

RESOLUTION NO. 18-456

WHEREAS, the City Council of the City of Huntsville, Alabama (the “City”), does hereby declare that the Mayor be and he is hereby authorized to execute on behalf of the City a Development Agreement by and between the City and Jefferson Hotel Partners, LLC, the form of which said agreement is attached hereto, with such changes thereto as the Mayor shall deem necessary or desirable (the “Development Agreement”), together with a Parking Agreement, the form of which is attached as Exhibit E to the Development Agreement (the “Parking Agreement”) an executed copy of said Development Agreement and Parking Agreement being permanently kept on file in the Office of the City Clerk-Treasurer of the City; and

WHEREAS, the City Council of the City hereby further recites that the City’s obligations under and in furtherance of the Development Agreement and the Parking Agreement and the transactions therein described, are being undertaken pursuant to the authority of Amendment 772 to the Constitution of Alabama of 1901, as amended, recodified as Section 94.01 of the Official Recompilation of the Constitution of Alabama of 1901 (“Amendment 772”), that such obligations are being undertaken by the City in furtherance of any power or authority authorized in Amendment 772, and that the City Council has determined that the expenditure of public funds for the purpose specified in the Development Agreement and the Parking Agreement and the transactions therein contemplated or described will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities;

NOW, THEREFORE, BE IT RESOLVED that the Mayor be and he is hereby authorized to execute on behalf of the City the Development Agreement.

ADOPTED this the 14th day of June, 2018.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 14th day of June, 2018.

Mayor of the City of
Huntsville, Alabama

DEVELOPMENT AGREEMENT

by and between

THE CITY OF HUNTSVILLE

and

JEFFERSON HOTEL PARTNERS, LLC

Dated: June 14, 2018

President of the City Council of the
City of Huntsville, Alabama
Date: June 14, 2018

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is made and entered into on and as of this 14th day of June, 2018 (the "Effective Date"), by and between THE CITY OF HUNTSVILLE, a municipal corporation under the laws of the State of Alabama (the "City"), and JEFFERSON HOTEL PARTNERS, LLC, a Delaware limited liability company (referred to herein as the "Company" or the "Developer"). The City and the Company are herein referred to collectively from time to time as the "Parties" and individually, from time to time, as a "Party".

WITNESSETH

WHEREAS, the Company has represented to the City that the Company is the holder of fee simple title to certain real property in the City as more particularly described on Exhibit A hereto (the "Development Site") upon which the Company plans to design, develop, construct, install and operate a boutique hotel development as shown on Exhibit B hereto (the "Development"); and

WHEREAS, this Development Agreement is contingent upon the City of Huntsville Planning Commission's approving the final plat for re-subdividing the property necessary to accommodate the development contemplated herein; and

WHEREAS, the Company has represented to the City that the Development will be constructed in a single phase, with the Development consisting of not less than 110 room keys, a rooftop bar, and restaurant space, with a completion date of not later than February 1, 2020; and

WHEREAS, the Company has indicated that certain public infrastructure improvements are necessary within and around the Development Site to alleviate and facilitate public flow and safety, to include the rehabilitation of approximately 300 feet of public sidewalk/streetscape along Jefferson Street and various other public capital improvements within the City more particularly described on Exhibit C hereto (the "Public Infrastructure Improvements"); and

WHEREAS, the City has determined that availability exists, and that it is in the best interest of the City to lease parking spaces within the downtown area as generally shown on Exhibit D hereto in support of the parking needs for public accessibility respecting the Development; and

WHEREAS, the City has determined that demand currently exists, and over the reasonably foreseeable future such demand will increase, for additional hospitality and retail enterprises within and around the Development Site; and

WHEREAS, the City has determined that the Development Site is situated in an area important for economic development, and that the Development will inure to the benefit of the City and its citizens by, among other things, (i) expanding the tax base of the City by attracting to the Development general commercial activity and development, (ii) attracting to the Development Site and surrounding area (the "Development Area") individuals who desire to stay and shop in an urban setting, (iii) facilitating the development of other portions of the Development Area located in the vicinity of the Development, (iv) expanding employment

opportunities within and surrounding the Development Area, and (v) enhancing the overall quality of life for the citizens of the City; and

WHEREAS, the City has determined that the project conforms with the overall vision and goals of the City's effort in the redevelopment of the downtown core, and agrees to support the Company's efforts (if desired) to submit the Development before the Huntsville Downtown Redevelopment Authority ("DRA") for consideration of possible statutory benefits under the DRA; and

WHEREAS, the Development is consistent with the zoning and land use regulations of the City.

NOW THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE I PUBLIC INFRASTRUTURE IMPROVEMENTS

Section 1.1 General.

In consideration of, and in reliance on, the covenants and commitments of the Company set forth in this Agreement, the City hereby agrees to cause to be constructed the Public Infrastructure Improvements upon satisfaction of the conditions and obligations of the Company as herein set forth.

Section 1.2 Plans and Specifications for Public Infrastructure Improvements.

The City shall cause to be prepared, at its sole cost and expense, plans, bid quantities and specifications for construction of the Public Infrastructure Improvements (the "Preliminary Public Improvements Plans and Specifications") in accordance with Exhibit C on or before December 1, 2018. The City and the Company agree to work together in developing a pickup/drop-off area within the Public Improvement Plans and Specifications to accommodate general public access to the Development. The City shall submit the Preliminary Public Improvements Plans and Specifications for review by the Company to ensure a coordinated effort for safe public access to the Development Area. If the Preliminary Public Improvements Plans and Specifications are not acceptable to the Company, the Company shall notify the City in writing (an "Objection Notice") of those matters or items that are in conflict with the ability of providing adequate public access to the Development within twenty (20) days of the Company's receipt of the Preliminary Public Improvements Plans and Specifications and, further, to revise and modify the same, at the sole cost and expense of the Company, and then submit the same to the City for approval, until such time as mutually agreeable, definitive plans and specifications for the Public Improvements (the "Public Improvements Plans and Specifications") are agreed upon between the Parties. The Parties shall endeavor to cause the Public Improvements Plans and Specifications to be completed by March 1, 2019 (the "Public Improvements Plans and Specifications Deadline"). If the Public Improvements Plans and Specifications are not finalized by March 1, 2019, then the Parties shall use and follow the plans and specifications last submitted by the City; provided, the Company shall have the right to elect to terminate this

Agreement by providing written notice thereof to the City within five (5) business days of the Public Improvements Plans and Specifications Deadline, in which case this Agreement and the Parking Lease shall be terminated.

Section 1.3 The Public Improvements Site.

The Company shall convey to the City, at no cost or expense to the City, all real property located under, or a proper (as determined in the sole discretion of the City) right of way along, such real property upon which all proposed Public Infrastructure Improvements are to be located (the "Public Improvements Site") subject to Section 6.11 hereof; provided, however, that in no event shall the Company be required to convey any property interest to the City with respect to any portion of the Development Site lying within the contemplated footprint of the Development. The City shall notify the Company whether any such conveyance shall be necessary within thirty (30) days of the expiration of the Bidding Period (defined herein).

Section 1.4 Bidding of Infrastructure Improvements.

(a) Upon receipt by the City of all items 1, 2 and 3 of Section 1.5(a) hereof ("Bidding Process Commencement Documents"), the City shall begin the "bidding process" and solicit bids from qualified contractors, pursuant to Title 39 of the Code of Alabama 1975, as amended, for construction of the Public Infrastructure Improvements.

(b) Such bid package shall (i) be issued for a unit price contract; (ii) contain a completion date reasonably acceptable to the City and the Company, subject to extension as provided in the contract documents or mutual agreement of the parties (the "Completion Date"); and (iii) contain customary penalties for failure of the contractor to meet the Completion Date. The City, with reasonable and necessary coordination and cooperation from the Company, which the Company hereby covenants and agrees to provide, shall manage the bidding process with the intention that the bid process shall be concluded and contracts for construction of the Public Infrastructure Improvements shall be ready to be executed by the City and the Selected Bidder not more than 60 days following the date the City has completed the Bidding Process Commencement Documents (the "Bidding Period"). The City shall not be obligated to award a bid until all items (i.e., items 1 through 6) of Section 1.5(a) have been completed.

(c) The City shall have the power to select and award the bids per the City's sole discretion as pursuant to Title 39 of the Code of Alabama 1975, as amended, for construction of the Public Infrastructure Improvements.

(d) The Public Infrastructure Improvements are set forth and described on Exhibit C hereto. The City shall pay all reasonable costs incurred by the City in constructing, installing, operating and maintaining the Public Infrastructure Improvements. To the extent any additional public improvements within the public right of way may be required in the future to support the general Development Area, then such improvements shall not be withheld or challenged by the Company within the Development Area.

Section 1.5 City Construction Start Date.

(a) For purposes hereof, the term "City Construction Start Date" shall mean the latest date to occur of the following:

1. The date of delivery to the City by the Company of documentation of ownership of the Development Site.
2. The date of delivery to the City by the Company of a copy of an executed construction contract with a general contractor licensed by the State of Alabama for the construction of the Development.
3. The date of delivery to the City by the Company of fee simple title, free and clear of all liens and encumbrances, of any necessary real property upon which the Public Infrastructure Improvements will be constructed, or of a proper (as determined in the sole discretion of the City) right of way along such property upon which the Public Improvements Site will be located, if any such conveyance shall be requested pursuant to Section 1.3 above, such conveyance being subject to Section 6.12 hereof.
4. The Company shall have commenced construction of the Development.
5. The Public Infrastructure Improvements Plans and Specifications Deadline.
6. Approval by the City of Huntsville Planning Commission (the "Planning Commission") of a final plat for re-subdividing the Development Site necessary to accommodate the Development and the construction and development of the Public Infrastructure Improvements as herein contemplated.

(b) Anything in this Agreement to the contrary notwithstanding, the City shall be under no obligation to execute any contracts or other agreements, or sign any notices to proceed, respecting Public Infrastructure Improvements, or to otherwise commence construction of Public Infrastructure Improvements, until all items (i.e., items 1 through 6) of Section 1.5(a) have been completed.

Section 1.6 Public Infrastructure and Utility Improvements – Completion Dates.

