
- Document and worksheet completion and reply
- Phase approval
- Coordinate training room and staff training schedule with PROVOX project management
- Oversee and approve testing and rollout
- Coordinate all other communications, scheduling, and approval events.

PROVOX's Testing Methodology (Testing Plan)

The agenda and meeting management methods for municipalities are often similar, but no two are ever identical. This uniqueness is one of the reasons the selection and implementation process for an agenda management system is different.

Regarding the requirements and our experience with the current agenda management application, we will develop a testing methodology and guide with the City of Hapeville.

PROVOX will use the TMap (Test Management Approach) Methodology for this project.

This methodology will have five distinguishable phases that each test has to go through:

- Plan
- Preparation
- Specification
- Execution
- Evaluation

And the two additional phases:

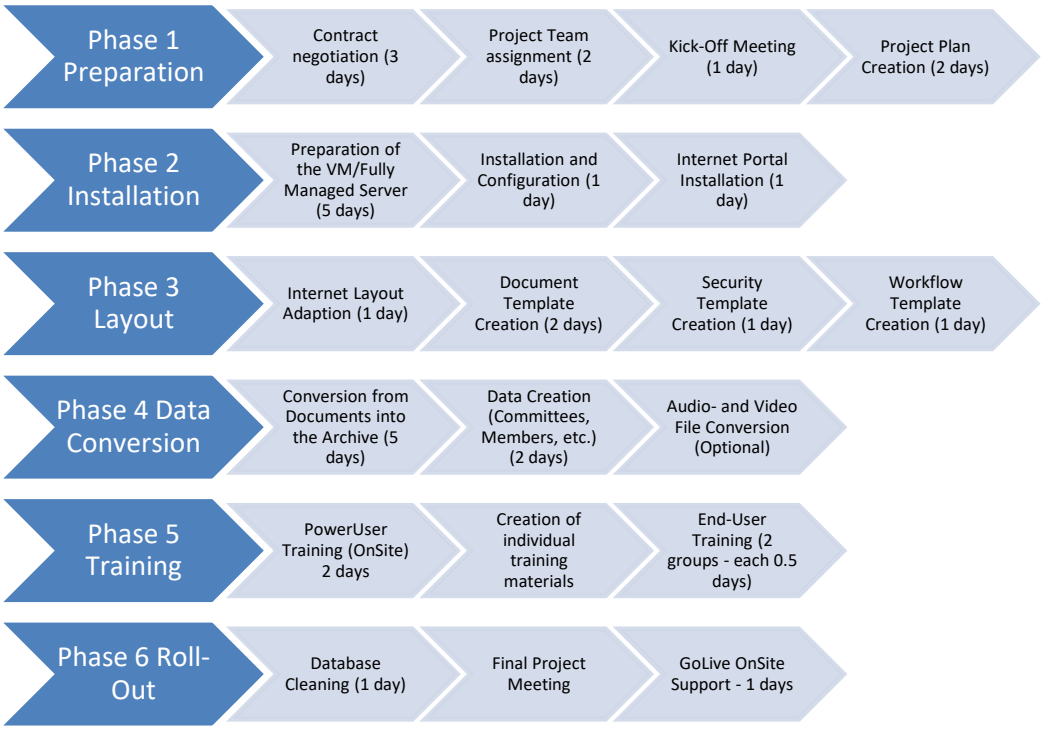
- Infrastructure
- Management

PROVOX will integrate different testing phases in the project plan. Here are our recommended phases:

- General application operability in the environment of the City of Hapeville (after installation)
- Application functionality (after the training and test phase with the PowerUsers)
- Completeness of the application
- Interfaces (after implementation of the interfaces)
- Internet module (functionality and completeness)
- Whole Process (before the Go LIVE date with data and users from the City of Hapeville)

Project Plan

PROVOX will create a customized project plan for this project. Below is an example project plan:



Training Plan

PROVOX will create a customized training plan for the City of Hapeville's needs and requirements.

Usually, all trainings will be held as **On-Site trainings** in the training facilities of the City of Hapeville. The City of Hapeville will provide one desktop/laptop for each training member. Online-Trainings are available as well.

A technical training will be delivered in free-form assistance during the installation and implementation phases.

PROVOX will work with the City of Hapeville's test database. This database will have the same data, document templates and basic information as the production system. Users will see the end result directly in the training and can see how the application will work in the final environment.

PROVOX user trainings will be typically broken in the following classes:

Name	Participants	Course Description	Length
Administration	Agenda.NET™ System-Administrator	The users will learn how to install the Agenda Server and to update the configure files. They will learn how to add new users/groups in the system and to define the security settings. They learn how to add document templates to the application.	4 hours during the installation
Power-User 1	Agenda.NET™ Administrator (Project Team)	Users will learn how to manage the complete Agenda.NET™ application. They will learn how to add, edit and remove people/members, committees, rooms, and the foundation data. They will learn how to define and modify new and existing data and how they can change security settings.	4 hours

Power-User 2	Agenda.NET™ Administrator (PowerUser)	This course is designed for Power-Users, Project Team Members and Trainer in a Train-the-Trainer concept. Users will learn how to create and edit an agenda item. They will learn how to integrate them into a reviewing workflow process and how to create individual workflows. They will learn how to create meetings, build agendas and generate the final minutes. They will learn how to publish information in the internet module and other important background information.	4 hours
Agenda Items creation	Users from different Departments, who create their own agenda items	Users will learn, using real examples, how they can create agenda items in Agenda.NET. They will learn how they can search and edit their own items, and how they can integrate them in a reviewing and/or approval process. They will get this overview after the final publishing.	2 hours
Meeting Management	Users from different Departments, who create their own meetings, agendas and minutes	Users will learn how they can create a meeting or use an existing meeting for their agenda creation. They will learn how they can create an agenda and the different ways to reorder, add and remove agenda items. They will create their own agenda and minutes documents	2 hours
Workshop	All users	PROVOX Team Q&A.	2 – 4 hours

Training sessions will be coordinated and scheduled by the City of Hapeville. It is assumed that the participants in this training have a working familiarity with the standard Microsoft Windows conventions and terminology.

Train-the-Trainer

All trainings can be held by PROVOX as a "Train-the-Trainer" concept. In this concept, we will double the time for the Power-User training; to make sure that the Trainer will have the complete knowledge of the application.

PROVOX will support the Trainer in the first two trainings, to make sure that the Trainer can answer all upcoming questions. It is important that the Trainer learns the quality and flexibility of the Agenda.NET™ application completely, and that both partners are comfortable before the Trainer takes more responsibility.

Web-based trainings and webinars

PROVOX will offer additional web-based trainings and webinars to discuss different topics. We will offer update trainings and workshops as well.

Video Taping and Document Reproduction

PROVOX always authorizes its clients to be able to videotape sessions and reproduce at their own discretion for internal use. In addition, the City of Hapeville has permission to reproduce any of the training documentation, customized training guides, screenshots, in-part or whole for its own purposes.

Test- and Training-Database

The City of Hapeville will receive a Municipal license for unlimited users. The City of Hapeville can create and run numerous instances of the Agenda.NET™ application and databases. The production database can be replicated with the Migration & Replication Tool and/or with a database backup.

There is no time limit for the test and training databases.

Project Schedule

PROVOX will create an individual Project Plan for this project. The estimated time frame (from contract signing until Go Live) is between four (4) and six (6) weeks.

The proposed solution is not requiring any customer specific development. The City will receive an Out-of-the-Box solution, which can be installed and configured in one (1) day.

PROVOX is offering on-site trainings and implementation services or web based trainings as other vendors.

Project Meetings

PROVOX will integrate regular project meetings in the project plan as part of the implementation.

PROVOX will also create an Action Item list and will update this with the City's Project Team on a weekly basis. Additional project meetings after the implementation phase can be integrated into the contract and project plan as well.

The City will have a designated Project Manager and Project Team, which will be responsible for the whole project.

Environment Overview

PROVOX will implement the proposed solution in the existing environment of the City of Hapeville. Existing structures and processes can be easily integrated. The application can be used for unlimited departments, users, workflows, meeting bodies, and data. The City can also start with some key committees (e.g. City Council, Planning Committee, etc.) and add more meeting bodies over the time and without any additional license fees.

Selection Limitations

PROVOX will agree to the City's terms & conditions regarding the access to the City's network, software, hardware, and data.

Services

PROVOX will provide the City of Hapeville with all necessary and optional services for the successful implementation of Agenda.NET™.

The City of Hapeville will get a First-Class and First-Level Support during and after the process.
PROVOX will create a specific project and implementation plan with the Project Team of the City of Hapeville.

We will integrate different Project Meetings and Milestones into the Project Plan. We will control and report on the success and the work process on a weekly basis with reports, Action Item Lists, and personal meetings.

PROVOX will install and configure the application with the City of Hapeville IT Department and Project Team. After that we will train the PowerUsers (Users which will manage the application in the future; add and manage Municipal Data, and define Word Templates and Security Settings).

The dedicated PROVOX Project Manager will manage the whole project and is the one point of contact for the City of Hapeville.

Recommended Services:

- Definition of the Project Plan
- Q&A Session before the Kick-Off
- Kick-Off Meeting
- Installation and Configuration
- PowerUser Training (2 Days)
- End-User Training
- Project Meetings
- Word Template Creation
- Internet Layout Adaption
- Database Cleaning after the Test Phase
- Workshop

Optional Services:

- Train-the-Trainer Session
- Data integration
- Existing Documents and Legacy Data conversation and integration
- Workflow creation

Ongoing Support and Hosting Services

PROVOX will provide the City with a First-Level Maintenance Agreement that will include hotline and remote support, free updates and access to PROVOX's Online Help and Support System.

The City can submit issues via phone, e-mail and the Online Help and Support System. Each request will get a ticket number and can be tracked within the online system.

PROVOX is the manufacturer for the proposed solution and will provide all technical and application support with its own and fully employed team. It will not use any global Call Center as many other vendors. The City will reach an application expert with each call and e-mail.

PROVOX will manage the First-Level Support from its Headquarters in McKinney, Texas from Monday – Friday between 7:00 am and 7:00 pm CST. Additional hours can be integrated in the agreement.

PROVOX has been continuously developed and updated the proposed solution in-house. All over 950 customers are using the same application without any customer specific development. This will make the support much more effective and will guarantee future updates without any additional development or manpower.

PROVOX will provide one (1) or two (2) updates per year. Updates will be installed from PROVOX as a remote service. A typical update will be finished in less than one (1) hour and will be performed only on the server.

PROVOX has international and national user groups. PROVOX is continuously communicating with these groups to discuss future development.

PROVOX has a development plan for the next five (5) years.

PROVOX is offering streaming and hosting services for the audio- and video-streaming on one of our US based server. Audio- and video-files will be stored on default for five (5) years. Additional years can be integrated into the contract. The streaming server is designed for a minimum of 5,000 simultaneous streams.

Questions from RFP

- **Describe software release/update frequency and procedures to perform updates**
  PROVOX has been continuously developed and updated the proposed solution and will provide one (1) or two (2) updates per year. The current version is Version 6.1 (released in February 2019).

  Updates will be installed from PROVOX in a remote session on your server. Client updates are usually not required. A typical update will be done in less than one (1) hour.

  The Fully Managed Server/On-premise installation has the advantage that the data and documents from the City will not be stored on a server with many other customers. The City can schedule updates any time after office hours or on weekends and at any time in advance. The City will not be automatically updated with other customers like in hosted solution. The City has not the pressure to use new builds and releases right away (and often without testing).

  The City will also NOT experience issues with large attachments or documents or slow Internet connections.

  Our concept will provide the City with the best possible performance and security.

- **Discuss the vendor's philosophy and approach for ongoing research and development (R&D) to advance the proposed solution and ensure it remains current to evolving technologies and standards. Please include the annual R&D investment for the solution being proposed, both in terms of financial investment and total number of employees dedicated to the R&D function?**

  PROVOX is spending almost 60% of the maintenance fees in continuously development of the proposed solution. Customer feedback is important for future updates. Many feature requests and optimizations have found the way in future updates.

  PROVOX has a development plan for at least the next five (5) years.

Proposed application software and computing environment

PROVOX can offer the proposed solution as an on-premise (in a Virtual Environment) or hybrid solution (Fully Managed Server – monitored and maintained by PROVOX)

Server:

Windows Server 2008 - 2016
(Existing server, dedicated server, virtual server, or terminal server)
16 GB Memory
Microsoft SQL Server (2008 – 2017 or Express)
1 GB Hard drive space per year for data
Microsoft.NET Framework 4.5 or greater
IIS
Ghostscript or Office for PDF conversion
Internet Explorer

Clients:

Windows 7 - Windows 10
4 GB Memory
150 MB Hard drive space for temporary files
Microsoft Office (2003 – 2019 or 365 (32/64 Bit) mixed environment of different versions will be supported)
Microsoft.NET Framework 4.5 or greater
Internet Explorer

Internet Server (can be provided from PROVOX):
Windows or Linux based system
Microsoft SQL Server or MySQL
Apache Tomcat
4 GB Memory

Pricing

Description	Project Price in $
1. Software	
- Agenda.NET Municipal License ○ All Modules ○ Unlimited Users ○ Internet Information Portal ○ Electronic Workflow Management ○ Migration & Replication Tool	7,850.00
Total Software Subscription	**7,850.00**
2. Project Management	
- 1 Project Meeting (each 0.5 days)	Incl.
- Project Plan Creation	Incl.
Total Project Management	**Incl.**
3. Implementation	
- Installation and Configuration (0.5 days)	Incl.
- Document Template Creation	Incl.
- Internet Information Portal Layout Adaption	Incl.
- OnSite GoLive Support (1 day)	Incl.
- Database cleaning after practice phase	Incl.
Total Implementation	**Incl.**
4. Training	
- PowerUser Training (2 days onsite)	Incl.
- End-User Training (2 groups) 1 day onsite	Incl.
Training total	**Incl.**
Travel Expenses	
- Flights, Car, Hotel	After effort
Total Project Costs – First Year	**7,850.00**

Optional Costs	
First-Level Maintenance Agreement - **Free hotline and remote support** - **Free updates** - **Access to PROVOX's Online Help- and Support-System**	Incl.
Document Conversion Service **(integration of existing documents (e.g. Agendas, Minutes, etc) in the Full Text Retrieval Archive (incl. conversion to searchable and ADA compliant PDF format)**	1,500.00 /1,000 Documents
Data Integration Service **(Integration of Committees, Members, and other basic information)**	750.00
Electronic Wireless Voting Devices (1 Receiver and 5 Senders)	795.00
Fully Managed Server (incl. Hardware, Software, Installation, Monitoring, and Maintenance)	95.00/month
Audio- and Video-Streaming	
Option 1 **YouTube and Vimeo Integration with Time Stamping (Web Service) one-time fee**	995.00
Option 2 **Audio- and Video-Streaming *Complete*** - ***Live and On-Demand*** - ***unlimited hours of video for 5 years*** - ***Incl. Encoder*** - ***Support for more than 5,000 simultaneous streams*** - ***Encoder Monitoring*** - ***Unlimited Training***	On request

Proposed Innovations

The City of Hapeville has found the most innovative agenda management solution on the market with Agenda.NET™. Based and certified for Microsoft.NET, Agenda.NET™ is easy to install and maintain.

The database-based Internet and Intranet module will give the City of Hapeville the ability to present selected and published data in a modern and easy-to-use manner. The layout of the Internet and Intranet module can be adapted to the existing layout of the City of Hapeville website in a few hours.

The displayed menu and the data depend on the security setting in the Agenda.NET™ application.

Committee Members and Staff will have a private internet area with additional information. They will see previous and upcoming meetings and the changes since their last visit on their private welcome page. They will have access to private documents and the full-text retrieval archive as well.

PROVOX can integrate existing and legacy data within one or two days.

Agenda.NET™ possesses an integrated interface for an Amazon Kindle or other reading devices. Agendas, agenda items, and complete agenda packages can be automatically delivered to the dedicated reading device of the City of Hapeville committee members and staff. The reading device will handle the attachments as well and can store thousands of meetings.

Users can read and add annotations on the documents and other assigned information.

The reading device can feature a voice output as well.

The Internet/Intranet module includes an electronic forum (chat) and the ability to manage and present Audio- and Video-Streaming to agenda items and minutes.

Agenda.NET™ is part of the Microsoft US-Project “CSP – Citizen Service Platform” and the European Project “OurMunicipality”.

The Agenda.NET™ application can be used in an In-house installation or as a SaaS solution (Software as a Service = hosted solution).

Agenda.NET™ can be adapted to the existing structures and workflows perfectly.

Labels, descriptions, messages, and buttons, can be customized with the PROVOX Localization Tool. The City of Hapeville can create its own application resources with a mouse click. The system administrator simply needs to rebuild the resources in case of an update, to integrate the customizations in the new version.

Agenda.NET™ is very flexible. The City of Hapeville can start small with the application and activate other Agenda.NET™ features later with the growth of the processes.

The City of Hapeville can create its own workflows for reviewing and approval processes with a few simple mouse clicks. Agenda.NET™ has integrated an internal messaging function and works with Microsoft Outlook and Microsoft SharePoint.

All data will be stored in the Agenda.NET™ database in a Microsoft SQL Server or MySQL. It is not necessary for the City of Hapeville System Administrator to define security settings on folders or directories.

External users can access the application via a secured VPN- and/or Internet-connection.

Agenda.NET™ optimizes the whole workflow to create, route, edit, and manage, agenda items, agendas, and minutes.

The City of Hapeville will have the ability to add and manage numerous attachments of any Windows based format to an agenda item and/or meeting.

This will include graphic formats, documents, URL's and live links to graphical information systems (GIS).

Agenda.NET™ has integrated a Hands Free Audio- and Video-Streaming solution to record meetings and other events. The user simply needs to click on "start" at the beginning of the meeting and "stop" at the end of the meeting. Agenda.NET™ will deliver the file to an external server, where the file is cut into individual pieces. Agenda.NET™ will store the files for each agenda item.

Users will have the ability to create agenda packages with a simple mouse click. They can send information via E-Mail and Text Messages, directly out of the application.

Agenda.NET™ has no limitation when it comes to the number of users, committees, persons, departments, workflows, and other records.

Document templates can be created by the City of Hapeville staff with Microsoft Word knowledge.

Agenda.NET™ will guarantee an integrated environment of different Word-, Office- and Windows-Versions.

Opportunities

The City of Hapeville will greatly benefit from this project, and PROVOX Systems Inc. has the capabilities to fulfill all project related needs.

With more than 950 successful product installations, we can guarantee that with our experience, we will be the perfect fit for the City of Hapeville. With the knowledge acquired over 27 years in this market, including successful installations in North America, we understand the market and your needs.

With Agenda.NET™ the City of Hapeville will be a leader in modern and paperless Agenda Management solutions in the USA.

With PROVOX as a member of the Microsoft CSP Project (Citizen Service Platform), the City of Hapeville will be one of the first with this unique service for their councilors and citizens.

- **Save Money**

  Save 70 – 90% of your expenses and personnel resources.

  Through the simple operation and high automation of many important processes, your employees' meeting experience will be considerably enhanced. This not only increases the acceptance of the product, but also saves the user a considerable amount of cost and time.

- **Paperless Agenda and Meeting Management**

  With the help of our numerous technical abilities and your Microsoft work environment, it is possible to work paperless within your organization and in communication with elected representatives.

- **Presentation of information in the Internet and Intranet**

  Over a hundred customers use our Internet module successfully. A single mouse click releases information for the public and/or non-public area from our repository and replicates the information to the Internet.

  The design is such that data can be on the target web page within a few minutes. The data is displayed dynamically, so that changes can be updated immediately.

  By using the user name and password protected area, private information for authorized users can also be represented.

Technical Innovations

PROVOX Systems Inc. uses the latest advancements for applications of new and existing technology to solve problems in innovative ways.

In our product, we use the resources available in the Microsoft standard products and our know-how in the field of the management agenda related processes, to create an optimally managed agenda.

Agenda.NET™ is used today in installations from 1 up to 1,600 clients in real world environments. This demonstrates the flexibility and power of our software.

The flexibility of the application provides a unique opportunity to meet your specific processes and organizational structures in the best manner. Thus you get a customized solution for the price of a standard product, with the opportunity for full support and product updates in the future.

The project is innovative in a number of different areas:

- Paperless Agenda Management
- Open for future integrations of different products (i.e. GIS-Systems, Accounting Software, Document Management, Audio- and Video-Streaming, Electronic voting, etc.)
- Modern and secure Information Management via Internet and Intranet
- Integration in Microsoft's CSP-Project (Citizen Service Platform)
- Microsoft SharePoint Integration
- Consistent implementation of the Microsoft.NET strategy to obtain the newest Agenda Management System Worldwide.
- Integration of mobile devices like Apple iPad, iPhone, Microsoft Surface, Amazon Kindle, Android, Windows Mobile, Smartphones, etc.

Through the open structure and the numerous interfaces to other proceedings (including financial procedures, GIS, Office, SharePoint and more) there are no limitations to future expansion.

The development in Microsoft.NET offers a high level of investment protection and secures data management.

Summary of proposal

This proposal shows how flexible and customizable our Agenda.NET™ application is. Developed with the latest Microsoft technology, Agenda.NET™ will cover the current requirements perfectly and leaves room for future needs and wishes.

The hands-free Audio- and Video-Streaming and Video On-Demand will give the City of Hapeville a more user friendly and cost saving solution. The existing video-files can be converted in a short time frame and with a low one-time cost.

The flexible, secure and customizable workflow management is unique in this market. The City of Hapeville can create numerous workflow templates in Agenda.NET™ with a few simple mouse clicks and without any development knowledge. Agenda.NET™ will offer broadcast messages, sequential and priority based workflows. Users can create individual workflows, use a template, or use some templates and change others individually.

Agenda.NET™ includes workflow management for reviewing and approval/action processes. Users will have the ability to integrate numerous other users and/or groups in a workflow process. Each action can be defined with a time out and a personal message/order. Users outside of the City of Hapeville can be integrated in workflow processes as well.

Agenda.NET™ has been developed from the processing side and is not an add-on to a document management solution, CRM, or other application. It is especially designed for the daily needs of the Customer Service Staff, based on our own experience and the countless feedback from our customers.

Agenda.NET™ is a fully featured and modular application. The City of Hapeville can start small and add more and more features over time, without any additional license fees.

Agenda.NET™ is developed with the latest Microsoft Technologies (Microsoft.NET) and certified by Microsoft.

The City of Hapeville has found the most innovative application with a guaranteed high value return for your investment.

This proposal will cover all requirements, the pricing information, and some additional background information.

Agenda.NET™ can adapt to existing structures and workflow perfectly and optimize them effectively, without any cost intensive development work. The City of Hapeville can start small and use integrated features later.

CIVICENGAGE®



Hapeville, Georgia

Website Design & Implementation

Presented by | Lisa LaNoue, CivicEngage Account Executive

CIVICPLUS®

THE Integrated Technology Platform for Local Government

April 12, 2019

302 South 4th Street, Suite 500
Manhattan, Kansas 66502
888-228-2233

City of Hapeville
Attn: Crystal Griggs-Epps
3468 N Fulton Avenue
Hapeville, GA 30354
cepps@hapeville.org

RE: Website Design & Implementation

Dear Ms. Griggs-Epps and Members of the Selection Committee:

We want you to know how much CivicPlus values Hapeville as its long-term partner. The loyalty and invaluable input we have received working with you throughout the years has helped us to become the leader in web design, communication programming, and hosting for local government.

With your new redesign we will once again deliver a unique and innovative website that you and your community will find engaging, interactive, and easy to use. We will tailor our solutions to meet your specific needs as you continue to evolve your web environment. With CivicPlus, LLC (CivicPlus) as your partner, you'll receive:

- One-of-a-kind design that captures your community's unique qualities
- 40+ modules with all of the features and functionality you need
- Guaranteed redesign after 48 months of service to keep your website fresh and innovative
- Migration of your current website content
- 24/7/365 support with secure hosting and maintenance
- 100% satisfaction with your new website

Your redesigned site will be developed on the most robust and flexible content management system available. Our CivicEngage CMS is an easy-to-use suite of cloud-based tools built specifically for local government. You'll be able to inform and empower your citizens and staff in more efficient ways. Easier for you, easier for them.

We have included additional client references for you to contact and find out for yourself their continued experience with CivicPlus as their web partner. A Hapeville and CivicPlus partnership will continue to save you time and money with a website for your community to find what they need, when they need it.

Sincerely,

M. Lisa LaNoue



Lisa LaNoue
CivicEngage Account Executive
lanoue@civicplus.com
Direct Line 785-477-8604

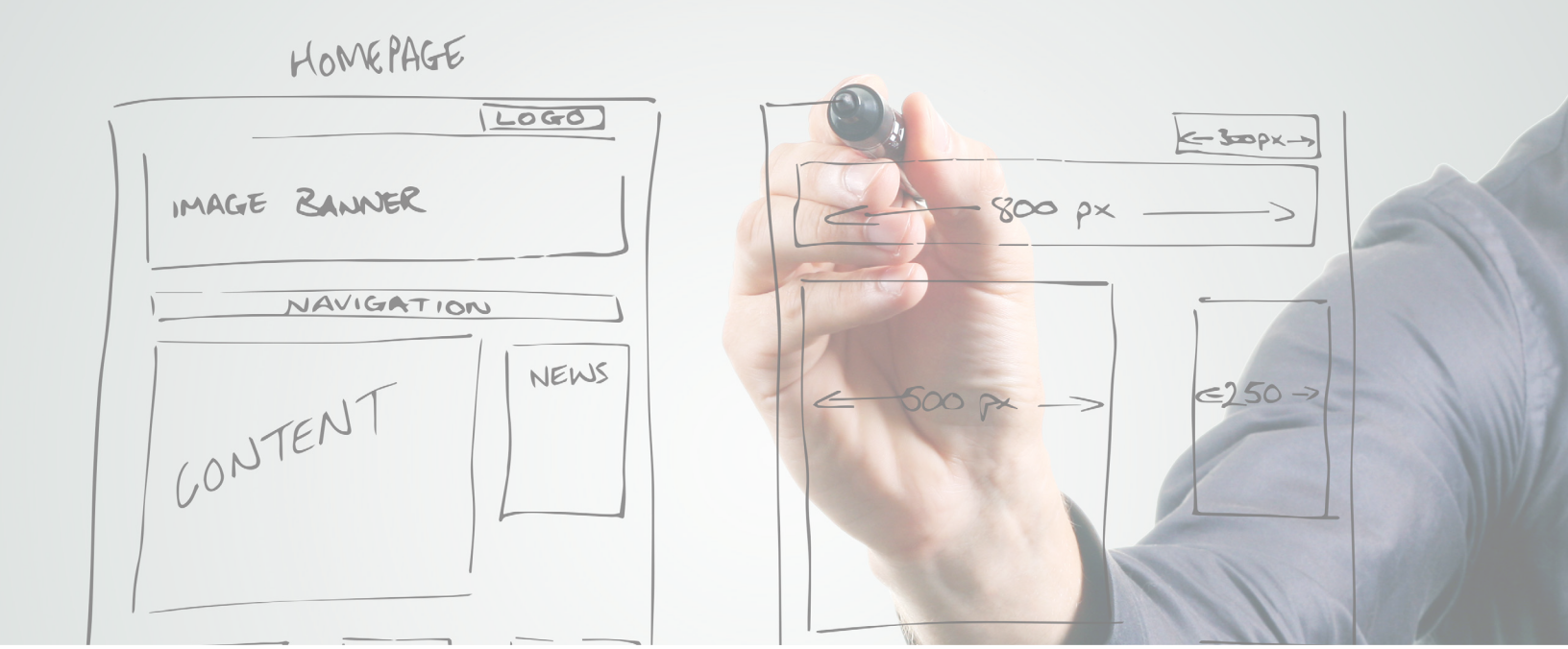


Table of Contents

2 Introduction

3 Company Profile

5 Project Team Roles

8 Municipal Website Design Experience

12 Project Development Approach

20 Support and Maintenance

25 Site Design

26 CivicEngage CMS

28 Features and Functionality

34 Hosting and Security

37 Project Pricing Estimate/ Cost for Services

39 Guarantees/Warranties

40 Additional Information

Introduction



Company Overview

20+

years of experience with a focus to help local governments

3,500+

local government clients across the U.S. and Canada

300+

employees, many who have experience in local government organizations

60k+

internal admin users



75M+

online visitors (and counting!)

CivicPlus is the integrated technology platform for local government, delivering superior local government web technology, including website design & content management, human resources efficiency, mass notification communication tools, parks & recreation management functionality, and agenda & meeting management solutions.

Our Promise To You

We will deliver a high-caliber, responsive web presence that reflects your vision in design, features, and functionality. CivicEngage is user-friendly, yet flexible, and powerful with intuitive navigation for your citizens and easy-to-use administration for your staff. True live editing and training is included so your staff can be efficient on day one, and we'll continue to support you after launch. Your system will be secure and continuously updated, as our experts develop further cutting-edge solutions designed specifically for local government.

8-Time Inc. 5000 Honoree

GovTech 100 Company

Summary

We propose the following approach to help you meet your goals:

Easy-to-Use CMS	Our CivicEngage Content Management System (CMS) is developed specifically for local government with unique functionality to streamline your processes as well as offer self-service options to reduce call volumes and walk-ins for common requests. CivicEngage has a suite of built-in, robust, and straightforward editing tools as well as permission-based access that will empower your staff to update your website content easily and efficiently.
Responsive Website Display	We will use a mobile-first design approach to ensure your website is fully responsive, using design that is optimized for any device, screen size, and orientation. We also implement a mobile-friendly menu configuration for easy page navigation. A responsive design also provides centralized website maintenance, eliminating the need to update both a desktop and mobile version of your website.
Accessibility	During system development and website implementation process, our first focus is to ensure we provide you with a website compliant with accessibility standards outlined within Section 508 and WCAG Level A & AA.
Dedicated Project Team	A specialized team of experts will assist you throughout the implementation process to website launch, including a Project Manager, Art Director, and Trainer.
Design Creation	Your Art Director will collaborate with you to develop a website that best represents your community while taking advantage of the CivicEngage functionality to meet your needs.
Content Migration & Optimization	The content from your current website will be migrated to your new CivicEngage website – saving your staff hours of effort. Our Content Development team will ensure the migrated information is clean and formatted to match your new design.
Customized CivicTraining® Plan	Through one day of interactive web-based instruction, our trainers will ensure your staff gains the confidence to effectively and easily maintain your new website with our WYSIWYG live editing tools and intuitive user interface. Special focus is given to the new tools available to you on the updated version of your site.

SSL Certificate	We will aid in the setup up your current domain for your new website. Also included is one SSL Certificate to protect your new website and information through encryption of sensitive data and identify verification.
Secure Hosting, Cloud-Based Access	Our solution is supported by an enterprise-level hosting environment with vigilant 24/7/365 monitoring and continual system updating. We guarantee a 99.9% uptime for your website (excluding maintenance). Access can be achieved anywhere from nearly any device so there is no need to log into a network.
24/7/365 Support	Our helpful in-house support team is available via telephone, email and live chat to ensure your complete and ongoing satisfaction with our products and service.
Guaranteed Redesign	At the end of your fourth year of continuous service with us, you're eligible to receive a basic website redesign with no further out-of-pocket expense. Your website stays current and doesn't need to be rebuilt from the ground up.

Before & After – Loudoun County, Virginia

Before CivicPlus Redesign



After CivicPlus Redesign



With CivicPlus, Loudoun County, Virginia was able to upgrade their web presence through our advanced website redesign process. For more details on Loudoun County's redesign experience, please visit:
www.civicplus.com/case-studies/county-of-loudoun-va-partners-with-civicplus-for-engagement-strategy

Company Profile



CivicPlus Company History

CivicPlus began in 1994 when our founder Ward Morgan decided to focus on helping local governments work better and engage their citizens through their web environment. CivicPlus was originally incorporated as a Kansas corporation in June of 1998 and was legally converted to an LLC in January of 2019. This business structure change was made by the owners of CivicPlus for estate and tax planning purposes and will have no impact on the business or our clients.

