

HOTEL DEVELOPMENT AGREEMENT

by and among

THE CITY OF MIDLOTHIAN, TEXAS, a
municipal corporation

and

MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION,
a Texas nonprofit corporation

and

GATEHOUSE MIDLOTHIAN OWNERSHIP, LLC,
a Texas limited liability company

and

GATEHOUSE MIDLOTHIAN DEVELOPMENT, LLC,
a Texas limited liability company

HOTEL DEVELOPMENT AGREEMENT

This Hotel Development Agreement (this “**Agreement**”) is entered into by and among THE CITY OF MIDLOTHIAN, TEXAS, a municipal corporation organized and existing pursuant to the laws of the State of Texas (the “**City**”); MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION, a Texas nonprofit corporation (“**MCDC**”); GATEHOUSE MIDLOTHIAN OWNERSHIP, LLC, a Texas limited liability company (“**Owner**”); and GATEHOUSE MIDLOTHIAN DEVELOPMENT, LLC, a Texas limited liability company (“**Developer**”).

RECITALS

A. MCDC is the owner of approximately one and eighty-three one-hundredths (1.83) acres of real property at the location shown on the conceptual site plan that is attached as Exhibit “A” to the (the “**Hotel Site**”).

B. Owner desires to acquire the Hotel Site from MCDC and to engage Developer to construct thereon the Hotel, as more particularly described herein.

C. MCDC is agreeable to making a Mezzanine Loan to Owner to provide funds for the development of a Hotel on the terms described herein.

THEREFORE, pursuant to the authority granted to the City under the Laws, and in consideration of the foregoing recitals and the mutual covenants and promises of the City, MCDC, Owner, and Developer set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City, MCDC, Owner, and Developer hereby agree as follows:

AGREEMENT

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS

1.1 Defined Terms.

“Adoption Date” means the date upon which the City Council adopted the Authorizing Resolution authorizing and approving this Agreement.

“Affiliate” means any Person directly or indirectly Controlling, Controlled by or under Common Control with Owner or Developer.

“Agreement” shall mean this Hotel Development Agreement, by and between the City, MCDC, Owner, and Developer.

“Applicable Rate” means the one (1) month LIBOR rate plus 400 basis points.

“Approval” shall have the meaning set forth in Section 11.2 hereof.

“Approved Budget” means a budget showing all Hotel Development Costs by line item category, approved in form and substance by the City Parties.

“Approved Franchisor” means Marriott International, Inc.

“Approved Plans” means 100% construction drawings for the construction of the Hotel Project, approved in form and substance by the City Parties.

“Assumption Agreement” shall have the meaning set forth in Section 6.2.3.

“Authorizing Resolution” means Resolution No. _____, enacted by the City Council on _____, authorizing and approving this Agreement and any related agreements and authorizing the City Manager to execute this Agreement on behalf of the City.

“City” shall have the meaning set forth in the introductory paragraph of this Agreement.

“City Approvals” means permits or approvals required under City Regulations in order to develop, use and operate the Hotel Complex.

“City Council” means the City Council of the City or its designee.

“City Development Fees” means fees or assessments charged or required by the City in connection with any City Approval: (a) to defray, offset or otherwise cover the cost of public services, improvements or facilities; or (b) that are imposed for a public purpose. “City Development Fees” shall include, without limitation, impact fees, for roads, water, and waste water facilities, and meter fees, but shall exclude building permit fees for the Hotel Complex.

“City Parties” collectively means the City and MCDC.

“City Regulations” means the Zoning Ordinance and all other ordinances, resolutions, codes, rules, regulations and policies of the City Parties in effect as of the time in question.

“City Review Delays” means: (a) with respect to the review by the City of plans for the Site Work submitted by Developer and the issuance by the City of the Site Work Permit (i) the amount of calendar days beyond a period of ten (10) business days for the City to review and provide corrections to Developer on the initial set of 100% civil plans for the Site Work for the Hotel Site submitted by Developer to the City, and (ii) the amount of calendar days beyond a period of five (5) business days for the City to issue the Site Work Permit after the City has approved the 100% civil plans for the Site Work for the Hotel Site, and the Developer has paid all City fees required for the issuance of the Site Work Permit; and (b) with respect to the review by the City of schematic, design development and construction plans (conceptual plans have already been approved) for the Construction Work submitted by Developer and the issuance by the City of the Construction Permit (i) the amount of calendar days beyond a period of fifteen (15) business days for the City to review and provide corrections to Developer on the initial set, or a period of five (5) business days for the City to review and provide corrections to Developer on any corrected or resubmitted set, of 100% schematic, design development or construction working drawings for the Construction Work for the Hotel Complex submitted by Developer to the City, and (ii) the amount of calendar days beyond a period of five (5) business days for the City to approve the schematic or design development plans after the City has approved 100% schematic or design development plans, as applicable, or, with

respect to the construction working drawings, to issue the Construction Permit after the City has approved 100% construction working drawings for the Construction Work for the Hotel Complex and, for the construction working drawings, the Developer has paid all City fees required for the issuance of the Construction Permit. For the purposes of subclauses (i) and (ii) of clauses (a) and (b), the date of submittal of the applicable plans by the Developer shall not be considered in the number of days that the City is allowed for review and correction.

“Collateral Assignment” shall have the meaning set forth in Section 8.5 hereof.

“Common Control” means that two Persons are both Controlled by the same Person.

“Conceptual Site Plan” means the site plan for the development of the Project Site attached hereto as Exhibit “A” and made a part hereof.

“Construction Contract” means a contract or contracts between Owner or its Affiliate and a Licensed Contractor for the performance of the Construction Work and the Site Work for the Hotel Complex in accordance with the Construction Permits, and any amendment to such contracts to include any change orders, in form and in substance approved by the City Parties.