(a) From and after the City Construction Start Date, the City shall work in good faith to construct and complete the Public Infrastructure Improvements by the Completion Date, which shall be within 240 days of the City Construction Start Date, subject to extension upon events of Force Majeure if at the time of the Force Majeure Event the City is claiming or

anticipating, the City shall have first provided written notice to the Company providing: (i) a description of the Force Majeure Event, (ii) an explanation of how the City anticipates such event will affect the City's performance under this Agreement, (iii) the actions the City plans to undertake in order to address the conditions caused by the Force Majeure Event, and (iv) an estimate of how long the City anticipates the Force Majeure Event will delay its efforts. The Company understands, acknowledges and agrees that the City will not be able to timely and properly construct and develop the Public Infrastructure Improvements without adequate and sufficient access to the area upon which the same are to be constructed, and the Company agrees to time and manage its construction of the Development in such a manner as enables the City proper access for construction of the Public Infrastructure Improvements. The Company shall work in good faith with the City in scheduling the Company's construction activities so as to enable the City to construct and develop the Public Infrastructure Improvements as herein contemplated. Anything in this Agreement to the contrary notwithstanding, any delay in construction of the Public Infrastructure Improvements due to the Company's construction activities incident to the Development shall not constitute a default under this Agreement or otherwise be deemed a City Event of Default (defined herein).

(b) The City shall coordinate with Huntsville Utilities to ensure that adequate public utilities (electric, water, gas, and sewer) are available to serve the Development. The City agrees to provide Huntsville Utilities payment for any Aide-to-Construction costs necessary to provide adequate public utility service to the Development. The Company agrees that the City will be under no obligation to pay for (direct or indirect) any Aide-to-Construction amounts associated with any private portion of utility service demands for the Development. The City will work in good faith with Huntsville Utilities to provide utility service and/or necessary utility upgrades for the Development within 120 days of the City Construction Start Date.

(c) Anything in this Agreement to the contrary notwithstanding, in the event the Public Infrastructure Improvements or any portion thereof, are not fully constructed and operational by the final Completion Date, the sole and exclusive remedy of Company shall be specific performance. The Company shall not be entitled to any other damages whatsoever, including, without limitation, incidental or consequential damages, punitive damages, or other forms of damages, whether arising at law, in equity or otherwise.

ARTICLE II

PARKING LEASE AND CONSTRUCTION STAGING SITE

Section 2.1 Parking Facility

(a) The Company understands and agrees that the licensing of any public parking spaces within a City public parking facility does not provide the Company any governance or rights to the overall operation, management, and maintenance of said public parking facility.

(b) The City agrees to make available and to work in good faith with the Company to negotiate definitive terms of a Parking Lease (defined below) respecting the leasing and/or licensing of up to 168 parking spaces to the Company for use in the Development. The form of Parking Lease is attached as Exhibit E hereto (the "Parking Lease"). Following the execution of this Development Agreement, the Parties shall work together in good faith to finalize and

execute the Parking Lease in substantially the form attached hereto. Anything in this Agreement to the contrary notwithstanding, whether express or implied, the City shall be under no obligation to lease, license, or otherwise make available parking to the Company (whether in Clinton Avenue Garage or in other parking facilities), or otherwise for the Development, unless and until the Parties shall have first finalized and executed the Parking Lease.

Section 2.2 Construction Staging Site

The City shall grant to the Company an exclusive, temporary easement for the purposes of access and construction activities (including the location and storage of equipment, vehicles, construction trailers, tools and materials) associated with the construction activities related to the Development (the “Temporary Construction Easement”), pursuant to an agreement reasonably acceptable to the City and the Company, over and upon certain unimproved real property owned by the City at the corner of Dallas Street and Pratt Avenue as depicted on Exhibit E. The Temporary Construction Easement shall expire on the Completion Date (in no event shall the Temporary Construction Easement be extended beyond January 1, 2020) and shall contain provisions related to (i) the Company’s obligation to repair any damage to the site, and (ii) the Company’s (or its general contractor’s) obligation to maintain reasonable and customary commercial general liability insurance policy(ies) naming the City as an additional insured with respect thereto, and (iii) the Company’s obligation to secure and monitor the site at its sole expense.

Section 2.3 Crane Swing Easement.

Simultaneously with the execution of this Agreement, the Parties shall enter into a crane swing easement substantially in the form attached hereto as Exhibit F.

ARTICLE III REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties of the City.

(a) The execution and delivery of this Agreement by the City has been duly authorized by the City Council of the City.

(b) The City has all right, power and authority to enter into the transactions contemplated by this Agreement and to perform its obligations hereunder.

(c) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the City, violates, constitutes a default under or a breach of (i) any agreement, instrument, contract, mortgage, ordinance, resolution or indenture to which the City is a party or to which the City or its assets or properties are subject, or (ii) any law, judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the City or any of its assets or properties.

Section 3.2 Representations and Warranties of Company.

(a) The execution and delivery of this Agreement by the Company has been duly authorized by all necessary action on the part of the governing body of the Company and the Company's members and managers, if any.

(b) The Company has all necessary power and authority to enter into the transactions contemplated by this Agreement and, to the extent applicable, to perform its obligations hereunder.

(c) Neither the authorization, execution and delivery of, nor the performance of, this Agreement by the Company violates, constitutes a default under or a breach of (i) any agreement, instrument, contract, mortgage, or other instrument to which the Company or its owners or affiliates is a party, or to which the Company or its owners or affiliates, or to which the assets or properties of the Company, its owners or its affiliates are subject, or (ii) any law, judgment, decree, order, ordinance, rule, regulation, consent or resolution applicable to the Company, its owners or affiliates, or any of the assets or properties of the Company, its owners or its affiliates.

ARTICLE IV COVENANTS OF THE COMPANY

Section 4.1 The Development. The Company hereby covenants and agrees to design, develop and construct the Development, in accordance with the provisions of this Article IV and as shown and described on Exhibit B hereto.

Section 4.2 The Development

(a) The Development shall consist of a six (6) story Curio by Hilton hotel consisting of a minimum of 110 room keys, a full-service restaurant, banquet space, and rooftop bar, and shall be constructed and developed in accordance with Exhibit B hereto. The Company shall commence construction of the Development no later than March 1, 2019 (the "Commencement Deadline"); provided, if a Force Majeure Event delays such construction then the Commencement Deadline shall be extended by the total number of days of such event or events of force majeure, up to 120 days, in which case the Commencement Deadline shall be March 1, 2019 plus the number of such days of the Force Majeure Event if, at the time of the Force Majeure Event the Company is claiming or anticipating, the Company shall have first provided written notice to the City providing: (i) a description of the Force Majeure Event, (ii) an explanation of how the Company anticipates such event will affect the Company's performance under this Agreement, (iii) the actions the Company plans to undertake in order to address the conditions caused by the Force Majeure Event, and (iv) an estimate of how long the Company anticipates the Force Majeure Event will delay its efforts. Anything herein to the contrary notwithstanding, in no event shall the Commencement Deadline be after March 1, 2022.

(b) The Company shall cause construction of the Development to be completed as shown on Exhibit B, and to be open to the public for business, by not later than February 1, 2020 (the "Development Opening Deadline"), subject to extension upon the occurrence of a Force Majeure Event if, at the time of the Force Majeure Event the Company is claiming, the Company shall have first provided written notice to the City providing: (i) a description of the Force

Majeure Event, (ii) an explanation of how the Company anticipates such event will affect the Company's ability to open the Development to the public by the Development Opening Deadline, (iii) the actions the Company plans to undertake in order to address the conditions caused by the Force Majeure Event, and (iv) an estimate of how long the Company anticipates the Force Majeure Event will delay its opening of the Development to the Public. In no event shall the Development Opening Deadline be after June 1, 2022.

(c) If, for whatever reason, the Company fails to satisfy its obligations pursuant to Section 4.2(a) respecting the stated uses within the Development or the Commencement Deadline, hereof, then, in addition to all other rights and remedies of the City hereunder, the City, at its sole discretion, can elect to terminate any and all Public Infrastructure Improvements stated within this Agreement and shall be under no obligation to lease any parking spaces to the Company.

Section 4.3 Certain Defined Terms. As used herein, "commencement of construction" or "commenced construction" shall be deemed to have occurred at such time as, the Company has received all permits required for the construction of the Development and the Company shall have (i) completed demolition activities with respect to the current improvements located on the Development Site, and (ii) completed the pouring of foundations and footings for the entire Development, and "Force Majeure Event" means acts of the public enemy, acts of any government in either its sovereign or proprietary capacity (other than acts taken by the City in accordance with this Agreement), delays in the issuance of permits, contractor delays in the completion of the site filling and grading, fires, floods, hurricanes, epidemics, quarantine restrictions, freight embargoes, unavailability of materials, failure of power, strikes, civil insurrections, or unusually severe weather (not including normal seasonal inclement weather).

Section 4.4 Construction Activities.

(a) All construction activities of the City and the Company pursuant to this Agreement shall be conducted in compliance with all applicable laws, ordinances, rules and regulations of any governmental authority, including, without limitation, all applicable licenses, permits, building codes, restrictive covenants, zoning and subdivision ordinances and flood, disaster and environmental protection laws. The City and the Company shall cause any architect, general contractor, subcontractor or other business performing any work in connection with the construction of the proposed Development to obtain all necessary permits, licenses and approvals to construct the same. It is understood and acknowledged that the City will not waive any fees, access fees, or related expenses for any permits, licenses or approvals that must be obtained from the City or any other governmental authority in connection with the construction or operation of the proposed Development. Notwithstanding anything in this Agreement (including without limitation the recitals hereof), the Company must follow and comply with all established procedures and rules for processing and approval of the Development through the Planning Commission.

(b) The Company, and any affiliate thereof involved with the Development, shall maintain its good standing within the City and shall at all times during the term of this Agreement be in compliance with all applicable laws, ordinances, rules and regulations of the

City and, further, shall be current in payment of any and all taxes, fees, and other charges imposed by the City and all local government entities.

ARTICLE V
EVENTS OF DEFAULT AND REMEDIES

Section 5.1 Events of Default by the City.