CivicPlus continues to implement new technologies and services to maintain the highest standards of excellence and efficiency for our clients. Our commitment to deliver the right solutions in design and development, end-user satisfaction, and secure hosting has been instrumental in making us a world leader in government web technology. We consider it a privilege to partner with our clients and provide them with solutions that will serve their needs today and well into the future.

Company & Contact Information

Contact Information
Lisa LaNoue
CivicEngage Account Executive
lanoue@civicplus.com
Direct Line 785-477-8604

Primary Office
302 S. 4th Street, Suite 500
Manhattan, KS 66502
Toll Free: 888-228-2233
Fax: 785-587-8951

Legal Information
CivicPlus, LLC
Converted in State of Kansas, January 2019
f/k/a CivicPlus, Inc. Incorporated State of Kansas, June 1998

Company Website
www.CivicPlus.com

Ancillary Offices
Boxborough, MA
Dunwoody, GA

Demonstrated Financial Stability

On the following page, we have included a letter from our bank stating our good financial standing. If required, additional financial documents can be provided later in the process with the understanding that it would be treated as confidential.

Financial Stability

KS StateBank
1010 WESTLOOP PLACE
MANHATTAN, KS 66502 | 785-587-4000

March 6, 2019

CivicPlus, LLC
302 S. 4th Street, Suite 500
Manhattan, KS 66502

RE: CivicPlus, LLC

To Whom It May Concern:

KS StateBank of Manhattan is pleased to provide this Bank Letter of Recommendation for our valued customer; CivicPlus, LLC. In addition to deposit accounts, we currently extend credit facilities to CivicPlus, LLC aggregating in the low eight figure proportions. All deposit and credit facilities have been handled in a very satisfactory manner.

The company's reported financial position is sound and supportive of current and future credit extensions. We enjoy a strong working relationship with CivicPlus, LLC and are pleased to call them a valued customer.

If you have any questions or require additional information, with CivicPlus, LLC approval, please do not hesitate to contact us.

Sincerely,

Lowell L. Kohlmeier
Executive Vice President

LLK/mlr

MEMBER FDIC | EQUAL HOUSING LENDER
MANHATTAN | JUNCTION CITY | WICHITA | PHOENIX | ksstate.bank

Project Team Roles



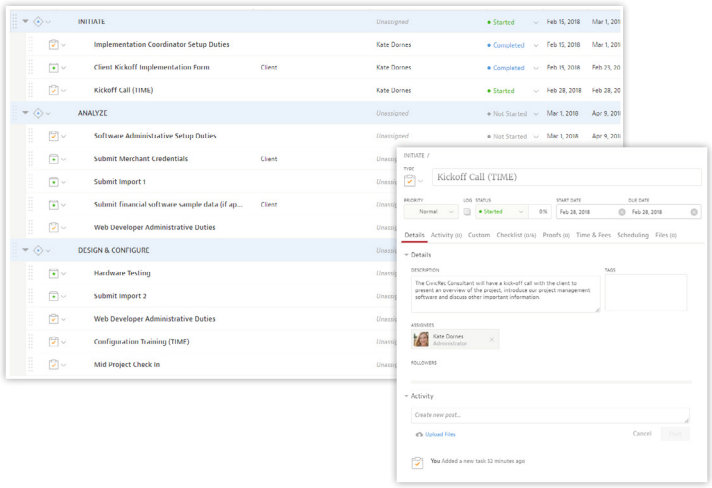
From project management to design and development to training and support, a dedicated project team will assist you throughout the development process to ensure your project's success and your complete satisfaction. Your individual, dedicated team members will be determined just prior to kickoff so we can be sure they will be available to begin your project immediately and work directly with you throughout the entire process. This ensures we deliver the attention and effort you need and deserve to create a website that achieves your vision of success.

- **Project Manager** – Provides communication, establishes project plan, schedules project resources, facilitates project tasks, ensures requirements are met according to scope
- **Art Director** – Establishes vision for website design, collaborates with graphic design team to create website design to meet your needs, coordinates design application to functioning website
- **Web Content Specialist** – Guides content development process, ensuring application of best practices for usability and accessibility
- **Trainer** – Educates your team to use the CivicEngage content management system, demonstrates effective use of tools and functionality

Communication Venues

Communication between you and your CivicEngage team will be mostly through email and Mavenlink, with some phone calls and virtual meetings to enhance your experience. Mavenlink is our project management software, which offers task management with a multi-level work breakdown structure, Gantt Chart-based project plan, and a focused communication channel.

- Centralized project communication and task management tools in a cloud-based project workspace. Conversations are linked to files and tasks for easy reference.
- Tasks, deliverables and milestones aligned to your specific scope of work.



The tools available through Mavenlink combined with regular check-ins with your Project Manager provide you ample opportunities to review your project, check deliverables and communicate any feedback, positive feedback, or concerns, quickly and efficiently.

Project Team

Our expert project leaders will coordinate qualified specialists who will work directly with you throughout your project development and beyond.



Nick Scherzer – Solutions Director of Citizen Engagement Services

With his experience in creating software and business solutions, Nick manages the product strategy and overall vision for CivicEngage. Keeping our CivicEngage products evolving and positioned for future expansions is a top priority for Nick and his team. This tailored knowledge and leadership provides the best possible web experience for our clients.

Education
BS Management Information Systems

Resume
Product Manager
Business Systems Analyst

20+ Years of Experience
Software Development



Adam Block – Director of CivicEngage Implementation

Adam oversees the teams responsible for creating your CivicEngage website to ensure you are satisfied with your end product and implementation experience. This includes our implementation team managers, project managers, art directors, web content specialists, and resource teams.

Education
BS Business Administration
Management
Economics

Resume
Lead Project Manager
Financial Services

5+ Years of Experience
Project Management
Business Management
Team Building
Customer Service



Katrina Lewison – Director of Professional Services

Katrina oversees the CivicPlus operational teams to guarantee a comprehensive and coordinated experience for multi-product implementations – CivicEngage, CivicHR, CivicReady, CivicRec, CivicClerk, and CP Connect.

Education
MA Organization Psychology and Leadership
Master of Public Policy Administration
BS International Relations

Resume
Product Manager
Manager of Project Administration
Executive Officer U.S. Army

12+ Years of Experience
Training, Consulting, and Leadership
Policy Implementation
Account and Project Management



Jeremy Wilson – Manager of Client Success

Upon launch of your website to the public, Jeremy will assign a Client Success Manager to your account. Your dedicated Client Success Manager is a specialized team member that will ensure you stay current on CivicPlus solutions. By partnering together, you'll create an ongoing strategy to better engage your citizens by utilizing the tools and products that CivicPlus has to offer.

Education
BS Political Science

Resume
Assistant Manager of Account Management
Solutions Specialist

5+ Years of Experience
Customer Service
Leadership
Sales
Team Building



Constance Cooke – Director of Technical Support

Constance Cooke manages the technical support team for all CivicPlus products. Upon launch of your new CivicPlus website, any technical questions or issues you may encounter may be reported to your CivicPlus Technical Support Team. This specialized team operates on a 3 tier, product specific, escalation process to report technical issues to the products development team and works hand-in-hand with our Help Center to continually improve online assistance content and best practices information.

Education
BA English, Communication

Resume
Technical Support Specialist
Documentation and Communications Manager

5+ Years of Experience
Technical Support
Business Management
Team Building
Customer Service



Jim Flynn – Director of Information Security and Infrastructure

Jim is a passionate advocate for Information Security and performs a critical role in aligning CivicPlus Security Strategy with the needs of clients like you. He coordinates and manages our in-house experts on the technical aspects of your project. From data center operations to security and compliance, his team will ensure that your hosting and security needs are met.

Education
BA Computer Information Systems

Resume
Chief Systems Architect
Information Technology Director
Software Engineer

18+ Years of Experience
Cybersecurity
Network Infrastructure
System and Software Architecture

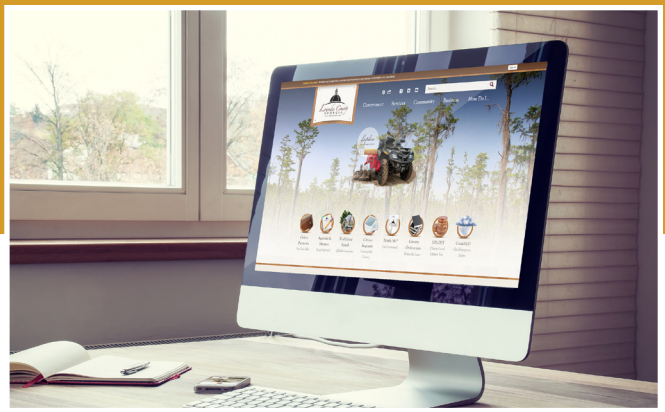
Municipal Website Design Experience





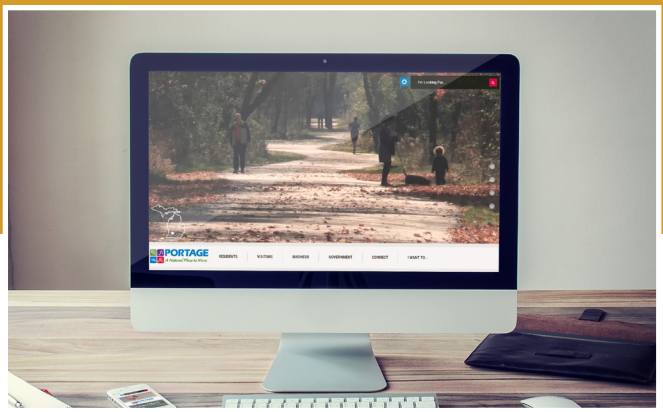
Marietta, Georgia
www.mariettaga.gov
Client since April 2016

Bruce Bishop, Website Manager
770-794-5551 | bbishop@mariettaga.gov



Lowndes County, Georgia

www.lowndescounty.com
Client since March 2014
Paige Dukes, County Clerk
229-671-2440 | pdukes@lowndescounty.com



Portage, Michigan

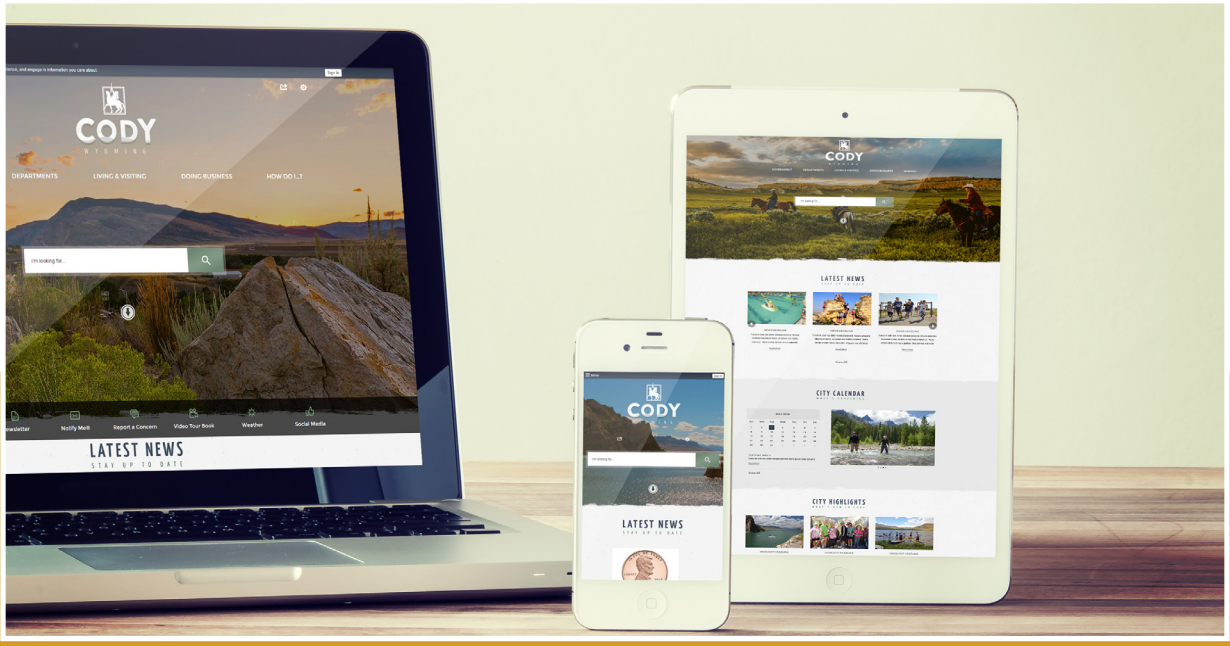
www.portagemi.gov
Client since January 2017
Mary Beth Block, Communications Manager
269-329-4405 | blockm@portagemi.gov

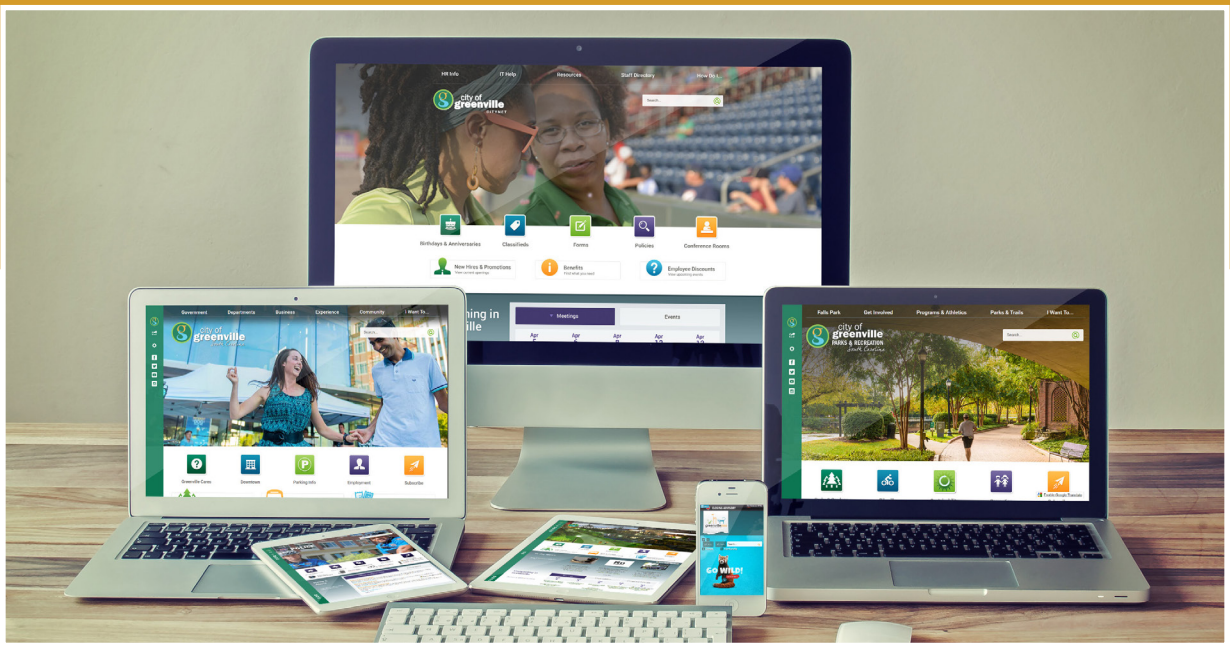
Additional References

Cody, Wyoming

www.cityofcody-wy.gov

Toby Startin, Information Technology Director
307-527-6532 | tobys@cityofcody.com





Greenville, South Carolina

www.greenvillesc.gov

Lori Sondov, Deputy City Clerk
864-467-4441 | lsondov@greenvillesc.gov

Award-Winning Websites

Frisco, Texas

www.friscotexas.gov

2016 SAVVY Award
Digital Interactive - Overall Website
Population 60,000 and Up
From: City-County Communications & Marketing Association (3CMA)





Roanoke, Virginia

www.roanokeva.gov

2016 Award of Excellence
Digital Interactive - Overall Website
Population 60,000 and Up
From: City-County Communications & Marketing Association (3CMA)

Mckinney, Texas

www.mckinneytexas.org

2017 TAMI Award
Technological Services - Website
Population 100,00 and Up
From: Texas Association of Municipal Information Officers





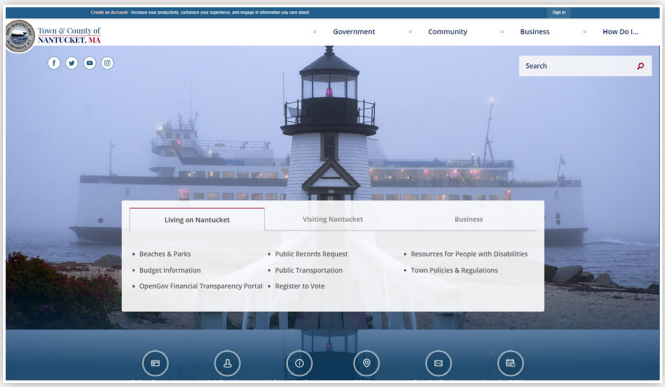
Fuquay-Varina, North Carolina

www.fuquay-varina.org

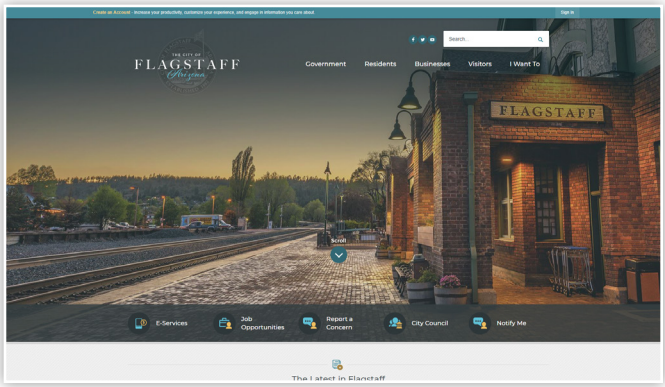
2016 Excellence in Communications
First Place
Communications Technology - Website
From: North Carolina City & County Communicators (NC3C)

Design Portfolio

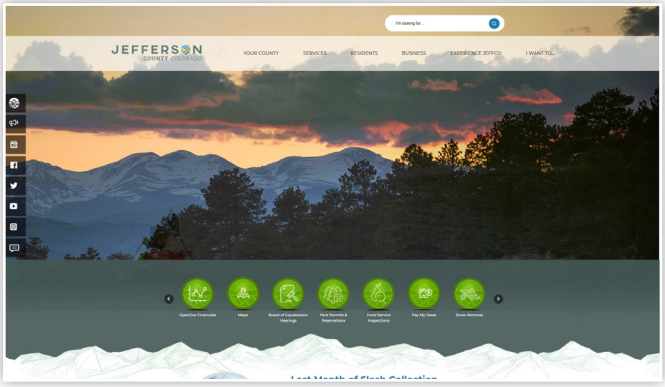
The included design portfolio will provide you an idea of the different directions we can take your creative design. Please note that not all parties listed have agreed to be contacted for reference.



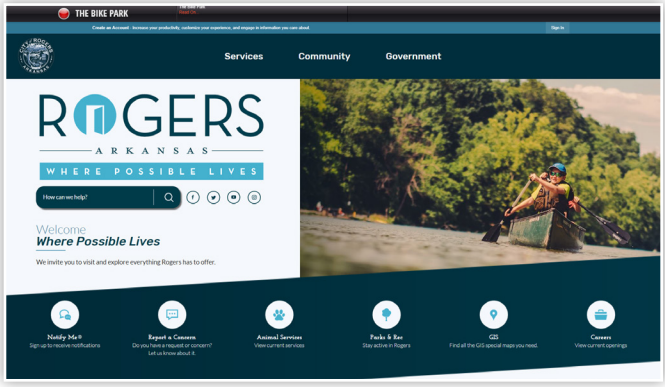
Nantucket, Massachusetts
www.nantucket-ma.gov



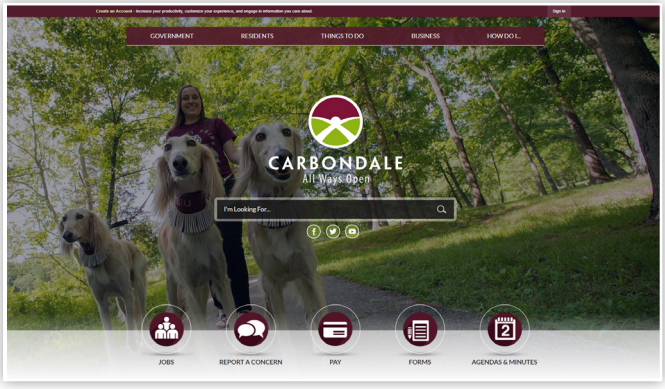
Flagstaff, Arizona
www.flagstaff.az.gov



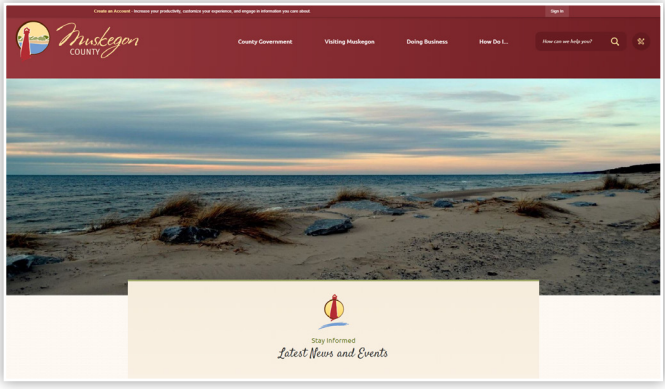
Jefferson County, Colorado
www.jeffco.us



Rogers, Arkansas
www.rogersar.gov



Carbondale, Illinois
www.ci.carbondale.il.us



Muskegon County, Michigan
www.co.muskegon.mi.us

Project Development Approach



Typical Project Timeline: 16 – 30 weeks

Design creation, accessibility/usability guidance, content optimization, and dedicated training – CivicPlus delivers all of this and more during the development of your new website. Your exact project timeline can vary based on determined project scope, project enhancements purchased, your availability for meeting coordination, action item return/completion, approval dates kept, and other factors. Project timeline, tasks, and communication will be managed and visible to you via Mavenlink – our project management software. Based on our experience, the estimated timeline for the successful completion of your CivicEngage project is approximately 30 weeks.

1	**Initiate**	~3 – 5 Weeks
2	**Analyze**	~3 – 7 Weeks
3	**Design & Configure**	~5 – 8 Weeks
4	**Optimize**	~2 – 4 Weeks
5	**Educate**	~1 – 2 Weeks
6	**Launch**	~2 – 4 Weeks

Phase 1: Initiate

Project Kickoff Meeting

During the Project Kickoff Meeting, your project manager will perform introductions, detail items needed from you, provide a high-level overview of the development process, and introduce you to the tools and resources used to manage the project.



Planning & Scheduling

Your project manager will create a comprehensive project timeline based on your project scope and specific needs. CivicEngage will schedule the design, content, development, and training resources needed to implement your new website to ensure on-time completion of your website project.

Phase 2: Analyze

Design Discovery & Content Preparation

The CivicEngage Team will collaborate with you to determine the goals and objectives you would like to achieve with your new website and use that information to develop a strategy for your content and design. CivicEngage professionals will outline our best practices and standards, and you will work with your project team to determine how you want your website to look, feel, and function.

Mood Board

Your Project Team will present a custom mood board reflecting the color and imagery that will set the tone for your design. A mood board is a collection of colors, textures, images, graphics, text, and descriptive words. A greyscale layout will also be provided, indicating the overall placement of design elements. Once approved, these design features will be used to develop the design concept for your website.

Phase 3: Design & Configure

Design Concept Development & Review

You'll be presented with a design composition – a JPG rendering of the website design. You will have the opportunity to evaluate the presented design composition and collaborate with the CivicEngage Project Team on proposed changes. If needed, design composition revisions can be made before the approval deadline that you and your project manager agree upon in your timeline.



Content Migration & Optimization

During the previous phases, your staff has the role of updating the content on your current primary site based on CivicEngage recommendations. This existing content will then be migrated to your new site and "touched up" to ensure the formatting matches your new website design.

Website Reveal

The CivicEngage Team will present to you a completed website featuring your approved design and finished content.

Phase 4: Optimize

Website Finalization

You will evaluate the completed website and confirm expectations were met in accordance with the Statement of Work and the goals outlined have been achieved. The CivicEngage Team will work with you to prioritize and plan any final needs for the website.

Phase 5: Educate

User Training

Our goal is to give your staff the skills and tools they need to quickly and easily keep your website current. CivicPlus will provide one day of online training for six staff members to equip your staff with the knowledge and comfort level needed to prepare your website for launch and maintain it in the future.

Regardless of technical ability, we will help your staff gain the confidence to effectively use and maintain your website. The training session will utilize your production website, so users are familiar with your specific configuration and you get real, hands-on learning opportunities.

Phase 6: Launch

Launch Preparation

This is an exciting time – it is the last step before your new site launches! Your Project Team will provide you with a pre-launch checklist to complete and ample time to complete any updates before your website launch.

During this time, you will be able to add, create, and make adjustments to content on your production site, as well as ensure overall satisfaction with your website.



Website Launch

After website launch confirmation is received, your domain name is directed to the newly developed website and your beautiful new website is made available to the world.

Your Role

We will need your help to create the best possible website for your community. During the process, we will ask for you to complete various action items in that effort.

Client Deliverables

At the beginning of your project, we will ask you to complete and submit the following to help us get started:

- **Photos for Design** – 10 to15 high-quality photos you would like used in the overall design of your website
- **Logo(s) & Branding Materials** – Any logo(s) and/or seal(s) to be used in your website design, along with any color specifications or brand standards we will need to use
- **Website Statistics** – Analytics to be utilized in reorganizing your website content/navigation and determining design needs
- **Design Discovery Form** – Used to specify your design preferences and evaluate design maintenance capabilities
- **DNS Form** – Technical information needed to set up the domain name(s) for your new website

Review & Approvals

During the development process, you will be asked to review and provide official approval for the following:

- Project Timeline
- Mood Board
- Design Concept
- Training Date
- Final Website Approval
- Website Launch

Content Updates & Maintenance

Your Web Content Specialist will provide you with tasks related to:

- Updating your website content in preparation for migration and optimization
- Tracking website updates to be completed during your training session

Training Preparation

To get ready for your CivicTraining session, you will want to:

- Update your web browser to the most recent version (Chrome is recommended.)
- Compile a list of your website users and desired permission levels
- Reserve training location and necessary resources - computers, conference phone, etc.

Website Redesign Details

Scope of Work

- CivicPlus will provide a new design for your homepage.
- CivicPlus will provide one coordinating design for your interior pages. Individual department pages will not receive custom designs.
- CivicPlus will migrate pages, documents, and modules from your existing site to your redesigned website.
- CivicPlus will apply new site styles (colors and fonts) to migrated pages.
- CivicPlus will provide a one-day webinar training session for up to six individuals.

Project Development

Consulting, design, usability guidance, programming, secure hosting, and dedicated training – CivicPlus delivers all of this and more during the development of your new website. The typical redesign project timeline is 16-30 weeks from the date of the completion and submission of the request client deliverables – photos for design, logo(s) and branding materials, and Design Discovery Worksheet. Your project manager will prepare your project timeline based on your agreement to a due date for the completion of these items.

Key Dates

Initial Design Revisions

You will be asked to submit your change requests via email approximately one week after your Initial Design Presentation. In order to provide you with ample time to complete an additional iteration of design revisions, you will need to submit your initial revisions by the date indicated on your timeline. CivicPlus will complete and return revisions to you within five working days. This process will be repeated until you are ready to give final approval of the design.

Final Design Approval

The final design approval date is the date on which we need your written approval of your design concept. If we are still working through revisions and are unable to approve the design on this date, it can be extended. Extending the approval date will require us to reschedule design application/programming with our Website Development team. This will cause an extension of the entire timeline, including your production website available date, training date(s), and website launch.

Content

CivicPlus will make an exact copy of your website on a pre-determined day. Any content added to your current website after this date will not be available on your new production website. Our content team will touch every published page of your website to ensure all information has transferred without error. The process ensures that each page has proper formatting, menu structure, and site style.

Production Website Completion

You will be provided with the URL and login information for your production website on or before the production website available date on your timeline. This production website will feature your approved design and completed content. This is the site that will launch at the end of the project but is made available prior to launch so you can see the design on a working website and make updates. You will be able to login to begin updating modules (News, Calendar, Agenda Center, etc.) as soon as the production website is provided to you, but should refrain from editing pages until after your training session.

Training

CivicPlus redesigns include a complimentary training session to detail the upgrade you receive with your redesign. You have six seats reserved for this live training that will include one day of instructor-led training. You will use your production website for the training session. The following topics will be covered in this training:

- Editing pages using the WYSIWYG live editing tool
- Adding, deleting, modifying, and moving pages in the menu
- Utilizing content widgets to customize page content
- Utilizing module widgets to integrate module content
- Basic module training: Document Center, News Flash, Calendar, FAQs, Quick Links, Form Center, and Info Advanced
- Q&A time with instructor



Website Launch

Your project manager will reach out the week of your website launch to confirm you are still comfortable with the date. If you would like more time, we can easily move this date.

When you are ready to launch, your project manager will schedule a date and time. You will not need to do anything to complete the launch process. Our Systems Administrator will initiate the launch when scheduled.

Content Migration Process

The Focus

At CivicPlus, our #1 focus in developing your website's content is its usability, because we want to make it easy for your website visitors to quickly find what they're looking for so they can accomplish their task and move on about their day. We strive to build a bridge of communication between local government and citizens and work to make your new website as citizen centric as possible.

We also want to make managing your content easy for you. Our intuitive Aurora platform allows you to easily copy, move, remove, or otherwise alter content. As a part of that, our internal search engine and site maps are optimized to help you find your content quickly and easily. We base our content development best practices on usability, consistency, Americans with Disabilities Act (ADA) and WCAG compliance standards from leading industry experts like HowTo.gov, and the Research-Based Web Design and Usability Guidelines (PDF) from Usability.gov.

The Process

The Content Migration process is a manual process that is performed by our team of Content Developers. The Content Developers pay close attention to how the information is organized, structured, and presented so that your website is easy-to-navigate for people who aren't familiar with government.

You will have the opportunity to discuss the content migration process with your Project Manager and choose either a high touch or low touch approach based on your needs.

- High Touch: With our High Touch approach, we re-format your content by applying our Best Practices, breaking it up, adding bullet points to call out important information, and adding headings to help guide your users through your content. We edit your content for basic grammar and punctuation. (Note: we do not re-write your existing content or create new content.)
- Low Touch: The Low Touch approach is the option to choose if your site's content is already very deliberate and suitable for your community. With this method, we would ensure that your navigation and page content were left very similar to your current site, only changing what we find is not usable or accessible for the end-users (citizens).

Highlights of your content development experience include:

- Evaluation of content and structure on existing website
- Optimization of current content into CivicEngage
- Assistance in migrating or managing content
- Optimization of current navigation structure to allow visitors to find what they need quickly and easily
- Automated Quality Control review
- A Final Content Report complete with recommendations for how to take content to the next level of serving citizen needs
- Access to CivicPlus' Content Best Practices and information to help guide you through maintaining and making additions to your content

Accessibility

ADA Section 508 Compliance

We provide highly compliant sites based on WCAG 2.0 A and AA guidelines, which encompass and surpass ADA accessibility requirements. Our focus is to provide a high degree of compliance with WCAG 2.0 A and AA, which maximizes accessibility for all users while providing freedom to create a visually rich and appealing site.

Our approach for each website includes the following steps to provide you a compliant and accessible website:

- We will deliver you a site that meets ADA (Section 508) and WCAG 2.0 A and AA levels.
- Our trainers will use CivicPlus best practices to teach your staff to keep your content and design elements accessible and up-to-date with the latest ADA/WCAG standards.
- Any new regulations that require code changes are done automatically for you and we perform code changes quarterly with no additional effort required from you.
- Our product team closely follows changes in regulations and updates our best practices as well as provides regular updates to clients via our CivicPlus website, blog articles, webinars, and other publications.