“Construction Costs” means amounts earned by and payable to the Licensed Contractor pursuant to the Construction Contract between the Owner or its Affiliates and a Licensed Contractor for the performance of the Construction Work.

“Construction Loan” means the construction loan referenced in subpart (c) of the definition of “Site Transfer Conditions”.

“Construction Payment Bond” means a payment and performance bond or bonds provided by the Licensed Contractor under the Construction Contract, in an amount equal to One hundred ten percent (110%) of the contract sum due under the Construction Contract, that: (a) has been duly issued by a surety licensed to do business in the State of Texas; (b) names Owner, Developer, MCDC and the City as joint obligees; and (c) that insures (i) the payment of the contract sum due under the Construction Contract and the performance by the Licensed Contractor under the Construction Contract.

“Construction Permits” means a building permit or permits issued by the City for all or any part of the Site Work or Construction Work for the Hotel Complex.

“Construction Work” means the construction of all foundations and vertical buildings, structures and other improvements required to be constructed as part of the Hotel Complex.

“Control” means the ownership (direct or indirect) by one Person of an interest in the profits and capital and the right to manage and control the day to day affairs of another Person. The term “Control” includes any grammatical variation thereof, including “Controlled” and “Controlling”.

“Developer” means Gatehouse Midlothian Development, LLC, a Texas limited liability company. The term “Developer” shall also refer to any Transferees of Developer, as the context may require, including for this purpose, any Affiliates of Developer.

“Developer Parties” means collectively Owner and Developer.

“Event of Default” shall have the meaning set forth in Section 7.1.

“Exactions” collectively means any sewer, water, roadway and other mitigation measures or requirements, including without limitation, any additional on-site or offsite public improvements, that are required or imposed by the City or the Owner, Developer, or their Affiliates as a condition or requirement of the issuance or approval by the City of any City Approvals for the Hotel Complex. The term “Exactions” does not include any City Development Fees which are charged to Developer in connection with the development of the Hotel Complex.

“Extended Stay Hotel” means a hotel in which most of the guest rooms are designed for extended stays by business travelers of one week or more and include amenities for such extended stays, such as complete kitchens and separate living and sleeping areas.

“Force Majeure” collectively means a delay in performance caused by: (a) war, terrorist acts, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, or acts of God; (b) days lost in whole or in part due to or resulting from rain or adverse weather conditions that are in excess of the average number of days lost in whole or in part due to or resulting from rain or adverse weather conditions in the Dallas metropolitan area during the comparable period in the ten (10) years immediately prior to the Effective Date of this Agreement as set forth on Exhibit “B” attached hereto and also to be attached to the Construction Contract; (c) the enactment of Laws that prevent, delay or preclude compliance by a Party with any material provision of this Agreement; (d) litigation relating to the Hotel Complex or the Hotel Site brought by Persons other than a Party, or Affiliate of a Party that impairs or delays (i) the construction of the Hotel Complex or (ii) obtaining any City Approvals required for the Hotel Complex; and (e) the failure by any Governmental Agency to issue any Government Agency Approval required for the development, construction, operation, occupancy or use of the Hotel Complex if Developer has submitted a completed application eligible for approval, or any portion thereof; and (f) City Review Delays.

“Franchise Agreement” shall mean an executed franchise agreement between Owner and the Franchisor, in form and substance approved by the City Parties.

“Franchise Termination Payment” means a sum equal to the product of dividing (i) the Imputed Hotel Incentive, by (ii) one hundred eighty (180).

“Franchisor” means a company which engages in the lodging business and which grants to a developer or owner of a hotel the right and license to own and operate the hotel in the name of the hotel brand registered by the Franchisor pursuant to a Franchise Agreement between the Owner and the Franchisor.

“GAAP” means Generally Accepted Accounting Principles.

“Governmental Agencies” means all governmental or quasi-governmental agencies (such as public utilities) having jurisdiction over, or the authority to regulate development of, the Hotel Complex. As used in this Agreement; however, the term “Governmental Agencies” does not include the City Parties or any of the departments of the City.

“Governmental Agency Approvals” means all permits and approvals required by Governmental Agencies under Governmental Agency Regulations for construction, development, operation, use or occupancy of the Hotel Complex.

“Governmental Agency Regulations” mean the Laws, ordinances, resolutions, codes, rules, regulations and official policies of Governmental Agencies in effect as of the time in question.

“Hotel” and “Hotel Complex” shall have the meaning set forth in Sections 2.1 and 2.2.

“Hotel Development Costs” means all hard and soft costs in connection with the design and construction of the Hotel Complex, including but not limited to, the cost of installation of FF&E and OSE, Governmental Agency Approvals, Exactions, Standard Development Fees, franchise fees, development fees to Developer, debt service, insurance, and reserves for operating shortfalls, all as set forth in the Approved Budget.

“Hotel Management Agreement” means an agreement with Aimbridge Hospitality for management of operations of the Hotel, in form and substance acceptable to the City Parties.

“Hotel Owner’s Policy” shall have the meaning set forth in Section 1.4.2.

“Hotel Site” means the site, consisting of approximately one and eighty-three one-hundredths (1.83) acres, at the location shown on the Conceptual Site Plan.

“Hotel Site Transfer Date” shall have the meaning set forth in Section 1.4.1.

“Imputed Hotel Incentive” means \$628,897.00.

“Intercreditor Agreement” means an agreement between Citizens National Bank of Texas or such replacement bank as is holding the senior mortgage on the Hotel Site acceptable to the City Parties.

“Laws” means the Constitution and laws of the State, the United States, and any codes, statutes, regulations, or executive mandates thereunder, and any court decision, State or federal, thereunder.

“Licensed Contractor” means UEB or such other contractor that is licensed by the State of Texas to perform the type of work for which it has been retained by Owner or Developer or Developer’s Affiliate in accordance with this Agreement.

“Mandatory Franchise Period” means the period commencing on the issuance of the certificate of occupancy for the Hotel Complex and continuing for a period of fifteen (15) years thereafter.