(a) Any one or more of the following shall constitute an event of default under this Agreement by the City (herein called a “City Event of Default”) (whatever the reason for such event and whether it shall be voluntary or involuntary or be affected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) the dissolution or liquidation of the City, or the filing by the City of a voluntary petition in bankruptcy, or the City’s seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the City as a bankrupt, or any assignment by the City for the benefit of its creditors, or the entry by the City into an agreement of composition with its creditors, or if a petition or answer is filed by the City proposing the adjudication of the City as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) Failure by the City to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of 30 calendar days after written notice thereof from the Company, unless (A) the Company shall agree in writing to an extension of such period prior to its expiration, or (B) if such failure is not reasonably susceptible of being cured within 30 days, then during such 30-day period or any extension thereof the City shall have commenced curative measures and shall diligently pursue appropriate corrective action until completion, or (C) the City is by reason of a Force Majeure Event at the time prevented from performing or observing the agreement or covenant with respect to which the City is delinquent.

(b) If a City Event of Default exists, the sole and exclusive remedy of the Company shall be mandamus or specific performance. The Company shall not be entitled to any other damages whatsoever, including, without limitation, incidental, consequential or punitive damages, whether arising at law, in equity or otherwise.

Section 5.2 Events of Default by the Company.

(a) Any one or more of the following shall constitute an event of default under this Agreement by the Company (herein called a “Company Event of Default”) (whatever the reason for such event and whether it shall be voluntary or involuntary or be affected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(i) at any time prior to the completion by the Company of its obligations hereunder, the Company is dissolved or liquidated, or the filing by the Company of a voluntary petition in bankruptcy, or the Company seeking of or consenting to or acquiescing in the appointment of a receiver of all or substantially all of its property, or the adjudication of the Company as a bankrupt, or any assignment by the Company for the benefit of its creditors, or the entry by the Company into an agreement of composition with its creditors, or if a petition or answer is filed by the Company proposing the adjudication of the Company as a bankrupt or its reorganization, arrangement or debt readjustment under any present or future federal bankruptcy code or any similar federal or state law in any court, or if any such petition or answer is filed by any other person and such petition or answer shall not be stayed or dismissed within 60 days; or

(ii) failure by the Company to perform or observe any of its agreements or covenants contained in this Agreement, which failure shall have continued for a period of 30 calendar days after written notice thereof from the City, unless (A) the City shall agree in writing to an extension of such period prior to its expiration, or (B) if such failure is not reasonably susceptible of being cured within 30 days, then during such 30-day period or any extension thereof the Company shall have commenced curative measures and shall diligently pursue appropriate corrective action until completion, or (C) the Company is by reason of a Force Majeure Event at the time prevented from performing or observing the agreement or covenant with respect to which it is delinquent.

(b) In addition to such other rights or remedies available to the City hereunder including, without limitation, those set forth and described in Article III hereof, if a Company Event of Default exists, the City may proceed to protect its rights hereunder by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of the Company herein contained; provided, however, the maximum liability of the Company shall not exceed the actual costs incurred by the City for the engineering design costs associated with the Public Infrastructure Improvements. Under no circumstances shall the City be entitled to incidental, consequential or punitive damages.

ARTICLE VI
MISCELLANEOUS

Section 6.1 Approvals. Any approvals to be delivered by either Party hereto shall be by a designated and authorized officer for such purpose. Unless otherwise stated herein, approvals by the City shall be made, on behalf of the City, by the City Engineer or the Director of Urban Development.

Section 6.2 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute but one and the same agreement.

Section 6.3 Binding Effect; Governing Law. This Agreement shall inure to the benefit of, and shall be binding upon, the Parties and their respective successors and assigns. This Agreement shall be governed exclusively by, and construed and interpreted in accordance with the laws of the State of Alabama. All parties expressly agree and consent that any legal action hereunder shall only be brought in and subject to the jurisdiction and venue of Madison County and State Courts of Alabama respectively.

Section 6.4 Notices. (a) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

(1) If to the City:

The City of Huntsville
308 Fountain Circle SW
Huntsville, Alabama 35801
Attn: City Attorney

(2) If to the Company:

Jefferson Hotel Partners, LLC
c/o Crunkleton & Associates, LLC
515 Fountain Row, Suite 1100
Huntsville, Alabama 35801
Attention: Wesley B. Crunkleton

With a copy to:

Kemmons Wilson Companies
8700 Trail Lake Dr. W, Suite 300
Memphis, Tennessee 38125
Attention: McLean T. Wilson

With a copy to:

Lanier Ford Shaver & Payne, P.C.
2101 Clinton Ave. W., Suite 102
Huntsville, Alabama 35805
Attention: Graham Burgess

(b) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier. Any Party (as well as the Authority) may change the address for the sending of notifications by providing written notice to the other Party in accordance herewith.

Section 6.5 Liabilities of the City. Any provision hereof to the contrary notwithstanding, the Parties agree and acknowledge that the obligations of the City as set forth herein are limited by the limitations imposed on public bodies, municipalities and public corporations by the Constitution of the State of Alabama and laws affecting the use and maintenance of public property. Anything in this Agreement to the contrary notwithstanding, whether express or implied, in the event the Public Infrastructure Improvements, or any portion thereof, are not constructed or otherwise operational by the dates expected or otherwise provided for in this Agreement, or are constructed, installed or equipped in a manner not suitable to the Company, the sole and exclusive remedy of the Company shall be specific performance, and the Company shall not be entitled to any other damages whatsoever, including, without limitation, incidental, consequential or punitive damages, whether arising at law, in equity or otherwise.

Section 6.6 No Waiver. No consent or waiver, express or implied, by any party hereto or to any breach or default by any other party in the performance by such other party of its obligations hereunder shall be valid unless in writing, and no such consent or waiver to or of one breach or default shall constitute a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such party hereunder. Failure on the part of any party to complain of any act or failure to act of any other party or to declare such other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder. The granting of any consent or approval in any one instance by or on behalf of any party hereto shall not be construed to waive or limit the need for such consent in any other or subsequent instance.

Section 6.7 No Partnership or Joint Venture. Nothing contained in this Agreement shall constitute or be construed to be a partnership or joint venture among the City and the Company and their respective permitted successors and assigns.

Section 6.8 Headings. The headings in the Sections in this Agreement are for convenience of reference only and shall not form a part hereof.

Section 6.9 No Third-Party Beneficiaries. This Agreement is intended only for the benefit of the signing Parties hereto, and neither this Agreement, nor any of the rights, interest or obligations hereunder, is intended for the benefit of any other person or third-party.

Section 6.10 Ambiguity. The terms, conditions and provisions of this Agreement were agreed to in arm's length negotiations in which each Party was represented by independent counsel of its own choosing. Accordingly, in the event of any ambiguity in this Agreement, such ambiguity shall not be resolved against any Party deemed the principal draftsman of this Agreement or the provision of this Agreement at issue.

Section 6.11 Process for Conveyance of Public Improvements Site. Any conveyance of portions of the site for the Public Infrastructure Improvements and any easements or rights-of-way in connection therewith shall be made in accordance with a recorded plat that expressly provides that upon dedication of such real property, rights-of-way or easements to the City that the City shall be responsible for maintenance of all roadway surface areas, sidewalks, landscaping, irrigation, street lighting, and all other portions thereof.

Section 6.12 Amendment. Except as expressly provided in this Agreement, this Agreement may be modified or amended only by a written instrument, executed by each of the parties to this Agreement.

Section 6.13 Entire Agreement. This written Agreement and the Exhibits hereto, contain all the representations and the entire agreement among the parties with respect to the subject matter hereof. Except as otherwise specified in this Agreement, any prior correspondence, memoranda, agreements, warranties or representations are superseded in total by this Agreement and Exhibits hereto. Neither the conduct nor actions of the parties, nor the course of dealing or other custom or practice between or among the parties or any of them, shall constitute a waiver or modification of any term or provision of this Agreement. This Agreement may be modified or amended only in the manner specified in this Agreement.

Section 6.14 No Representations or Warranties Concerning Public Infrastructure Improvements. The Company acknowledges and agrees that the City makes no and disclaims any and all representations and warranties regarding the Public Infrastructure Improvements, including, without limitation, warranties (whether express or implied) regarding the design, development, construction, equipping, functionality, and suitability of the Public Infrastructure Improvements.

Section 6.15 Special Provision. This Development Agreement is contingent upon the City's Planning Commission approving the final plat for subdividing the Development Site necessary to accommodate the Development and the Public Infrastructure Improvements contemplated under this Agreement. If such approval is not obtained by December 1, 2018, this Agreement shall be deemed null and void and of no force or effect.

Section 6.16 Insurance. Developer shall maintain, or cause to be maintained, at all times pertinent to this Agreement, Parking Lease or other related Agreement, an appropriate policy or policies of insurance during the construction phase and thereafter, to include as a minimum

builder's risk during construction, commercial general liability, fire and casualty liability insurance, workmen's compensation, employer's liability insurance, and such other policies as appropriate and necessary with respect to the respective activities of the Company and its employees, contractors, subcontractors, consultants and agents. Such policy or policies are to be issued by an insurance company authorized to do business in Alabama. The City of Huntsville and its related entities, officials, employees, and agents shall be named as additional insureds as shall be evidenced on Certificates of Insurance provided to the City of Huntsville. Such policies shall be sufficient to cover the replacement costs of the Development and shall otherwise afford liability protection of not less than \$2,000,000 combined single limit coverage for bodily injury, property damage or combination thereof.

Section 6.17 Other Documents. The parties agree to execute any and all documents consistent with, and required by, this Agreement (including but not limited to the Parking Lease, as necessary) at the appropriate time, if applicable.

Section 6.18 Assignment. The Company may not assign any of its rights or obligations under this agreement to any other person, firm, corporation, or other legal entity, without the express written consent of the City, which such consent shall not be unreasonably withheld. Notwithstanding the foregoing, Company may assign this Agreement in whole or in part to the DRA without additional express consent by the City's governing body in the event that the DRA votes to offer participation and assistance for this Development.

Section 6.19 Construction. This Development Agreement shall be construed in its entirety according to its plain meaning. The parties hereby agree that this Development Agreement shall be construed as a negotiated agreement and shall not be construed against the party who provided or drafted it.

Section 6.20 Time is of the Essence. Time is of the essence as to each provision of this Development Agreement.

[Space intentionally left blank]

IN WITNESS WHEREOF, each of the parties has caused this Agreement to be executed and delivered on its behalf by its duly authorized officer, on and as of the Effective Date.