We will deliver a compliant website and training to provide you some tools that will help you maintain compliance after launch including:

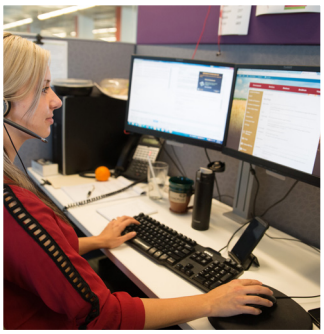
- **Accessibility Checker** – scans content in the editor widget, NewsFlash, and FAQs for any accessibility issues so you can correct them before publishing.
- **Accessibility Checklist** – assists in reviews of your site's design and content.
- **Best Practices** – helps your team take personal responsibility and accountability for your web pages.
- **Ongoing Scans** – we think it is a best practice to occasionally scan your site to check ongoing compliance.

CivicPlus also partners with AudioEye to provide a suite of accessibility tools and services at a discounted rate to our clients. Additional details and a quote can be provided upon request.

Continuing Partnership

CivicPlus has a dedicated Client Success team to help you implement the tools needed to successfully meet the level of community engagement that you desire. Upon website launch, your Client Success Manager will continue to provide you with further information on how to utilize the tools in your new website. Lisa will also keep you informed of new CivicPlus products and ways to optimize your site.

Support and Maintenance



Around-the-Clock Service & Support

With technology, unlimited support is crucial. Our live support personnel based in the United States are ready to answer your staff members' questions and ensure their confidence. When you choose CivicPlus, our knowledgeable staff is available from 7 a.m. to 7 p.m. (CST) to field your calls, emails, and live chat. Emergency services are available free of charge after regular hours with our on-call staff 24-hours a day.

CivicPlus is also proactive in identifying any potential system issues. Through regularly scheduled reviews of site logs, error messages, servers, router activity, and the internet in general, our personnel often identify and correct issues before they ever affect our clients' websites.

Technical Support

- Dedicated support personnel available 7 a.m. – 7 p.m. (CST) Monday – Friday (excluding holidays)
- 4-hour response during normal hours
- 24/7 emergency support

Maintenance

- Full backups performed daily
- Regularly scheduled upgrades, including fixes and other enhancements, and OS system patches

In February of 2019, CivicPlus Technical Support was presented with a Bronze Stevie® Award in the Front-Line Customer Service Team of the Year – Technology Industries category in the 13th annual Stevie Awards for Sales & Customer Service.

The Stevie Awards are the world's top honors for customer service, contact center, business development, and sales professionals.

www.civicplus.help - The CivicPlus Help Center

CivicPlus clients have 24/7 access to our online Help Center where users can review articles, user guides, FAQs, and can get tips on best practices. The Help Center also provides our release notes to keep you in the loop on upcoming enhancements and maintenance. The Community Forum allows your staff to interact with each other, send CivicPlus feedback and suggestions for future system enhancements, and view trending topics.

System Ownership

After full and complete payment, the City will own the customer content (defined as website graphic designs, the page content, all module content, all importable/exportable data, and all archived information relevant to the work and deliverables). Intellectual property of the CivicPlus CivicEngage Content Management System (CMS) will remain the property of CivicPlus. If the contract is canceled due to Hapeville's wishes, CivicPlus support staff will take all of the content and information, store it in a file location, and help to make a smooth transition to the new hosted solution. In the unlikely event that CivicPlus goes out of business, Hapeville will be provided with an electronic copy of the site.



Scheduled Maintenance

Our maintenance window is from 10 p.m. CST Saturday nights to 6 a.m. CST Sunday mornings. Any maintenance on servers are regularly scheduled to occur during this time unless an out-of-band maintenance is warranted. All critical updates are applied after testing unless they are a very high security risk in which they will be applied out of band. All others are evaluated and installed if needed. Sites are normally available during this window period. If there is an event that requires no risk of any downtime, it can be communicated through support or your client success manager that you do not wish to receive the pushes, and it can be scheduled for a later date.

For additional information on the subject of ongoing operations and maintenance, please refer to the "Continuing Services" section on page 20 of this document.

Training Differentiator

While other companies may show you the fields and the steps needed, our trainers know the business processes behind the work being done on the site and they help clients understand the process and steps they need to complete from start to finish. We teach users how to use the system, how to leverage it to increase department efficiencies, and how to increase citizen engagement.

Our goal isn't just to train your staff, but to increase the use of the website, reduce incoming call volume and walk-ins, and help internal staff to maintain it the easiest way possible all while ensuring your site remains service-oriented and citizen-focused. We also teach best practices, ADA requirements, image optimization, and much more.





Typical CivicTraining® Plan

Your CivicTraining plan will be customized to the needs and skill levels of your site users and administrators on your CivicPlus website. All training sessions will utilize your production site, so users are familiar with your new site and managing the CivicEngage content management system software.

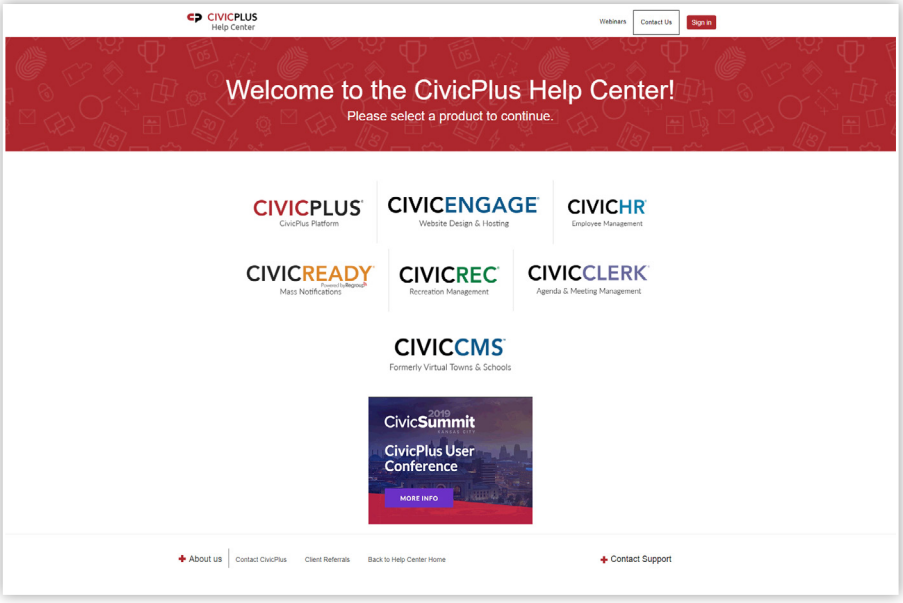
For more information on the specifics and extent of CivicTraining plan included with your redesign, please refer to page 17 of this document.

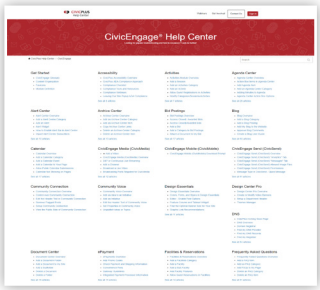
Ongoing Training

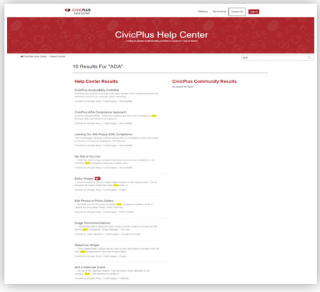
We want your website to be an investment that holds its value over time rather than a big expense that you have to budget for every few years. We apply this same thinking to our approach toward training and support. After the launch of your website you should be able to keep current staff as well as new hires trained and supported as they update and maintain your site. CivicPlus offers ongoing training and support, as well as the incredible interactive community of more than 3,500 other municipalities that use the CivicEngage CMS. Stay up to date and always informed with unlimited access to the CivicPlus Help Center.

With CivicPlus Help Center, you can:

- Access online training manuals and videos to learn the tips, tricks, and processes to become the expert at creating the best website for your users
- Attend webinar series for refresher trainings or for sneak peeks at the newest features and functionality in development
- Share ideas and contribute to bettering our community through opinion polls, surveys, and group discussions
- Stay up to date on the latest trends in web technology, design, and government processes through blogs, webinars, and informational updates tailored to local government professionals
- Access our always-available online support center for our clients that is easy to navigate with predictive search
- Sign up to be a part of the CivicPlus beta testers to get your hands on the newest features and functionality first







Upgrade Testing

The CivicPlus Development Team develops software using the Agile development methodology. We currently work in 2-week sprints with several teams addressing new functionality and services and additional teams and select members dedicated to software fixes and minor enhancements. Prior to any software update or rollout, all code changes go through an internal testing process which includes an alpha testing phase, a beta testing phase, and a final Release Candidate testing phase. Separate internal servers, isolated from our client hosts, are used for these various stages of testing. At times, we do ask for Beta clients to test our Release Candidate on their site. This is an opt-in program. At any time during these testing phases, any member of the CivicPlus team can report an issue that needs to be addressed before rollout, essentially removing the product from the deployment schedule.

A separate and isolated testing environment that mirrors our production servers is maintained for internal testing of not only our own codebase, but any updates to the host operating system as well. All updates are logged and tested prior to rollout to ensure compatibility with our CMS.

Software Licensing

CivicEngage is a web-based, SaaS model and provides Hapeville with unlimited user access. The Annual Services fee includes the CivicEngage CMS, support, hosting, and maintenance. The Annual Service fee is a fixed fee that will be subject to a 5% technology fee uplift beginning in Year 3. CivicEngage doesn't require any additional software downloads outside of Hapeville's browser preference.

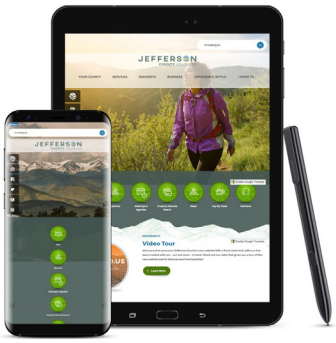
Site Design



Responsive Design

As part of providing industry-leading technology, responsive design is included with your CivicPlus site. With responsive design, your site adjusts to the screen size regardless of what device is being used. CivicPlus websites are viewable in all common browsers. We optimize them for administrative use with Windows 2000+ and in the two most recent versions of major browsers including Microsoft Edge, Firefox, Safari, and Chrome. This flexibility provides a seamless user experience.

Jefferson County, Colorado | www.jeffco.us





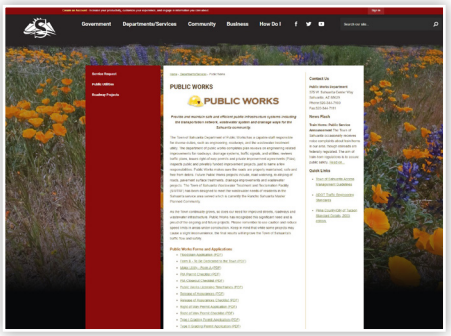
Claremore, Oklahoma | www.claremorecity.com

Page Designs

After your design concept and direction has been determined with your Art Director, one overall design template featuring your City's branding and chosen aesthetics will be created incorporating both a homepage layout and an interior page layout. Page layout options are available within the Online Page Editor content creation functionality. Those layouts are separate from the overall design of the site, though they do reflect font sizes and styles associated with the various heading levels and content types. Unlimited pages can be created with the CivicEngage CMS.



Home Page



Interior Page - Public Works

Dynamic Page components such as Quick Links, Events Calendar, FAQs, Opinion Poll, News Flash, and others, may be placed on any page and will help dedicated areas of the site appear as its own website. For example, the entry page for your Parks and Recreation Department can be customized with specific lists of events, FAQs, and news announcements pertaining to that department.

CivicEngage CMS



The CivicEngage CMS is robust and flexible with all the features and functionality you need today and in the future. Developed for organizations that need to update their site frequently, CivicPlus provides a powerful government content management structure and website menu management system. The easy-to-use system allows non-technical employees to easily update any portion of your website with ease.

Each website begins with a unique design developed to meet your specific communication and marketing goals, while showcasing the individuality of your community. Features and capabilities are added and customized as necessary, and all content is organized in accordance with web usability standards.

User Interface

CivicEngage's intuitive interface empowers your staff in more efficient ways. Based on client input and extensive testing, the CivicPlus team has created a clean, crisp, updated look and feel for the administrative side of CivicEngage. It's sleek, streamlined, and designed specifically to make your job easier.

All CivicPlus Trainers and Consultants are UI/UX certified to ensure they deliver the best experience for our clients and their end users.



The CivicPlus Platform

The CivicPlus Platform helps municipalities streamline their processes while also enabling robust solutions and integrations. We continually add new functionality and features to the platform to further connect your solutions.

Features

- Single Sign-On (SSO) to all your CivicPlus products
- Easily access all your CivicPlus products and integrated solutions from one dashboard or toolbar
- Strengthened password and user security
- Access to a continually growing set of APIs in order to better connect your organization's processes

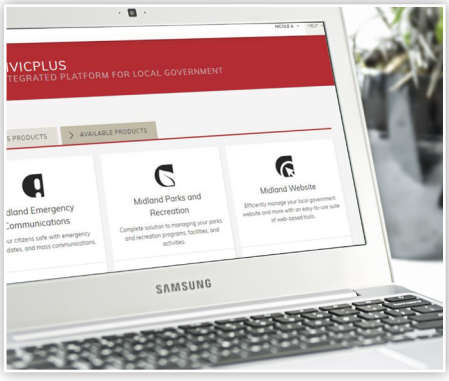


Table 1 - CMS Features

Component/ Module Name	Function	Offered (Yes/No)	Vendor Comment
Browser Based Administration	Create, edit, or delete and template-based web pages and news updates	Yes	No installation of programs or software needed, meaning you and your staff can update the site from any Internet connection or platform (Mac or PC) at any time.
Calendar	Update/publish calendars w/ optional ability to import Google Calendar feeds	Yes	Utilize the Calendar Module & Zapier to create a connection between a calendar such as Google or Office 365 to your website calendar.
Departmental Home Pages	Ability create landing pages for associated municipal departments	Yes	Use Dynamic Page Components to create department-specific landing pages for your departments.
Directories, Listing for Staff	Dynamic content	Yes	Use the Staff Directory and Dynamic Page Components to display detailed contact information for your staff and various offices.
Document and File Repository	Upload/download capability, back-end ability to search within	Yes	Any documents or PDF's uploaded in a readable format or converted to PDF within the system are searchable on both the citizen facing and administrating side of the website.
Publicly Warned Meeting Document Management	Create, manage, and host agendas, minutes, and other relevant documents	Yes	Create and display agendas and minutes for various organizations or departments with Agenda Center.
Search / Archive Center	Searchable solution for live or archived content, documents, and news updates (internal site search engine).	Yes	Intuitive & predictive keyword search functionality is within the website, not outside search engines.
News Updates	Online publishing of blog-style news updates with email subscription capability	Yes	CivicEngage includes the new flash module & Blog module with e-notification capability.
Alerts & Emergency Notification	Front page solution for emergency notification updates with a registration widget and the ability to share via social media	Yes	CivicEngage includes the Alert Center for a front-page solution and Notify Me to send messages to subscribers.
Interface to existing systems and databases	Integration or links to Interactive GIS, Smartgov, Land Records Portal, Google Suite, etc.	Yes	These items can be easily linked to or embed within a page of the website.
Recreation Programming/Event Registration & Facility Management	Web-based registration software for Recreation and facility rentals	Yes	CivicEngage includes both an Activities and Facilities module. We also offer CivicRec for a more robust solution.
Online Payment Solution	Secure online transaction by department	Yes	We also offer electronic payments.
Survey/Polling Capability	Web-based software for polling, surveys, and answer tracking (or capability to embed third-party programs)	Yes	CivicEngage includes a fully robust Form center
RFP/RFQ/Bid Posting	Dynamic content	Yes	CivicEngage includes the Bid Postings module.
Integrated Human Resources Solution(s) for Employment Opportunities	Applicants can view job openings and apply (fill out applications, attach resumes and documents) to submit electronically via website.	Yes	CivicEngage includes a basic Job Posting module that can utilize our Form Center for applications submissions. We also offer a more robust standalone Human Resources solution with additional security for personal information.
Security Integration	SSL encryption	Yes	All of our sites carry an SSL certificate since 1/1/2018
Video Hosting	Ability to embed third-party videos	Yes	Videos can be embedded or iFramed on any page.
Site Statistics	Integration of comprehensive analytical status reports	Yes	Matomo (formerly Piwik) or Google Analytics
Sitemap	Dynamic	Yes	
Mobile Browsing	Website can be accessed from any mobile platform	Yes	Your site will be 100% mobile responsive.
Online Forms	Forms, publishing, and tracking with email forwarding capability	Yes	Included in our Form Center Module.
Photo Center	Optional - Display community photos in a central location on website	Yes	All your photos can be held in the Photo Gallery.
Multi-Lingual Support	Dynamic content	Yes	This will be achieved via Google Translation.
Printable Pages	Print-friendly function	Yes	All pages and forms have print-friendly features.
Social Media Interface	Facebook and Twitter feeds	Yes	This can be accomplished via iFrame/embed on a page.
Real Estate Management	Properties – commercial or residential – can be organized by and searched	Yes	CivicEngage includes the Real Estate module.
Sideshow (Photos/Banners)	Dynamic image/ video display	Yes	Utilize the Slideshow widget for video and image displays.
Volunteer Management & Registration software	Provide web-based software or enable third-party embeddable portal(s)	Yes	This can be accomplished via iFrame/embed. We also have CivicRec for a more robust solution.

Features and Functionality



Modules & Tools

Activities – Create activities and accept registrations while integrating with other CMS modules.

Agenda Center – Create and display agendas and minutes for various civic organizations.

Alert Center – Post emergency or important information on your website to notify citizens via email and SMS.

Archive Center – Store and retrieve agendas, minutes, newsletters and other data-driven documents.

Bid Postings – Post your bids with this easy-to-use tool.

Blog – Post opinions/information about various community topics and allow citizen comments and subscriptions.

Business/Resource Directory – List municipal contact information and community resources.

Calendar – Create multiple calendars and events to inform citizens of upcoming activities.

Carousel Widget – Present more impactful information with easier navigation in a single page element that can hold up to 10 clickable rotating groups of 1-3 widgets.

Citizen Request Tracker™ (CRT) – Allow users to report a problem and provide follow-up communication with the point of contact.

Community Voice™ – Interact with citizens about projects in your community.

Document Center – Organize and house documents in one central location.

ePayment Center – Create a secure, PCI-compliant payment gateway for your online services with our opt-in service, CP Pay. Additional fees apply.

Facilities & Reservations – Showcase community facilities and allow reservations online.

Form Center – Create custom online forms that can be completed and submitted online.

Frequently Asked Questions (FAQs) – Answer the most frequently asked questions from your visitors.

Job Postings – Post available jobs online and accept online applications.

My Dashboard – Allow users to personalize their dashboard to stay updated on news, events, and information they care about.

Notify Me® – Send out unlimited mass emails and SMS messages to subscribers of specific lists. (Includes 50,000 messages annually)

News Flash – Post organizational news items that are important to your citizens.

Opinion Poll – Interact with your site visitors by posting various questions and polls.

Photo Gallery – Store and display photos.

Quick Links – Place links on any page using your WYSIWYG editor that let your visitors find what they need quickly.

Spotlight (Advanced widget) – Highlight important text or widgets in a compact, easy-to-update tool.

Staff Directory – Share detailed contact information for your staff and offices.

Social Networking

CivicPlus understands the importance of Gov 2.0 and how social networking sites like Facebook and Twitter help governments connect with their residents in unique and innovative ways. Many CivicEngage modules can be integrated into your Facebook and/or Twitter profile to automatically post information like news items, calendar events, and more. CivicEngage can also incorporate available, compatible social media feeds and widgets into the design of your new website to create a social media hub.

Administrative Features

Automatic Alt Tags – Built-in features allow ongoing ADA compliance of your site.

Browser Based – No installation of software needed. Update the site from an internet connection and any platform (Mac or PC).

Content Creation – Easily add new content, edit old content, and keep page layout consistent through use of our What You See Is What You Get (WYSIWYG) editor.

Content Scheduling – Any material in the system can auto-publish and auto-expire.

Content Versioning – An archive of all published content to access and review previous versions.

Dynamic Breadcrumbs and Site Map – Dynamic breadcrumbs are automatically generated and used to show a visitor's location within the site. The site map is dynamically generated and automatically updates to reflect new navigation if changes are made.

Dynamic Page Components – Events Calendar, FAQs, Opinion Poll, News Flash, and other new features may be included as dynamic page components and may be placed on any page.

History Log – Track changes made to your website including items in your Page Menu, Archive Center, Document Center, and more. History Log information is searchable, sortable, and exportable.

Intranet – Use permissions to set a secure location on your website that allows employees to login and access non-public resources and information.

Levels of Permissions – Assign staff members to groups with different levels of permissions of access and authority throughout the CMS.

Link Redirects – Instead of sending your users to http://civicplus.com/248/Awards-and-Recognition, you can send them to http://civicplus.com/awards.

Live Edit – Quickly edit directly on the front-end with point-click-edit access to information. See where your information will be posted before you commit to any changes.

Maps – Maps can be developed by using our native Image Map Editor to create different link areas. Easily embed maps from Google, ESRI, and more using the HTML widget.

Mega Menu – A main navigation menu makes it easy to get to any page on your site with a single click.

MobileAdmin App – A separate app to update your admin functions (Alert Center is included. Upgrade option includes NewsFlash, Calendar, and CRT) from any location using your tablet or phone.

Pending Approval Items – Administrators have direct access to a queue of pending items to be published or reviewed upon login.

Predictive Site Search and Search Log – Powerful site search automatically indexes all content making it easy for visitors to find information. All search words are kept in a log, allowing you to update highly searched information and feature key items.

Printer Friendly – Separates critical content from the site template to provide a clean print without menu structure and banner information included.

RSS Feeds – Real Simple Syndication (RSS) allows patrons to sign up to receive email notifications.

Supported Browsers – CivicPlus websites are viewable in all common browsers. We optimize them for administrative use with Windows 2000+ and in the two most recent versions of major browsers including Microsoft Edge, Firefox, Safari, and Chrome.

Translation – Integration with Google Translate translates web pages into over 100 languages.

Website Statistics – Matomo (formerly Piwik) Analytics provides web statistics for analysis.

Application Programming Interfaces (APIs)

We know that each municipality has unique needs and develops individualized solutions through software, data integrations, and custom programming to meet those needs. We help you to bring these pieces together in a single location. We continue to improve and evolve our CMS to make integrations with our CivicEngage CMS and disparate applications as straightforward as possible. This open architecture approach allows your IT staff and programmers to spend time creating applications and systems that are specific to your community's needs using the site itself as a sturdy platform on which to build.

- **APIs**: CivicPlus offers integration via SOAP and REST APIs. Our APIs are available within the CivicEngage system, which allow your IT staff and developers to build community-specific applications right from your website. Enabling communication between your CivicPlus software and third-party systems provides the flexibility to leverage the capabilities of both. This information exchange between systems maximizes productivity and efficiency, allowing you to do more with your available resources.
- **Integrations**: CivicPlus routinely integrates with other software to maximize the efficiency and effectiveness of our platform. Most integrations are embedded tools, allowing you to seamlessly leverage the technology with no additional steps. Common integrations that help local government organizations are our data integrations with ESRI and Google Maps within our emergency management, facilities management, and activities software. Additionally, our clients utilize analytics tracking offered through Matomo or Google Analytics. CivicPlus also utilizes the robust functionality and options available through Zapier to assist with client integrations.

Functionality Disclosure

As CivicPlus continues to evolve and improve our solution to support our clients' needs and goals, we reserve the right to upgrade, replace, modify, or terminate any of the features and functionality elements listed, at our sole discretion, and when feasible, providing reasonable notice to our clients of any changes. These features and functionality are offered on a gratuitous basis to our clients, with no monetary value per feature, and should any changes be enacted, will not affect any terms in a signed agreement with CivicPlus.

Content Creation

Recognizing that not all site administrators possess high levels of technical expertise, the CivicEngage CMS makes it easy to add new content, edit old content, and keep page layout consistent through use of our WYSIWYG editor.

The page content creation functionality is separate from the overall design of the site; the content will reflect font sizes and styles associated with the various heading levels and content types. Content changes will not affect the design, though the site breadcrumbs, page structure and sitemap will dynamically update upon publish of any content changes.

This front-end edit feature makes updating website content even quicker and easier, as users have point-click-edit access to information, right from the front-end of the website. To edit content, all you have to do is follow the steps below.

- Step 1: Enable the Live-Edit feature and click on the area of the website that you wish to edit.
- Step 2: Make changes to the website, then click 'Save'. Changes are immediately reflected on the site.

A great tool for users to update the website from the public view, CivicPlus' Live Edit allows you to see where your information will be posted before you make any changes. If you would like to move a page under a different department or move the entire department section of your website to a different location, just follow the steps below.

- Step 1: Find the page creation icon and click on the section of the navigation you wish to move.
- Step 2: Drag-and-drop the page or section in its new location. Changes are immediately reflected on the site.

Unlimited pages can be created with the CivicEngage CMS and there is no limit to the depth of pages that can be created. You are responsible for the depth of navigation. With mega menus and dropdown and pop-out menu functionality, you can essentially get to any page on your website within a single click if you desire.

Content Changes & Design

One overall design template is created specifically for the site's homepage and interior pages. Page layout options are available within the Online Page Editor content creation functionality, and those layouts are separate from the overall design of the site, though they do reflect font sizes and styles associated with the various heading levels and content types. Content changes will not affect the design, though the site breadcrumbs, page structure, and sitemap will dynamically update upon publish of any content changes. Should design changes be requested and/or necessary, the site's content – in most cases – should adjust to the new design with little to no content manipulation needed.

Content Scheduling

When creating an entry, simply select the date and time desired for the material to publish and/or unpublish. Material can be set to auto-unpublish or it can be manually retired.

Every aspect of the system has the ability to have expiration dates. These dates are logged in an Expiring Items Report and can have an automatic email sent to you 72 hours before it is set to expire. When items expire, they are unpublished from public view but will remain in the system until someone manually removes them from the archive. This allows you to bring the page back at any time with updated content.

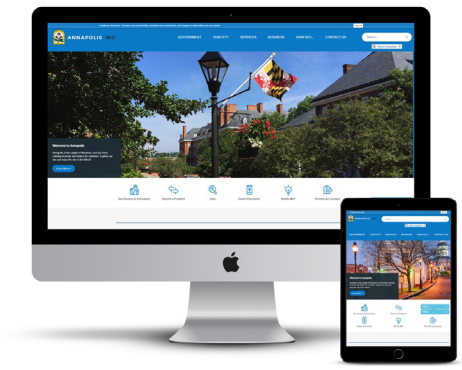
Content Versioning

The CMS includes version control, a history log for reviewing changes made within the system, file locking through our permission system and an archive of all published content so that previous versions can be accessed or used, if necessary.

User Permission Levels

Most information is constantly changing and needs to be updated frequently. With CivicPlus, each department is capable of updating their own content. Even though each department can update their own information and web pages, the menu structure, top of page, banner, and navigation throughout the site remains the consistent.

A central administrator is given the ability to establish groups with specific rights and capabilities to update the website. Users are then assigned to those groups based upon the role they will have in updating the website. Users of the administrative system may be defined as publishers or authors of the content, or as administrators of modules. A central publisher for each department can then approve the pages.





Credit Card Processing

CP Pay™

Opt-in to use CP Pay, our secure, PCI-compliant, standalone payment gateway that is integrated within the CivicPlus Platform. Local governments can use CP Pay within any CivicPlus solution or third-party product. Providing flexible payment solutions, CP Pay offers integrations with commonly used payment gateways in addition to our recommended merchant account gateway partnership, CP Pay Merchant.

Our recommended payment gateway, CP Pay Merchant, will relieve your finance and IT teams of the risk of maintaining and monitoring merchant processing responsibilities and vendor relationships. Take advantage of having all your payment transaction information in a consolidated area, while having the peace of mind that all digital financial compliance requirements are met and your chargebacks and refund requests are being managed for you. Key benefits of CP Pay Merchant include:

- Next-day funding
- Support for the latest secure digital transaction technology with Europay, MasterCard, and Visa (EMV)
- Smart payment transactions (chip cards)
- Consolidated, real-time CP Pay reporting across products and third-party software



Not only does CP Pay Merchant accept online payments, you will also be able to accept secure payments in your office with the OpenEdge Hardware Program for CivicPlus. Because each device is encrypted specifically for the payment gateway, you'll need to leverage devices directly from OpenEdge available for either a one-time purchase or rent. We are happy to assist in your procurement of such devices.

To utilize our recommended merchant account, CP Pay Merchant, separate merchant account fees and 3% + $0.30 transaction fees will apply. Additional information can be provided upon request.

Supported Gateway Providers

Providing flexible payment solutions, CP Pay also has a number of supported gateways that you can leverage for an additional set-up fee.

Hosting and Security



Redundant power sources and internet access ensures consistent and stable connections. We invest over $1.0M annually to ensure we adapt to the ever-changing security landscape while providing maximum availability. To help ensure your site is protected at the level you need, CivicPlus' Included Hosting & Security Package is built into your solution.

Your system is monitored 24/7/365. CivicPlus' extensive, industry-leading process and procedures for protecting and hosting your site is unparalleled. From our secure data center facilities to constant and vigilant monitoring and updating of your system, including 99.9% guaranteed up-time (excluding maintenance), we've got you covered. If you experience a DDoS attack or threat, CivicPlus has mitigation and DDoS Advanced Security options that are available to you at the time of event.

Hosting & Security Features

Data Center

- Highly reliable data center & secure facility
- Managed network infrastructure
- On-site power backup & generators
- Multiple telecom/network providers
- Fully redundant network
- System monitoring - 24/7/365

Bandwidth

- Multiple network providers in place
- Unlimited bandwidth usage for normal business operations (does not apply in the event of a cyber attack)
- Burst bandwidth - 22 Gb/s

Hosting

- Automated CivicEngage software updates
- Server management & monitoring
- Multi-tiered software architecture
- Server software updates & security patches
- Database server updates & security patches
- Antivirus management & updates
- Server-class hardware from nationally recognized provider
- Redundant firewall solutions
- High performance SAN with N+2 reliability

Disaster Recovery

- Emergency after-hours support, live agent (24/7)
- On-line status monitor by Data Center
- Event notification emails
- 8-hour guaranteed recovery TIME objective (RTO)
- 24-hour guaranteed recovery POINT objective (RPO)
- Pre-emptive monitoring for disaster situations
- Multiple, geographically diverse data centers

DDoS Mitigation

- Defined DDoS Attack Process
- Identify attack source and type
- Monitor attack for threshold* engagement

DDoS Advanced Security Coverage

Not Included. Additional coverage available at time of event. Additional fees will apply.

***THRESHOLDS:** Traffic exceeds 25 Mb/s sustained for 2+ hours. Traffic over 1 Gb/s at any point during attack

Hosting Location & Information

Hosting Facility and CMS

- 100% of CivicPlus customers (regardless of city size) host at our dedicated hosting facility
- CivicPlus has a dedicated hosting facility in Kansas City specifically built and maintained for government website hosting and administration
- CivicEngage CMS is web-based software, and with a fully-hosted and maintained solution, there are no versions from which to choose and no annual system upgrades to purchase
- Technical experts at CivicPlus are dedicated to improving and enhancing the existing system

Customer Benefits

- Hosted customers get the benefits of new technologies and improvements in operations, and when problems do arise, a faster response time
- Redundant power sources and internet access ensure consistent and stable connections
- Average uptime of 99.9%
- On-site internet access provides bandwidth up to 22 Gbps
- Regular hardware upgrades ensure that CivicPlus-hosted sites are maintained on the most up-to-date, reliable equipment

Backups and Recovery Plans

- Full backups provided as a regular service for CivicPlus-hosted customers
- All servers backed up daily, weekly, and monthly
- Technical Specifications
- No additional hardware or in-house configurations changes on existing servers
- CivicPlus-hosted sites can be maintained and upgrades provided without coordination
- Technical support and maintenance processes handled more smoothly with sites hosted on our servers
- CivicPlus servers are optimized for our CMS; customers don't need to purchase or maintain additional hardware specifically for your website

More Customer Advantages

- Clients can create and maintain their own web-based applications as individual pieces which CivicPlus can dynamically pull into the website itself
- Hosting with CivicPlus allows customers to maintain their current security preferences on all internal IT resources: no need to open any channels to outside sources for maintenance
- No additional setup or annual charges for hosting with CivicPlus; remote installations incur considerable additional charges due to coordination that must take place between CivicPlus technical staff and client IT staff

Redundancy

CivicPlus maintains a "warm" off-site facility (Phoenix, AZ) for hosting in the event of complete failure of the primary hosting facility (Kansas City). We do have additional, non-disclosed back-up locations in the event additional locations are needed.