“MCDC” shall have the meaning set forth in the introductory paragraph of this Agreement.

“Mezzanine Loan” means a loan to be made by MCDC to the Owner as further provided in Article V herein.

“Mezzanine Loan Advances” means the aggregate sum of the advances made by MCDC to Owner pursuant to the Mezzanine Loan.

“Mortgage” means: (a) a mortgage or deed of trust, or other similar transaction, in which Owner conveys or pledges a security of its interest in the Hotel Project, or a portion thereof, or interest therein, or any buildings or improvements thereon for the purpose of (i) financing the acquisition of the Hotel Site and the development of the Hotel Complex, or any portion thereof, (ii) refinancing any of the foregoing, or (iii) obtaining financing proceeds by encumbering the Hotel Complex or a portion thereof; or (b) a sale and leaseback arrangement, in which Owner sells and leases back concurrently therewith its interest in the Hotel Complex, or a portion thereof, or interest therein, or improvements thereon for the purpose of (i) financing the acquisition of the Hotel Complex, or the development of the Hotel Complex, or any portion thereof, (ii) refinancing any of the foregoing, or (iii) obtaining financing proceeds by encumbering the Hotel Complex or a portion thereof; or (c) a leasehold mortgage or deed of trust, or similar transaction, in which an Affiliate Ground Lessee conveys or pledges a security interest in an Affiliate Ground Lease and/or in the Hotel Project or portions thereof which is the subject of the Affiliate Ground Lease, for the purpose of (i) financing the development of Hotel Complex, or (ii) refinancing the foregoing.

“Mortgagee” means: (a) the holder of the beneficial interest under a Mortgage; (b) the lessor under a sale and leaseback Mortgage; and (c) any successors, assigns and designees of the foregoing.

“Notice of Default” shall have the meaning set forth in Section 7.1.

“Notices” shall have the meaning set forth in Section 10.1 hereof.

“Notice Request” shall have the meaning set forth in Section 8.3 hereof.

“Official Records” means the official records of Ellis County, Texas.

“Owner” means Gatehouse Midlothian Ownership, LLC, a Texas limited liability company.

“Parties” collectively means the City, MCDC, Owner and Developer (or Owner’s Transferees, as applicable, determined as of the time in question).

“Person” means an individual, partnership, firm, association, corporation, trust, governmental agency, administrative tribunal or other form of business or legal entity.

“Planning Commission” means the Planning and Zoning Commission of the City.

“Project Architect” shall mean BOKA Powell.

“Replacement Franchisor” means a Franchisor selected by Owner with which Owner enters into a Franchise Agreement for the Hotel following any termination of the Franchise Agreement with the Approved Franchisor.

“Required Commencement Date” means date which is the later of (i) January 1, 2015, or (ii) 30 days after the Required Site Transfer Date, which date shall be subject to extension due to delays caused by Force Majeure events.

“Required Completion Date” means 390 days after the Required Site Transfer Date, which date shall be subject to extension due to delays caused by Force Majeure events.

“Required Site Transfer Date” means December 1, 2014, which date shall be subject to extension due to delays caused by Force Majeure events.

“Senior Loan” shall mean the loan described in clause (c) of the definition of “Site Transfer Conditions.”

“Site Transfer Conditions” collectively means all of the following conditions: (a) Developer has delivered to the City and MCDC an executed Construction Contract for the construction of the Hotel Complex; (b) Developer has delivered to the City and MCDC a copy of the duly issued Construction Payment Bond for the construction of the Hotel Complex; (c) the Developer Parties have delivered to the City Parties a fully executed Construction Loan Agreement from Citizens National Bank of Texas (or a replacement bank reasonably acceptable to Owner and City) committing to fund an amount which equals all of the Hotel Development Costs not to be covered by advances on the Mezzanine Loan (the “Construction Loan”), with an interest rate not to exceed 4.25% per annum, payable in equal monthly payments based on a 30-year amortization with a 20-year balloon; (d) the Intercreditor Agreement has been delivered to the City Parties; (e) the Franchise Agreement has been delivered to the City Parties; (f) an acceptable comfort letter (attached hereto as Exhibit “C” is a form acceptable to City Parties) from the franchisor under the Franchise Agreement has been delivered to the City Parties; (g) the Approved Budget has been delivered to the City Parties; (h) the City Parties have received the Hotel Management Agreement; (i) the Approved Plans for the Site Work have been received by the City Parties; and (j) the Developer Parties have demonstrated to the City Parties, through budgeted reserves, coverage of anticipated operating net revenue shortfalls for the first two-years of operation of the Hotel.

“Site Work” means: (a) the grading of the Hotel Site; (b) the installation of underground utilities and drainage required for the Hotel Site; and (c) the installation of paving on the Hotel Site.

“Site Work Permit” means a permit issued by the City for the performance of the Site Work on the Hotel Site.

“Standard Development Fees” means the City Development Fees, based upon the amounts and rates listed on Exhibit “D” of this Agreement, which constitute the City’s projection of the aggregate City Development Fees that will be imposed by the City in connection with the acquisition of the Hotel Complex by Owner and the construction and development of the Hotel Complex.

“State” means the State of Texas and any department or agency acting on behalf of the State.

“Substantially Complete” or “Substantial Completion” means the stage in the progress of the construction of the Hotel Complex where the work is sufficiently complete in accordance with the Construction Contract so that the Hotel Complex can be occupied and utilized for its intended use.

“Term” means the term of this Agreement, as determined pursuant to Article III below, unless sooner Terminated as provided in this Agreement.

“Terminate” means the expiration of the Term of this Agreement, whether by the passage of time or by any earlier occurrence pursuant to any provision of this Agreement. The term “Terminate” includes any grammatical variant thereof, including “Termination” or “Terminated”.