CITY OF HUNTSVILLE, a municipal corporation under the laws of the State of Alabama

By:

Tommy Battle, Mayor

Attest: _____

By Kenneth Benion

Its Clerk-Treasurer

JEFFERSON HOTEL PARTNERS, LLC, a Delaware limited liability company

By: _____

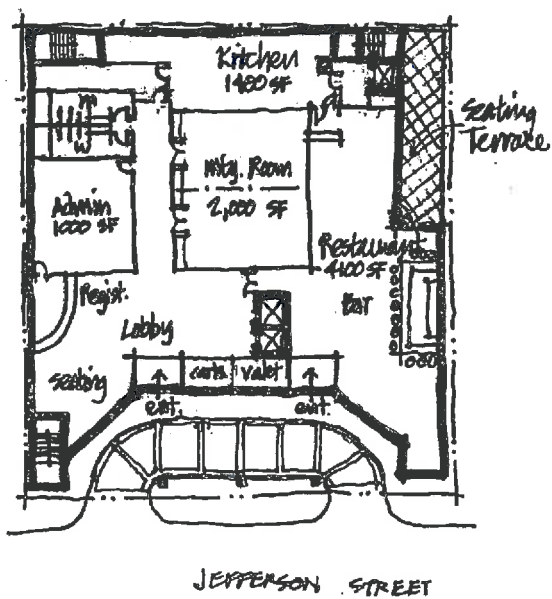
Its: _____

EXHIBIT A

THE DEVELOPMENT SITE

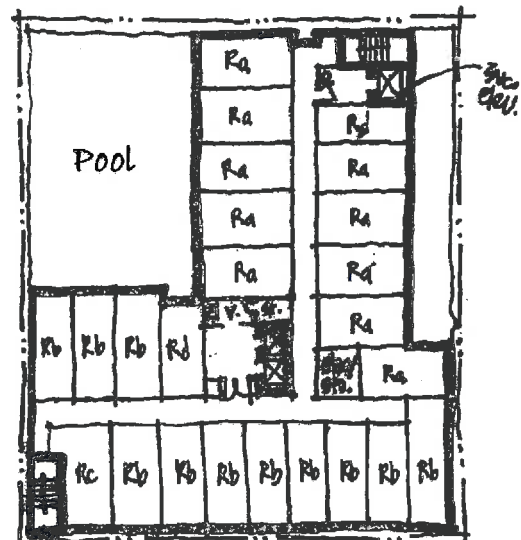


THE DEVELOPMENT



Ground Floor

13,500 sq. ft.

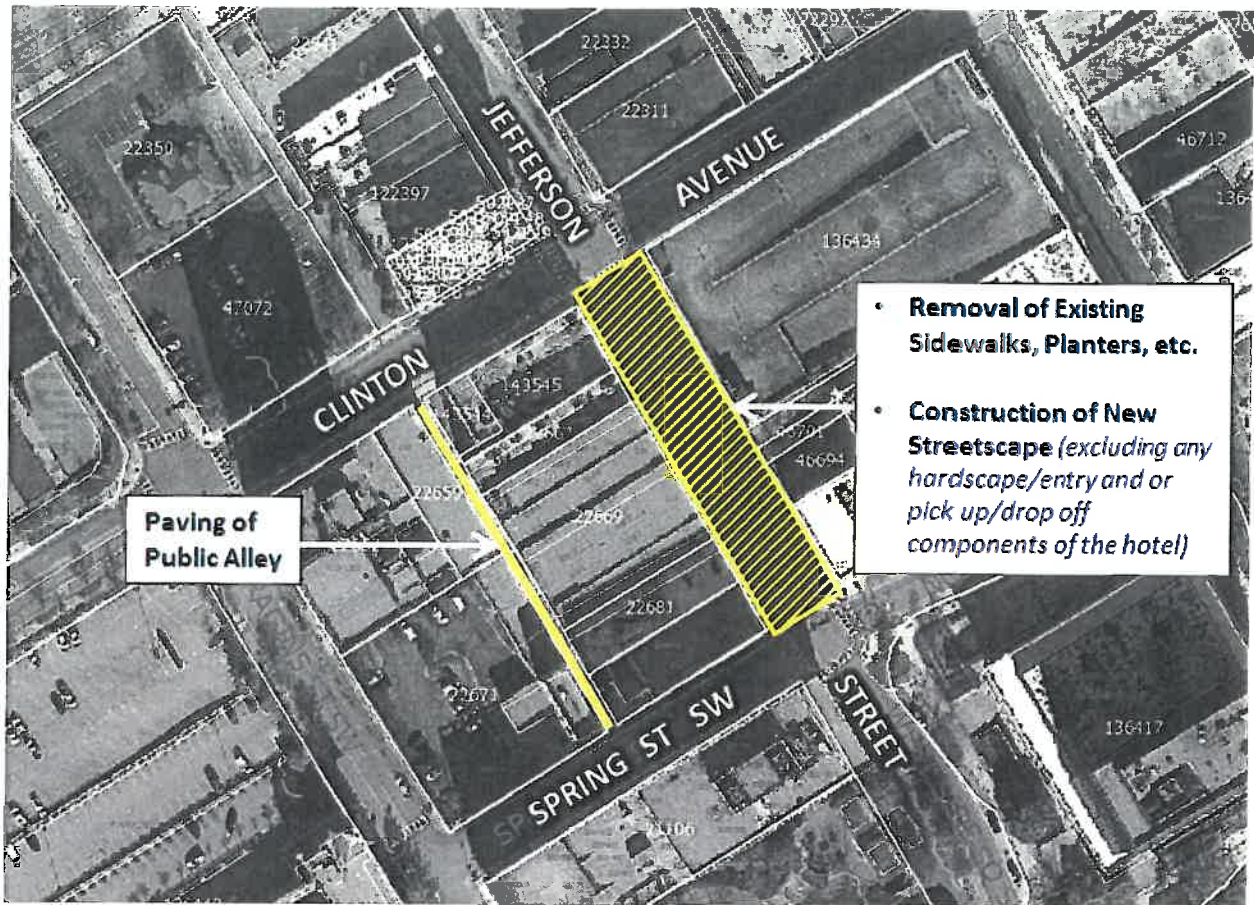


Typical Floor 3-6

12,600 sq. ft.

EXHIBIT C

PUBLIC INFRASTRUCTURE IMPROVEMENTS



TYPICAL DOWNTOWN STREETSCAPE
(subject to site conditions and final design)