System Monitoring & Scalability

Systems are monitored via several methods. Bandwidth is Monitored via Sflow and Zabbix and other open and custom tools. Server availability and performance are monitored via Zabbix and Nagios. Site availability and performance are monitored via Nagios, Zabbix, and custom tool that leverages GTmetrix. Scalability on the web level is possible with multi-tenancy we can run a given site on multiple webservers distributing the load.





Project Pricing Estimate/ Cost for Services



All quotes are priced per project and presented in US dollars. Pricing is valid for 60 days from April 12, 2019.

CivicPlus has endeavored to meet Hapeville's needs and expectations for your redesigned website based on the information provided. This investment proposal is subject to change should additional functionality, custom development, security, escrow requirements, or other design or project enhancements, outside of the included scope, are added prior to contract signing.

Redesign Website Implementation

- New responsive design presented on latest CivicEngage CMS Platform
- Redevelop Navigation Method (may choose top drop-down or other options)
- Wireframe Design Setup and Banner Administration
- Redevelop Graphic Elements of Website (News Flash, FAQs, Calendar, etc.)
- Project Management, Testing, and Review
- Content
  - Includes migration of all existing content and retouching of published pages to ensure new site styles are applied and modules are related to feature columns
  - Contact information will be moved to a feature column area if previously formatted in a right contact layout
  - Ensure modules are related to feature columns
  - Content Optimization – move text and images out of editor tables into corresponding widgets to optimize responsiveness

  Note: Content will not be rewritten, reformatted, or broken up. Additionally, new pages will not be created.
- Spelling and broken links will be checked and updated by our team where possible- additional report will be provided
- One day of virtual CivicTraining® for up to six staff members

Annual Services

- Included Hosting and Security Package
- Software Maintenance Including Service Patches and System Enhancements
- 24/7 Technical Support and Access to the CivicPlus Help Center
- Dedicated Client Success Manager
- Annual Services are subject to a cumulative annual 5% technology fee increase beginning Year 3 and beyond

Total Investment – Year 1	$5,770
Annual Services (Year 2 & Beyond)	$4,275

Project Pricing Estimate/Cost for Services

CivicPlus Project Pricing & Invoicing

CivicPlus prices on a per-project, all-inclusive basis. This type of pricing structure eliminates surprise costs, the uncertainty of paying by the hour, and is overall more cost effective for our clients. It provides you with a price based on the products and features listed in this proposal that only varies if additional functionality of work, outside of the original project scope, is requested. We understand that local governments must look beyond just functionality and that multiple factors come into play when determining which vendor can meet not only your functional needs, but also your budgetary needs. CivicPlus offers:

- **Standard CivicEngage Invoicing** – 30% of your Total Investment – Year 1 fees (detailed on the previous page) will be due at contract signing and the remaining 70% will be due at completion of implementation or at the six-month mark in the implementation process – whichever date is earlier.
- **CPA Invoicing** – The CivicPlus Advantage (CPA) provides zero interest, level payments that divides the Year 1 expense of your project over the first three years of your contract. Each payment also includes your Annual Hosting/Maintenance Services and any technology fees if applicable. This option may not be available with all products offered by CivicPlus.
- **Customized Billing/Invoicing** – Although not available with all products offered by CivicPlus, we will be happy to discuss other billing options with you prior to contract signing and, if feasible, develop a plan that works for both of us. Please contact your sales representative for details.
- **Annual Services** – The annual fee for your first year is included with your Total Investment – Year 1 cost. Subsequent annual invoicing occurs on the anniversary of the contract signing date, subject to a 5% technology fee uplift each year starting in Year 3 of your contract.

CivicPlus wants our clients to succeed in delivering a viable, sustainable, and flexible web environment for their communities and we will work with you prior to contract signing to determine which of our billing processes will meet both your needs for budget planning and our accounting processes.

Optional Enhancements

The following item is not included in your project, but can be provided as a scope adjustment or following the completion of the website development. A quote and additional details can be provided upon request.

- CP Media™
- CivicEngage Send
- CivicEngage Mobile
- Department Header with Theme
- Subsite
- Virtual Webmaster
- Identity Provider (IdP) Integration
- Design Center Pro
- CivicAdvise Consulting Services
- CivicHR
- CivicRec
- CivicReady
- CivicClerk
- AudioEye

Guarantees/Warranties



Guarantee

After scope is finalized, CivicPlus will work with Hapeville until you are 100% satisfied with the finished product. As a member of the CivicPlus family, your project will be covered for the duration of your partnership with our organization.

Redesign Guarantee

At the end of your fourth year of continuous service with us, you are eligible to receive a basic website redesign with no further out-of-pocket expense. Keep your website fresh, innovative, and up-to-date!

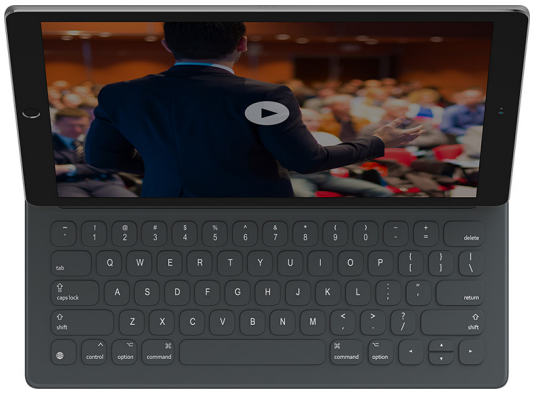


Additional Information



Optional Enhancement – CP Media™

Today's digitally-minded citizens are logging more hours watching online video than ever before, and they are searching for content that ranges from entertaining, to informative. For local governments, video is a powerful mechanism for sharing news and events, encouraging civic participation, meeting transparency requirements, building a brand, recruiting employees, and encouraging citizens to develop a sense of civic pride.



Live Stream:

- Board meetings
- Community concerts or parades
- School sporting events
- Council meetings
- Elected official Q&A sessions
- Press conferences

Live and On-Demand Video Streaming

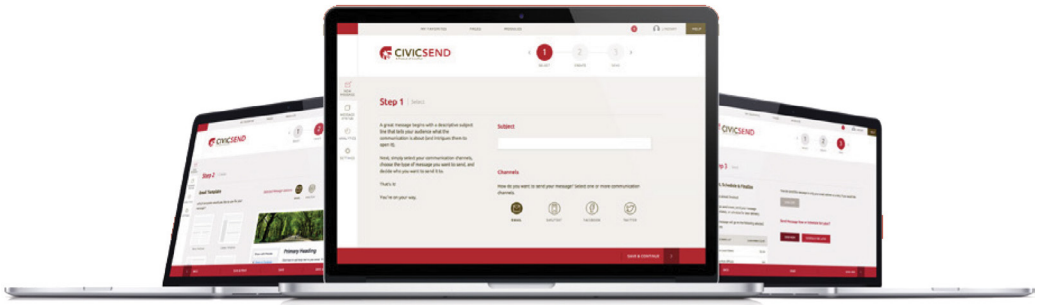
CP Media is a core component of the CivicPlus Platform and is accessible by all our unified applications, including our CivicEngage website design and hosting solution and our CivicClerk agenda and meeting management solution. With CP Media, you can integrate live or recorded videos of meetings and events anywhere on your CivicEngage website that are easily accessible by citizens from any desktop computer or mobile device—no technical or coding skills necessary.

- Immediate availability of recorded videos for on-demand viewing - no additional steps or manual file uploads.
- Convenient integration with social media platforms including Facebook, YouTube, and Twitter.
- High-definition video for professional quality presentations.
- Link meeting agendas and bookmarks.
- Auto-start recordings of meetings, so video viewers never miss a moment of live proceedings.
- Create event templates for effortless set up of recurring meetings.
- Pause live streaming and post a custom message to viewers.
- Accommodate unlimited events and viewers.
- Closed captioning support.

Additional Information

Optional Enhancement – CivicEngage Send

CivicEngage Send is a visually rich communication module for government, used to efficiently distribute general (non-emergency) communication to citizens. CivicEngage Send is more than a simple email newsletter tool – it provides CivicPlus clients with a single point of access, via integration with CivicEngage, to multiple communication channels, including email, SMS/text, Facebook, and Twitter. CivicEngage Send centralizes communication, saves administrative users time and improves overall productivity.



Additional benefits of the CivicEngage Send module include:

- Content auto-posts to your website
- Unlimited communication – there is no limit to the number of emails you can send (text messaging rates do apply)
- Template options to make customizing your message quick and easy
- Access to all subscriber lists in your CivicEngage website, including the ability to select multiple lists

GRANICUS

Empowering Modern Digital Government

Hapeville, GA

Website Design, Development & Hosting Proposal

Dan Oldehoff
Regional Account Specialist
720.770.5598
Dan.Oldehoff@Granicus.com

Granicus
1999 Broadway Suite 3600
Denver, CO 80202
www.granicus.com
Date: April 12, 2019

Dear Selection Committee Members,

Thank you for the opportunity to submit a proposal for the upgrade of Hapeville's website. Based on our conversations and the thoroughness of your RFP, we feel our comprehensive offering will enable you to transform your web presence into a true "Digital City Hall."

Granicus is uniquely positioned to help you serve, engage and reach – residents, visitors and businesses in Hapeville. Here is how we can help you:

- **Serve.** Like most government organizations, you are looking to bring more services online. We'll help you transform your website into a true service portal. We'll start by identifying the top tasks users perform on your website – like paying a ticket – and make it easy for visitors to find and complete those tasks.
- **Engage.** Connect with your citizens in a whole new way. With Granicus govAccess you can gather input on important issues, conduct polls, and aggregate and analyze data to inform public policy.
- **Reach.** Extend the reach of your website with Granicus govDelivery. Send targeted campaigns to our network of more than 150M subscribers nationally.
- **Protect.** Keep critical data safe by working with a vendor serving federal agencies that require the highest levels of security. At a time when ransomware attacks are growing in local government, you can never be too careful. We are here to help!
- **Mobilize.** With nearly 50 percent of traffic to local government websites coming from a mobile device, responsive design is no longer enough. Granicus offers the tools to truly optimize the mobile experience for your users.

We see tremendous potential for your website and would welcome the opportunity to help you achieve it. I look forward to talking with you soon about what's next.

Respectfully submitted,

Dan Oldehoff
Regional Account Specialist

**Because much of our proposal contains proprietary trade secrets that could substantially harm Granicus financially if revealed, we ask the COUNTY to allow us to redact this document prior to fulfilling any public records request per 5 U.S.C. §552(b)(4) and O.C.G.A. §50-18-72.*

Contents

Section 1 – Executive Summary	**4**
Section 2 – About Granicus	**6**
Section 3 – Project Development Approach	**9**
Section 4 – CMS, Hosting and Security	**19**
Section 5 – Project Experience	**28**
Section 6 – Qualifications of Key Personnel	**34**
Section 7 – Project Enhancements	**37**
Section 8 – Proposed Investment	**41**

GRANICUS

Section 1

Executive Summary

Executive Summary

Better Serve Your Citizens

Your citizens approach their digital interactions with government in the same manner they do elsewhere on the web – as customers. Whether they are looking for information on a consumer website or a government website, they expect to find clear and understandable answers to their questions, quickly, in plain language they understand, at any time of day and via the device of their choice. Increasingly, that device is a mobile one, which requires additional thought to ensure this emerging group of site visitors can easily navigate your site.



The Granicus Experience

Granicus has partnered with more than 800 leading local government agencies to design, develop and host their websites. Through these partnerships we continuously evolve our processes and technology to put our government clients at the forefront of innovation in digital government. Everything we do contributes to our mission to help YOU create **a superior digital customer experiences** including:

"I've never worked with a vendor that has been more invested in our success."

Robert Rasmussen
Assistant IT Director
Amarillo, TX

A citizens-focused project approach that starts with research into how your website visitors want to engage with you and what services and information is most important to them. We'll also interview internal stakeholder to understand your goals. This research informs the design, content structure and development of your website – ultimately helping you deliver a superior digital CX.

Ongoing support and continuous improvement that helps ensure your website evolves with customer expectations. The Granicus team conducts an annual analysis of your website using proprietary data and makes recommendations to improve your customer experience leveraging our flexible CMS. You'll also benefit from a guaranteed free redesign.

A CMS that powers superior digital citizen experiences. After we hand over your new website, our CMS solution is there to help you carry on the superior digital citizen experience mission. The casual user can easily update the website with fresh content and visuals, while the power user can monitor, manage, analyze and optimize the website over time.

GRANICUS

Section 2

About Granicus

Meet Granicus

Granicus provides technology and services that empowers government organizations to create seamless digital experiences for the people they serve. Offering the industry's leading cloud-based solutions for communications, content management, meeting and agenda management, and digital services to more than 4,000 public sector organizations, Granicus helps turn government missions into quantifiable realities.

Granicus acquired Vision in 2018, the national leader in government website design, development and hosting. Granicus was impressed by the evolution of the Vision CMS to meet the changing needs of government and the people they serve. They were equally impressed by the process the team perfected to design and develop award-winning government websites.

Company Contact Info:

Dan Oldehoff – Regional Account Specialist
720.770.5598
Dan.Oldehoff@granicus.com

Full name of legal entity
Granicus, LLC

Years in Business
21 Years (Vision) / 19 Years (Granicus)

Number of Clients
4,000+

Company Website
www.Granicus.com

Office Locations:

Los Angeles
222 N Sepulveda Blvd,
Suite 1500
El Segundo, CA 90245

Denver
1999 Broadway Suite
3600
Denver, CO 80202

Washington D.C.
1152 15th Street NW
Suite 800
Washington, DC 20005

St. Paul
408 St. Peter St.
Suite 600
St. Paul, MN 55102

GRANICUS

BY THE NUMBERS

1999
FOUNDED

4000+
GOV CLIENTS

40
OF THE 50 MOST POPULOUS U.S. CITIES

2018
VISION ACQUIRED BY GRANICUS

Relentless Focus on Client Satisfaction

Simply saying we're dedicated to client satisfaction isn't enough. It's our relentless focus, and one that we measure. In fact, across all of our client implementations over the past three years, our average client satisfaction rating is 9 on a 10 point scale.

At Granicus, anything less than the best for our clients is unacceptable.

- **Executives** – Our leadership team guides the entire company to do what is best for our clients. Each week the leadership team reviews client satisfaction survey results and discusses any proactive actions that need to be taken. Our leadership team also brings years of experience across government, software, design and technology industries to the table.
- **Certified Experts** – Our certified experts are passionate about helping you deliver a superior digital customer experience, which is why we are constantly learning new and better ways of doing things. Many of our team members hold the following certifications: NN/g certified User Experience Specialist, Web Graphic Design certified, WebAIM WCAG 2.0 educated, Network and CCNA certified.
- **Project Managers and Customer Support** – Our project managers and customer support team are fanatical about your success, and will go above and beyond to support you.

GRANICUS

ACCOLADES

★★★★★★★★★☆

9 OUT OF 10

PROJECT SATISFACTION

250+

AWARD WINNING SITES

COMPANY RECOGNITION

GovTech 100 Company 2017







GRANICUS

Section 3

Project Development Approach

Project Promise

Over the last 20-plus years, Granicus has created hundreds of award-winning local government websites. We'll bring this expertise to your project, while also working to meet and exceed your unique goals. Here are a few things you can expect from your partnership with Granicus.

Your Goals

A digital city hall experience that promotes self-service across all departments.

Encourage civic participation.

A citizen-centric design, release early, iterate often.

Data-driven approach to the website redesign.

A unified web presence with apps used by the city seamlessly integrated.

The Granicus Difference

Granicus believes your website should truly serve citizens, making it easy to find and complete common tasks, like paying a ticket. Our data-driven approach will help us identify top services and tasks so we can optimize the online customer journey.

Connect with your citizens in a whole new way. With Granicus govAccess you can gather input on important issues, conduct polls, and aggregate and analyze data. You may also want to consider govDelivery, enabling you to publish content to our network of 150M people.

With our public beta site offering we can launch early, gather feedback and iterate to ensure we deliver a website that truly meets the needs of your citizens.

Our process takes the guesswork out of your website redesign by basing key project decisions on the data we collect about your website, not on opinions. As a result, your team will be informed and aligned.

Extend the impact of your website with the Granicus platform – publish content to our network of 150M+ citizens, simplify agenda creation, stream meetings to video, and much more. You can also chose from an extensive list of pre-built integrations with best-in-class apps like Laserfiche, NeoGov, Esri, SiteImprove, Twitter, Facebook and more.

GRANICUS

Timeline + Development Plan

Over the last 20-plus years, we've developed thousands of websites for some of the most progressive local government agencies. Lessons learned from this experience have helped us refine our process in order to deliver consistent, superior results. Here's what you can expect.

1 Research	**GOAL** Conduct analysis to understand how your website is used.	~5 weeks
2 Design	**GOAL** Develop a website that reflects your community and brand and delivers superior digital customer experience.	~6 weeks
3 Site Development	**GOAL** Refine the website's content and implement Granicus govAccess.	~11 weeks
4 Launch	**GOAL** Train your team and bring the new site live to the public.	~5 weeks
5 Post Launch	**GOAL** Provide ongoing support and maintain a superior digital customer experience.	Ongoing

GRANICUS

1 | Research

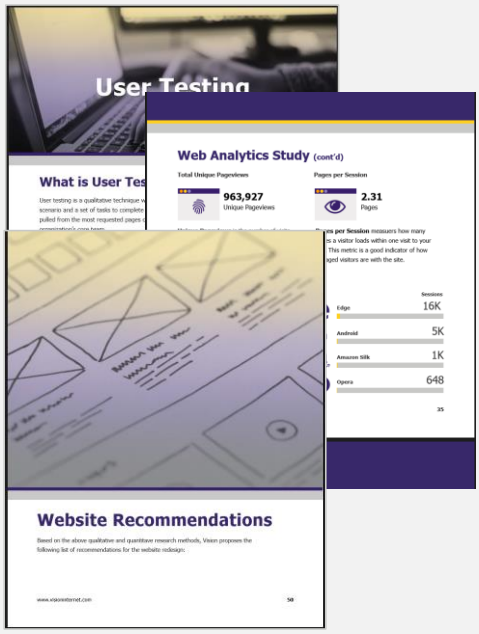
GOAL
Conduct analysis to understand how your website is used.

Deliverables
- Site Usability Report
- Custom Wireframe

Toolkits
- Project Kick-off Kit

~5 weeks

Site Usability Report



Granicus' primary objective is to develop a website that makes it easy for people to get things done online. In order to achieve this mission, our process begins with an extensive focus on customer experience (CX), which gives us an understanding of your unique community and what they're looking to do on your website.

Comprehensive Analysis

We'll compile data in a variety of ways, including:

- **Heatmap Analysis:** Heat maps help us gain an understanding of how people are interacting with your content. The information gathered is helpful to us as we determine how to organize content and information to best attract users to your site.
- **Web Analytics:** We leverage date from Google Analytics to understand the most frequently visited pages, top referring sources, bounce rates, etc. This data supplements our heatmap analysis to inform recommendations for your website.
- **Community Survey:** A survey of your community will help us understand what kinds of tasks residents are most frequently looking to complete on the site. Having anecdotal feedback helps ensure we're on the right track.
- **Stakeholder Survey:** We also survey your internal stakeholders to gather information on the current goals and tasks of your website from an internal point of view.
- **Recorded User Testing:** Users will be recorded as they attempt to complete tasks on your website. This method has consistently uncovered valuable insight into how a website can be confusing to those who don't use it everyday.

Site Usability Report

Based on the results of our research, our NN/g Certified User Experience Specialist will compile a custom Usability Report, summarizing findings and recommendations. This document should be shared internally to provide alignment for key project decisions.

GRANICUS

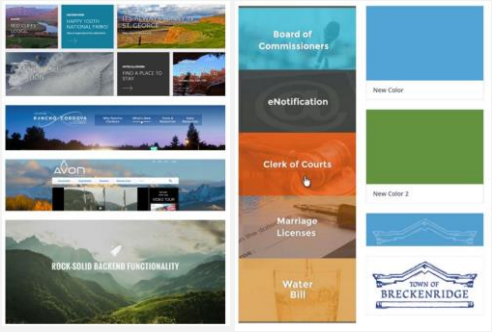
2 | Design

GOAL
Develop a site that reflects your community, brand and delivers superior customer experience.

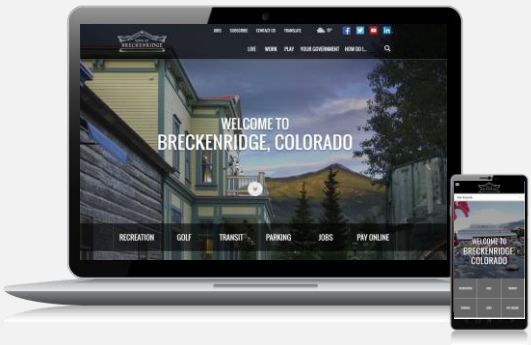
Deliverables
- Mood Board
- Graphic Design Comp
- Mobile Comp
- Style Guide

~6 weeks

Mood Board



Graphic Design Comps



Our design phase is highly collaborative to ensure the unique identity of your organization is reflected in the site's look and feel. We balance aesthetics with usability, mobility and accessibility principles to ensure the final result is beautiful without compromising functionality.

Web Design Implementation

- **Design Meeting and Mood Board:** You'll begin the process by meeting with our graphic design team for a brainstorming session. During this time, we'll review your survey results and ask your team questions in order to better understand your desired aesthetic. The information will be compiled into a digital mood board that will summarize the overall style and direction for the design.

- **Mobile-First Design Methodology:** We think about mobile from the onset of the design process. We work with you to determine which common tasks and key content should be easily available for mobile users. The result will be a fully responsive design that can easily be modified by staff as priorities change.

- **Accessibility and Usability Check:** Our entire design team is versed in the latest WCAG 2.0 Accessibility requirements for color use and contrast on websites and will ensure your design adheres with the level of compliance you seek. Additionally, our designers work hand-in-hand with our NN/g certified User Experience Specialist to ensure the final design adheres to usability best practices.

- **Revisions and Finalization:** Using our advanced design collaboration software, you will be able to easily make comments and provide direction for your design revisons. We provide unlimited revisions and won't stop until your team is completely satisfied with the look and feel. The phase will complete with your sign-off on the final composition.

GRANICUS

3 Site Development

GOAL
Refine the site's content and implement the CMS.

Deliverables
- Sitemap Recommendations
- 200 Pages of Migrated Content
- Program Website

Toolkits & Templates
- Work Plan Template
- Pre-Launch Preparation
- Content Migration Guide
- "How Do I…" Menu Guide

~11 weeks

Great Content Should Enable a Customer Mission

"The writing for the web training was critical for helping our staff think about our customer and what they're trying to accomplish in every decision we make about content."

Abbot Chambers
City Librarian + Director of Comms
City of Sausalito

The site development phase has two major components: the actual technical programming of the website and finalization of content that will be added to your site. While our development team is busy, our content strategy experts will work with your staff to finalize the sitemap, and migrate and refine content.

Content Preparation and Migration

No one knows Hapeville like the department heads in your organization, which is why at this phase we recommend active involvement from anyone who will be contributing to your website now and in the future. To ensure this process runs as smoothly as possible, your Granicus Project Manager will set your team lead up for success with all the tools needed to ensure your project stays on track.

- **Sitemap Consultation:** At this stage we will finalize the site map, consulting with you to make sure all navigation is organized and labeled in an effective manner to accomplish your goals.
- **Work Plan:** To help your team lead communicate project goals, deliverables, and deadlines, we provide a Work Plan Template. This template includes a project introduction, breakdown of individual project-related tasks and timeline for completion.
- **Communication Cadence:** Communication templates and a recommended cadence around tasks and deadlines, meetings and agendas are also provided. These tools not only ensure a smoother project, they will help your team lead establish credibility.
- **Writing for the Web Training:** Even the most visually stunning website will not be effective if information is difficult to find and understand. To help, we will conduct an onsite/a web-based training workshop to introduce overall best practices for creating great, action-oriented content. Following the session, we'll provide resources to help reinforce the concepts learned with your content editors.
- **Content Migration:** We'll help begin the process of populating your new website with content by migrating 200 pages. Once the migration is complete, you'll be given access to the development website in order to review and refine the information.

GRANICUS

4 | Launch

GOAL
Transfer to production environment, train your team and bring the new site live to the public.

Deliverables
- Staging Site
- CMS Training
- UAT Kick-Off Meeting

Toolkits
- User Setup Guide
- UAT Guide
- Launch Planning Guide

~4 weeks

Launch Planning Guide



After extensive quality assurance testing, our developers will hand over the website to your team in a staging environment. This major milestone typically brings excitement and anxiety – with extensive activity and coordination needed across the organization before your site is ready to launch. To help, Granicus has perfected the process to ensure everything on your site functions as expected and internal signoff is complete before your site goes live.

Go Live Preparation

- **Granicus Quality Assurance Testing** - The Granicus team will conduct testing to identify broken links, accessibility violations and general issues. Any issues will be flagged for your team to check before the site goes live.

- **CMS Training** – While our team is conducting final QA testing, our trainers will work with your team to teach them about the new tools they will be able to leverage in the CMS. All users will go through Basic CMS Training, to fully prepare them to review, add and edit content. Your super users will gain a deeper understanding of specific departmental functionality and how to set up roles, permissions and workflow/approval cycles.

- **Staging Site** – Our technical team will transfer your new site to a production environment in Rackspace.

- **User Acceptance Testing (UAT)** - While our team has already conducted a quality assurance process against the approved design specifications and Granicus migrated content, you have the opportunity to conduct your own review during the User Acceptance Testing process.

- **Launch Planning Meeting** – Prior to your go-live date we will conduct a launch planning meeting to prepare your team and the Granicus team for pre- and post-launch configuration activities that can only occur once the site has gone live (Granicus Search & SSL set up, for example).

- **Final Signoff** - Once UAT has been completed and all stakeholders are comfortable, we'll flip the switch, and your new site will make its debut.

GRANICUS

5 | Post Launch

GOAL
Ensure your team is effectively supported and your website evolves as needed to maintain a superior digital customer experience.

Deliverables
- Ongoing technical support
- Guaranteed 99.9% uptime
- Annual CX consultation and recommendations

Ongoing



Guaranteed Redesign

Guaranteed redesign after your contract term.

Adapt your website to meet changing needs with our ongoing support, flexible CMS and a guaranteed redesign with no further out-of-pocket expense.

Unlimited Technical Support: Granicus provides comprehensive, unlimited technical support including:
- *On Demand Videos* – Step-by-step tutorial videos provide a quick overview of features and tools. These videos are particularly helpful for supplementing training, bringing new staff up to speed or providing refresher.
- *Live Chat* – Initiate a chat from anywhere in the CMS.

Dedicated Client Success Manager: In addition to technical support, you will also be assigned a dedicated Client Success Manager who will help you get the most out of your website long-term.

Annual Health Check: Your Client Success Manager will proactively reach out twice a year to perform a website health check and ensure you are getting the most of your Granicus experience.

Ongoing Training: Bring new staff members up to speed and stay current on the latest government website trends through free live training sessions and educational webinars. These sessions focus on CMS functionality, client best practices and general trends from the industry, such as transparency, accessibility and content strategy. Anyone from your organization that is interested may attend at no cost.

Regional Events and National Summit: Granicus offers a number of free in-person events throughout the year, bringing our clients together to collaborate and share best practices. Each event features educational sessions designed to help get the most out of your website. We are at our best when we're listening to our clients and these events provide a unique opportunity to learn and develop together.

Your Role

The best outcomes come with collaboration – after all, no one knows your community like you do! While we will do as much of the heavy lifting as possible, to drive the optimal level of collaboration, we will need a few things from you along the way including:

1 Research

- Identify web team
- Complete stakeholder survey – this helps us understand your goals, expectations, audience needs, etc.
- Provide access to Google analytics
- Sign-off on wireframe

2 Design

- Share any existing brand guidelines
- Gather any photos + logos + video to be used in your website design
- Sign-off on mood board + design comps + style guide

3 Site Development

- Supply list of all 3rd party apps used with website
- Sign-off on site map
- Collaborate with your PM to map current pages to new site map / identify redirects
- Attend writing for the web / accessibility training
- Edit existing content / create content for new pages (we offer additional content writing + editing services)

4 Launch

- Attend CMS training
- Conduct User Acceptance Testing (UAT)
- Create marketing plan for website launch – we offer an optional website launch promo service if interested
- Final sign-off prior to go live

5 Post Launch

- Setup metrics dashboard and measure results – top pages, traffic sources, etc. – optimize overtime
- Keep your content fresh
- Reach out to our support team with questions anytime
- Meet with your Granicus success manager for annual health checks

Identifying Your Website Team

While the Granicus team will guide the process, we will depend on the dedication of your staff and resources to achieve the best result. Based on our experience, we recommend assigning staff into the following roles:

Project Manager
You should assign a dedicated project manager, who will serve as the main point of contact to interface with Granicus throughout the development of your website. This person will work closely with your Granicus project manager at each stage should be empowered to make final decisions.

Core Project Team (3-5 people)
To help guide decisions, you should form a core project team. This group will work closely with your designated Project Manager in helping to gather input from your staff and guiding key decisions through the course of the project. Commonly this team includes staff from the following departments:

- **Communications**
- **Administration**
- **IT**

Steering Committee (varies)
To help build buy-in across your organization, we recommend forming a steering committee. This larger team should include representatives from across all of your departments. They will be included in larger surveys and potentially provide input at key decision points. Gathering this group early helps engage the organization in the development, gaining buy-in for the project and providing alignment for decisions.

WHAT CUSTOMERS SAID

Above and Beyond

"The Granicus Team went above and beyond. They were as invested in the website as we were, and we truly appreciated that!"

Anthony Wilson
City of San Angelo, TX



GRANICUS

Section 4

CMS, Hosting and Security

GRANICUS

The govAccess Content Management System

Our content management system, Granicus govAccess, is designed to help you deliver a superior digital customer experience to your community.

So, how do we deliver on this promise?

- **Ease of Use & Administrative Control** – Lock down user permissions while providing drag-and-drop simplicity to users where help is never more than a click away.
- **Mobile Management** – Offer a better experience to residents by analyzing mobile traffic before customizing the display on different screen sizes.
- **Digital Service Delivery**– Move more services online, go completely paperless, and ensure your community can easily find everything that you have to offer.
- **Interior Page Design** – Think past the homepage and create a plan for how you will optimize the complete end-to-end customer journey with flexible technology.
- **Federal-grade Security** – Follow the same hosting and security best practices as The White House, Social Security Administration, and Census Bureau.
- **Continuous Innovation**– Enjoy monthly release updates and help shape the product by joining our customer council, Labs, for prototypes, beta access and more.

Granicus technology serves more than 4,000 agencies across United States, Canada, and United Kingdom.

If you desire something not listed, then there is a very good chance we either still offer it or the requested functionality is on our near-term roadmap. Go ahead and connect with us; we are happy to answer any questions.