“Title Company” means Ellis County Abstract Company, as agent for Safeco Land Title Company.

“Transfer” means the sale, assignment, or other transfer by the Developer Parties of this Agreement, or any right, duty or obligation of the Developer Parties in the Hotel Site, including by foreclosure, trustee sale, or deed in lieu of foreclosure, under a Mortgage and including the granting of any Mortgage except the Senior Mortgage or a Mortgage given to refinance the principal balance thereof with no increase in the principal amount of indebtedness, but excluding: (a) a dedication of any portion of the Hotel Project to the City or a Governmental Agency; (b) a Mortgage; (c) leases, subleases, licenses and operating agreements entered into by Owner for occupancy of space in the Hotel Project (together with any appurtenant tenant rights and controls customarily included in such leases or subleases), and any assignment or transfer of any such lease, sublease, license or operating agreement by either party thereto; and (d) any Collateral Assignment of this Agreement to a Mortgagee.

“Transferee” means the Person to whom a Transfer is affected.

“Variances” shall have the meaning set forth in Section 2.10.

“Zoning Ordinance” means the City’s adopted zoning ordinance.

1.2 Acknowledgement of Approved Franchisor.

The City has approved Marriott International, Inc. as an Approved Franchisor for a Courtyard by Marriott® Hotel. The hotel shall include those services and amenities generally offered by three-star hotels in the United States; however it shall not include an Extended Stay Hotel. The City Parties acknowledge that neither Approved Franchisor nor its Affiliates: (a) will own the Hotel; (b) are a party to this Agreement; or (c) have provided or reviewed or are responsible for, any disclosures or other information set forth in this Agreement. It is anticipated that payment of the franchise fees and other payments to the Franchisor shall be prior and superior to any lien securing payment of the Construction Loan.

1.3 Subdivision.

Prior to the Hotel Site Transfer Date, the Developer Parties shall apply for and obtain all approvals from the City and any other Governmental Agencies that are required under applicable Laws and City Regulations to subdivide the Hotel Site as a separately platted lot. Owner, Developer and the City Parties shall cooperate with the City in the processing and approval of the applications under this Section 1.3.

1.4 Transfer of Hotel Site.

1.4.1 Provided Owner and Developer have satisfied all of the Site Transfer Conditions for the Hotel Site, then on (i) the Required Site Transfer Date, or (ii) such other date that may be mutually agreed upon by the City and Owner (the “**Hotel Site Transfer Date**”), the City

shall transfer fee simple title to the Hotel Site to Owner for the total purchase price of One Dollar (\$1.00). The deed transferring title to the Hotel Site shall contain a right of reverter (which shall be subordinate to the Construction Loan) as further described in Section 2.3.2.

1.4.2 On the Hotel Site Transfer Date, the City shall cause the Title Company to issue to the Owner a TLTA Form T-1 Owner Policy of Title Insurance insuring title to the Hotel Site, which lists only the exceptions listed on **Exhibit “E”** of this Agreement. Owner and Developer shall be responsible for the premium for the Hotel Owner’s Policy and any escrow costs in connection with the transfer of the Hotel Site to Owner.

1.4.3 Owner shall be liable for the payment of any prorated property taxes caused by Owner’s acquisition or use of the Hotel Site.

1.5 Failure to Purchase Hotel Site.

1.5.1 If on or prior to the Required Site Transfer Date the Developer Parties either (i) fail to satisfy all of the Site Transfer Conditions, or (ii) otherwise fails to purchase the Hotel Site, and Owner fails to cure such failure within thirty (30) days following the Required Site Transfer Date, then the City Parties may elect to Terminate this Agreement, effective upon written notice to Owner and Developer.

1.5.2 In the event that this Agreement is Terminated pursuant to Section 1.5.1: (a) neither the City Parties nor the Developer Parties shall have any rights or obligations under this Agreement nor any other agreements executed in connection herewith; provided, however, MCDC shall be obligated to fund solely to the extent of eligible advances on the Mezzanine Loan all Hotel Development Costs incurred by Owner prior to the Termination (with the exception of any unpaid fees due to Developer) and Owner shall provide MCDC its draws for same within thirty (30) days following Termination; (b) Owner shall have no further right to purchase the Hotel Site; (d) Owner and Developer shall have no further right or obligation to develop the Hotel Complex on the Hotel Site; and (e) the City Parties shall be free to negotiate with third parties for the development of a hotel on the Hotel Site.

ARTICLE II

GENERAL DEVELOPMENT STANDARDS & REQUIREMENTS

2.1 Project Development.

Developer shall have the right and obligation to develop the Hotel Complex in accordance with the terms and conditions of this Agreement and the City Parties shall have the right to control (i.e., approve of) the development of the Hotel Complex in accordance with the provisions of this Agreement. The Hotel Complex shall include: (a) the Hotel Site; (b) Hotel and all buildings and structures ancillary thereto; and (c) the internal common areas, pedestrian walkways, parking and core infrastructure for the Hotel Site.

2.2 Hotel.

Subject to the terms and conditions of this Agreement, a hotel shall be developed on the Hotel Site (the “**Hotel**”), in accordance with the Approved Plans. The Hotel shall be a three-star

hotel consisting of a minimum of 102 guest rooms and related amenities and space for providing the services necessary to meet the operational requirements of the Franchise Agreement. The Hotel shall be open to the public and shall serve the business community and citizens of the City and visitors to the City and adjacent communities. The Hotel shall be constructed and developed in accordance with the standards required under the City Regulations and the Franchise Agreement.

2.3 Commencement and Continuation of Construction.

2.3.1 If the Owner purchases the Hotel Site, the Developer Parties shall be required to obtain a Construction Permit for the initiation of construction of the Hotel Complex and to commence the Site Work no later than the Required Commencement Date.