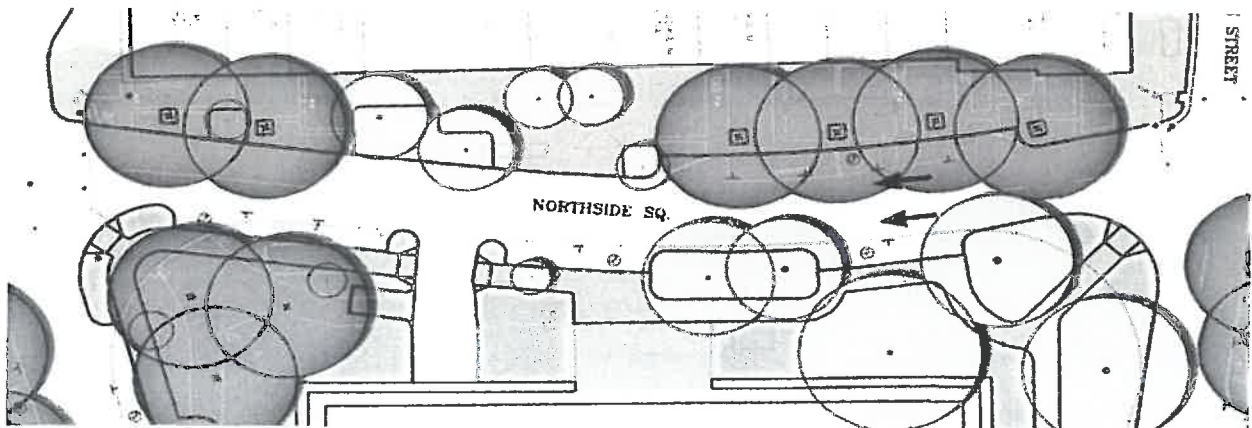


EXHIBIT D

LEASE SPACE AREA OF PUBLIC PARKING FACILITIES



CONSTRUCTION STAGING SITE

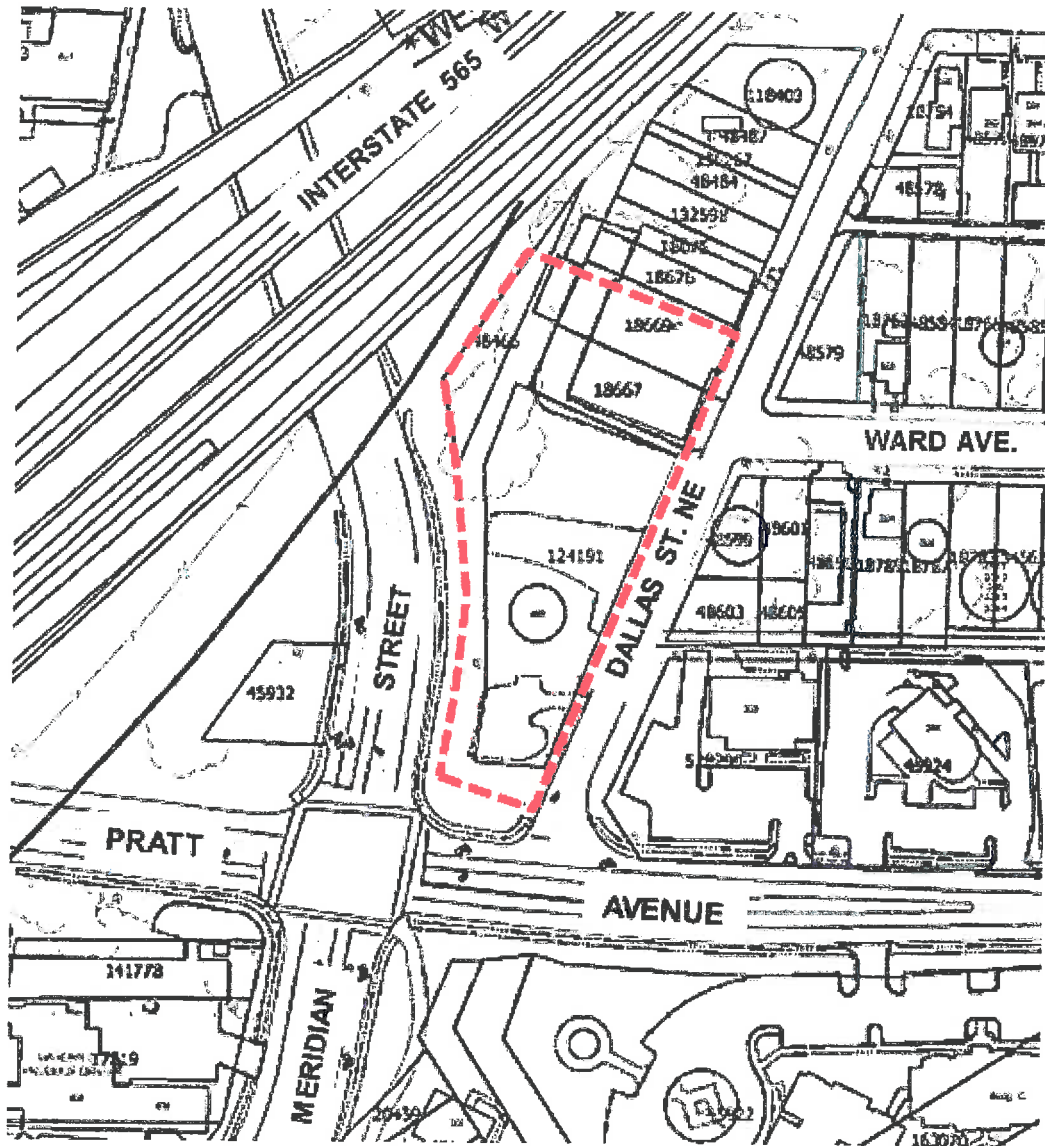


EXHIBIT F

FORM OF PARKING LEASE

PARKING AGREEMENT

This **PARKING AGREEMENT** (this “**Lease**”) is made and entered into on the ____ day of _____, 2018, between **THE CITY OF HUNTSVILLE**, a municipal corporation under the laws of the State of Alabama (“**Lessor**”) and **JEFFERSON HOTEL PARTNERS, LLC**, a Delaware limited liability company (“**Lessee**”).

RECITALS

A. Lessor and Lessee have entered into that certain Development Agreement, dated as of the ____ day of June, 2018 (the “**Development Agreement**”), relating to Lessee’s construction and development of a boutique hotel and related improvements on certain real property located on the Development Site. Any capitalized term used but not otherwise defined herein shall have the meaning attributed to such term in the Development Agreement.

B. Pursuant to the Development Agreement, the Lessee will complete the Development and the Lessor will perform certain Public Infrastructure Improvements and enter into this Lease with Lessee to provide for the leasing of a maximum of one hundred sixty-eight (168) parking spaces in facilities owned, leased, or otherwise operated by Lessor as more particularly set forth herein.

NOW THEREFORE, in consideration of the premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

AGREEMENT

1. **Lease.** Subject to the terms of this Lease, Lessor hereby leases to Lessee one hundred sixty-eight (168) parking spaces in Lessor’s existing parking facilities as follows: (a) ninety-five (95), non-specific, non-exclusive parking spaces shall be initially located in Lessor’s parking facilities located in the Clinton Avenue Garage (the “**Clinton Garage Spaces**”); and (b) the remaining seventy-three (73) non-specific, non-exclusive parking spaces shall be located in Lessor’s nearby parking facilities (collectively with the Clinton Garage Spaces, the “**Parking Spaces**”). For purposes of this Lease, “nearby parking facilities” shall mean and refer to surface or structured parking facilities owned or controlled by the City within two (2) blocks of the property as measured from the nearest point of egress from the parking facility to the property as depicted in Exhibit A. The parking facilities identified on Exhibit A may be referred to collectively as the “**Premises**.” Lessor shall have the right to relocate some or all of the Parking Spaces among Lessor’s other nearby public parking facilities within reasonable proximity to the property located on the Premises (the “**Parking Facilities**”). The license to use such Parking Spaces shall include the right to use all associated ingress/egress drives, entryways and exit-ways and related facilities; provided, however, nothing herein shall be deemed to grant Lessee any exclusive rights in specific Parking Spaces or Parking Facilities. Lessee acknowledges and agrees that upon its occupancy of the Premises, it shall be deemed to have inspected the Premises and accepted the Premises in an “AS IS” condition as to the physical aspects thereof, and Lessor makes no representations or warranties regarding the condition of the Premises.

2. **Term.** (a) The term of this Lease shall commence on such date as (i) the Development has been built and completed as required by Article IV of the Development

Agreement, and (ii) the earlier of (a) a certificate of occupancy has been issued for the Development, or (b) an application for a certificate of occupancy is rejected by the applicable governmental authority if such rejection is due solely to the Lessor's failure to cause the Parking Spaces to be available to Lessee in accordance with the terms of this Agreement (the "**Commencement Date**"), and end on the date that is 20 years after the Commencement Date (the "**Term**"). Upon request by Lessor, Lessee agrees to memorialize the Commencement Date and the term of this Lease pursuant to the Commencement Date Certificate in the form attached hereto as Exhibit B. Anything in this Lease to the contrary notwithstanding, this Lease shall terminate and be of no force or effect if (i) the Lessee elects to terminate the Development Agreement pursuant to Section 1.2 thereof, or (ii) the Development has not been constructed and completed in accordance with the requirements of the Development Agreement by the Development Opening Deadline.

(b) Subject to the provisions of paragraph (c) immediately below, Lessor grants to Lessee the option (individually, a "**Renewal Option**" and, collectively, the "**Renewal Options**") to extend the Term of this Lease for 4 additional terms of 5 years each (individually a "**Renewal Term**" and, collectively, the "**Renewal Terms**"), commencing on the day immediately following the expiration of the Term (as the same may be extended pursuant to exercise of any previous Renewal Options), subject to and upon the same terms and conditions set forth in this Lease. Notice (a "**Renewal Notice**") of the exercise of any Renewal Option must be given by Lessee to Lessor in writing no earlier than twelve months, and no later than 2 months, prior to the expiration of the Term (as the same may be extended pursuant to exercise of any previous Renewal Options). Any Renewal Term shall remain subject to Lessor's right to relocate any of the Parking Spaces as provided in Section 1.

(c) Notwithstanding anything provided in this Lease to the contrary, the exercise of any Renewal Option by Lessee shall be subject to the requirement that at the time of the giving of any Renewal Notice, Lessee be in strict compliance with this Lease including, without limitation, the obligations set forth in Section 6 of this Lease. The attempted exercise of any Renewal Option shall be ineffective and null and void if, at the time of the giving of any Renewal Notice or on the commencement of any applicable Renewal Term, Lessee is in breach or default of its obligations under this Lease or any event of default hereunder has occurred and is continuing.

3. Fee. This Lease is made for and in consideration of Lessee's agreement to pay monthly rent (the "**Rent**") for each of the Parking Spaces as follows: (a) for Lease Years one (1) through three (3), the monthly rent shall be \$0.00; (b) for Lease Years four (4) through six (6), the monthly rent shall be Twenty-Eight and No/100 Dollars (\$28.00) per Parking Space; (c) for Lease Years seven (7) through nine (9), the monthly rent shall be Fifty Six and No/100 Dollars (\$56.00) per Parking Space; and (d) for Lease Years Ten (10) and beyond, the monthly rent shall be pursuant to the Lessor's published rate for Parking Spaces in the City of Huntsville. Commencing on the first day of the calendar month following the Commencement Date, the Rent shall be due on the first day of each month throughout the term of this Lease. The Rent for any partial month shall be prorated based on the number of days in such partial month. For purposes of this Lease, a "**Lease Year**" shall mean each twelve (12) month period, commencing on the Commencement Date and continuing thereafter through the Term.

4. Use. The Parking Spaces shall be used by Lessee for vehicular parking by Lessee's customers, guests, and invitees use, and for no other purposes without the prior written consent of the Lessor, in its sole discretion (the "Use"). The Use shall be in a lawful and orderly manner, and Lessee shall obtain all necessary approvals and permits for the Use, if any. Lessee shall comply with all present and future laws, ordinances, requirements, rules and regulations of governmental authorities having jurisdiction pertaining to the operation and safety of the Use, including without limitation, all rules, regulations, laws and requirements of Lessor with respect to its Parking Facilities. Lessee shall not locate or permit the location of any dangerous substances or hazardous materials in the Parking Facilities. Lessee shall neither conduct nor allow any activity or condition in the Parking Facilities that is unlawful, that in Lessor's reasonable judgment, increases the risk of harm to any person or Lessor's property or other users of the Parking Facilities beyond the minimal risk normally associated with the Use, that would create a nuisance or trespass, that would disturb or impair the use or operation of the Lessor's property by Lessor's tenants, invitees, members of the general public, or other parties, or that, in any manner, would vitiate the insurance or increase the rate of insurance on Lessor's property or any part thereof. Lessee acknowledges and agrees that the Parking Spaces are located within the Parking Facilities and that Lessee, nor Lessee's customers, guests, and invitees shall interfere with the use and enjoyment by members of the public and other authorized users of the Parking Facilities.

5. Lessee may pay for and employ personnel (e.g., valet parkers) in connection with parking of vehicles in the Parking Spaces, and shall have the right to require that Lessor cause to be painted or erected such reasonable signage concerning the use of the Parking Spaces designated for "valet parking," or implementation of other suitable control measures as agreed to by the Lessee and the City of Huntsville Director of Parking and Public Transit (or the successor City officer to such position), subject to Lessor's right to relocate the Parking Spaces within Lessor's Parking Facilities as provided in Section 1. No personnel, employees, agents, contractors or others acting by, on behalf or with permission of Lessee may hold themselves out to be personnel or employees of Lessor, or to have enforcement authority respecting use of the Parking Spaces or the Parking Facilities. Enforcement against any vehicles illegally or inappropriately parked within any of the Parking Spaces shall be the sole authority of Lessor and Lessor's duly authorized enforcement officials or agents.