200 + Council Members



"I love working with Granicus because the CMS always evolves to meet the changing dynamics of local government. They never settle and always strive to deliver the best technology in the market."

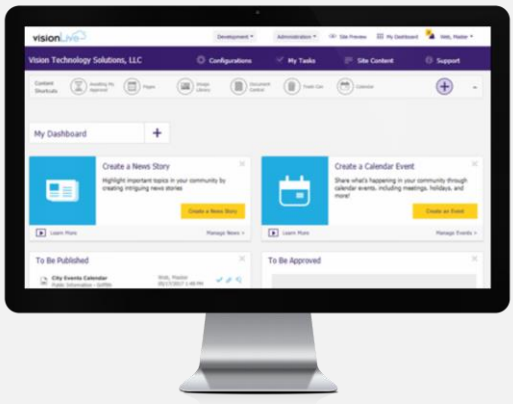
Anthony Wilson,
Public Information Officer
City of San Angelo, Texas

Labs

GRANICUS

Did you know?

60% of CMS users login less than twice per month.



With Granicus govAccess, the casual user can easily update the website with fresh content and visuals, while the power user can monitor, manage, analyze and optimize the website over time.

Easy Authoring and Administrative Control

At Granicus, we understand the complexities of managing the many departments and content editors contributing to your website. To give you time back in your day, we have simplified the experience for the casual user, while offering governance and administrative tools to ensure a consistent experience for website visitors.

Granicus govAccess is a CMS built for government. With our solution you will have everything you need to manage content, including, but not limited to:

- **Live Chat & Embedded Training** – Connect with our technical support team or teach yourself with self-service curriculums and training videos.
- **Wizard Interface –** Walk through a guided content creation process with helpful tips along the way in a single, intuitive workflow.
- **Drag-and-drop Simplicity –** Add content or customize your experience within seconds by configuring settings or leveraging inline editing mode.
- **Personal Dashboards** – Tailor your workspace with dashboard blocks including content quick-adds, content approvals, reporting, analytics and more.
- **Social Media Management** – Promote new content through multiple social accounts, customize and preview posts, and schedule a social campaign with a cadence of publish dates across channels.
- **Multi-channel Publishing** – Promote custom content directly to Facebook, Twitter, email messages, and the website with a single click of a button.
- **Subsite Management** – Consolidate sites into one single CMS instance to share user permissions, leverage common assets, and improve content transparency.

GRANICUS

Mobile Management for A Modern World

Mobile responsive design is no longer a luxury; it is a requirement.

With Granicus, you'll benefit from progressive mobile web design and a CMS solution that ensures your focus on creating a mobile-first experiences does not stop at your launch date. Granicus gov Access delivers all the necessary tools required for an increasingly mobile world.

- **Responsive Design** – Deliver responsive websites across any device at any time out-of-the-box. This means it will look great on a desktop monitor, a tablet such as an iPad, or any number of mobile devices – small or large.
- **Analytics and Reports** – Review data supplied by Google right on your personalized dashboard. Track most visited mobile pages to better understand where you can begin to start optimizing mobile content.
- **Mobile Designer** – Optimize content for site visitors visiting from a mobile device; reorder or hide specific content for complete control over the experience..
- **App-like Mobile Homepages** – Include an app-like experience in your project at no additional cost to you. Streamline the resident experience on mobile devices with our intuitive app-like mobile-specific homepages.
- **Native Mobile Apps –** Offer super tech savvy citizens the ability to download a 100% native mobile app – no fake apps with HTML wrappers – to further transform your organization. *(inquire for pricing)*

Did you know?

Approximately 49% of traffic to a government website comes from a mobile device!



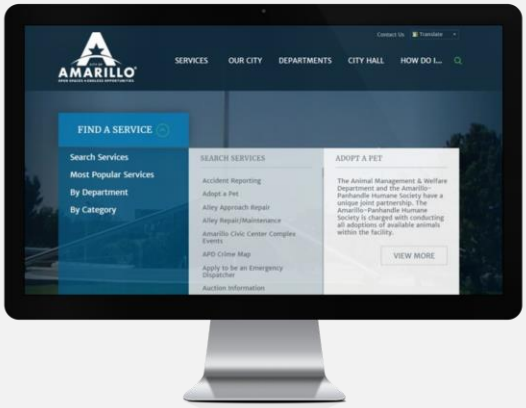
Top tasks change by device type.

More complex tasks like applying for a building permit are done on a desk top, whereas looking up quick info about parks and rec or paying a parking ticket are more often done from a mobile device.

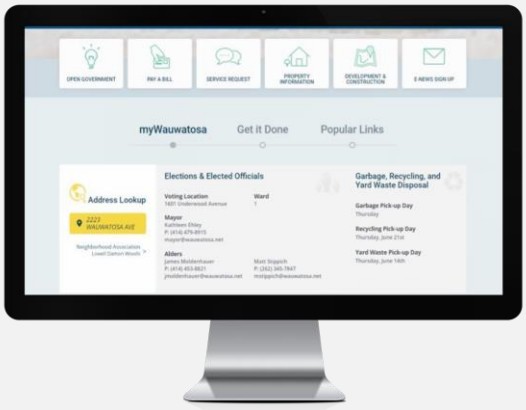
GRANICUS

Example Sites

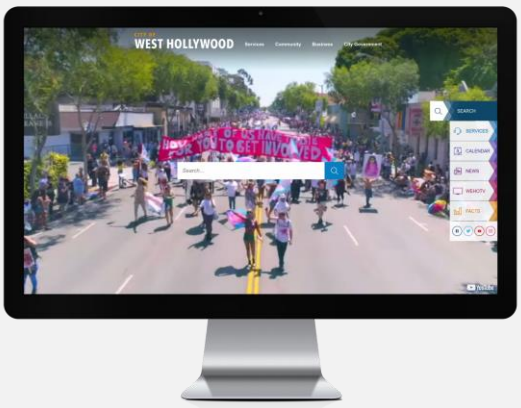
Service Finder
www.Amarillo.gov



Geo Finder
www.Wauwatosa.net



Video + Image Background
www.WeHo.org



Digital Service Delivery for Every Audience

Visitors to your website are most often looking to accomplish a specific task – paying a parking ticket or learning about important information.

A Granicus website helps you inform, serve, and engage residents while personalizing content to meet the unique needs of your audience.

- **Service Finder** – Stop fighting over homepage real estate. You can now organize *all* available services and streamline the experience for your residents.
- **Geo Finders** – Associate content like trash pick-up days, polling locations, or elected officials with geo-spatial information such as a resident's home address.
- **Specialty Homepages** – Swap the main homepage in seconds to an alternative homepage to address emergencies, election night, large events and more.
- **Form Transactions** – Go paperless by offering 100% digital forms fully integrated with digital signatures and multiple payment gateways.
- **Form Library –** Share best practice forms from more than 4,000 government clients ranging from small cities to larger Federal agencies.
- **Data Visualizations** – Bring transparency to the forefront by showcasing demographic information or financial reports through animated banner displays.
- **Video + Image Background** – Delight site visitors by showcasing your community with beautiful imagery and engaging videos; switch modes with ease.

GRANICUS

Serve Residents Beyond the Homepage

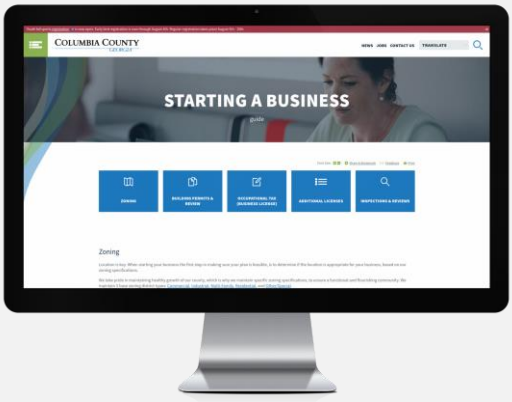
Did you know that 65% of your website traffic lands directly on an interior page. This is why it is so important to consider the full customer journey.

We deliver modern designs, intuitive tools and 3rd party integrations to help you achieve your organization's mission and achieve a bigger impact all from one comprehensive CMS.

- **20+ Components** – Enjoy our extensive library of flexible components such as News, Calendar, Image Library, Document Central and more. These components allow you to put a custom touch on any interior page.
- **75+ Modules** – Leverage the page designer and many dynamic modules with setting configurations to address unlimited use cases.
- **Mega Menu Designer** – Organize static content for site visitors to easily locate pages or display dynamic content such as events and job postings.
- **Flexible Search** – Promote pages, create search synonyms, categorize content, and integrate results across multiple products like Laserfiche and Granicus.
- **Department Branding** – Stand out from other departments and maintain your department identify to serve your unique audience.
- **3rd Party and Pre-built Integrations** – Extend your CMS with integrations like Siteimprove, PageFreezer, Facebook, Twitter, Google Analytics, and more.
- **Event Registration & Facility Reservation** – Collect more revenue by managing online registrations and reservations with integrated online payments.

Did you know?

65% of your website traffic lands directly on an interior page.



www.columbiacountyga.gov

Columbia County took a unique approach to interior pages creating guides like "Starting a Business"

"When the time came to completely update and transform our website, it was refreshing to find a partner like Granicus that could innovate alongside us."

Scott D. Johnson
County Administrator
Columbia County, GA

GRANICUS

Federal-grade Hosting & Security Within Budget

Granicus serves some of the most secure agencies, such as the Department of Homeland Security, Department of Defense, and Veterans Affairs, as well as cities, counties, and states. These agencies all share a #1 priority - the security of citizen and government data.

We have successfully completed several Certifications and Accreditations (as seen right). Granicus is one of only a few government technology vendors authorized by FedRAMP.

We are also one of a handful of elite organizations that are ISO27001 certified, and have been awarded the United Kingdom's G-Cloud IL2 accreditation.

Our data centers adhere to top certification requirements and assure that your data and citizen data is safe and kept private.

- **Encryption –** At rest encryption of all data, always
- **Security Scanning –** Weekly automated scanning at the application, host, and network level by a dedicated team of security experts
- **Physical Security –** Facility protected by five concentric security rings and constant monitoring of common and restricted areas
- **Archiving –** High performant Cache and SSD storage for archiving of video and other large files
- **Virtualized Servers –** Facilitates minimal downtime for application improvements and superior failover protection

(technical specifications available upon request)

CERTS & ACCREDITATIONS

FedRAMP
Federal Risk Authorization Management Program

NIST National Institute of Standards and Technology
U.S. Department of Commerce

bsi. ISO/IEC 27001 Information Security Management

EXAMPLE CLIENTS

United States™ Census Bureau

U.S. Department of Homeland Security

Department of Defense – United States of America

CMS
CENTERS FOR MEDICARE & MEDICAID SERVICES

Everything a Government CMS Requires to Succeed

Granicus has served government clients for more than 20 years, developing our CMS to meet the unique needs of these agencies. Decentralized authorship across many different departments leads to ranges in skill levels and requirements around approvals. Our government CMS solution delivers everything you need and more.

Embedded Training & Support

- Quick links (button designer)
- Inline (live) editing
- Live chat support
- LMS curriculum & help articles
- Tool tips and instructional text
- Video training materials
- WYSIWYG or HTML editing
- Wizard interfaces
- Custom dashboards
- Custom quick links
- "My Favorite" pages
- User account settings

Webmaster Tools

- Mega menu designer
- Mobile editor (Mobile Designer)
- Custom Content
- Custom Fields
- Google Analytics dashboard blocks
- Page layout designer

Integrations

- Active Directory LDAP*
- Active Directory Federation Services*
- Granicus "Agenda Management"
- Granicus "Communications Cloud"
- Import / export functionality
- Laserfiche
- Maps (multiple)
- Open APIs and custom programming
- PageFreezer
- Payment Gateways (multiple)
- Siteimprove

(ask for other integration examples)

Digital Asset Management

- Image Library (centralized)
- Image rotation and cropping
- Image Meta Tagging
- Document Central (centralized)
- Document meta tagging
- "In-Use" logic
- Analytics and reporting

Administrative Management

- Approval Cycle and workflows
- Audit trail history
- CAPTCHA security
- Two-factor authentication
- Centralized Subsite Management
- Content permissions and security roles
- Content Review
- Content Scheduling
- Content Versioning (CMS Archives)
- Emergency alert banner
- External Archives (via PageFreezer)
- Extranet (Password protected content)
- Awaiting Approval Reports
- Expiring Content Reports
- "My Tasks" management
- Page template controls
- Accessibility (WCAG 2.1 / ADA) tools

Reports & Analytics

- Administrative analytics
- Asset inventory report
- Broken link reporting
- Dashboard blocks
- Edited content reporting
- Expiring & expired content reports
- Global site analytics
- Page performance analytics

**May incur additional charges*

Tools to Deliver a Superior Digital Customer Experience

Citizen expectations are rising, and you are expected to do more with less. Our government CMS provides an easy-to-use system with all the functionality necessary to better inform, serve, engage, and personalize the experience for your community.

Information-based

- Calendar Event & Registrations
- Business (Resources) Directory
- Facility directory & reservations
- Frequently asked questions (FAQs)
- Meetings management
- News stories
- Photo gallery (albums)
- Site search (Granicus Search)
- Site search (Google CSE)
- Site search (Cludo)
- Site search (Swiftype)
- Staff directory

Service-oriented

- Digital signatures (legally binding)*
- Form builder
- Form calculations
- Form conditional logic (If-this-then-that)
- Form email notifications
- Form finder
- Form template library
- Form security settings
- Online payments
- RFP, RFQ, Bid management
- Service requests (CRM / 311)
- Service directory
- Service finder*

Engagement-related

- Activity registration
- Audio & Video Embed
- Blogging*
- Community topics*
- Email campaigns
- Event Registration
- Emergency alert banner
- eNotifications
- Facility Reservations
- Job post and application manager
- LinkedIn, Nextdoor, and Instagram
- Online Polls
- RSS feeds
- SMS (500 subscribers)
- Surveys
- Social media share links
- Social media management
- Streaming Video
- YouTube or Vimeo channels

Personalization

- Resident dashboard (My Dashboard)
- Email and SMS subscriptions
- Email and SMS digests
- Geo Finder*
- Service request alerts
- Specialty homepages

Expecting something else? Chances are we have it.

(reach out with questions)

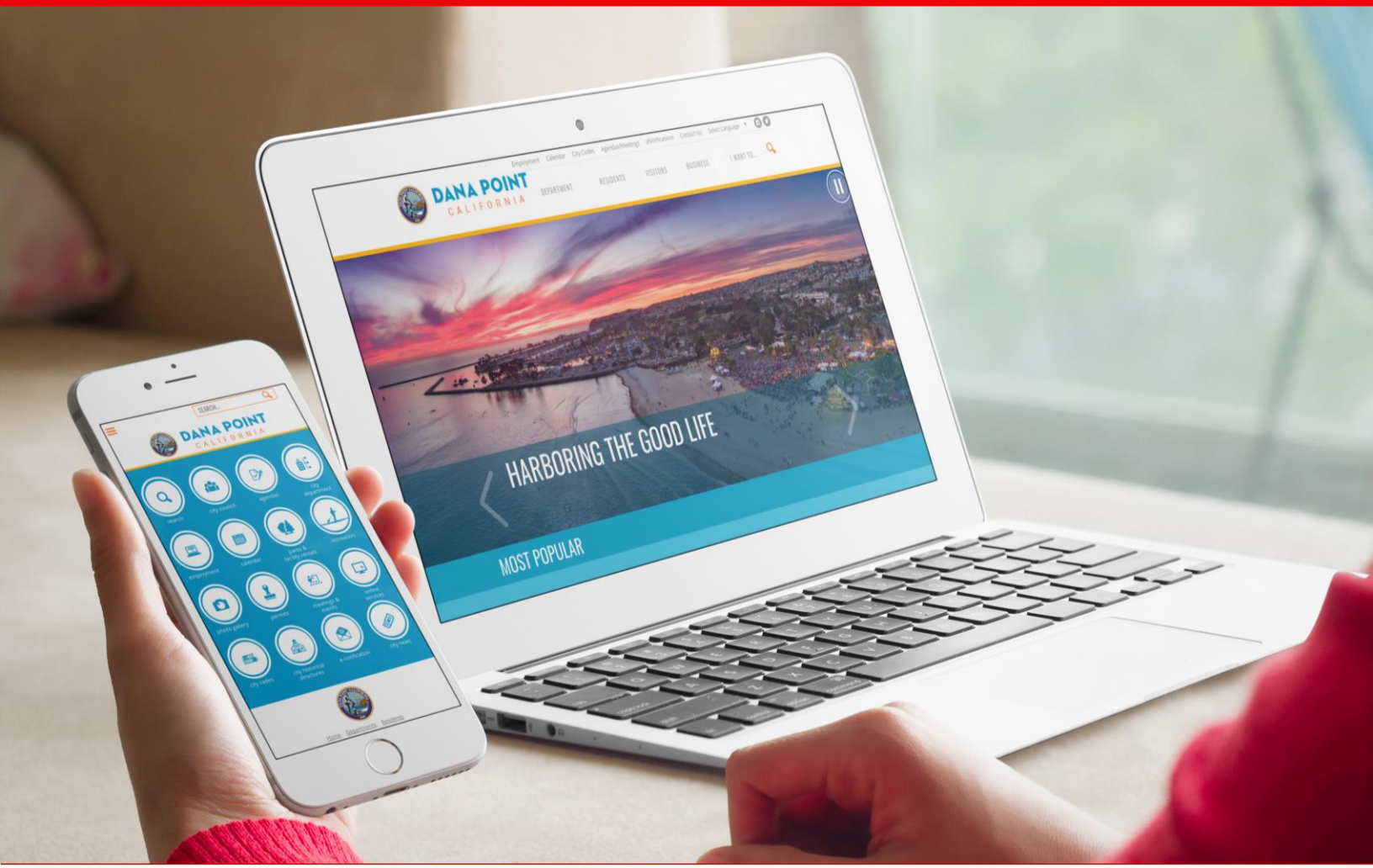
*May incur additional charges

GRANICUS

Section 5

Project Experience

PROJECT EXPERIENCE



City of Dana Point, CA

Population: 34,000 **Launch**: 2016 **URL**: www.danapoint.org

Dana Point is home to over 33,000 residents. The city is also a popular surfing destination, accessible via the State Route 1. To serve residents, businesses and visitors, the city knew it had to develop a one-stop-shop to help guide users to discover the city, find important community information, and navigate dining options, lodging and upcoming events.

The new site features:

- A rotating homepage collage with photos and informational overlays across each image
- Homepage buttons that direct users to the most popular online services and tasks
- An "I Want To…" menu to make it even easier to find city information and services

GRANICUS

PROJECT EXPERIENCE

City of Millbrae, CA

Population: 21,000 Launch: 2016
www.ci.Millbrae.ca.us



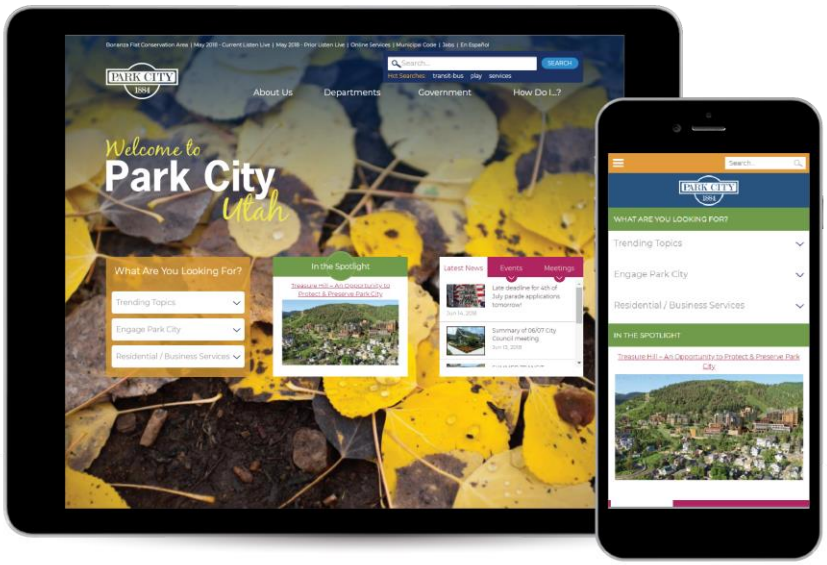
Because of its proximity to San Francisco and Silicon Valley, the **City of Millbrae** is a desirable home for young professionals and families in the area. The city underwent a complete overhaul of its website in order to make it a more interactive source of information to appeal to it's tech-savvy community.

The new site features:

- **Prominent search** allowing users to search for exactly what they are looking for quickly
- **Unique news and event widget** that is prominently featured in the main banner connecting users to topical content quickly
- **A single-screen desktop view** with several navigational paths including popular services, an "I want to..." menu and more

City of Park City, UT

Population: 9,000 Launch: 2015
www.parkcity.org



World-renowned as a skiers' paradise, Olympic venue and home of the Sundance Film Festival, **Park City, UT** boasts many natural and cultural attractions. When considering their redesign, Park City wanted to modernize their design to showcase their community's year-round beauty, while still making it easy to find important information.

The new site features:

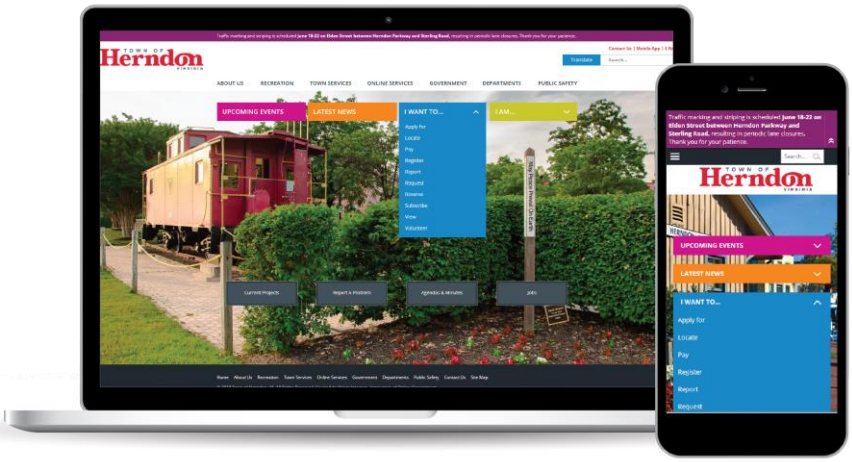
- **A single-screen desktop view** that gives users all the information they need without having to scroll
- **A service finder**, allowing users to access trending topics and popular resident and business services
- **News, Meetings and Events** widget, providing visitors with up-to-date community information

GRANICUS

PROJECT EXPERIENCE

Town of Herndon, VA

Population: 23,000 Launch: 2016
www.herndon-va.gov



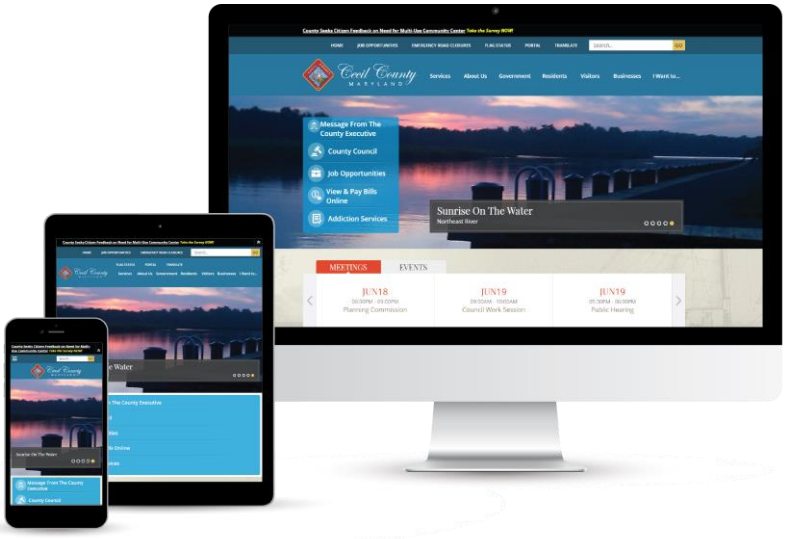
Described as a "Next Generation Small Town" in the DC Metropolitan area, the **Town of Herndon** is home to 23,000 residents. While there were several goals for the website redesign project, ensuring the creation of a design that reflected the community as focused, open and caring was a top priority.

The new site features:

- **Large, colorful navigation menus** that guide visitors to the site's top content
- **Action-oriented menus** (I Want To… and I Am…) help to make key information easy to find
- **Large homepage background** that depicts the community's unique brand

Cecil County, MD

Population: 101,000 Launch: 2016
www.ccgov.org



Cecil County is located on the Upper Chesapeake Bay, midway between Philadelphia and Baltimore, and features charming small towns, parks, antique shops, restaurants and inns. Cecil County's old website was disorganized and didn't show off the area's attractions.

The new site features:

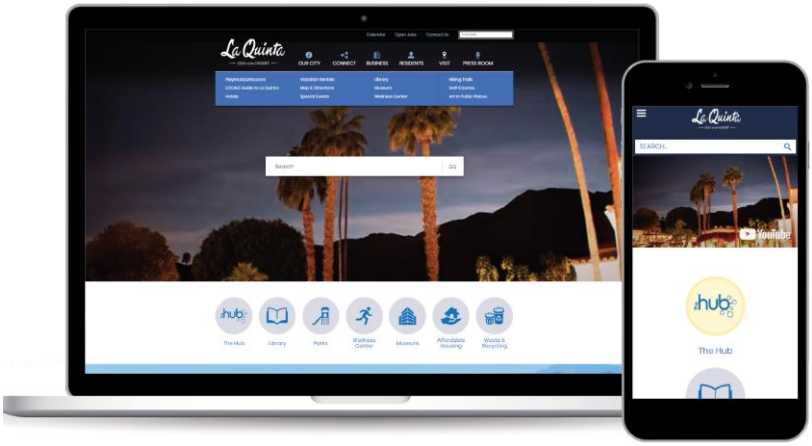
- **Easily to access navigational menus** to popular services and information right on the image collage
- **Meeting and event widget** so residents can easily navigate to the latest city activities
- **Prominent homepage collage**, featuring the county's charming small towns, parks, shops and restaurants

GRANICUS

PROJECT EXPERIENCE

City of La Quinta, CA

Population: 38,000 Launch: 2017
www.laquintaca.gov



With younger families moving in and a growing number of visitors coming to town for music festivals, **the City of La Quinta** realized it had to find new ways to serve this evolving demographic. The new website is now a one-stop-shop to help guide users to discover what the city has to offer and to find important community.

The new site features:

- **A homepage video background** to showcase things to do in La Quinta
- **"The Hub"** to help residents easily locate and apply for permits online
- The city **decreased their page count by 3,000+ before launching** providing visitors with more concise information.
- **A Google and Amazon inspired navigation** that helps users quickly find what they're looking for

City of Sioux City, IA

Population: 82,000 Launch: 2017
www.sioux-city.org



As a hub for business, tourism and residents, **The City of Sioux** revamped its website to better serve its diverse community.

The new site features:

- **Intuitive homepage navigation** that links to frequently visited pages, including online bill payments, job openings, and license and permit applications
- **Elegant news and calendar** widgets to notify users of planned city projects and events
- **An "I Want To…" menu** that allows users to access the most popular city services

References

City of Atlanta, Georgia
Johnethia Dancer
Business Process Analyst
404-330-6423
jdancer@atlanta.gov

Durham County, North Carolina
Hudson Oliver
Systems Development Supervisor
919-560-7084
holiver@dconc.gov

City of Roswell, Georgia
Julia Brechbill
Community Information Manager
770-594-6416
jbrechbill@roswellgov.com

City of Oklahoma City, Oklahoma
Zach Nash
Creative Manager
405 297-2578
zach.nash@okc.gov

GRANICUS

Section 6

Qualifications of Key Personnel

Hapeville's Project Team

An essential component of Granicus' qualification for this project is our team. Granicus enjoys the contributions of long-term, dedicated staff who guide the development of each and every project. Their expertise will ensure the success of your website development.



David Rodriguez, Project Implementation Manager

David's technical expertise coupled with extensive experience as a project manager enables him to guide the development of each website Granicus produces. He oversees our staff of project managers and implementation processes, creates necessary documentation and provides support to your Project Manager during the development.

Years of Experience: 5 **Joined Granicus Team:** 2014

Reference Projects:

- Yuma County, AZ (www.yumacountyaz.gov)
- Pinehurst, NC (www.vopnc.org)
- Oklahoma City, OK (www.okc.gov)



Uriz Goldman, User Experience (UX) Manager

Since joining Granicus in 2005, Uriz has guided the development of hundreds of local government websites. As a Certified User Experience Consultant, he is passionate about creating more intuitive customer experiences for our clients and will oversee the comprehensive User Experience Analysis for your website.

Years of Experience: 18 **Joined Granicus Team:** 2005

Education:

- Bachelor of Science, Management Information Systems
- NN/g UX Certified

Reference Projects:

- Sandy, UT (www.sandy.utah.gov)
- Augusta County, VA (www.co.augusta.va.us)
- Wilmington, NC (www.wilmingtonnc.gov)



Natalia Cudlip, Art Director

Natalia's eye for detail and creativity have resulted in some of Granicus' most stunning website designs since she joined Granicus in 2007. As our Art Director, she leads our team of designers to help uncover what makes your community unique and collaborate with the team to bring it to life with a beautiful, custom design.

Years of Experience: 14 **Joined Granicus Team:** 2007

Education:

- Bachelor of Arts, Computer Animation
- Web Graphic Design Certification

Reference Projects:

- Breckenridge, CO (www.townofbreckenridge.com)
- Orange County Sanitation District, CA (www.ocsd.com)
- Williamsburg, VA (www.williamsburgva.gov)



Brian Pope, Technical Trainer

Brian is an experienced educator who leads technical training on our content management system. He will equip you to get the most out of Granicus govAccess, both through the initial training included in your project and on-going live training webinars.

Years of Experience: 7 **Joined Granicus Team:** 2016

Education:

- Bachelor of Arts, Education and Spanish



Robert Schnelle, Client Success Manager

Robert knows Granicus govAccess inside and out and has a passion for serving customers. He will work with you once your website launches to ensure you're getting the most out of your relationship with Granicus, by monitoring the site's performance, consulting with you about new features and services and providing feedback during your Site Health Check.