2.3.2 Subject to Force Majeure, if (i) Owner purchases the Hotel Site but the Developer Parties fail to satisfy the requirement of Section 2.3.1 above by the Required Commencement Date or fails to meet any of the construction milestones set forth on **Exhibit "F"** hereto, or ceases progress of the Site Work or Construction Work for fifteen (15) Business Days or more within any 45-day period, and (ii) the Developer Parties fail to cure such failure within sixty (60) days following written notice from the City Parties, then the City Parties, acting through the City, shall have the option to Terminate this Agreement, in which case: (a) the City may exercise the right of reverter contained in the deed conveying the Hotel Site to Owner; and (b) the City and MCDC shall have the rights and remedies set forth in Section 7.2.2.

2.3.3 In the event that this Agreement is Terminated pursuant to Section 2.3.2, (a) neither the City Parties nor the Developer Parties shall have any rights or obligations under this Agreement nor any other agreements executed in connection herewith; provided, however, MCDC shall be obligated to fund all Hotel Development Costs incurred by Owner prior to the Termination (with the exception of any unpaid fees due to Developer) and Owner shall provide MCDC its draws for same within thirty (30) days following Termination; (b) Owner shall have no further right to purchase the Hotel Site; (c) Developer shall have no further right or obligation to develop the Hotel Complex on the Hotel Site; and (d) the City Parties shall be free to negotiate with third parties for the development of a hotel on the Hotel Site.

2.4 Completion of Hotel Complex.

2.4.1 Developer agrees to Substantially Complete the Hotel Complex, on or prior to the Required Completion Date, subject to delays caused by Force Majeure events.

2.4.2 The Construction Contract with the Licensed Contractor shall provide that, if Licensed Contractor fails to achieve Substantial Completion of the Hotel Complex by the Required Completion Date), subject to Force Majeure, Licensed Constructor shall pay liquidated damages to the City at a rate of Seven Hundred Fifty Dollars (\$750.00) per day for each day after the Required Completion Date until the earlier to occur of the date on which: (i) the Hotel Complex is Substantially Completed; or (ii) this Agreement is terminated by the City Parties pursuant to Section 2.4.3.

2.4.3 If Developer fails to achieve Substantial Completion within one (1) year after the Required Completion Date, the City Parties, acting through the City, shall have the right to Terminate this Agreement. If the City Parties Terminate this Agreement pursuant to this Section 2.4.3, the following shall apply:

(a) the Mezzanine Loan shall be accelerated and shall be due and payable in full;

(b) Owner shall not be entitled to any further advances under the Mezzanine Loan;

(c) The City Parties may exercise the right of reverter in the deed conveying the hotel site to Owner; and

(d) The City Parties may terminate all City Incentives described in Section 2.13.

2.5 Design Criteria. The Hotel Complex shall comply with the Approved Plans and all design criteria established in or pursuant to the City Regulations, subject to any amendments or variance thereto reasonably approved by the City. The City shall to the extent it can do so without violating City Regulations, reasonably consider and approve any modifications to such design criteria requested by the Approved Franchisor or a Replacement Franchisor, provided that: (a) if such modifications are requested in order to comply with the design standards then utilized by the Approved Franchisor or the Replacement Franchisor, as applicable, a copy of which shall be provided by the Developer Parties to the City Parties; and (b) such modifications shall not be incompatible with or reduce or diminish the quality standards in the design criteria established in or pursuant to the City Regulations.

2.6 Review and Processing of City Approvals. Subject to Section 11.2 hereof, the City Approvals required for the construction and development of the Hotel Complex shall be issued pursuant to the requirements of the City Regulations and the standard procedures of the City. The City Approvals covered under this Section 2.6 include building permits, green cards and certificates of occupancy. The City shall cooperate with Developer to facilitate prompt and timely review and processing of all applications for City Approvals, including the timely processing and checking of all maps, plans, permits, building plans, construction work, subdivision plats, and other plans relating to development of the Hotel Complex filed by Developer. In connection with any City Approval, the City shall exercise its discretion or take action in a manner which complies with and is consistent with City Regulations, applicable state or local law, and, to the extent not inconsistent therewith, this Agreement.

2.7 Project Signage.

Owner shall have the right to signage for the Hotel Complex that is permitted in the City Regulations. The City Parties will support the Developer Parties in securing approval from TxDOT and/or Lone Star Logo and Sign for logo and directional signage on Highway 67 and 287 for the benefit of the Developer Parties. Notwithstanding the foregoing, Developer shall have the right to submit an alternative plan depicting Developer's proposed signage for the Hotel Site (including, without limitation, a proposed pylon sign with a video board, and proposed monument signs, building signs, directional signs and way finding signs) to the City Council for its review. Upon approval by the City Council, such alternative sign plan shall govern the signage rights of Owner under this Agreement.

2.8 Governmental Agency Approvals. Developer shall apply for and pursue all required Governmental Agency Approvals from Governmental Agencies which are required

during the course of design, development, construction, use or occupancy of the Hotel Complex. Developer shall take such reasonable steps as are necessary to obtain all such Governmental Agency Approvals and shall bear all costs and expenses for obtaining such Governmental Agency Approvals (subject to the right of Owner to receive Mezzanine Loan Advances from MCDC). When and if obtained, copies of all such Governmental Agency Approvals shall be submitted to the City promptly by Developer. Developer shall comply with, and shall cause the Hotel Complex to comply with, all Governmental Agency Regulations and Laws related to the development of the Hotel Complex. The City shall cooperate with Developer in such applications for Governmental Agency Approvals upon Developer's written request for such cooperation.

2.9 Exactions and City Development Fees. The Developer Parties agree to construct and perform the Exactions and pay the City Development Fees that are imposed by the City in connection with the acquisition of the Hotel Site by Owner or the construction and development of the Hotel Complex by Developer.