6. Operation of the Development. Throughout the Term of this Lease, Lessee agrees to operate the Development in compliance with the following standards:

(a) The Development shall include a 110-room boutique hotel (the "**Hotel**"), including full service restaurant, banquet space and rooftop bar, to be operated by Lessee under the Curio Collection by Hilton™ (the "**Brand**"). Lessee shall continuously operate the Hotel according to the Brand standards, and shall install such systems and perform all maintenance, repairs, improvements and upgrades in compliance with the Brand standards and within the time required by the Brand. Lessee understands and acknowledges that the Brand is a material inducement to the Lessor in entering this Lease. Lessee agrees that any change in the Brand for the Hotel shall be to a brand that is of a standard that, in the reasonable opinion of Lessor, is equivalent to or higher than the Brand and, further, no change in the Brand shall be permitted

without the prior written consent of the Lessor, such approval not to be unreasonably conditioned, withheld or delayed.

(b) Lessee shall operate the Development to maintain the exterior design and façade of the Development according to the plans, specifications and design criteria approved by the Lessor pursuant to the Development Agreement. All maintenance, repair and improvement requirements of Lessee set forth in the Development Agreement are incorporated into this Lease by reference as if fully set forth herein.

(c) Lessee shall observe and be in compliance with all laws, ordinances, rules and policies of Lessor with respect to the operation and use of the Development, the Parking Spaces and the Parking Facilities.

7. Maintenance of Parking Facilities. During the term of this Lease, Lessor shall be solely responsible for all repairs to the Parking Facilities and all other aspects of the Parking Facilities, unless such repairs are necessarily due to the acts or omissions of Lessee, its agents, employees, guests or invitees (not to include repairs due as a result of ordinary "wear and tear" caused by the Use). Lessor shall keep the Parking Facilities free and clear of any and all trash, rubbish and debris, and shall operate the Parking Facilities (including access and Use of the Parking Spaces) in accordance with Lessor's normal, ordinary customs and operating standards. In order to fulfill its obligations in this Section 7, Lessor may relocate the Parking Spaces within the Parking Facilities as provided in Section 1. Anything in this Lease to the contrary notwithstanding, in no event shall Lessor have any obligation to rebuild or reconstruct any of the Parking Facilities in the event of a casualty loss.

8. Insurance. Lessee shall maintain the following coverages in the following amounts.

(a) Commercial General Liability Insurance (or its equivalent) covering the insured against claims of bodily injury, personal injury and property damage arising out of Lessee's operations, assumed liabilities or use of the Parking Spaces for limits of liability not less than One Million and No/100 Dollars (\$1,000,000.00) combined single limit per occurrence and Three Million and No/100 Dollars (\$3,000,000.00) combined single limit annual aggregate, One Million and No/100 Dollars (\$1,000,000.00) of which may be carried in an umbrella.

(b) The minimum limits of policies of insurance required of Lessee under this Lease shall in no event limit the liability of Lessee under this Lease. All liability insurance shall (i) name Lessor as an additional insured, as its respective interests may appear; (ii) specifically cover the liability assumed by Lessee under this Lease, including, but not limited to, Lessee's indemnity obligations under this Lease; (iii) be issued by an insurance company having a rating of not less than A- IX in Best's Insurance Guide or that is otherwise acceptable to Lessor and licensed to do business in the state of Alabama; (iv) be primary insurance as to all claims thereunder and provide that any insurance carried by Lessor shall be excess and non-contributing with any insurance requirement of Lessee; and (v) provide that said insurance shall not be canceled, expire or coverage reduced unless thirty (30) days' prior notice shall have been given to Lessor.

(c) Lessee shall deliver a copy of each paid-up policy (authenticated by the insurer) or other evidence of insurance reasonably satisfactory to Lessor, evidencing the existence and amount of each insurance policy required hereunder on or before the commencement date of this Lease and prior to Lessee's entering into the Premises. Lessor may, at any time and from time to time, inspect or copy any insurance policies that this Lease requires Lessee to maintain. Lessee shall furnish Lessor with renewals or "binders" of each policy at least ten (10) days prior to the expiration thereof. Lessee agrees that, if Lessee does not obtain and maintain such insurance, Lessor may (but shall not be required to) after five (5) days' notice to Lessee during which time Lessee does not supply Lessor evidence of the required insurance, procure said insurance on Lessee's behalf and charge Lessee the premiums therefor, payable upon demand. Lessee shall have the right to provide the insurance required hereunder pursuant to blanket policies obtained by Lessee, provided such blanket policies afford coverage as required by this Lease.

(d) Anything in this Lease to the contrary notwithstanding, Lessor and Lessee each hereby waives any and all rights of recovery, claim, action or cause of action against the other for any loss or damage to any property of Lessor or Lessee, arising from any cause that (a) would be insured against under the terms of any insurance required to be carried hereunder; or (b) is insured against under the terms of any insurance actually carried, regardless of whether the same is required hereunder. The foregoing waiver shall apply regardless of the cause or origin of such claim, including but not limited to the negligence of a party, or such party's agents, officers, employees or contractors. The foregoing waiver shall not apply if it would have the effect, but only to the extent of such effect, of invalidating any insurance coverage of Lessor or Lessee. The foregoing waiver shall also apply to any deductible, as if the same were a part of the insurance recovery.

(e) In the event Lessee retains a third-party service to provide valet or related parking services, Lessee shall cause such service to provide the same insurance coverage in favor of Lessor as set forth in Section 8(a) through (d).

9. Indemnity; Expenses.

(a) Lessee shall indemnify, defend and save Lessor harmless from all claims, actions, damages, liability and expenses (including reasonable attorneys' fees and court costs) resulting from the occupancy or use by Lessee of the Parking Spaces and the Parking Facilities occasioned wholly or in part by any act or omission of Lessee, its agents, servants, contractors, employees, licensees, invitees or guests.

(b) Lessee shall use the Parking Spaces and the Parking Facilities at its own risk, and Lessor shall not be liable to Lessee for any loss or damage to any of Lessee's property, or to any of Lessee's agents', servants', contractors', employees', licensees', invitees' or guests' property located on the Premises, including any loss or damage caused by water leakage, fire, windstorm, explosion, theft, act of any other tenant, or other cause.

(c) Lessee shall pay all costs, expenses, and reasonable attorneys' fees that may be incurred by Lessor in enforcing the terms of this Lease.

- (d) The terms of this Section 9 shall survive the expiration of this Lease.

10. Assignment and Subletting. Lessee may not assign or transfer this Agreement nor sublet any Parking Spaces without the prior written consent of Lessor, which consent Lessor may withhold in its sole discretion. Notwithstanding the foregoing sentence, Lessee may (without consent by Lessor) collaterally assign, mortgage, pledge or otherwise transfer its rights and obligations under this Agreement to any mortgagee or purchaser of fee simple title to the Development (each a **"Permitted Assignee"**), on condition that such Permitted Assignee assumes all obligations of the assignor under this Agreement. Upon any complete assignment attendant to a sale, transfer or other disposition of Lessee's interest in the Development approved in writing by Lessor (except for any collateral assignment to a Permitted Assignee), Lessee will be released from any obligations and liabilities under this Agreement first arising following such assignment.

11. Events of Default and Remedies.

(a) Events of Default by Lessee. Any one or more of the following shall constitute an event of default under this Lease by the Lessee:

(i) Failure by Lessee to pay any amount due with respect to the Rent within ten (10) days of the date such fee is due and payable and the failure to cure same within ten (10) days of receipt of written demand therefor; provided, however, that in no event shall Lessor be required to deliver more than two (2) such notices in any twelve (12) month period;

(ii) Failure by Lessee to maintain the Hotel in accordance with the Brand standards;

(iii) Default under any license, franchise or other agreement between Lessee and the Brand, or any successor to the Brand, and the failure to cure same within any applicable cure period;

(iv) Default by Lessee under the Development Agreement and the failure to cure same within any applicable cure period;

(v) Default by Lessee under this Lease, other than as described in item (i) above or item (vi) below, and shall not cure such failure within 30 days after receipt of written notice thereof from City (except that this 30-day period shall be extended for a reasonable period of time not to exceed 120 days if the failure is not reasonably capable of cure within said 30-day period, and Lessee promptly commences efforts to cure such failure and continues diligently thereafter all efforts necessary to cure such failure; or

(vi) If a petition in bankruptcy is filed by or against Lessee, or a receiver or other trustee of any of the property of Lessee is appointed, or if Lessee files a petition or an answer seeking reorganization under any of the provisions of the bankruptcy law or of any other law, state or federal, or to take advance of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation

law or statute, or admitting the material allegations of a petition filed against it in any proceeding under such law, or if Lessee enters into or consents to an arrangement with creditors or makes an assignment for the benefit of creditors, or is adjusted insolvent by any state or federal court of competent jurisdiction, or if an order, judgment or decree shall be entered without the application, approval, or consent of the Lessor by any court of competent jurisdiction approving a petition seeking reorganization of Lessee of all or a substantial part of the properties or assets of Lessor, or appointing or ordering a receiver, trustee or liquidation of Lessee; provided, however, that Lessee shall have forty-five (45) days to have dismissed of record any involuntary petition filed against it.

(b) Events of Default by Lessor. Any one or more of the following shall constitute an event of default under this Lease by the Lessor:

(i) Default by Lessor under the Development Agreement and the failure to cure same within any applicable cure period; or

(ii) Default by Lessor in performing any of its obligations under this Lease.

(c) If Lessee is in default beyond any applicable cure period, Lessor may terminate this Lease, or pursue any other remedies for default available to it at law or equity. Upon Lessor's termination of this Lease, Lessee shall at once surrender possession of and all rights to the Parking Spaces to Lessor, and Lessor may immediately, and without further notice, or at any time thereafter, reenter the Parking Facilities and remove all persons and all or any property therefrom, by any suitable action or proceeding at law, or by force or otherwise, without being liable for any prosecution therefor or damages therefrom, and repossess the Parking Spaces.

(d) If Lessee breaches any of the provisions hereof, Lessor shall be entitled to obtain specific performance thereof. Lessee shall not be entitled to any other damages whatsoever, including, without limitation, incidental, consequential or punitive damages, whether arising at law, in equity or otherwise.