Years of Experience: 20 **Joined Granicus Team:** 2014

Education:

- Network+ and CCNA Certified

Section 7

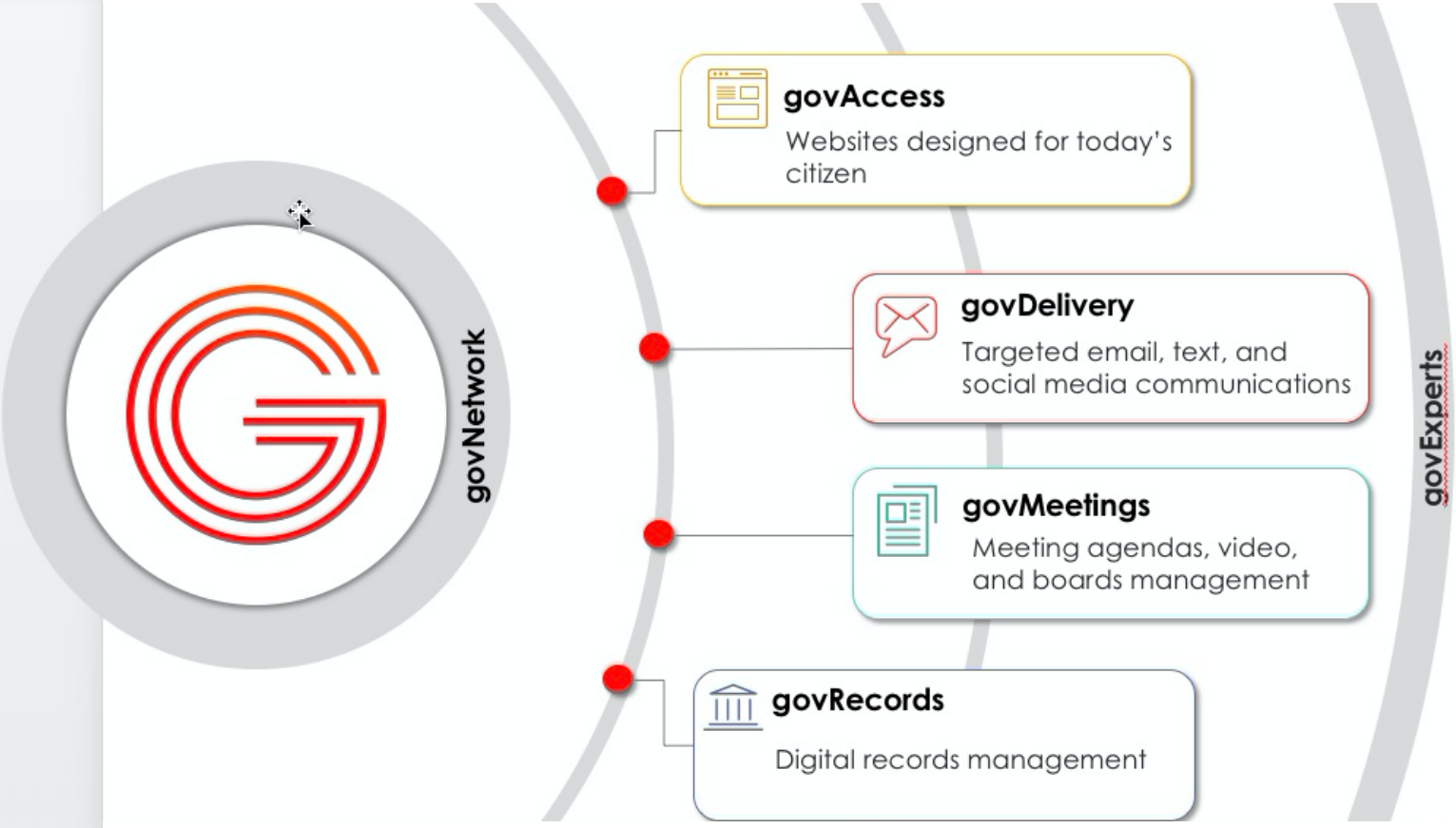
Project Enhancements

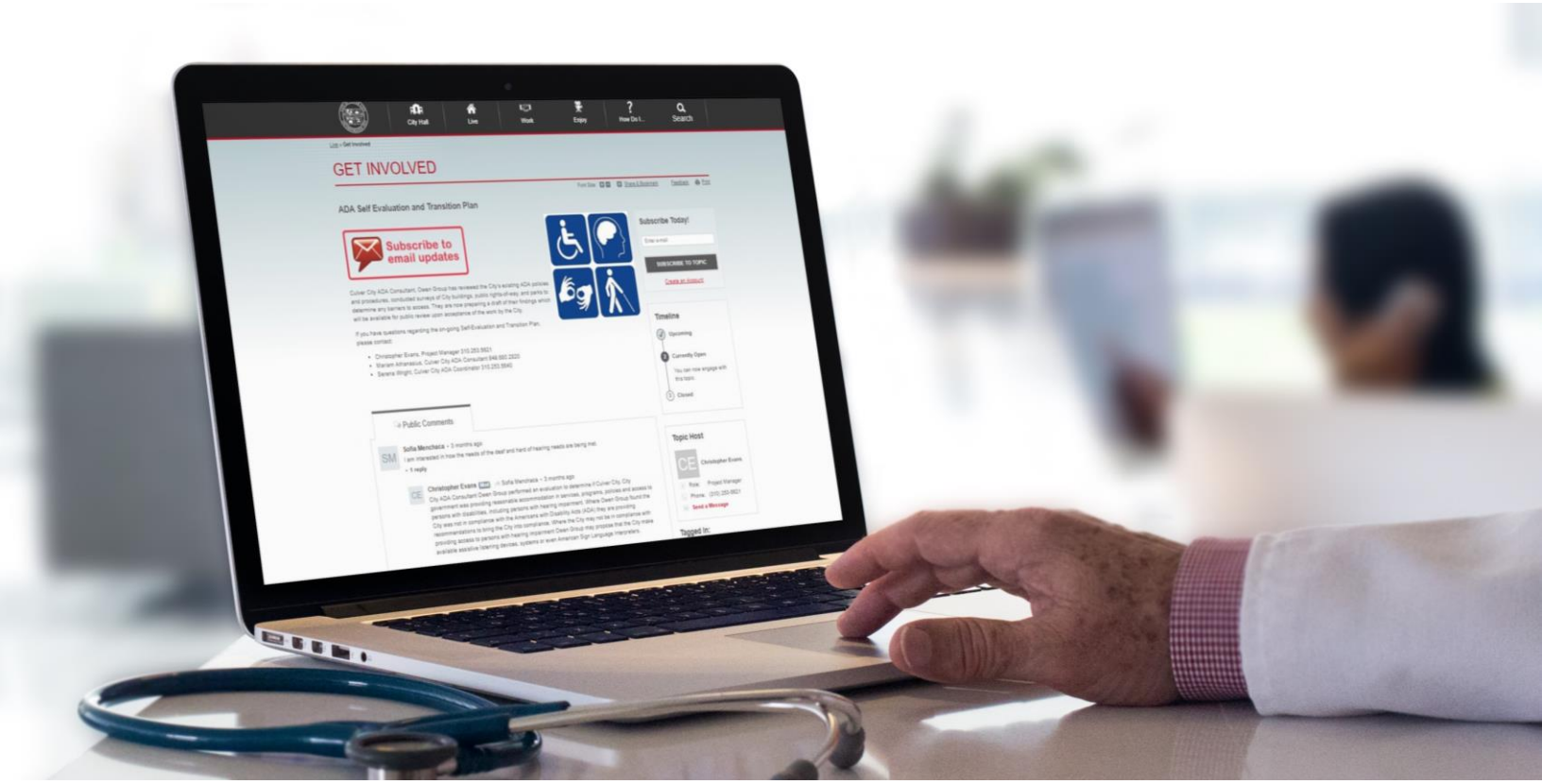
OPTIONAL PROJECT RECOMMENDATIONS

Complete Digital Government Platform – govNetwork

Are your peers talking about a future digital city hall? Look no further than the Granicus platform to extend the impact of your website. Our platform of intuitive solutions are built for government and enable you to transform your digital presence.

- **govDelivery –** Publish content to a network of over 150 MILLION people to promote services and achieve a larger impact.
- **govMeetings –** Coordinate agenda and minute creation or stream meetings to video to maximize exposure and simplify democracy.
- **govRecords** – Transform the clerk and recorder's office into an efficient gateway of public information, automating and streamlining government records.
- **govExperts** – Meet and exceed your goals with our team of communications experts who can help you optimize your programs for maximum impact.





Culver City: *https://www.culvercity.org/live/get-involved*

PROJECT ENHANCEMENT

A Better Solution for Civic Engagement

Leverage our community engagement solution to connect with your citizens in a whole new way. Inform your community on important issues, gauge public opinion, conduct polls and aggregate data to turn community feedback into actionable results.

Promote Civic Engagement

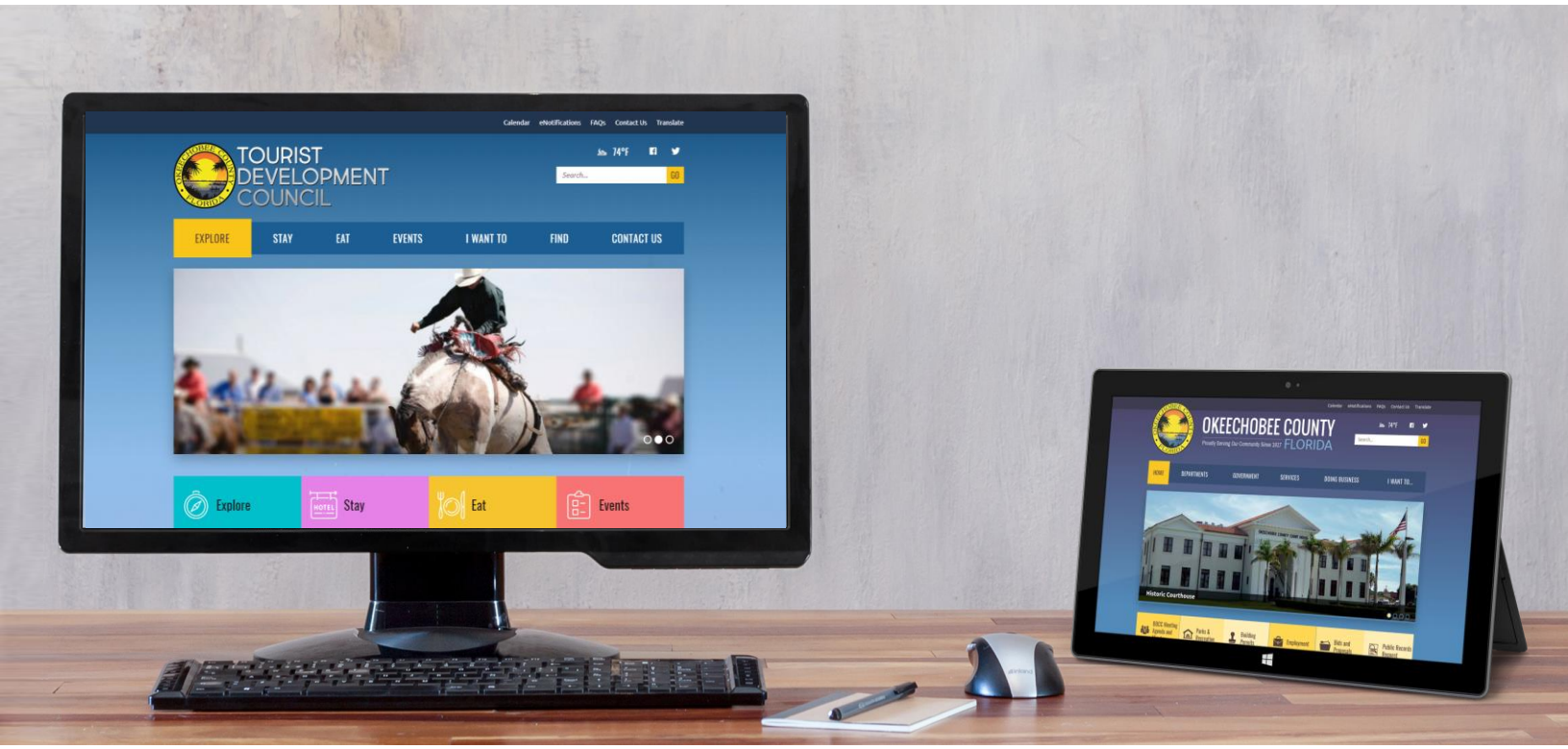
Inform your community on important issues – Easily create topics to inform residents on important issues. Let our wizard-like interface guide you through adding imagery, related links, questions, polls, up-voting and more to make your content compelling and engaging.

Give your community a voice – Promote civic engagement through comment boards, polls, surveys and up-voting. Survey data can easily be analyzed and comments aggregated to inform public policy.

Show you care about public opinion – Assign staff members to host a topic. Host(s) will receive automatic notifications when comments come in so they can respond quickly.

Spread the word and maximize your reach – Easily publish and promote topics to popular social media channels and leverage our add-on govDelivery solution to send email campaigns to our network of 150M subscribers.

Keep them coming back – Encourage residents to subscribe for updates, promote related topics through contextual web display, send targeted email campaigns and more.



Tourism Site http://www.co.okeechobee.fl.us/i-want-to/explore

Main Site http://www.co.okeechobee.fl.us

PROJECT ENHANCEMENT

Branded Subsite

A Branded Subsite package is a cost-effective way for your departments or divisions to differentiate themselves from the main site, while still maintaining a familiar feel. Our branded subsite allows you to customize your department homepage with a unique color palette, navigation menu, logo, and more, while still utilizing the framework of the main website.

The Branded Subsite Package Includes:

Unique landing page leveraging the template from the main site.

Design theme, which includes a unique color pallet for the landing page and interior pages.

Unique branding including department name, logo, seal or other identifier.

Custom background image or slideshow

Custom global navigation and custom secondary navigation (if applicable)

Shared CMS making it easier for website administrators to maintain oversite.

Customizable buttons including graphics

Customized homepage footer with links to department social pages (if applicable)

GRANICUS

Section 8

Proposed Investment

Proposed Investment

All quotes are priced per project and presented in US dollars. Pricing is valid for 180 days from April 12, 2019.

YEAR 1 INVESTMENT

govAccess
Website Research, design + development - Innovator

$15,000
Year 1 investment

- UX consultation
  - Site analytics report
  - Heatmap analysis
  - Internal stakeholder survey
- Customized homepage wireframe
- Fully responsive design
- Custom Mobile Homepage or Standard Mobile Responsive Homepage
- Video Background or Standard Rotating Image carousel (switchable at any time)
- One (1) specialty alternate homepage - Choose from our library including emergencies, election night, special events
- One (1) customer experience feature – Choose from library including service finder, geo finder or data visualization banner
- Programming/CMS implementation

Professional Consulting Services + Training

- Migrate up to 200 webpages
- Five (5) forms converted Into the new CMS
- One (1) day of web-based training

Proposed Investment

All quotes are priced per project and presented in US dollars. Pricing is valid for 180 days from April 12, 2019.

ANNUAL REOCCURING

govAccess

$4,000
Annual reoccurring*

Maintenance, Hosting, & Licensing Fee**

- Ongoing Software Updates
- Unlimited Technical Support (6 am – 6 pm PT, Monday– Friday)
- Training Webinars and On-Demand Video Library
- Best Practice Webinars and Resources
- Annual health check with research-based recommendations for website optimization
- Hosting with 99.9% uptime
- DDoS Mitigation
- Disaster Recovery with 90 min failover (RTO) and 15 min data replication (RPO)
- Data Security

ANNUAL PAYMENT PLAN

1st Year $15,000

2nd Year $4,000

3rd Year $4,200

4th Year $4,410

5th Year $4,630.50

FREE
Guaranteed Redesign***

Optional Payment Options Available: Granicus recognizes you have a budget to work within. To accommodate your preference we offer different payment options, including distributing costs differently over multiple budget years.

**Payment cycle begins at the start of year two (2) or at the launch date of the new website (whichever comes first) and is based on a standard 5 year contract term.*

***Annual hosting, maintenance and software license are subject to a cumulative annual 5% technology fee beginning in the second year of reoccurring billing.*

****Guaranteed basic redesign after your contract term, no additional out-of-pocket expense.*

GRANICUS

Thank You

municode

CONNECTING YOU & YOUR COMMUNITY

RFP Response:
Website Redesign, Hosting, and Support

Quote for Hapeville, Georgia





Chris Rogers

PO Box 2235 Tallahassee, FL 32316

850-701-0704 crogers@municode.com

LETTER OF INTEREST

4/11/2019

City of Hapeville
3468 N. Fulton Ave.
P.O. Box 82311
Hapeville, Georgia 30354

Dear Website Selection Team:

Thank you for the opportunity to present our quote for website redesign, hosting, and support services. It is our goal to deliver a mobile-friendly website that is professional, easy-to-use, and easy-to-maintain.

Our team has developed a portfolio of online services that are tailored for local government agencies. We have worked with cities, towns, villages, counties and other local government agencies for over sixty-five years continually striving to make your job easier. When it comes to posting content on the web, our solution is simple and straight-forward.

Our websites make it easier for your community to find content by providing multiple navigation paths to each page. Our designs reinforce self-service to enable 24x7 online access to your organization's services.

We create your website using Drupal, an industry-leading content management system. Since Drupal is open-source, your website is truly yours unlike those of many other government redesign companies that use their own proprietary software.

We are thrilled at the opportunity to partner on such an important initiative.

Sincerely,

Brian Gilday
President, Website Division

CONTENTS

Letter of Interest 3

Contents 4

Company Profile 5

References and Design Examples 7

Website Content Management System (CMS) Features 10

Meeting and Agenda Management (Optional) 12

Policies and Procedures Management (Optional) 23

Project Timeline and Approach 24

Hosting, Maintenance, and Customer Support 27

Project Costs 29

Payment Schedule 29

Services Agreement 30

COMPANY PROFILE

History, Mission, and Team

With over 65 years of experience, Municode's mission is to connect public sector organizations with their communities. Our solutions promote transparency and efficiency - such as custom website design, meeting and agenda management, online payment portals, the legal codification process, and our robust suite of online legislative search tools.

Municode has been in business for over sixty-five years and partners with more than 4,500 government agencies across all fifty states. Municode is a privately-owned corporation and is financially sound with no debt. Our leadership focuses on improving Municode through investments in its people and its technology. Our culture is conducive to the longevity of our employees; Our clients can establish a long-term partnership with our experienced and stable workforce.









Municode is home to over 230 employees (most of whom enjoy a 10+ year tenure). Our headquarters in Tallahassee, Florida includes four buildings totaling 56,000 square feet. Our West Coast office is in Portland, Oregon. We also have individual team members working in several states across the country.

Our Vision: Simple, Seamless Integration

Our vision is to create seamless integration between our service offerings. The goal is to reduce staff workload, while at the same time, increasing the ability for municipalities to connect with their communities.

The following example integration points are either in place today or envisioned in our future strategic roadmap.

- Unified search across all platforms (website, meetings, online codes)
- Auto-publish agendas and minutes from the Meetings platform to the Website
- Ordinance auto-publishing from the Meetings platform to your online code, queued for supplementation, Code of ordinance cross-references to legislative voting history, minutes, and video/audio



Project Team

We have a highly-skilled team with a customer service focus.



Jarrod - Project Sponsorship / Project Management / Customer Service
Jarrod has a Bachelor of Science degree in Mathematics and Business Administration from the University of Oregon. Jarrod is the Director of Professional Services and leads all aspects of project development and customer support.



Dave - Project Management / User Experience
Dave has a Bachelor of Arts degree in Communications from California State University. In addition to project and design leadership, Dave will participate in various analytical, site configuration, content migration, and training activities.



Mary Joy – Project Management / User Experience
Mary Joy has that unique ability to put technical concepts into easy-to-understand terms with clients such as Dunkin Donuts, Gillette, Fidelity, and Osram Sylvania. A Bentley graduate with a Bachelor of Science in CIS, Mary Joy leads our customer support efforts and content migration.



Paul – Development / Systems Architecture / QA
Paul has been working on software systems for years and is a strong member of our team. We will turn to Paul for any custom development work that might be required. In addition, Paul has many years of experience in quality assurance testing, so he will be acting as Municode's lead tester for the engagement.



Drago - Graphic Design
Drago's work speaks for itself. He has the unique ability to capture the essence of your branding and communication requirements and transform them to stunning web designs.

REFERENCES AND DESIGN EXAMPLES

Custom Designs

There is a reason why we have loyal customers! It is because we have a great solution, we take care of our customers, and we are committed to working with you for the long haul. When you pick up the phone and call us, we answer! When you email, we respond quickly – usually within 30 minutes. When you need us, we will be there for you. **But don't take our word for it, ask our clients.**

Vidalia Georgia

http://www.vidaliaga.gov
Population: 10,473

Nick Overstreet, City Manager
912-537-8781
noversteet@vidalia.gov





Jefferson Georgia

http://www.cityofjeffersonga.com
Population: 9,459

Priscilla Murphy, Assistant City Manager
(706) 3675121 x 226
pmurphy@cityofjeffersonga.com





Los Altos California

https://www.losaltosca.gov
Population: 30,010

Erica Ray, PIO
650-947-2611
eray@losaltosca.gov





Brookhaven Georgia

https://www.brookhavenga.gov/
Population: 52,444

Ann Marie Quill, Communications Manager
404-637-0508
annmarie.quill@brookhavenga.gov





Corvallis Oregon

[Vision Internet replacement]
https://www.corvallisoregon.gov
Population: 55,298
Patrick Rollens, PIO 541-766-6368
patrick.rollens@corvallisoregon.gov

AWARD WINNER! 2018 3CMA Silver Circle Award Winner





Flowery Branch Georgia

http://www.flowerybranchga.org
Population: 5,686

Melissa McCain, City Clerk
770-967-6371
melissa@flowerybranchga.org





Monroe Georgia

http://www.monroega.com
Population: 13,234

Chris Bailey, Central Services Manager
770-266-5406
CBailey@MonroeGA.gov





Naples Florida

[Civic Plus replacement]
https://www.naplesgov.com
Population: 20,115
David Fralick, Communications Manager
239-213-1054, dfralick@naplesgov.com



AWARD WINNER! NAGW Member's Choice Award – Best Website in Nation for Municipalities 40,000 and Under





Specialty Sub-Site Graphic Designs

We also offer the option of having graphic designs for sub-sites that require specialized branding. We call these 'specialty sub-sites'. We leverage your main CMS and database, which allows us to offer these sub-sites with the same functionality as your main site yet with a completely different look and feel.

Economic Development

www.choosewoodstock.com
https://addisontexas.net/econ-dev
https://www.burnet512.com/ed



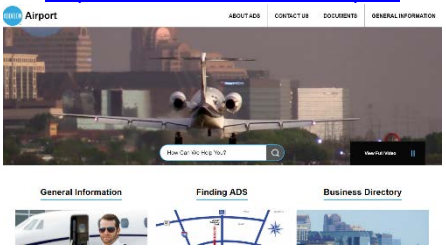
Parks & Recreation

www.cprdnewberg.org
https://www.wilsonvilleparksandrec.com/parksrec
https://www.brookhavenga.gov/pcg



Airports

https://www.cityofprineville.com/airport
https://addisontexas.net/airport



Libraries

www.woodstockpubliclibrary.org
https://www.hendersoncountync.gov/library



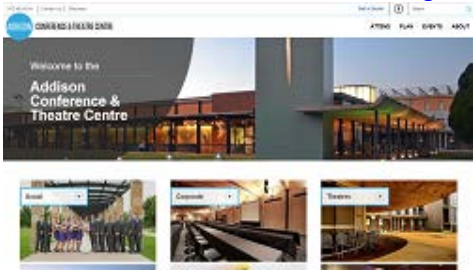
Police and Fire

www.quincypd.org
https://addisontexas.net/police
https://www.griffith.in.gov/police



Event Centers / Cultural Centers

https://addisontexas.net/actc
www.woodstockoperahouse.com
www.sherwoodcenterforthearts.org



Golf Courses

www.meadowlakesgc.com
https://www.cottagegrove.org/golf



Tourism

www.gofruita.com
https://visitaddison.com/tourism
http://www.wrangell.com/visitorservices



WEBSITE CONTENT MANAGEMENT SYSTEM (CMS) FEATURES

Municode Web was designed for local governments by experts in local government. It utilizes Drupal, an open source platform, that powers millions of websites and is supported by an active, diverse, and global community. We are the Drupal experts for local government!

Key Project Deliverables

- WEBSITE DESIGN
- CONTENT MIGRATION
- TRAINING
- HOSTING
- SUPPORT

Standard Features

- Responsive Mobile Friendly Design
- Simple Page Editor
- Best-in-Class Search Engine
- Social Media Integration
- Web Page Categories - create a page once, have it show up in multiple places
- Department Micro-sites (sites-within-a-site)
- Rotating Banners and Headline Articles
- Online Job Postings
- Online Bid/RFP Postings
- Photo Album Slideshows
- Google Maps Integration
- Resource/Document Center
- Image auto-scaling and resizing
- Site Metrics (Google Analytics)
- Scheduled Publish On/Off Dates
- Unlimited User logins
- Unlimited Content
- Word-like WYSIWYG Editor
- Private Pages – staff view only
- Unlimited Online Fillable Forms
- Emergency Alerts
- Meeting Agendas/Minutes/Videos
- Event Calendar
- Page Versioning / Audit Trail
- Latest News / Press Releases
- Anti-spam controls
- Email Harvesting Protection
- Broken Link Finder
- Dynamic Sitemap
- Support for Windows, Mac, Linux
- Video integration (YouTube, Vimeo, etc.)
- Client owns rights to all data
- Organization/Staff Directory
- Frequently Asked Questions (FAQs)
- Ordinances and Resolutions
- Google Translate
- Share This Button (Facebook/Twitter)
- Secure Pages / SSL
- Printer Friendly Pages
- RSS Feeds Inbound/Outbound

Optional Features/Services

- Email Subscriptions / Notifications
- Projects Directory
- Parks and Trails Directory
- Property Directory (Commercial/Industrial)
- Facility Reservations
- Business Directory
- Board Management
- Stand-alone Intranet
- Specialty Sub-site Graphic Designs
- Custom Development

Our Response to your specific RFP Requirements

Feature	(Yes / No)	Comments/Description
Agenda Management	Yes	Our website comes standard with the ability to easily post meeting agendas and minutes. We also offer a best-in-class, full-featured meeting and agenda management solution (Municode MEETINGS) that integrates seamlessly with the website calendar. Our MEETINGS solution includes agenda-item workflow approval, auto-generation of full agenda packet with PDF Bookmarks/links to the agenda item detail, voting/roll call, meeting minute creation, and integration with video/audio.
Alerts & Emergency Notification	Yes	We provide a notifications and alerts feature as well as an optional email subscription/notification feature. We also allow web page postings to social media such as Facebook and Twitter. We do not provide text alerts.
Approval Rights	Yes	Our solution is configured with granular role-based permissions and each user is required to login with a unique userID and password. We also offer a two-factor authentication option using Google Authenticate. ☑ All staff create and edit content using the same CMS – regardless of microsite / specialty site. ☑ Our solution includes fine-grained role-based permissions for content authoring as well as webmaster administrative controls. ☑ Site administrators can manage all staff roles / permissions from one common interface and restrict content authoring based on microsite ☑ Each microsite (department/board/committee) can control its own homepage, its own sub-menu, sub-calendar, contact info, etc. The header and global navigation will stay intact on every page top ensure a seamless user experience, but the main content area will be customizable. ☑ Our editing solution is among the most user-friendly in the industry, and we lock down the style options that a typical staff member can modify to provide a consistent, template-based page display. ☑ We provide two options for pages – standard pages and custom pages. Standard pages are template-driven to ensure a consistent look across all pages. Staff only receive the ability to create standard pages by default. ☑ We also offer an "Advanced Editor" role that allows users with that role to create custom HTML pages.
Archive Center		Our solution provides a complete audit history of each page update (date/time, user) and the ability to view the pages at each date/timestamp. You can also revert to any previous version of a page.

		The version control record occurs at the page-level and maintains document versions as documents are updated/deleted within a page. For site-level rollback, we provide this service as part of our standard hosting and support agreement. We save daily, weekly, monthly, and annual backups.
Automatic Expirations	Yes	We provide the ability to provide publish-on and publish-off dates for any web pages and associated files/images should you wish to have them auto-removed from public visibility.
Broken Links Finder	Yes	Our solution includes a broken links finder that detects broken links and provides a report that allows you to resolve those issues.
Browser-Based Administration	Yes	Our solution is completely browser-based.
Calendar	Yes	We have a robust calendar and meeting management solution that allows for the following features **Master Calendar and Sub-calendars** • Individual Community Events and Meetings are displayed on a master calendar as well as sub-calendars for each department, board, committee, or commission. **Meeting Archives** • All meetings automatically get added to a meeting archive that is filterable by committee or department. **Upcoming Events/Meetings** • Upcoming events and meetings are displayed within each specific department/committee. In addition, a master list of upcoming events can be displayed on the home page. **Easily create calendar events** • Each calendar event is its own web page with the option of including file attachments, text, photos, and links. **Email Notifications** • When integrated with our email subscription feature, calendar event 'reminder' email notifications can be sent to subscribers based on category. **Google/Outlook/iCal** • Our calendaring solution allows you to import calendar events into iCal or Google.
Citizen Sourcing Tool	Yes	We provide this feature via our online form submission tool.

Content Preview	Yes	Yes, content preview is included
Content Scheduling / Publish/Unpublish / Delete	Yes	We provide the ability to provide publish-on and publish-off dates for web pages and associated files/images should you wish to have them auto-removed from public visibility. Most local government organizations do not want to delete pages due to record retention and public request laws. As a result, we recommend that pages be un-published but not deleted. Deleting a page removes its record from the website database. We do allow for the deleting of pages, but this is an administrative task.
Departmental Home Pages	Yes	Each department/board/committee gets its own microsite, or site-within-a-site. A department can control its own homepage, its own sub-menu, sub-calendar, contact info, etc. The header and global navigation will stay intact on every page to maintain a consistent user experience, but the main content area will be customizable. Should you wish to have exceptions to the rule, we do provide the option of designing and implementing a separate **'specialty sub-site graphic design'** for special sites that might require a unique look, feel, and navigation.
Directories, Listing for Staff and Business	Yes	Our staff directory comes standard and includes the ability to store and maintain organizational contact information in the website database and to display that data in multiple formats. In addition to a master staff directory and departmental sub-directories, you can customize each page with one or more points of contact relevant to that page. When a change is made to an individual contact's information, those changes are automatically propagated throughout the site. We also offer an optional business directory that is integrated with Google Maps and allows for filtering for specific businesses. Please see https://www.ci.durham.nh.us/directory as an example.
Document and File Repository	Yes	Yes, a document center is included, and we index the contents of each file for searchability. We have the best search engine in the industry.
E-Notifications	Yes	We provide your site visitors a full subscribe/unsubscribe capability by category. You create one or more lists for visitors to subscribe to, and you can send email notifications to those users directly via the website. You can also schedule automatic daily or weekly emails based on configurable criteria. We do not offer SMS notifications.

Facility Management	Yes	Yes, this is an optional feature. We are happy to provide a demo to confirm if this meets your requirements.
Forward to a Friend	Yes	We have this feature, but typically keep it disabled due to security issues. We can discuss the pros/cons of enabling such a feature.
Frequently Asked Questions (FAQ)	Yes	We have one of the most intuitive Frequently Asked Questions (FAQs) solutions in the industry. As you add questions and answers for different departments/categories, those FAQS are automatically added to a master list. You also can embed specific FAQs within any web page. When an FAQ is updated or added, the update is automatically applied to all sections of the website where that category of FAQs is referenced.
GIS Mapping	Yes	We have the capability to integrate with 3rd party applications, and we also offer built-in directories integrated with Open Street Maps and Google Maps Examples: Project Directory: https://www.losaltosca.gov/projects Parks and Trails Directory: https://www.cityofvancouver.us/parksites Business Directory: https://www.ci.durham.nh.us/directory Economic Development Property Directory: http://www.cityofestacada.org/biz/properties
HTML Code	Yes	We offer an "Advanced Editor" role that allows users with that role to create custom HTML pages.
Integration to existing systems and databases	Yes	As a base offering, we allow for connecting with external systems via direct links, embed codes, or iframes. We can also embed RSS feeds from external systems into your site and create outbound RSS feeds of your website content for use by external systems. We can provide quotes for more advanced API integrations with specific systems. We would need to discuss those requirements in more detail to provide custom quotes.
Intranet/Extranet (Private Pages)	Yes	We offer the ability to have private pages right on your public-facing website that are restricted to logged in staff members. We also offer the option to add a separate/stand-alone intranet/extranet with LDAP.