2.10 Variances. Nothing in this Agreement is intended, should be construed or shall operate to preclude or otherwise impair the rights of the Developer Parties during the Term of this Agreement from applying to the City for a variance or exception under the City Regulations with respect to any proposed buildings and improvements in the Hotel Complex (collectively, the **"Variances"**) in accordance with the procedures applicable to Variances under the City Regulations then in effect. The City shall process, review and approve or disapprove any application for a Variance filed by Owner or Developer in accordance with such City Regulations. The approval by the City of an application by Owner or Developer for a Variance shall not require an amendment of this Agreement.

2.11 Foundations and Concrete Structural Frame. Upon approval by the City of full structural drawings for the Hotel Complex submitted by Developer, the City shall provide to Developer such approvals or permits as are necessary for Developer to commence construction of foundations and the concrete structural frame for the Hotel Complex.

2.12 Affiliate Transactions. The Developer Parties shall fully disclose, prior to approval of the Approved Budget by the City Parties, all Hotel Development Costs which constitute direct or indirect payments to be made by the Developer Parties to Affiliates, including but not limited to, development fees paid by Owner to Developer, prices in excess of those obtained from unaffiliated third parties on procurement contracts for goods or services, or otherwise. No payments of Hotel Development Costs shall be made by the Developer Parties to Affiliates except as disclosed to the City Parties.

2.13 City Incentives. As set forth in the Approved Budget and in separate agreements executed by the City Parties, the City Parties and Midlothian Economic Development have agreed to provide, and will provide, the following economic incentives to the Owner: land contribution, waiver of fees for building permits for construction per the Approved Budget, construction sales tax, sales tax credit (2% of actual taxable sales generated for the first 8 years of operations), property tax credit (80% of City of Midlothian property taxes for the first 8 years of operations), Transient Occupancy Tax (7% of rooms revenue, rebate of 80% for the first 8 years of operations). Collectively, the "City Incentives," the City Incentives with respect to sales tax, property tax, and transient occupancy taxes are subject to the terms and conditions of the specific separate agreements between the City Parties and the Developer Parties.

2.14 Developer Fees. As set forth in the Approved Budget, the Developer shall be paid a development fee for services to be provided hereunder in an amount equal to \$547,039, which represents 4% of the total development cost and which amounts have been or shall be paid as follows: \$153,215 paid through July, 2014, and the balance in monthly installments over the remaining pre-development and development period of approximately 18 months.

ARTICLE III

TERM

3.1 Term Commencement. The rights, duties and obligations of the Parties hereunder shall be effective, and the Term shall commence, as of the Adoption Date. Not later than five (5) business days after the Adoption Date, each of the City Parties shall execute and acknowledge this Agreement.

3.2 Expiration of Term. Unless sooner Terminated pursuant to the applicable provisions of this Agreement, the Term shall expire on December 31 of the calendar year in which the twentieth (20th) anniversary of the Adoption Date falls.

ARTICLE IV

HOTEL OPERATIONS

The operation of the Hotel Complex shall comply with all criteria established in the City Regulations, subject to any amendments or Variances thereto reasonably approved by the City. Developer shall construct, and Owner shall continuously maintain and operate the Hotel in accordance with the standards in the Franchise Agreement and City Regulations.

ARTICLE V

MEZZANINE LOAN

5.1 Loan Advances. MCDC shall extend a loan to Owner in the amount of up to \$4,000,000.00 to be advanced to pay Hotel Development Costs as they are actually incurred. Advances on such loan shall bear interest at a rate of two percent (2%) per annum until repaid and the entire principal amount of the loan shall be due and payable ten (10) years after the date hereof. The obligation of Owner to repay the note shall be represented by a promissory note executed by Owner and delivered to MCDC of even date herewith.

5.2 Collateral. Payment of such loan shall be secured by the following:

(a) A first lien security interest on 100% of the membership interests in Owner to be evidenced by a security agreement executed by the owners of all of such interests (such security interest shall also secure any payment of the Imputed City Incentive and Franchise Termination Payment required herein);

(b) A first lien security interest on all City Incentives, including but not limited to, the hotel occupancy tax, sales tax and ad valorem tax refunds or rebates

receivable by Owner from the City with regard to the Hotel Project under separate agreements between the City and Owner.

5.3 Mandatory Prepayment. Sixty-five percent (65%) of the monthly net cash flow available to Owner from the Hotel Project will be applied as a prepayment on the loan to MCDC, to be credited against the principal balance of the loan and not to interest.

5.4 Procedures for Loan Advances. The MCDC shall make advances on the loan as follows:

5.4.1 Within thirty (30) days following written draw requests to MCDC, MCDC shall pay Owner for actual Hotel Development Costs incurred and, for actual hard construction costs, verified by the Project Architect as work in place on such draw request, less 10% retainage on Construction Costs reflected within such draw request, such retainage to be funded within thirty (30) days after final completion of the work under the Construction Contract.

5.4.2 In the event that the time of the submittal by Owner of a draw request to MCDC there is an Event of Default on the part of the Developer Parties that remains uncured following written notice to the Developer Parties, then except as provided in Section 1.5.2 and 2.3.3 hereof, MCDC shall not be required to make such advance until the default is cured.

5.5 Contingent Interest. Upon a Transfer to a Party other than a Developer Party or an Affiliate of a Developer Party, the Developer Parties shall pay to MCDC a profit participation in the amount of 70% of the net proceeds to the Developer Parties received upon such Transfer and remaining after payment of all closing costs, the Senior Loan and the Mezzanine Loan, limited to the amount of such payment that may be recovered by the City Parties without violation of Texas usury law. For purposes hereof, net proceeds shall mean the gross proceeds reduced by customary and reasonable transactional costs payable to parties other than the Developer Parties or their Affiliates. This provision shall survive expiration of the Term, payment of the Mezzanine Loan, and all Transfers to a Developer Party or an Affiliate of a Developer Party.