12. Mortgagee Protection. If the Lessor received notice from any mortgagee (a "**Mortgagee**") of the Development requesting a copy of any notice of default given Lessee hereunder and specifying the address for service thereof, then the Lessor shall deliver to such Mortgagee, concurrently with the service thereon to Lessee, any notice of default thereafter given to Lessee. Such Mortgagee shall have the right (but not the obligation) to cure or remedy, or to commence to cure or remedy, the event of default claimed within thirty (30) days of the expiration of any applicable time periods for cure.

13. Notices. Any notice provided herein shall be deemed to be effective upon delivery (or refusal of delivery or return as unfound), if sent by hand delivery or by a nationally recognized overnight courier; in all events addressed as follows.

To Lessor:

The City of Huntsville
308 Fountain Circle SW
Huntsville, Alabama 35801
Attention: City Attorney

To Lessee:

Jefferson Hotel Partners, LLC
c/o Crunkleton & Associates, LLC
515 Fountain Row, Suite 1100
Huntsville, Alabama 35801
Attention: Wesley B. Crunkleton

With a copy to:

Kemmons Wilson Companies
8700 Trail Lake Dr. W, Suite 300
Memphis, Tennessee 38125
Attention: McLean T. Wilson

With a copy to:

Lanier Ford Shaver & Payne, P.C.
2101 Clinton Ave. W, Suite 102
Huntsville, Alabama 35805
Attention: Graham Burgess

14. Surrender. Within thirty (30) days prior to the expiration or earlier termination of this Lease, Lessor and Lessee shall arrange and conduct an onsite walk-through inspection of the Parking Spaces and Lessor and Lessee shall create a written punch-list of items that need to be repaired, restored or removed, all of such work shall be conducted by Lessee at its expense in an expeditious manner and in any event within thirty (30) days after Lessor and Lessee agree upon the punch-list items. At the termination of this Lease, for any reason, Lessee shall remove its goods and effects, repair damage caused by the removal and peaceably yield up the Parking Spaces clean and in good order, repair and condition, subject only to Lessee's performance of any outstanding punch-list items. Personal property of Lessee not removed within five (5) days after termination of this Lease shall, at Lessor's option, (a) be deemed abandoned and be removed, stored or disposed of, all at Lessee's cost; or (b) become the property of Lessor.

15. Holdover. If Lessee remains in possession of or exercises control over the Parking Spaces after the expiration or termination of this Lease, Lessee's use and occupancy of the Parking Spaces shall be that of a tenancy at will. Lessee's occupancy during any holdover period shall otherwise be subject to the provisions of this Lease (unless clearly inapplicable), except that Lessee shall be responsible for a monthly Rent in an amount which is double the monthly Rent payable under Section 3 above. No holdover or payment by Lessee after the

expiration or termination of this Lease shall operate to extend the Term or prevent Lessor from immediate recovery of possession of the Parking Spaces by summary proceedings or otherwise. Any provision in this Lease to the contrary notwithstanding, any holdover by Lessee shall constitute a default on the part of Lessee under this Lease entitling Lessor to exercise, without obligation to provide Lessee any notice or cure period, all of the remedies available to Lessor in the event of a default by Lessee, and Lessee shall be liable for all damages, including consequential damages, that Lessor suffers as a result of the holdover. Notwithstanding anything contained in this Section 15 to the contrary, if Lessee's performance of its punch-list obligations pursuant Section 14 extends beyond the term of this Lease, such performance shall not be deemed a holdover by Lessee for which compensation is due Lessor, provided that such performance is completed in accordance with Section 14, time being of the essence.

16. No Waiver of Rights. No failure of Lessor to exercise any right hereunder, or to insist upon strict compliance by Lessee with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's rights to demand exact compliance with the terms hereof.

17. Governing Law. The laws of the state of Alabama shall govern the validity, performance and enforcement of this Lease.

18. No Partnership or Joint Venture. Nothing contained in this Lease shall constitute or be construed to be a partnership or joint venture among the Lessor and the Lessee and their respective permitted successors and assigns.

19. No Third-Party Beneficiaries. This Lease is intended only for the benefit of the Lessor and Lessee, and neither this Lease, nor any of the rights, interests or obligations hereunder, is intended for the benefit of any other person or third-party other than any Permitted Assignee.

20. Entire Agreement. This Lease and the attached Exhibits set forth the entire agreement between the parties. Any prior or contemporaneous conversations or writings are merged herein. No provision hereof can be waived or amended except by a writing signed by the party against whom enforcement of such waiver or amendment is sought.

21. Memorandum of Agreement. Upon request by either Lessor or Lessee, the parties shall, at Lessee's sole cost and expense, record a memorandum of this Agreement in the real estate records of the Office of the Judge of Probate of Madison County, Alabama.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease as of the date first written above.

ATTEST:

LICENSOR:

CITY OF HUNTSVILLE
An Alabama municipal corporation

By: _____

By: _____

Title: _____

Name: Tommy Battle
Title: Mayor

Date signed:

LICENSEE:

JEFFERSON HOTEL PARTNERS, LLC
A Delaware limited liability company

By: _____

Name: _____

Title: _____

Date signed:

EXHIBIT A

PROXIMITY AREA OF PARKING FACILITIES

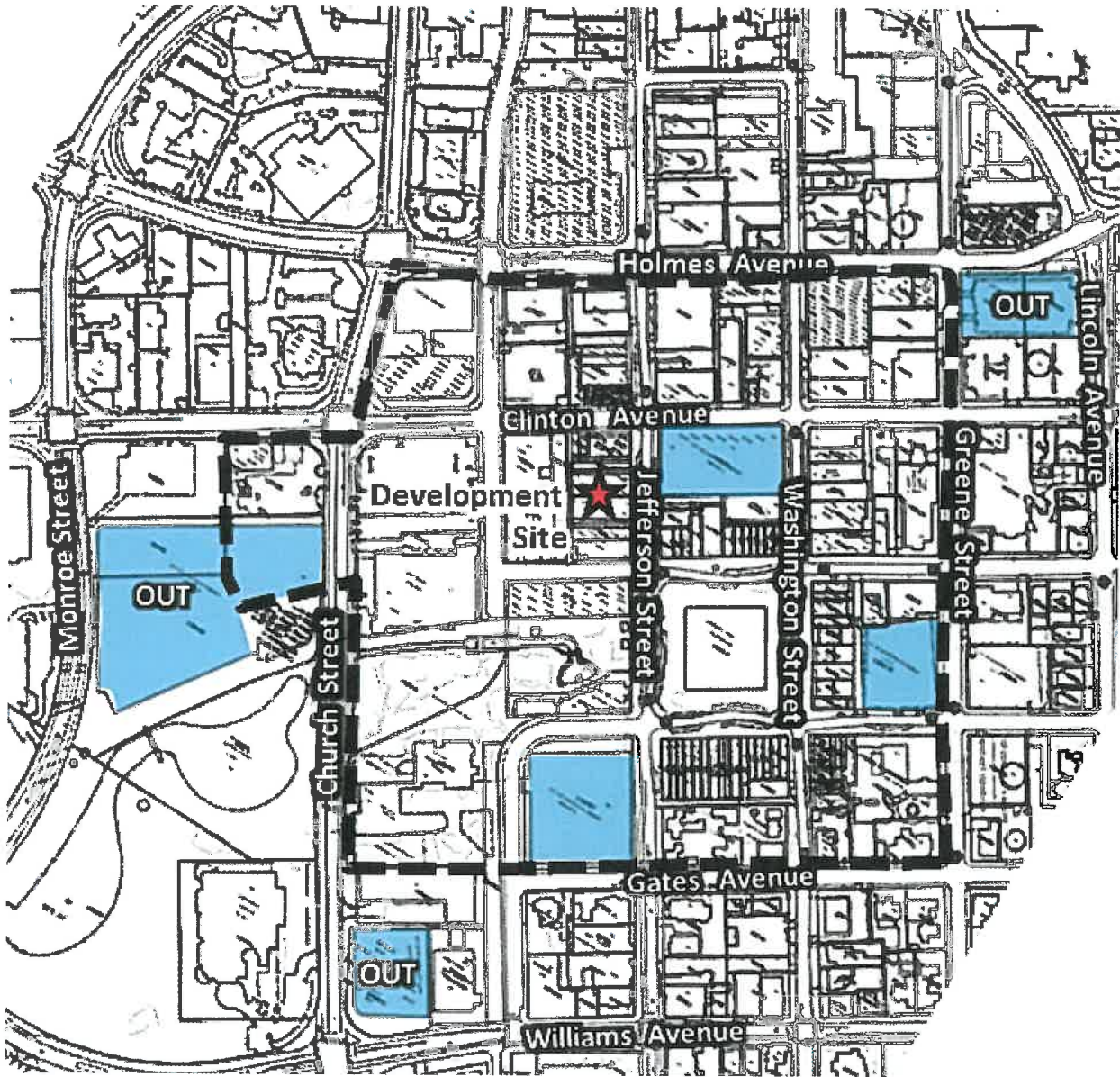


EXHIBIT B
COMMENCEMENT CERTIFICATE

_____, 20)))

City of Huntsville
308 Fountain Circle
Huntsville, Alabama 35801

Re: Parking Agreement (the “**Lease**”) dated the _____ day of _____, 2018, between the CITY OF HUNTSVILLE, an Alabama municipal corporation (“**Lessor**”), and JEFFERSON HOTEL PARTNERS, LLC, a Delaware limited liability company (“**Lessee**”). Capitalized terms used herein but not defined shall be given the meanings assigned to them in the Lease.

Ladies and Gentlemen:

Lessor and Lessee agree as follows:

1. Commencement Date. The Commencement Date of the Lease is _____, 20____.
2. Expiration Date. The expiration date of the initial term of the Lease is _____, 20____.
3. Ratification. Lessor and Lessee each hereby ratifies and confirms its obligations under the Lease, and represents and warrants to the other party that (a) the Lease is and remains in good standing and in full force and effect, and (b) to such party’s knowledge, such party has no claims, counterclaims, set-offs or defenses against the other party arising out of the Lease or in any way relating thereto.
4. Binding Effect; Governing Law. Except as modified hereby, the Lease shall remain in full effect and this letter shall be binding upon Lessor and Lessee and their respective successors and assigns. If any inconsistency exists or arises between the terms of this letter and the terms of the Lease, the terms of this letter shall prevail. This letter shall be governed by the laws of the state of Alabama.