Intuitive Navigation	Yes	We implement several techniques to ensure an intuitive path to your content. 1. Home Page Design – we work on an intuitive home page layout that emphasizes search, key action buttons, a main navigational menu, and news/hot topic displays. 2. Search – we ensure that search is a prominent design element and that search results are relevant/accurate 3. Sitemap / menu navigation - in addition to a user-centric and/or service-centric main navigational menu, we also allow each department/committee to have its own sub-navigation menu.
LDAP Integration	Yes	LDAP integration is an optional feature.
Levels of Rights/Permissions	Yes	Our solution is configured with granular role-based permissions and each user is required to login with a unique userid and password. We also offer a two-factor authentication option using Google Authenticate. ☑ All staff create and edit content using the same CMS – regardless of microsite / specialty site. ☑ Our solution includes fine-grained role-based permissions for content authoring as well as webmaster administrative controls. ☑ Site administrators can manage all staff roles / permissions from one common interface and restrict content authoring based on microsite ☑ Each microsite (department/board/committee) can control its own homepage, its own sub-menu, sub-calendar, contact info, etc. The header and global navigation will stay intact on every page top ensure a seamless user experience, but the main content area will be customizable. ☑ Our editing solution is among the most user-friendly in the industry, and we lock down the style options that a typical staff member can modify to provide a consistent, template-based page display. ☑ We provide two options for pages – standard pages and custom pages. Standard pages are template-driven to ensure a consistent look across all pages. Staff only receive the ability to create standard pages by default. ☑ We also offer an "Advanced Editor" role that allows users with that role to create custom HTML pages.
Live Edit	Yes	Yes, included.
Mobile-Friendly	Yes	Our solution is designed with tablets, smartphones, laptops, and desktops in mind. Our websites adjust to the screen size used to view it. We ensure that your website will work on any browser version that represents 0.5% or more usage per the latest W3C browser stats: • http://www.w3schools.com/browsers

		For example, based on January 2018 stats we commit to supporting Opera version O49, Safari S10-S11, Firefox FF52; FF57; FF58, IE11, Edge 15-16, and Chrome C57+.
Multi-Lingual Support	Yes	We provide integration with Google Translate.
News & Announcements / News Releases	Yes	We provide the capability to have a News section that is filterable by press release date. We also provide the ability to provide publish-on and publish-off dates for any web pages (including news pages) should you wish to have them auto-removed from public visibility.
Online Forms	Yes	We provide a tool to create unlimited online-fillable web forms. You will be able to: • create forms, permits, applications, and surveys that site visitors can submit online. • send email notifications to the person submitting the form as well as the form owner immediately upon form submission. • IP address of person submitting the form is automatically captured • ability to create form 'templates' with common fields • form results stored in the database. • export form results to spreadsheet or CSV and then use for mail merge, further analysis, etc. • Integrate with the municodePAY payment portal if desired. • create custom forms with acknowledgement fields, terms of service, and electronic signature.
Online Job Postings and Application	Yes	We offer the ability to post job openings through our online webform building tool. We do not offer the public the ability to create logins with online profiles.
Online Payments	Yes	Yes, we offer online payments.
Photo Center	Yes	Our solution auto-scales and re-sizes images to be of web-friendly size. Our solution comes with a standard photo album slideshow feature. Here is an example of a photo gallery page: http://www.wrangell.com/photos
Printable Pages	Yes	Yes, included.

Real Estate Management	Yes	Yes, we provide a commercial/industrial properties locator that acts much like a mini real-estate site. Please see an example here: http://www.cityofestacada.org/biz/properties
Request Tracking/Customer Service	Yes	Yes, our optional Citizen 311 feature includes this functionality.
Responsive Design	Yes	Yes, we implement an ADA-compliant, mobile-friendly website using the latest responsive design techniques.
RFP/RFQ/Bid Posting	Yes	We offer a basic bid/RFP posting feature included with our standard package. We also offer a more robust, stand-alone bid management solution that manages vendor profiles and auto-generates the plan holders/bidders list for each bid/RFP.
Rotating Photos/Banners	Yes	You will have the opportunity to easily change out background images at any time. You will also have the option to include multiple background images at the same time and have the website browser randomly load a different background image each time.
RSS Feeds	Yes	Our solution provides for outbound RSS feeds for upcoming events, news items, job postings, and Bids/RFPs. We can create custom feeds as needed.
Quick Links	Yes	We offer multiple ways to accomplish this requirement: • How Do I Mega Menu example: https://www.tualatinoregon.gov/ • Find it Fast on home page: http://www.cityofvancouver.us/ • "I Want To" dropdown on inner page: http://www.cityofvancouver.us/cmo
Security	Yes	Our solution is quite secure, and we take cyber security seriously. Your website will be secure from multiple perspectives: Data Center - We host your website in a secure data center with a high-availability network architecture. The data center is manned 24x7x365. Your website is maintained using firewalls, load balancers, multiple web application servers, and a database server. We apply security updates to the entire web server stack on a regular basis. Data transmission - We guarantee up to 1 Terabyte of data transfer per month.

		Redundant high-availability failover (optional) - We have the capability of providing premium hosting service levels by offering a mirrored copy of your site on a separate infrastructure and geographic location. We would need to talk through the required service levels and bandwidth to provide pricing for this item. Web CMS software security - We apply security updates to your Drupal-based CMS whenever updates are posted. Your website is built on Drupal software that has the confidence of millions of websites in both the private sector and public sector, including whitehouse.gov, the City of Boston and the City of Los Angeles. Several built-in security mechanisms are in place to prevent cross-site scripting attacks. Web transmission security - Your website is secured with SSL to encrypt transmission of data. We SSL-enable every page on your website for maximum security. User authentication security - Our solution is configured with granular role-based permissions, and each user is required to login with a unique user id and password. We also off a two-factor authentication option using Google Authenticate if that should be something you are interested in pursuing. Data Backup - We back up your data in multiple geographic locations. We backup daily, weekly, monthly, and up to 7 years of annual data backups. Guaranteed Uptime - Municode guarantees web server uptime of 99.95%. In the event this service level is not met within a given month, you will receive a credit for that month's service
Site Search	Yes	Our Drupal-based solution includes a powerful search engine that is among the best in the industry. We also provide an enhanced search capability at no extra charge which allows for: • Indexing of file attachments (content of PDFs, Office documents, agendas, minutes, etc.). • Filtering search results by date. • Filtering search results by department/committee.
Site Statistics	Yes	We integrate with Google Analytics as part of our standard service.
Sitemap & Breadcrumbs	Yes	We use multiple techniques to improve the site's information architecture and make content easy to find on your website.

		• **High-level sitemap:** with you on a high-level sitemap that is targeted by user type. • **Detailed sitemap:** sitemap auto-updates as navigational links change over time. • **Breadcrumbs:** available to add to your design upon request. • **Create a page once, have it displayed in multiple locations.** We implement an industry-leading capability that allows a page to be created once but automatically displayed in multiple locations on the website. • **Menus:** o In addition to a main organizational mega menu, each department, board, and committee would have its own microsite or site-within-a-site. This includes a home page, sub-menu, sub-calendars, and much more. o Everything is role-based, so departmental staff will only have access to their respective department sub-menus. o Our advance menu solution allows you to move an entire sub-section of your menu tree to a different section of a menu. The child links properly stay connected to a parent link should the parent link be moved. o Our solution also provides the capability to create links within any page, and we have multiple options for the way in which those links are created. Examples include: ▪ Add links within department sub-menus. ▪ Add links within the body text of a page. ▪ Add links using a "Related Links" section of each page.
Social Media Interface	Yes	We provide options to leverage social media in multiple ways. • A "Share This" capability exists to push web page posts to Facebook, Twitter, and other social media channels. • We provide the capability to embed social feeds within your website if desired. • We provide the capability to add social icons to your home page. • We provide the capability to add department-specific social icons and feeds to department sub-pages.
Spellcheck	Yes	Our editor has a spellcheck capability.
Spotlight	Yes	A spotlight feature can be incorporated into your custom graphic design.
Third Party Integration	Yes	As a base offering, we allow for connecting with external systems via direct links, embed codes, or iframes. We can embed RSS feeds from external

		systems into your site and create outbound RSS feeds of your website content for use by external systems. We can provide quotes for more advanced API integrations with specific systems. We would need to discuss those requirements in more detail to provide custom quotes.
Training	Yes	We offer different training options for both basic user training and advanced user training as well as a training session on content strategy and authoring best practices. We have options to complete training in person, via web teleconference, or through our video training series.
Unique Department Home Page	Yes	Each department/board/committee gets its own microsite, or site-within-a-site. A department can control its own homepage, its own sub-menu, sub-calendar, contact info, etc. The header and global navigation will stay intact on every page to maintain a consistent user experience, but the main content area will be customizable. Should you wish to have exceptions to the rule, we do provide the option of designing and implementing a separate **'specialty sub-site graphic design'** for special sites that might require a unique look, feel, and navigation.
Video Center	Yes	We offer multiple options for integrating audio and video into your website. Some are standard while others would require a custom quote. • Upload audio files for meetings [standard] • YouTube and Vimeo integration with auto-embed (standard) • 3rd party meeting audio/video integration via iFrame (i.e. Granicus, Accela IQM2, BoardDocs, Sire, AV CaptureAll, iCompass, Swagit, etc.) [standard] • Accela meeting audio via API integration (optional) • Additional 3rd party integrations in progress (Swagit)
Web-Friendly URLs	Yes	You have an unlimited ability to provide such friendly URLs with redirect functionality. It can be accomplished directly from our browser-based interface.

MEETING AND AGENDA MANAGEMENT (OPTIONAL)

Municode Web includes a standard feature to post meeting agendas and minutes. Many organizations seek the additional features of an agenda management solution such as agenda item approval workflow, auto-generated PDF/Word agendas, live council voting/roll call, and audio/video integration.

Municode Meetings is the easiest-to-use and most modern agenda management system in the industry. It is a 100% cloud-based offering that will greatly reduce the staff time and effort required to create and publish online agendas and minutes.

Key Project Deliverables

- BOARD/COMMITTEE SETUP - configure as many boards as you need - no limit
- MEETING TEMPLATE DESIGN - design one or more meeting templates to your custom specifications
- TRAINING
- WORKFLOW - setup custom agenda item approval workflows
- USERS/ROLES/PERMISSIONS - create and configure unlimited user accounts
- ANNUAL SERVICE - 99.95% up-time guarantee, data backups, disaster recovery
- SUPPORT - 8AM to 8PM Eastern phone and email support; 24x7x365 emergency support

Standard Features

- Unlimited Meetings and Agenda Templates
- Unlimited Meeting Agenda Templates
- Unlimited Users
- Create Meetings
- Submit/Add Agenda Items
- Attach agenda item files
- Create Agendas
- Create Agenda Packets
- Create Meeting Minutes
- Approve Items with Approval Workflow
- Auto Publishing Agenda, Agenda Packet, Minutes to the web
- Self-service YouTube video time stamping
- Integration with Swagit Video (coming soon)
- Voting/Roll Call
- Integration with Municode Web calendar

Service and Support

We will guarantee service uptime of 99.95%. In the event this service level is not met within a given month, you will receive a credit for that month's service.

We will provide you contact numbers to reach us 24x7x365 for catastrophic site issues. We will also be available from Monday to Friday 8AM-8PM EST via email and phone to handle routine questions from staff.

We will perform security upgrades and other optimizations during off-hours, typically between the hours of 12-3AM PST, if such work requires your meetings to be off-line. We will provide at least 14 days' notice for any non-emergency maintenance that requires down-time.

Our auto-monitoring software continually monitors performance and instantly alerts us when problems occur. We act as soon as possible and no later than two hours after problems are detected.

POLICIES AND PROCEDURES MANAGEMENT (OPTIONAL)

Municode Web includes a standard feature to post policy and procedure documents. Many organizations seek the additional features a policy and procedures management solution provides, such as approval workflow, automated PDF generation, and historical tracking. Examples of policy and procedure manuals include fire codes, general plans, financial reports, and proclamations. Municode's Self-Publishing Software facilitates these needs.

Key Project Deliverable

- SOFTWARE LICENSE – Annually, includes up to five (5) authorized users
- CONVERSION – Convert your current Word/Folio manuals to our software database for in-house publication, updates and maintenance
- WORKFLOW – Provides organized, systematic execution of updates, corrections, new clauses, new codes, etc.
- ONLINE BOOK HOSTING – Published in HTML format
- SERVICE LEVEL - 99.95% up-time guarantee, data backups, disaster recovery
- SUPPORT - 8AM to 8PM Eastern phone and email support; 24x7x365 emergency support

Standard Features

- Policy/Amendment drafting tool
- Automated code, policy and publication updates
- Automated approval and signature workflow
- Automated PDF generation for backup/printing
- Historical tracking tool
- Online training and customer service

Service and Support

We will guarantee service uptime of 99.95%. In the event this service level is not met within a given month, you will receive a credit for that month's service.

We will provide you contact numbers to reach us 24x7x365 for catastrophic site issues. We will also be available from Monday to Friday 8AM-8PM EST via email and phone to handle routine questions from staff.

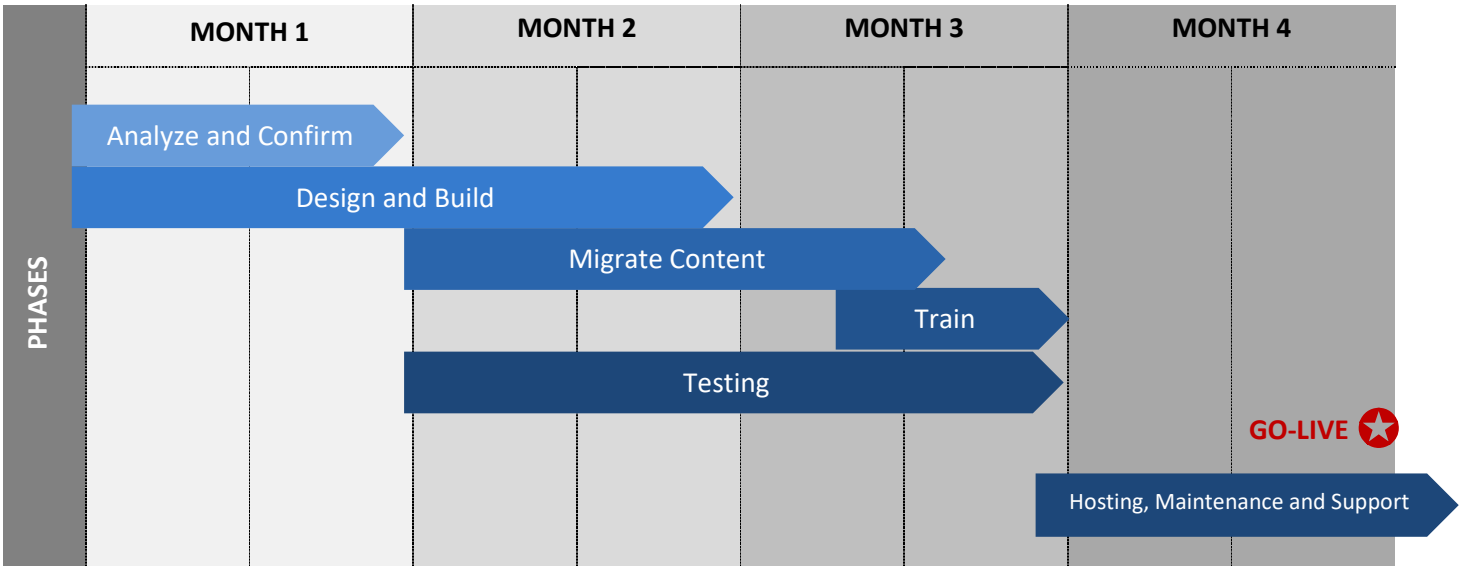
We will perform security upgrades and other optimizations during off-hours, typically between the hours of 12-3AM PST, if such work requires your meetings to be off-line. We will provide at least 14 days' notice for any non-emergency maintenance that requires down-time.

Our auto-monitoring software continually monitors performance and instantly alerts us when problems occur. We act as soon as possible and no later than two hours after problems are detected.

PROJECT TIMELINE AND APPROACH

The typical project takes from 3 to 7 months. The high-level timeline below is an approximation. We will finalize the schedule once we meet with you:

Project Timeline Sample



Client Responsibilities

The client's responsibility and the key to a smooth on-time deployment is providing the initial information and approving proofs quickly.

- ☑ The Client will make available to Municode relevant images, photos, logos, colors, and other branding material as well as an inventory of existing applications, websites, and content at the start of this effort. The Client will create new content copy as needed.
- ☑ The Client will assign a single point of contact for Municode to interact with that will be responsible for coordinating the schedules of other project stakeholders.
- ☑ The Client will review any deliverables requiring formal approval within 5 business days and return all comments/issues at or before those 5 days have elapsed.
- ☑ The Client will assign one person who will act as the "ultimate decision maker" in the case where consensus among the team cannot be reached.
- ☑ The Client must agree to applicable terms of services for Google related services such as Google Analytics and Google Maps to access those features. Municode is not responsible for Google's decisions related to discontinuing services or changing current APIs.

Project Phase Descriptions

Phase 1: Analyze and Confirm Requirements

Website Assessment:

Municode will complete an analysis of your current website(s) to assess the existing navigation, features/functions, and quality of content.

Organizational Overview Inventory/Survey:

Municode will provide an organizational overview document for you to complete as part of this assessment.

Website Design Meeting:

Municode will conduct a design meeting with a client-defined web advisory team. We recommend the advisory team be limited to a maximum of 6 members. This design meeting will allow the website advisory team to provide input regarding the overall design of the new website, including the site branding as well as high-level site navigation. This team will act as the initial review team for website design concepts. In addition, this team will act as the final review team for the website before it is approved for go-live.

Deliverables

- Summary assessment sheet
- Organization Survey
- Website design specification sheet (graphic design and information / navigation design)

Phase 2: Design and Build phase

Design Concept Creation and Approval (Custom Designs):

Municode will complete home page design concepts for the Home Page and inner pages. These design concepts will incorporate all the graphical elements as well as the high-level sitemap. You will select a winning concept after going through a series of iterative design revision meetings. We allow for a total of 6 revisions.

Website Setup, Configure, and Customization:

Municode will create a fully functional website that includes the functional elements described in this proposal. As part of the website setup, Municode will finalize any remaining elements to the approved design and navigation.

Deliverables

- Design concepts
- Finalized design (Photoshop PSD)
- Functional beta website with approved design
- Content migration

Phase 3: Migrate Content

Content Finalization and Departmental Acceptance

Municode migrates initial content and your trained staff finalizes prior to go-live. See pricing section for specific number of included pages.

Meeting Agendas and Minutes: Client completes an excel template with information regarding each meeting plus corresponding files. Municode will then auto-import that content. Files must be provided with a standard naming convention to allow for auto parsing of date. (i.e. minutes_061516.pdf, etc.)

Standard Web Pages: A standard web page is defined as a page that contains a title, body text, and up to a total of 5 links, file attachments, or images. If you require migration of more complex pages, we can provide a custom quote.

Directory pages (Staff Directory, Projects, Commercial/Industrial Properties, Business Directory, Ordinances/Resolutions): Client completes manually or may request a custom quote. For custom quotes, client completes an excel template with directory data and Municode auto-imports directory content.

Deliverables

- Content creation and migration
- Departmental content 'signoff'

Phase 4: Staff Training

Staff Training

Throughout the development and after launch, our customers have access to training, resources and educational opportunities that help them thrive. Our initial training is offered to administrators and content contributors.

Deliverables

- On-site (if applicable)
- Web teleconference
- Videos and User guides

Phase 5: Testing

Municode Functional Testing

Municode will perform a series of tests across multiple browser and operating system versions to confirm site functionality. Test will confirm proper functionality of all features documented in this proposal.

Acceptance Testing

Staff will review the website for completeness. Municode will have completed functional testing and cross-browser compatibility testing.

Deliverables

- Completing Testing Checklists
- Site acceptance by client

Go Live ✪

Go-Live

We will work with you to make the appropriate 'A' Record DNS entry changes to begin the process of propagating the new production web server IP address.

Deliverables

- Accepted Final Live Website

HOSTING, MAINTENANCE, AND CUSTOMER SUPPORT

Hosting

We provide first-class hosting services in a secure data center. We take cyber security seriously. Your website will be secure from multiple perspectives:

- **Data Center**

  We host your website in a secure data center. The data center is manned 24x7x365. Your website is maintained using firewalls, load balancers, multiple web application servers, and a database server. We apply security updates to the entire web server stack on a regular basis.

- **Data transmission**

  We guarantee up to 1 Terabyte of data transfer per month.

- Redundant high-availability failover (optional):

  We have the capability of providing premium hosting service levels by offering a mirrored copy of your site on a separate infrastructure and geographic location. We would need to talk through the required service levels and bandwidth to provide pricing for this item.

- **Web CMS software security**

  We apply security updates to your Drupal-based CMS whenever updates are posted. Your website is built on Drupal software that has the confidence of millions of websites in both the private sector and public sector, including whitehouse.gov, the City of Boston and the City of Los Angeles. Several built-in security mechanisms are in place to prevent cross-site scripting attacks.

- **Web transmission security**

  Your website is secured with SSL to encrypt transmission of data. We SSL-enable every page on your website for maximum security.

- **User authentication security**

  Our solution is configured with granular role-based permissions, and each user is required to login with a unique user id and password. We also off a two-factor authentication option using Google Authenticate if that should be something you are interested in pursuing.

- **Data Backup**

  We back up your data in multiple geographic locations. We backup daily, weekly, monthly, and up to 7 years of annual data backups.

- **Guaranteed Uptime**

  Municode guarantee web server uptime of 99.95%. In the event this service level is not met within a given month, you will receive a credit for that month's service

Maintenance and Customer Support

24x7 Customer support:

We will provide you contact numbers to reach us 24x7x365 for catastrophic site issues. We will also be available from Monday to Friday 8AM-8PM EST via email and phone to handle routine website operation questions from staff.

Security upgrades:

Municode will apply security upgrades to your solution's core and contributed modules ensuring that your website stays secure. Municode will perform security upgrades and other web server and website optimizations during off-hours, typically between the hours of 9PM-3AM Pacific, if such work requires taking the website off-line. We will provide at least 14 days' notice for any non-emergency maintenance that requires down-time.

Site Monitoring and Site Recovery:

Municode will install auto-monitoring software routines that continually monitor website performance and alert us when problems occur. We will act as soon as possible and no later than two hours after problems are detected.

Free feature upgrades:

As we update our base Municode features, you receive those upgrades for FREE.

PROJECT COSTS

Design, Development, and Implementation Phase — $9,500

- Fully functional Municode CMS with all base features
- Responsive mobile-friendly website with **Custom** design
- Content migration; up to 250 pages and 5 years meeting minutes
- Training: web teleconference, video, user guides

Annual Hosting, Maintenance, and Customer Support — $2,000 / year

- 80GB disk space and up to 1 terabyte data transfer per month
- 99.95% up-time guarantee, telephone support 8AM-8PM Eastern
- Email support with one-hour response time during working hours
- Emergency 24x7 support
- Up to 3 hours' webinar refresher trainings per year

Total Year 1 Costs — $11,500

Select Additional Website Options

☐ Citizen 311	$1500 + $900 per year
☐ Email Subscriptions / Notifications	$600 per year
☐ Parks and Trails Directory	$200 per year
☐ Projects Directory	$200 per year
☐ Property Listings (Commercial/Industrial)	$200 per year
☐ Business Directory	$200 per year
☐ **Meeting and Agenda Management (Municode Meetings)**	**$3,800 per year**
☐ Policies and Procedures Management	ask for quote
☐ Specialty sub-site graphic designs	$3500 + $600 per year (per design)
☐ Site graphic redesign every 4th year	$600 per year (per design)
☐ Additional on-site visits (training, consultation, etc.)	$1500 day 1, $1000 per day (days 2+)
☐ Custom Feature Development	$150 per hour or fixed bid quote

PAYMENT SCHEDULE

Year 1

Sign contract	50% of one-time costs
Implement design and features	50% of one-time costs
Conduct training (site moved to production / annual support begins)	annual hosting and support

Notes

- No long-term commitments required. We will earn your trust. You may cancel service at any time.
- Guaranteed pricing. Hosting and Support fees will not increase for first three years.
- Annual hosting and support fees starting year four will increase according to the previous year-ending *Consumer Price Index (CPI) for All Urban Consumers.*
- 2, 3, or 4-year interest-free payment plan available upon request

SERVICES AGREEMENT

This agreement (“AGREEMENT”) is entered between Hapeville Georgia (“CLIENT”) and Municipal Code Corporation (“CONSULTANT”).

1. Term of AGREEMENT. This AGREEMENT shall commence effective the date signed by the CLIENT. It shall automatically renew annually. This AGREEMENT shall terminate upon the CLIENT's providing CONSULTANT with sixty (60) days' advance written notice

2. Compensation. It is understood and agreed by and between the parties hereto, that the CLIENT shall pay the CONSULTANT for services based on the payment schedule provided as set forth in the section marked “Payment Schedule”. Payment will be made to CONSULTANT within thirty (30) days of the receipt of approved invoices for services rendered.

3. Scope of Services. CONSULTANT’s services under this AGREEMENT shall consist of services as detailed in the attached proposal including appendices (“SERVICES”). SERVICES may be amended or modified upon the mutual written AGREEMENT of the parties.

4. Integration. This AGREEMENT, along with the SERVICES to be performed contain the entire agreement between and among the parties, integrate all the terms and conditions mentioned herein or incidental hereto, and supersede all prior written or oral discussions or agreements between the parties or their predecessors-in-interest with respect to all or any part of the subject matter hereof.

5. Warranty. CONSULTANT warrants that any services provided hereunder will be performed in a professional and workmanlike manner and the functionality of the services will not be materially decreased during the term.

6. Liability. CONSULTANT’s total liability arising out of any acts, omissions, errors, events, or default of CONSULTANT and/or any of its employees or contractors shall be limited by the provisions of the AGREEMENT and further limited to a maximum amount equal to the fees received by CONSULTANT from CLIENT under this AGREEMENT.

7. Termination. This AGREEMENT shall terminate upon the CLIENT's providing CONSULTANT with sixty (60) days' advance written notice. In the event the AGREEMENT is terminated by the CLIENT's issuance of said written notice of intent to terminate, the CONSULTANT shall pay CLIENT a pro-rated refund of any prepaid service fees (for the period from the date of the termination through to the end of the term). If, however, CONSULTANT has substantially or materially breached the standards and terms of this AGREEMENT, the CLIENT shall have any remedy or right of set-off available at law and equity.

8. Independent Contractor. CONSULTANT is an independent contractor. Notwithstanding any provision appearing in this AGREEMENT, all personnel assigned by CONSULTANT to perform services under the terms of this AGREEMENT shall be employees or agents of CONSULTANT for all purposes. CONSULTANT shall make no representation that it is the employee of the CLIENT for any purposes.

9. Confidentiality. (a) Confidential Information. For purposes of this AGREEMENT, the term "Confidential Information" means all information that is not generally known by the public and that: is obtained by CONSULTANT from CLIENT, or that is learned, discovered, developed, conceived, originated, or prepared by CONSULTANT during the process of performing this AGREEMENT, and relates directly to the business or assets of CLIENT. The term "Confidential Information" shall include, but shall not be limited to: inventions, discoveries, trade secrets, and know-how; computer software code, designs, routines, algorithms, and structures; product information; research and development information; lists of clients and other information relating thereto; financial data and information; business plans and processes; and any other information of CLIENT that CLIENT informs CONSULTANT, or that CONSULTANT should know by virtue of its position, is to be kept confidential.

(b) Obligation of Confidentiality. During the term of this AGREEMENT, and always thereafter, CONSULTANT agrees that it will not disclose to others, use for its own benefit or for the benefit of anyone other than CLIENT, or otherwise appropriate or copy, any Confidential Information except as required in the performance of its obligations to CLIENT hereunder. The obligations of CONSULTANT under this paragraph shall not apply to any information that becomes public knowledge through no fault of CONSULTANT.

10. Assignment. Neither party may assign or subcontract its rights or obligations under this AGREEMENT without prior written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, either party may assign this AGREEMENT in its entirety, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of its assets.

11. Cooperative Purchasing. CONSULTANT and CLIENT agree that other public agencies may purchase goods and services under this solicitation or contract at their own cost and without CONSULTANT or CLIENT incurring any financial or legal liability for such purchases.

12. Governing Law. This AGREEMENT shall be governed and construed in accordance with the laws of the State of Georgia without resort to any jurisdiction's conflicts of law, rules or doctrines.

Submitted by:

Municipal Code Corporation

By: Brian Gilday

Title: President, Website Division

Accepted by:

By: _____

Title: _____

Date: _____

Website Proposal Summary

Vendors	Pricing	Experience	Website Security Credentials	Aesthetics capabilities	References	Service & Support	Comments
CivicEngage	$5770 / will be $4,275 starting year two	project team of 6, in business since 1994	antivirus mgmt & updates, security patches, firewall solutions, monitoring, SSL encryption	capable of offering great aesthetics judging from ref. sites	Lowndes County; Portage, MI; City of Cody, WY; City of Greenville, SC; Frisco, TX; Roanoke, VA; McKinney, TX; Fuquay-Varina, NC , etc.	support 7am-7pm Mon-Fri and 24/7 emergency support (received award for CS); emergency services are FOC after reg. hours (have on call staff), full backups performed daily	provides hosting; can notify subscribers with mass email; opinion polls to interact with citizens; blog for citizens to interact with, receive free redesign after end of 4th year; ADA compliant; credit card pay; guaranteed uptime 99.99%
Granicus	$15000 /will be $4000 starting year two	project team of 5 members, extensive amount of exp. (21 yrs in business)	federal grade security with encryption, security scanning, physical security, virtualized servers	capable of offering great aesthetics judging from ref. sites	DHS, DOD, Veteran Affairs, Census Bureau, City of Park City, UT, Millbrae, CA, Herndon, VA, Cecil County, MD, La Quinta, CA, Sioux City, IA	unlimited technical support through on demand videos and live chat	provides hosting; Comment boards, polls, surveys for citizens to engage in, 250+ award winning sites, company recognition; receive free redesign after end of 5th year; guaranteed uptime 99.99%
Municode	$15000 (includes added on features); $2000 + add ons starting year two	project team of 5, 65 yrs of overall exp.	web CMS software security, web transmission security, user authentication security, data backup, apply security upgrades; install auto monitoring software	capable of offering great aesthetics judging from ref. sites	City of Vidalia, Jefferson, Los Altos, Brookhaven, Corvallis, Flowery Branch, Monroe, Naples, etc.	avail 24x7x365 for catastrophic site issues, Mon-Fri 8am-8pm via email and phone for questions.	enhanced search at no extra charge; does own hosting and its secured; won an award for Naples' website; ADA compliant websites; guaranteed uptime (99.95%); can cancel at any time

Hapeville Fire Department EMS

2019 Proposal for Ambulance Transport Fee Increase

The City of Hapeville Fire Department has held the same ambulance billing rates since 2003. Our rates are well below national and local average, while medical costs and repairs have continued to increase and are not keeping with costs of medications. Fire Department staff has worked closely with EMS Management & Consultants to propose rates mirroring those of our neighboring jurisdictions.

EMS/MC (HFD Billing Company) billing rate for 2019

- BLS NE: Transport only. $400.
- BLS E: Broken Arm. $500.
- ALS NE: Cardiac Monitor, Pulse Ox, IV, 02. $450
- ALS 1: Cardiac Monitor, Pulse Ox, 02, IV, Administer Medications. $600.
- ALS 2: Cardiac Arrest W/ ACLS Protocol. $750.
- Treatment no Transport: Administer Medications & patient refuses transport AMA. $0

Services

Types of Service	Current Rates	Recommended	Medicare (fixed)
Basic Life Support NE	$400	$457.50	$228.75
Basic Life Support E	$500	$732.02	$366.01
Advanced Life Support Non-Emergency	$450	$549	$274.50
Advanced Life Support 1	$600	$869.26	$274.50
Advanced Life Support 2	$750	$1,258.14	$434.63
Mileage	$10/mile	$13.00	$7.37
Treatment No Transport	$0	$100	

How do we compare locally?