ARTICLE VI

TERMINATION; ASSIGNMENT

6.1 Effect of Termination.

6.1.1 Except as otherwise expressly provided in this Agreement: (a) upon any Termination of this Agreement, each Party shall retain any and all of the respective benefits, including money or land, that each Party has received as of the date of Termination under or in connection with this Agreement; and (b) termination of this Agreement shall not (i) alter, impair or otherwise affect any City Approvals for the Hotel Complex that were issued by the City prior to the date of Termination, or (ii) prevent, impair or delay Developer from electing, in its sole discretion, to commence, perform or complete the construction of any buildings or improvements in the Hotel Complex or obtain any certificates of occupancy or similar approvals from the City for the use and occupancy of completed buildings or improvements in the Hotel Complex, that were authorized pursuant to City Approvals for such construction issued by the City prior to the date of Termination.

6.1.2 Nothing herein shall preclude the City, in its discretion, from taking any action authorized by Laws or City Regulations to prevent stop or correct any violation of Laws or City Regulations occurring before, during or after construction of the buildings and improvements in the Hotel Complex by Developer, or from exercising any rights under the Mezzanine Loan note and related documents.

6.2 Assignment.

6.2.1 City Parties. The City Parties shall not have the right to assign, pledge, transfer or convey their respective rights, titles, interest, or obligations under this Agreement other than to another City Party.

6.2.2 Developer. Prior to the issuance of the certificate of occupancy for the Hotel Complex and payment in full of the Mezzanine Loan, the Developer Parties shall not have the right to assign their rights, titles, interests, or obligations under this Agreement to any third party, including an Affiliate of Owner and/or to Developer or Owner, without the prior written consent of the City and MCDC, which consent may be withheld in the City Parties' sole discretion.

Following the issuance of a certificate of occupancy for the Hotel Complex and payment in full of the Mezzanine Loan, and subject to the provisions of Section 5.5, Owner shall have the right to sell or assign all or any part of the Hotel Complex and the right to assign some or all of its rights, title and interests or obligations under the Agreement to any Person upon the delivery to the City Parties of a written Assumption Agreement, signed by the Owner and its Transferee, but without the consent or approval of the City Parties. Any assignment by the Owner shall be subject to the provisions and restrictions of this Agreement.

6.2.3 Assumption Agreement. As a condition to any assignment by Owner pursuant to this Section 6.2, the Developer Parties shall deliver to the City Parties an executed and acknowledged assignment and assumption agreement (the "**Assumption Agreement**") in recordable form. Such Assumption Agreement shall include provisions regarding: (a) the rights and interest proposed to be Transferred to the proposed Transferee; (b) the obligations of the Developer Parties under this Agreement that the proposed Transferee will assume; and (c) the proposed Transferee's acknowledgment that such Transferee has reviewed and agrees to be bound by this Agreement. The Assumption Agreement shall also include the name, form of entity, and address of the proposed Transferee. The Assumption Agreement shall be recorded in the Official Records concurrently with the consummation of the Transfer.

6.2.4 Mortgagee as Transferee. The Senior Mortgage and any refinancing thereof that does not increase the principal amount of indebtedness, shall not constitute a Transfer.

6.2.5 Effect of Transfer. A Transferee shall become a Party to this Agreement only to the extent set forth in the Assumption Agreement delivered under Section 6.2.3.

ARTICLE VII

EVENTS OF DEFAULT; REMEDIES; ESTOPPEL CERTIFICATES

7.1 Events of Default. Any failure by a Party to perform any material term or provision of this Agreement (including but not limited to the failure of a Party to approve a

matter or take an action within the applicable time periods governing such performance under this Agreement) shall, subject to the provisions of this Agreement to the contrary, constitute an **“Event of Default”**, if: (a) such defaulting Party does not cure such failure within ten (10) business days following delivery of a Notice (as hereinafter defined) of default from the other Party (**“Notice of Default”**), where such failure is of a nature that can be cured within such ten (10) business day period; or (b) where such failure is not of a nature which can be cured within such ten (10) business day period, the defaulting Party does not within such ten (10) business day period provide written notice to all other Parties of the time reasonably needed to cure and why such additional time is needed and commence substantial efforts to cure such failure, or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure and cure such failure within a maximum of ninety (90) days. The failure to pay money shall not constitute a default allowing cure under clause (b) above. Any Notice of Default given hereunder shall specify in reasonable detail the nature of the failures in performance by the defaulting Party and the manner in which such failures of performance may be satisfactorily cured in accordance with the terms and conditions of this Agreement.

7.2 General Remedies.

7.2.1 Upon the occurrence of an Event of Default by the City Parties, the Developer Parties shall have the right, in addition to all other rights and remedies available under this Agreement, to: (a) bring any proceeding in the nature of specific performance, injunctive relief or mandamus; and/or (b) bring any action at law or in equity as may be permitted by Laws or this Agreement.

7.2.2 Except as otherwise provided in this Agreement, upon the occurrence of an Event of Default by the Developer Parties, the City Parties shall have the right, in addition to all other rights and remedies available under this Agreement, to: (a) bring any proceeding in the nature of injunctive relief or mandamus; and/or (b) bring any action at law or in equity as may be permitted by Laws or this Agreement. In addition to any other remedy provided in this Agreement, the City Parties shall be entitled to a lien on the Hotel Complex to the extent that any specific remedy provided for in this Agreement does not adequately compensate the City Parties for their damages related to an Event of Default on the part of Developer Parties, provided that any such lien shall be expressly subordinate to the Construction Loan and any Mortgage on the Hotel.

7.2.3 The Developer Parties acknowledge and agree that: (a) the City Parties shall have all governmental and sovereign immunities provided by Law and that no immunities are waived by entering into this Agreement; and (b) this Agreement is not a contract for goods and services under Chapter 271, Subchapter H of the Texas Local Government Code.