Please indicate your agreement to the above matters by signing this letter in the space indicated below and returning an executed original to us.

ATTEST:

By: _____

Title: _____

Date signed:

LICENSOR:

CITY OF HUNTSVILLE
An Alabama municipal corporation

By: _____

Name: Tommy Battle

Title: Mayor

LICENSEE:

JEFFERSON HOTEL PARTNERS, LLC
A Delaware limited liability company

By: _____

Name: _____

Title: _____

Date signed:

EXHIBIT G

FORM OF CRANE SWING EASEMENT

This instrument prepared by:

Kevin Gray
Bradley Arant Boult Cummings LLP
200 Clinton Avenue W, Suite 900
Huntsville, Alabama 35801

STATE OF ALABAMA

COUNTY OF MADISON

TEMPORARY EASEMENT AGREEMENT

THIS TEMPORARY EASEMENT AGREEMENT (“Agreement”) is made as of the ____ day of _____, 2018 (**“Effective Date”**) among **THE CITY OF HUNTSVILLE**, a municipal corporation under the laws of the State of Alabama (**“Grantor”**), and **JEFFERSON HOTEL PARTNERS, LLC**, a Delaware limited liability company (**“Grantee”**).

A. Grantee is the owner of that parcel of land (**“Grantee Land”**) identified on **Exhibit A**, which parcel is adjacent to the Grantor Land as more particularly described in the Development Agreement (as defined below).

B. Grantor is the owner of certain public land, including streets, sidewalks, ways and alleys (**“Grantor Land”**) as reflected on **Exhibit B** to this Agreement.

C. Grantor and Grantee are parties to a Development Agreement, dated effective as of June ____, 2018 (the **“Development Agreement”**), relating to Grantee’s construction and development of a boutique hotel and related improvements on the Grantee Land as more particularly described in the Development Agreement (the **“Project”**).

D. During the development of the Project, Grantee’s contractor(s) and subcontractor(s) will erect a construction tower crane system on the Grantee Land (**“Crane System”**). The booms, jibs and other swinging components of the Crane System (collectively, **“Swing Equipment”**), and live loads carried by the Crane System (**“Loads”**), will from time to time, cross into the air space above a portion of the Grantor Land.

E. To develop the Project, Grantee requires a temporary easement over a portion of the Grantor Land in connection with the operation of the Crane System, as more particularly described in this Agreement.

F. Grantor is willing to grant that easement to Grantee subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, Grantee and Grantor do hereby covenant and agree as follows:

1. Temporary Crane System Easements.

(a) Grantor hereby grants to Grantee, its contractor(s) and any subcontractor(s), a temporary easement in and through the air space above that portion of the Grantor Land located within the area depicted on **Exhibit B** to this Agreement for the purpose of permitting the Swing Equipment and Loads to cross into and through that air space; provided, however, that the Swing Equipment must stay at least 25 feet above any improvement located upon the Grantor Land at all times; and further provided, however, that Loads may only be located on, staged from and cross through air space on and over that portion of Grantor Land depicted on **Exhibit B** and designated the "Live Load Area." Further, at no time shall any part of the Crane System swing over adjacent private properties except to the extent that such activities are permitted by easements granted by the owners of the same. Grantee shall cause the contractor operating the Crane System to operate the Crane System in a competent, safe and workmanlike manor by an experienced operator who shall comply with all applicable laws in connection with such operations and in accordance with generally accepted standards and practices of the construction industry.

(b) Grantee hereby indemnifies and holds harmless Grantor and its respective officials, officers, directors, trustees, partners, members, employees, invitees, employees, successors and assigns (collectively, the "**Indemnified Parties**"), from any and all claims, losses, liabilities, demands, damages, costs and expenses (including court costs and attorneys' fees actually incurred at standard hourly rates) (collectively, "**Losses**"), arising out of or related to any injury to (including death of) persons or physical damage to property as a result of the acts or omissions of Grantee in connection with the Crane System or the rights granted in **Section 1(a)**. The terms of this **Section 1(b)** shall survive the termination of this Agreement for a period of four (4) years.

(c) Grantee represents and warrants that it (i) will obtain all licenses and approvals necessary for the activities it intends to conduct in connection with the Crane System and the rights granted under **Section 1(a)**, (ii) will provide copies of the same to Grantor, upon written request, and (iii) will comply with all laws, rules and regulations applicable to such activities. In performing work in connection with the Project, Grantee agrees to protect, support, and maintain, and not to undertake any activity that could undermine the structural integrity of the improvements located on the Grantor Land. Grantee shall use commercially reasonable efforts to minimize damage to the Grantor Land and in the event of any such damage, shall promptly repair such damage, at Grantee's sole cost and expense.

2. Temporary Surface Easements.

(a) Grantor hereby grants to Grantee, its contractor(s) and any subcontractor(s), the right to enter upon the surface area of the Grantor Land to inspect the Swing Equipment and ensure the proper operation of the Crane System. Grantee will (i) provide reasonable prior notice to Grantor before entering the surface area of the Grantor Land, unless such entry is necessitated due to an emergency, and (ii) avoid interfering with the business operations being conducted by Grantor and its tenants on the Grantor Property. The easements granted under **Section 1(a)** and under this **Section 2(a)** are collectively referred to as the "**Easements**."

(b) Grantee hereby indemnifies and holds harmless the Indemnified Parties from any and all Losses arising out of or related to any injury to (including death of) persons or physical damage to property as a result of the acts or omissions of Grantee in connection with the rights granted in **Section 2(a)**. The terms of this Section 2(b) shall survive the termination of this Agreement for a period of four (4) years.

3. Term of Easements. The Easements shall terminate as of the thirtieth (30th) day following earlier of: (a) the date on which development of the Project no longer requires the operation of the Crane System; or (b) the issuance of the final certificate of occupancy for the improvements being constructed upon the Grantee Land; or (c) termination of the Development Agreement. If requested by either party, Grantor and Grantee shall execute and record a written instrument memorializing the termination of this Agreement under the terms of this **Section 3**.

4. Insurance. Grantee shall maintain, and cause Grantee's general contractor to maintain, while construction activity shall occur, the following insurance, which shall be written on an occurrence basis:

(a) Commercial general liability insurance with minimum limits of \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate;

(b) Auto liability insurance in the amount of \$1,000,000;

(c) Builder's risk insurance on a replacement cost basis with a limit equal to the full insurable value of the improvements located on the Grantor Land. The coverage shall apply on a risks of direct physical loss or damage perils basis (including earthquake and earth movement); and

(d) Worker's compensation insurance, with statutory limits.

The insurance policies shall name Grantor as an additional insured and Grantee shall provide certificates evidencing the coverages required herein upon request from Grantor, from time to time. Grantee's liability under this Agreement shall in no way be limited by the amount of insurance recovery or the amount of insurance in force, available or required by any provision of this Agreement.

5. Successors and Assigns. This Agreement shall bind Grantee and Grantor and their respective successors and assigns, contractors, subcontractors, employees and agents.

6. Exhibits. The Exhibits attached hereto are incorporated herein by reference.

7. Counterparts. This Agreement may be executed in any number of counterparts which shall collectively constitute one instrument.

8. Amendment. This Agreement may not be amended without the prior written approval of Grantee and Grantor.

9. Governing Law. Alabama law governs this Agreement.

The parties have executed this Agreement as of the Effective Date.

ATTEST:

GRANTOR:

CITY OF HUNTSVILLE
An Alabama municipal corporation

By: _____

By: _____

Title: _____

Name: Tommy Battle
Title: Mayor

Date signed:

STATE OF ALABAMA)
 :
MADISON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that **TOMMY BATTLE**, whose name as Mayor of **CITY OF HUNTSVILLE**, a municipal corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said municipal corporation, acting in its capacity as aforesaid.

Given under my hand and official seal this _____ day of _____, 2018.

Notary Public

[NOTARIAL SEAL]

My commission expires: _____

GRANTEE:

JEFFERSON HOTEL PARTNERS, LLC
A Delaware limited liability company

By: _____
Name: _____
Title: _____

Date signed:

STATE OF ALABAMA)
 :
MADISON COUNTY)

I, the undersigned, a notary public in and for said county in said state, hereby certify that _____, whose name as _____ of **JEFFERSON HOTEL PARTNERS, LLC**, a Delaware limited liability company, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, as such _____ and with full authority, executed the same voluntarily for and as the act of said company.

Given under my hand and official seal this _____ day of _____, 2018.

Notary Public

[NOTARIAL SEAL]

My commission expires: _____

EXHIBIT A

DESCRIPTION OF GRANTEE LAND

Real property in the City of Huntsville, County of Madison, State of Alabama, described as follows:

ALL THAT PART OF BLOCK 18 OF THE QUIGLEY MAP OF THE CITY OF HUNTSVILLE, MADISON COUNTY, ALABAMA, AS OF RECORD IN THE TAX ASSESSOR'S OFFICE OF SAID COUNTY; PARTICULARLY DESCRIBED AS BEGINNING SOUTH 33 DEGREES 13 MINUTES EAST 89.04 FEET (RECORD 89.2 FEET) FROM THE NORTHEAST CORNER OF SAID BLOCK 18 AND FURTHER DESCRIBED AS BEING THE INTERSECTION OF THE SOUTH MARGIN OF CLINTON AVENUE WITH THE WEST MARGIN OF JEFFERSON STREET; THENCE FROM THE PLACE OF TRUE BEGINNING, CONTINUING ALONG SAID JEFFERSON STREET, SOUTH 33 DEGREES 13 MINUTES 00 SECONDS EAST 126.59 FEET TO A POINT; THENCE SOUTH 56 DEGREES 26 MINUTES 52 SECONDS WEST 140.23 FEET TO A POINT; THENCE NORTH 33 DEGREES 14 MINUTES 25 SECONDS WEST 127.06 FEET TO A POINT; THENCE NORTH 56 DEGREES 38 MINUTES 21 SECONDS EAST 140.28 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.408 ACRES MORE OR LESS.

THE ABOVE DESCRIBED TRACT IS THE SAME LAND DESCRIBED AS TRACT "A" AND "B" IN DEED BOOK 1011, PAGE 111, IN THE PROBATE RECORDS OF SAID COUNTY.

EXHIBIT B

DESCRIPTION OF GRANTOR LAND AND EASEMENT AREA

[Attached.]