Service Type	Henry	Dekalb	Spalding	Clayton	Newton	Gwinnett	Butts	Hapeville
BLS	$500	$800	$700	$800	$620	$975	$500	$500
ALS I	$600	$1,002.50	$1,000	$1,100	$1,000	$975	$700	$600
ALS II	$725	$1,165	$1,000	$1,100	$1,060	$975	$750	$750
Mileage	$10	$11	$14	$10	$15	$15	$10	$10

Averages	
BLS	**$711**
ALS I	**$912.50**
ALS II	**$1,006**
Mileage	**$13**

EMS Internal Supply Costs

Item	Current Prices	2011 Price	Change	% Change
EPI 1:1000 1 mg	$16.99	$1.30	$15.69	1207%
Atropine 1 mg	$13.89	$2.15	$11.74	546%
IV D5W 500 cc	$6.50	$1.10	$5.40	491%
IV NS 1000 cc	$93.48	$16.52	$76.96	466%
Mag Sulfate 1 g	$3.39	$0.70	$2.69	384%
EPI 1:10000 1 mg	$8.50	$2.25	$6.25	278%
Tordol 30 mg	$3.39	$0.90	$2.49	277%
Trauma Dressing	$4.99	$1.50	$3.49	233%
Calcium Chloride 1 gm	$11.99	$3.65	$8.34	228%
Dopamine 400 mg	$31.99	$10.40	$21.59	208%
Solumedrol 125 mg	$10.19	$3.45	$6.74	195%
Glucagon 1 mg	$248.99	$91.90	$157.09	171%
ABD Pads bx/20	$4.99	$2.00	$2.99	150%
Narcan 2 mg	$42.99	$17.85	$25.14	141%
Lidocaine 100 mg	$4.63	$1.96	$2.67	136%
D50 25 mg	$5.89	$2.60	$3.29	127%
Arm Board	$1.50	$0.73	$0.77	105%
3 cc Syringes	$12.29	$6.00	$6.29	105%
Shears	$1.99	$0.99	$1.00	101%
Heavy Duty Blanket	$4.99	$2.50	$2.49	100%
Haldol 5 mg	$6.50	$3.30	$3.20	97%
IV NS 100 cc	$2.99	$1.55	$1.44	93%
Nitro Paste	$76.99	$40.10	$36.89	92%
Tourniquet pk/10	$1.88	$1.05	$0.83	79%
Pedi SPO2 probe bx/24	$13.95	$7.95	$6.00	75%
Needless INT	$1.55	$0.89	$0.66	74%
Diphenhydramine 50 mg	$1.73	$1.05	$0.68	65%
Nitro Tab .4 mg	$33.99	$21.15	$12.84	61%
Ring Cutter	$7.99	$5.00	$2.99	60%
Lidocaine 2 g bag	$9.69	$6.15	$3.54	58%
Non-sterile 4x4	$4.07	$2.65	$1.42	54%
500 cc sterile H2O	$1.99	$1.30	$0.69	53%
20 g IV Caths	$149	$98	$51.00	52%
18 g IV Caths	$149	$98	$51	52%
Amiodarone 150 mg	$3.84	$2.60	$1.24	48%
Sani-Cloths	$8.89	$6.05	$2.84	47%
IV Guard	$49.99	$34.95	$15.04	43%

Oral Glucose pk/3	$15.99	$11.20	$4.79	43%
Burn Sheet	$4.99	$3.50	$1.49	43%
Kendal 5 q Sharps	$5.89	$4.25	$1.64	39%
Stat Splint	$5.99	$4.35	$1.64	38%
Alcohol Prep	$1.99	$1.45	$0.54	37%
10 cc Syringes	$22.00	$16.30	$5.70	35%
15 gtts set cs/50 needless	$1.73	$1.29	$0.44	34%
Penlights pk/6	$5.99	$4.50	$1.49	33%
Suction Tubing w/yanker	$2.62	$1.99	$0.63	32%
Pedi Combo	$25.99	$19.95	$6.04	30%
3-way Stop Cock w/20" tubing	$1.49	$1.15	$0.34	30%
O2 Regulator	$58.00	$45	$13	29%
Adult CO2	$11.99	$9.35	$2.64	28%
Pedi CO2	$11.99	$9.35	$2.64	28%
Eye Pads	$4.99	$4	$0.99	25%
IO 18 g	$10.49	$8.50	$1.99	23%
Adscope Lite	$15.99	$13.20	$2.79	21%
Triangle Bandage	$0.35	$0.29	$0.06	21%
Adult Combo	$23.99	$19.95	$4.04	20%
1" Transpore	$9.99	$8.50	$1.49	18%
2" Transpore	$9.99	$8.50	$1.49	18%
Box K*Y	$9.99	$8.50	$1.49	18%
IO 15 g	$9.99	$8.50	$1.49	18%
OB Kit Boxed	$6.99	$6	$0.99	17%
Seals	$21.99	$19.20	$2.79	15%
Adult BVM	$11.39	$9.95	$1.44	14%
NPA Kit	$23.88	$21	$2.88	14%
Adult Head Blocks	$4.99	$4.40	$0.59	13%
Pedi Head Blocks	$4.99	$4.40	$0.59	13%
Infant Head Blocks	$4.99	$4.40	$0.59	13%
3" ACE	$0.62	$0.55	$0.07	13%
6" ACE	$1.01	$0.90	$0.11	12%
Monitor Paper	$12.19	$10.95	$1.24	11%
Back Board Strap	$2.50	$2.25	$0.25	11%
Sterile 4x4 bk/100	$4.99	$4.50	$0.49	11%
EDD Tube Checker	$2.88	$2.60	$0.28	11%
Adult BP Cuff for lp12	$10.95	$9.95	$1.00	10%
Adult N/C	$0.33	$0.30	$0.03	10%
Alphastyle N95	$21.99	$20	$1.99	10%
Infant BP cuff lp12	$6.85	$6.30	$0.55	9%
Child BP cuff lp12	$7.80	$7.20	$0.60	8%

Lancets	$15.90	$14.80	$1.10	7%
Child BVM	$11.39	$10.65	$0.74	7%
Infant BVM	$11.39	$10.65	$0.74	7%
Adult Tube Holder	$3.58	$3.40	$0.18	5%
Pedi Tube Holder	$3.58	$3.40	$0.18	5%
Adult NRM	$0.83	$0.80	$0.03	4%
Adult McGills	$5.99	$5.80	$0.19	3%
Pedi McGills	$5.99	$5.80	$0.19	3%
SALT Airway	$19.19	$18.80	$0.39	2%
LG Adult BP cuff for lp12	$11.95	$11.75	$0.20	2%
6" Kling pk/6	$0.69	$0.68	$0.01	1%

DRAFT

STATE OF GEORGIA
CITY OF HAPEVILLE

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 41 ("TRAFFIC AND MOTOR VEHICLES"), ARTICLE 3 ("TRAFFIC CONTROL DEVICES") TO CREATE DIVISION 3 ("AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICE "), SECTION 41-3-25 ("AUTOMATED TRAFFIC SAFETY ENFORCEMENT"), SECTION 41-3-26 ("PURPOSE"), SECTION 41-3-27 ("DEFINITIONS"), SECTION 41-3-28 ("AUTOMATED TRAFFIC SAFETY DEVICES IN SCHOOL ZONES"), SECTION 41-3-29 ("MONETARY PENALTY"), SECTION 41-3-30 ("NOTICE, CITATION AND SUMMONS"), AND SECTION 41-3-31 ("INCORPORATION OF O.C.G.A. SECTION 40-14-18") OF THE CODE OF ORDINANCES, CITY OF HAPEVILLE, GEORGIA; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND TO PROVIDE FOR OTHER LAWFUL PURPOSES.

WHEREAS, the mayor and council shall have full power and authority to provide for the execution of all powers, functions, rights, privileges, duties and immunities of the city, its officers, agencies, or employees granted by the City of Hapeville's Charter or by state law; and,

WHEREAS, the municipal government of the City of Hapeville (hereinafter "City") and all powers of the City shall be vested in the Mayor and Council. The Mayor and Council shall be the legislative body of the City; and,

WHEREAS, amendments to any of the provisions of the City's Code may be made by amending such provisions by specific reference to the section number of the City's Code; and,

WHEREAS, every official act of the Mayor and Council which is to become law shall be by ordinance; and,

WHEREAS, the governing authority of the City finds it desirable and necessary to amend Chapter 41 of the City Code of Ordinances to allow for use of automated traffic enforcement safety devices.

BE IT, AND IT IS HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF HAPEVILLE, GEORGIA THAT:

Section One. Division 3 (Automated Traffic Enforcement Safety Device) in Chapter 41 (Traffic and Motor Vehicles), Article 3 (Traffic Control Devices) of the City Code of Ordinances is hereby created with the following language:

DIVISION 3. – AUTOMATED TRAFFIC ENFORCEMENT SAFETY DEVICE

Sec. 41-3-25 – Automated Traffic Safety Enforcement.

For convenience in reference, this division shall be entitled the automated traffic safety enforcement ordinance.

Sec. 41-3-26 – Purpose.

The purpose of this division is to enhance public safety through the use of technologies which reduce the violation of speed limits.

Sec. 41-3-27 – Definitions.

As used in this division, the following definitions shall apply:

Automated traffic enforcement safety device means a speed detection device that:

a. Is capable of producing photographically recorded still or video images, or both, of the rear of a motor vehicle or of the rear of a motor vehicle being towed by another vehicle, including an image of such vehicle's rear license plate;
b. Is capable of monitoring the speed of a vehicle as photographically recorded pursuant to subparagraph (a) of this paragraph; and
c. Indicates on each photographically recorded still or video image produced the date, time, location, and speed of a photographically recorded vehicle traveling at a speed above the posted speed limit within a marked school zone.

Owner means the registrant of a motor vehicle, except that such term shall not include a motor vehicle rental company when a motor vehicle registered by such company is being operated by another person under a rental agreement with such company.

Recorded images means still or video images recorded by an automated traffic enforcement safety device.

School zone means the area within 1,000 feet of the boundary of any public or private elementary or secondary school.

Sec. 41-3-28 – Automated Traffic Safety Devices in School Zones.

The speed limit within any school zone as provided for in O.C.G.A. Section 40-14-8 and marked pursuant to O.C.G.A. Section 40-14-6 may be enforced by using photographically recorded images for violations which occurred only on a school day during the time in which instructional classes are taking place and one hour before such classes are scheduled to begin and for one hour after such classes have concluded when such violations are in excess of ten miles per hour over the speed limit.

Sec. 41-3-29 – Monetary penalty.

The owner of a motor vehicle shall be liable for a civil monetary penalty to the governing body if such vehicle is found, as evidenced by photographically recorded images, to have been operated in disregard or disobedience of the speed limit within any school zone and such disregard or

disobedience was not otherwise authorized by law. The amount of such civil monetary penalty shall be $75.00 for a first violation and $125.00 for a second or any subsequent violation, in addition to fees associated with the electronic processing of such civil monetary penalty which shall not exceed $25.00; provided, however, that for a period of 30 days after the first automated traffic enforcement safety device is introduced by a law enforcement agency within a school zone, the driver of a motor vehicle shall not be liable for a civil monetary penalty but shall be issued a civil warning for disregard or disobedience of the speed limit within the school zone.

Section 41-3-30 – Notice, Citation and Summons.

A law enforcement agency authorized to enforce the speed limit of a school zone, or an agent working on behalf of a law enforcement agency or governing body, shall send by first class mail addressed to the owner of the motor vehicle within 30 days after obtaining the name and address of the owner of the motor vehicle but no later than 60 days after the date of the alleged violation:

a. A citation for the alleged violation, which shall include the date and time of the violation, the location of the infraction, the maximum speed at which such motor vehicle was traveling in photographically recorded images, the maximum speed applicable within such school zone, the civil warning or the amount of the civil monetary penalty imposed, and the date by which a civil monetary penalty shall be paid;
b. An image taken from the photographically recorded images showing the vehicle involved in the infraction;
c. A website address where photographically recorded images showing the vehicle involved in the infraction and a duplicate of the information provided for in this paragraph may be viewed;
d. A copy of a certificate sworn to or affirmed by a certified peace officer employed by a law enforcement agency authorized to enforce the speed limit of the school zone and stating that, based upon inspection of photographically recorded images, the owner's motor vehicle was operated in disregard or disobedience of the speed limit in the marked school zone and that such disregard or disobedience was not otherwise authorized by law;
e. A statement of the inference provided by paragraph (b)(4) of O.C.G.A. Section 40-14-18 and of the means specified therein by which such inference may be rebutted;
f. Information advising the owner of the motor vehicle of the manner in which liability as alleged in the citation may be contested through an administrative hearing; and
g. A warning that failure to pay the civil monetary penalty or to contest liability in a timely manner as provided for in subsection (d) of O.C.G.A. Section 40-14-18 shall waive any right to contest liability.

Section 41-3-31 – Incorporation of O.C.G.A. Section 40-14-18.

The Mayor and Council of the City of Hapeville hereby full incorporate O.C.G.A. Section 40-14-18 into this Ordinance.

Section Two. Codification and Certify. This Ordinance adopted hereby shall be codified and certified in a manner consistent with the laws of the State of Georgia and the City.

DRAFT

Section Three. Severability.

(a) It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

(b) It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Ordinance.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section Four. Repeal of Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby expressly repealed.

Section Five. Effective Date. The effective date of this Ordinance shall be the date of adoption unless otherwise stated herein.

ORDAINED this _____ day of _____, 2019.

CITY OF HAPEVILLE, GEORGIA

_____

Alan Hallman, Mayor

ATTEST:

_____

Crystal Griggs-Epps, City Clerk

APPROVED BY:

_____

City Attorney

DRAFT

ATL AIRPORT DISTRICT
MARKETING SERVICES AGREEMENT

This ATL Airport District Marketing Services Agreement (the "**Agreement**") is made and entered into as of July 1, 2019 (the "**Effective Date**") by and between CITY OF HAPEVILLE, a municipal and political subdivision of the State of Georgia ("**City**") and ATL AIRPORT DISTRICT, INC., a non-profit corporation created under the laws of the State of Georgia (the "**DMO**"). City and DMO are sometimes referred to in this Agreement individually as a "**Party**" or jointly as "**Parties**".

WHEREAS, O.C.G.A. Section 48-13-51(a)(1)(A) authorizes municipalities to impose, levy, and collect an excise tax upon the furnishing for value to the public of any room or rooms, lodgings, or accommodations furnished by any person or legal entity licensed by, or required to pay business or occupation taxes to, the municipality for operating a hotel, motel, inn, lodge, tourist camp, tourist cabin, campground, or any other place in which rooms, lodgings, or accommodations are regularly furnished for value;

WHEREAS, Chapter 17, Article 7 of the Code of Ordinances for the City provides for the imposition of a hotel occupancy tax of eight percent (8%) of rent on hotels and motels within City;

WHEREAS, O.C.G.A. Section 48-13-51(a)(3) requires that a municipality levying a tax shall expend (in each fiscal year during which the tax is collected) an amount equal to the amount by which the total taxes collected under O.C.G.A. Section 48-13-5 exceed the taxes which would be collected at a rate of three percent (3%) (i.e., 5%) for the purpose of among other things, promoting tourism, conventions, and trade shows;

WHEREAS, City desires to enter this Agreement with DMO to provide destination marketing services for City and the Atlanta Airport District (defined in this Agreement) (the "**District**");

WHEREAS, DMO is willing to provide the destination marketing services in an effort to promote tourism, conventions, and trade shows to City and the Atlanta Airport District; and

WHEREAS, City will supply DMO with the mutually agreed upon hotel-motel taxes levied throughout City and DMO may be supported in part by private sector contributions.

NOW THEREFORE, in consideration of the mutual promises, covenants, and agreements herein contained, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Destination Sales and Marketing/Tourism Promotion Activities.

DMO will provide functions, literature, advertising, staff, services, supplies, equipment and support for promoting City and District (a) as a destination for local, state, national and international conventions, meetings and events and (b) as a destination for tourism. DMO will (a) develop, arrange for printing, and distribute literature and media (including electronic and Internet-based media) necessary to promote City and District to daytime and overnight tourists and (b) identify and conduct activities and programs designed to promote City and District for daytime and overnight tourists. DMO will coordinate its activities, as appropriate, with affiliated organizations and other tourism promotion entities. All of these activities will be provided for in the DMO's Annual Business and Marketing Plan (the "**Plan**") as defined below.

2. Administrative and Management Functions.

DMO will provide day-to-day management activities including planning, purchase and acquisition of services, equipment, supplies and facilities necessary to fulfill the Plan for City. Managing the acquisition and retention of a capable and competent staff, fund-raising, cultivation of community support and accounting for the budgeting of the Plan funds according to accounting procedures established by City will be the responsibility of DMO. DMO may perform these functions through contractors and/or consultants. In addition, DMO will provide marketing, sponsorship and support for a mutually agreed upon number of City events. DMO will comply with the City of Hapeville's requirement to have a stand-alone Visitor's Center located in the Train Depot Museum or other facility of the City's choice.

3. Annual Business and Marketing Plan.

After consultation with City, DMO will submit an annual Plan to City by March 30 of each year, containing a detailed proposed budget and identification of activities with a statement of performance goals and standards for all activities contemplated pursuant to this Agreement. The Plan also will contain a detailed budget predicated upon revenue estimates approved by City, and job descriptions, qualifications, requirements, salary ranges, bonus program, and hiring practices. City will review and approve the Plan by June 1 of each year. In the event City fails to approve the Plan by June 1, the Plan approved in the immediate prior year will be used until such time as a subsequent Plan is approved by City. Notwithstanding anything herein to the contrary, DMO will be responsible for implementation of the Plan. Once the Plan has been approved by City, DMO will notify City in writing of any change made to the Plan. Provided, as long as such change is not substantial and adverse to City, such change will be deemed approved by City. DMO will provide a quarterly written report to City on the progress being made on the Plan.

4. City Funding for DMO Services.

City hereby designates DMO as City's destination marketing organization for purposes of O.C.G.A. § 48-13-51(a)(3). City will remit to DMO on a monthly basis, an agreed upon portion of revenues necessary to be spent by the DMO pursuant to O.C.G.A. § 48-13-51(a)(3) and under any City ordinance. City will submit revenue projections to DMO by January 31 of each year, so that DMO can include those figures in the Plan to be submitted to City by March 30 of such year. DMO will use such funds as provided in this Agreement.

5. Ownership of Assets.

DMO will own all consumable assets purchased to enable it to perform its obligations under this Agreement including without limitation, office supplies, technical and office equipment, furniture and fixtures. Ownership of all intellectual property rights of whatever nature, including any rights subsequently acquired by DMO, will remain or be placed in the name of DMO. Ownership of publications, brochures, and other inventories of similar materials will remain with the DMO.

6. Records and Accounting.

DMO will maintain business and financial records related to the performance of its obligations under this Agreement. City will have the right to review such records. Within 72 hours of a written request by City, DMO will make such records available for review by City, provided all such records will remain confidential unless disclosure is required by rule, regulation or law. DMO will on a semi-annual basis provide complete financial

records relating to the preceding six months to City and to City's auditor. Such financial records will include, but not necessarily be limited to, a balance sheet and income and expense reports. The financial records will be maintained by DMO for at least three (3) years, or such longer period, as may be required by law or regulation after the expiration of this Agreement.

7. Additional Inspection Rights.

City, through duly authorized representatives, has the right upon 48-hour prior notice to DMO to enter upon and inspect DMO's facilities and all equipment related to the performance of DMO's obligations under this Agreement, provided such inspection will occur only during DMO's normal working hours and so as not to disrupt the regular conduct of DMO's business.

8. DMO Representations and Warranties.

DMO represents and warrants the following:

a. Quality of Materials and Operations. All of DMO's literature, materials, brochures, or related items will be of high quality and will not contain any indecent, obscene or defamatory material. No materials protected by copyright or other intellectual property rights will be knowingly produced, displayed or distributed without first acquiring the legal rights to do so.

b. Quality of Equipment. DMO will use commercially reasonable efforts to insure that all permanent or temporary facilities, supplies, equipment, fixtures, and materials purchased or used by DMO in furtherance of this Agreement will be of good quality and appropriate for the intended use.

c. Equal Opportunity. DMO will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex (including, but not limited to. pregnancy), national origin, age, disability, genetic information, sexual orientation, gender identity/reassignment or expression, veteran status, or any other status protected by applicable federal, state or local law or ordinance. DMO will take affirmative action and will administer on a non-discriminatory basis all other aspects of employment including, but not limited to, hiring, promotion, assignments, benefits and compensation of employees and will comply with all applicable laws, including those dealing with equal opportunity. DMO will not, in the performance of this Agreement, discriminate against any customer, potential customer, patron or other person as to the aforementioned protected categories, and will provide services, facilities and other privilege to all such persons equally.

d. Each of DMO's contracts with vendors or supplies will include language acknowledging City's right to terminate this Agreement. Such contracts will provide for (a) similar termination rights by the DMO and (b) the unilateral assignment of such contracts by DMO to City or any successor entity designated by City pursuant to O.C.G.A. § 48-13- 51(a)(3).

9. City Representations and Warranties.

a. Approvals. The execution and delivery of this Agreement and the consummation of the transactions contemplated by this Agreement and compliance with the provisions of this Agreement will not conflict with, or result in any breach, violation of, any laws, statutes, orders, rules, ordinances, regulations,

policies or guidelines promulgated, by any federal, state or local government or any administrative agency or commission or other governmental authority or agency.

b. Authorization. City has all necessary power and authority to execute and deliver this Agreement and to consummate the transactions contemplated by this Agreement. The execution and delivery of this Agreement has been duly authorized by all necessary action on the part of City. This Agreement has been duly executed and delivered by City and this Agreement constitutes a legal, valid and binding obligation of City.

c. Intellectual Property. City is the sole and exclusive legal and beneficial, record, owner of all right, title and interest in and to all trademarks, service marks, trade names, brand names, logos, trade dress, design rights and other similar designations of source, sponsorship, association or origin, together with the goodwill connected with the use of and symbolized by, and all registrations, applications and renewals for, any of the foregoing, delivered to DMO for use under this Agreement.

10. Risk of Loss, Bonds and Insurance.

a. Fidelity Bond. Upon execution of this Agreement, DMO will furnish City with a fidelity bond in the amount of $250,000 guaranteeing that the surety will reimburse City, its agents and employees for such pecuniary loss suffered by City, its agents and employees as may be sustained as a result of any act of fraud, dishonesty, forgery, theft, embezzlement, wrongful abstraction or misapplication on the part of DMO or any of its agents or employees. The Fidelity Bond will be issued by a responsible surety company authorized to do business within the State of Georgia and will be subject to approval as to form and content by City.

b. Liability Insurance. DMO will maintain in force during the term of this Agreement Commercial General Liability Insurance against all claims for personal injury, bodily injury, death and property damage that occur as a result of DMO's performance of its obligations under this Agreement. Such insurance shall be for limits not less than a combined single limit of One Million and No/100 Dollars ($1,000,000.00). DMO may satisfy the requirement to carry and maintain such Commercial General Liability Insurance through the use of Umbrella or Excess Liability coverage providing equally broad and concurrent coverage.

c. Automobile Liability Insurance. In the event a motor vehicle is to be used by DMO in connection with the performance of its obligations under this Agreement, Comprehensive Automobile Liability Insurance coverage with limits of not less than Five Hundred Thousand ($500,000.00) combined single limit coverage against bodily injury liability and property damage liability arising out of the use by or on behalf of DMO, its agents and employees in connection with this Agreement, of any owned, non-owned or hired motor vehicles.

d. Worker's Compensation. DMO will secure worker's compensation insurance in form and amount sufficient to satisfy the requirements of applicable laws of the State of Georgia and be issued for the benefit of each of the persons employed by DMO.

e. Property Insurance. Special Form ("All Risks") property insurance in an amount adequate to cover the full replacement cost of all equipment, installations, fixtures and contents of DMO.

f. Form of Policies. Each policy shall (a) name City as an additional insured (except Workers' Compensation), (b) be issued by one or more responsible insurance companies licensed to do business in the State of Georgia rated A- Class VII or better in "Best's Insurance Guide" and otherwise reasonably satisfactory

to City, (c) shall provide that such insurance may not be canceled or amended without thirty (30) days' prior written notice to City. DMO shall deliver to City, certificates of insurance and at City's request, copies of all policies and renewals thereof to be maintained by DMO hereunder, not less than ten (10) days prior to the date of this Agreement and not less than ten (10) days prior to the expiration date of each policy.

f. Failure to Provide Bonds and Insurance. If bonds and insurance become unavailable or cost prohibitive, City and DMO will negotiate an alternative acceptable to each.

11. Indemnification and Limitation of Liability.

a. Indemnification by DMO. DMO will indemnify and hold harmless City and its officers, employees and agents (each a "**City Party**") against any and all against any and all losses, damages, judgments, amounts paid in settlements and expenses (including costs and attorneys' fees actually incurred) (collectively, "**Losses**") incurred by City or any City Party in any civil, administrative, or investigative proceeding in which City or a City Party is involved by reason of (i) any failure by DMO to perform its obligations under this Agreement; or (ii) any breach of any covenant, representation or warranty made by DMO under this Agreement. The obligations under this Section 11(a) will survive the expiration or termination of this Agreement.

b. Indemnification by City. To the extent City maintains liability insurance that covers, in whole or in part, Losses arising out of subsections (i) - (iii), below, City will indemnify and hold harmless DMO and its officers, employees and agents (each a "**DMO Party**") against any and all Losses incurred by DMO or any DMO Party in any civil, administrative, or investigative proceeding in which DMO or a DMO Party is involved by reason of (i) any failure by City to perform its obligations under this Agreement; (ii) any breach of any covenant, representation or warranty made by City under this Agreement; or (iii) any claim by a citizen of, or business owner in, City related to this Agreement. The obligations under this Section 11(a) will survive the expiration or termination of this Agreement.

c. Cumulative Remedies. The rights and remedies provided in this Section 11 are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

d. Limitation of Liability. IN NO EVENT WILL DMO BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE FEES PAID BY CITY TO DMO UNDER THIS AGREEMENT. IN ADDITION, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OF ANY OF THE OTHER PARTY'S OFFICERS, EMPLOYEES AND AGENTS FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF GIVEN ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

12. Designated Representatives and Notices.

a. Representatives. Each Party designates the person listed on Exhibit A as its representative (and its "**Designated Representative**" for dispute resolution purposes) for the administration of this Agreement.

b. Notices. Notices pertaining to this Agreement will be in writing and will be transmitted either by personal delivery, facsimile, or by overnight delivery carrier and will be deemed to be delivered up receipt. The

addresses set forth on Exhibit A will be the addresses used for notice purposes unless written notice of a change of address is given.

13. Term and Termination.

a. Term. This Agreement will commence on the Effective Date and will terminate on the **Termination Date** set forth on Exhibit A. This Agreement will automatically renew under the same terms and conditions for the number of full calendar years set forth on Exhibit A ("**Renewal Term**") unless DMO or City gives notice of cancellation to the other party at least six (6) months prior to the expiration of the then current Term. The initial term and any renewal terms are referred to herein as the "**Term**."

b. Termination. Notwithstanding the foregoing, (i) City may terminate this Agreement for cause upon 30 day's written notice to DMO of any failure by DMO to observe, comply with or perform any of its material obligations under this Agreement, provided that such failure continues for a period of thirty (30) days subsequent to receipt of notice thereof from City, and (ii) DMO may terminate this Agreement for cause upon 30 day's written notice to City of any failure by City to observe, comply with or perform any of its material obligations under this Agreement, provided that such failure continues for a period of thirty (30) days subsequent to receipt of notice thereof from DMO.

14. Miscellaneous

a. Assignment. Neither Party will assign its rights or obligations hereunder without obtaining the prior written consent of the other Party, and any attempted assignment without such prior written consent will be void. Permitted assigns and successors in interest will have the benefit of, and will be bound by, all terms and conditions of this Agreement.

b. Headings. The headings in this Agreement are for convenience and reference only, and will not affect the interpretation of this Agreement.

c. No Joint Venture. DMO will perform its duties herein as an independent contractor. Notwithstanding anything contained herein to the contrary, nothing contained herein will be considered to create the relationship of employer and employee, partnership, joint venture or other association between the Parties, except as principal and independent contractor.

d. Waiver. No waiver by either Party of any one or more defaults by the other Party in the performance of any provisions of this Agreement will operate or be construed as a waiver of any other default or defaults, whether of a like or different character. No waiver or modification of this Agreement will occur as the result of any course of performance or usage of trade.

e. Severability. If any provision of this Agreement or the application thereof to any person or circumstances will to any extent be held in any proceeding to be invalid or unenforceable, the remainder of this Agreement will be valid and enforceable to the fullest extent permitted by law, but only if, and to the extent, such enforcement would not materially and adversely alter the Parties' essential objectives as expressed herein.

f. Governing Law, Forum and Venue. This Agreement will be subject to and construed in accordance with the laws of the State of Georgia. The parties agree that any and all claims arising out of or

relating to this Agreement shall be brought in either the Superior Court of Fulton County, Georgia, or the United States District Court for the Northern District of Georgia, Atlanta Division.

g. Counterparts and Facsimile Execution. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, will be deemed an original, and all of which taken together will constitute one and the same agreement. Delivery of an executed counterpart of this Agreement by facsimile will be equally as effective as delivery of a manually executed counterpart. Any Party hereto delivering an executed counterpart of this Agreement by facsimile will also deliver a manually executed counterpart, but the failure to do so will not affect the validity, enforceability or binding effect of the counterpart executed and delivered by facsimile.

h. Additional Documents. The Parties agree to execute and to deliver to each other any and all other additional documents and to take any additional steps reasonably necessary to complete, to document and to carry out the business transaction contemplated by this Agreement.

i. Negotiated Transaction. The drafting and negotiation of this Agreement has been participated in by all of the Parties. For all purposes, this Agreement will be deemed to have been drafted jointly by each of the Parties.

j. Representation regarding Authority to Sign Agreement. Each of the representatives of the Parties signing this Agreement warrants and represents to the other that he, she or it has the actual authority to sign this Agreement on behalf of the Party for whom he, she or it is purporting to represent.

k. Entire Agreement. This Agreement and its exhibits contain the entire agreement between the Parties and it supersedes any prior written or oral agreements between the Parties concerning the subject matter of this Agreement. There are no representations, agreements, or understandings between the Parties relating to the subject matter of this Agreement which are not fully expressed within this Agreement and its exhibits.

l. Binding Effect. This Agreement will be binding upon and inure to the benefit of the respective heirs, successors, assigns, affiliates and personal representatives of the Parties.

m. Modification. This Agreement will not be modified, amended, or changed except in a writing signed by each of the Parties affected by such modification, amendment or change.

n. Further Assurances. All of the Parties to this Agreement agree to perform any and all further acts as are reasonably necessary to carry out the provisions of this Agreement.

o. Force Majeure. Other than a failure to make payment when due, neither party shall be in default which results from the act of God or public enemy, restrictions, prohibitions, priorities, or allocations imposed by governmental authority, embargoes, floods, fires, typhoons, earthquakes, epidemics, unusually severe weather, delays of similar nature or governmental causes, and strikes or labor disputes or any cause outside the reasonable control of such party, then the time for performance of the affected obligation of such party shall be extended for a period equivalent to the period of such delay, interruption or prevention.

p. Neutral Construction. The parties to this Agreement agree that this Agreement was negotiated fairly between them at arm's length and that the final terms of this Agreement are the product of the parties' negotiations.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be signed by their duly authorized representatives, as of the Effective Date.

CITY OF HAPEVILLE	**ATL AIRPORT DISTRICT, INC.**
By: _____	By: _____
Print Name:_____	Print Name:_____
Print Title:_____	Print Title:_____

EXHIBIT A

Designated Representatives [Section 12]:

District [Fourth Whereas]: The Cities listed below are in the District. Additional Cities will be added as the Cities sign Marketing Services Agreement with DMO, which additions are hereby approved by City.

City of College Park, Georgia
City of East Point, Georgia
City of Union City, Georgia
City of Hapeville, Georgia

Notices [Section 12]:

To City:	To DMO:
City Manager City of Hapeville 3468 North Fulton Ave. Hapeville, Ga 30354	Beverly (Cookie) Smoak 2077 Convention Center Concourse Suite 260 College Park, GA 30337

Termination Date [Section 13]: June 30th, 2021 (two-year term)

Renewal Term [Section 13]: Two (2) one-year automatic renewal terms.