7.3 Termination of Franchise Agreement with the Approved Franchisor.

7.3.1 In the event that the Franchise Agreement with the Approved Franchisor is Terminated during the Mandatory Franchise Period, the following provisions shall apply:

(a) If the Approved Franchisor Terminates the Franchise Agreement due to a default by the Developer Parties under the Franchise Agreement and Owner fails to enter into a new Franchise Agreement with a Replacement Franchisor approved by the City

within thirty (30) days thereafter, then on the first day of each calendar month during the period commencing on the expiration of the Hotel under the new Franchise Agreement with the Approved Replacement Franchisor begins, or (ii) the last day of the Mandatory Franchise Period, the Developer Parties shall pay to the City the Franchise Termination Payment. The City shall not withhold, condition or delay its approval of the Replacement Franchisor if the Replacement Franchisor has a history, with respect to full service hotels, of being the hotel franchisor of primarily three-star hotels in the United States (pursuant to the hotel rating criteria and standards reasonably acceptable to the City).

(b) If the Franchise Agreement is Terminated for any reason other than a Termination by the Approved Franchisor due to a default by Owner under the Franchise Agreement (including without limitation, if Franchisor ceases to exist as a separate brand name of hotel or if certain franchise locations, including the Hotel, are sold to a new franchisor), and (ii) Owner fails to exercise reasonable and diligent efforts to apply for and enter into a new Franchise Agreement with a Replacement Franchisor approved by the City within twelve (12) months thereafter, then Developer shall pay the Franchise Termination Payment to the City for each month during the period commencing on the expiration of that twelve (12) month period and concluding on the earlier of: (x) the date that the operation of the Hotel under the new Franchise Agreement with the approved Replacement Franchisor begins; or (y) the last day of the Mandatory Franchise Period. The City shall not withhold, condition or delay its approval of the Replacement Franchisor if the Replacement Franchisor has a history of being the hotel franchisor of primarily three-star hotels in the United States (pursuant to hotel rating criteria and standards reasonably acceptable to the City). The types of hotels rated as three-star are Hyatt Place, Hilton Garden Inn, Hampton Inn, FourPoints, SpringHill Suites, and Fairfield Inn and Suites.

7.4 Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict or timely performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict compliance by such other Party in the future. No waiver by a Party of any failure of performance, including an Event of Default, shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omission by a Party to take any action with respect to such failure. No express written waiver shall affect any other action or inaction, or cover any other period of time, other than any action or inaction and/or period of time specified in such express waiver. One or more written waivers under any provision of this Agreement shall not be deemed to be a waiver of any subsequent action or inaction. Nothing in this Agreement shall limit or waive any other right or remedy available to a Party to seek injunctive relief or other expedited judicial and/or administrative relief to prevent irreparable harm.

7.5 Estoppel Certificate. If required to facilitate refinancing of the Construction Loan or the Mezzanine Loan, any Party may, at any time, and from time to time, deliver written notice to another Party requesting such other Party to certify in writing: (a) that this Agreement is in full force and effect and a binding obligation of the Parties; (b) that this Agreement has not been amended or modified either orally or in writing, and if so amended, identifying the amendments; (c) to the reasonable knowledge and belief of such other Party, that no Party has committed an Event of Default under this Agreement, or if an Event of Default has to such other Party's knowledge occurred, to describe the nature of any such Event of Default; and (d) such other

certifications that may be reasonably requested by the other Party or a Mortgagee. A Party receiving a request hereunder shall use reasonable efforts to execute and return such certificate within twenty (20) days following the receipt thereof. Notwithstanding the foregoing, the Developer Parties agree that action by the City Parties promptly after the next regularly scheduled meeting date of the respective governing bodies. Each Party acknowledges that a certificate hereunder may be relied upon by Mortgagees. No Party shall, however, be liable to the requesting Party, or third Person requesting or receiving a certificate hereunder, on account of any information therein contained, notwithstanding the omission for any reason to disclose correct and/or relevant information.

7.6 Limited Liability. Notwithstanding any other provision of this Agreement, no Party shall in any circumstances be liable to any other Party under, arising out of or in any way connected with this Agreement for any consequential loss or damage or special or punitive damages, whether arising in contract or tort, including negligence.

ARTICLE VIII

MORTGAGEE PROTECTION

8.1 Mortgagee Protection. Except as otherwise provided herein, this Agreement shall be superior and senior to the conveyance of any Mortgage encumbering any interest in the Hotel Complex. Notwithstanding the foregoing, no Event of Default shall defeat, render invalid, diminish or impair the conveyance of any Mortgage made for value, but, subject to the provisions of Section 9.2, all of the terms and conditions contained in this Agreement shall be binding upon and effective against any Person (including any Mortgagee) who acquires title to the Hotel Complex, or any portion thereof or interest therein or improvement thereon, by foreclosure, trustee's sale, deed-in-lieu of foreclosure, or otherwise.

8.2 Mortgagee Not Obligated; Mortgagee as Transferee. No Mortgagee shall have any obligation or duty under this Agreement whatsoever, including but not limited to, any obligation to construct the Hotel Complex or any portion thereof, except that nothing contained in this Agreement shall be deemed to permit or authorize any Mortgagee to undertake any new construction or improvement on the Hotel Site, or to otherwise have the benefit of any rights of Developer, or to enforce any obligation of the City Parties, under this Agreement, unless and until such Mortgagee elects to become a Transferee pursuant to Article VI. Any Mortgagee that affirmatively elects to become a Transferee shall be later released from all obligations and liabilities under this Agreement upon the subsequent Transfer by the Mortgagee of its interest as a Transferee to another Person.

8.3 Notice of Default to Mortgagee; Right of Mortgagee to Cure. If any of the City Parties receives notice from a Mortgagee requesting that a copy of any future Notice of Default that may be given Developer Parties hereunder and specifying the address for service thereof (**'Notice Request'**), then the City Parties shall deliver to such Mortgagee, concurrently with service thereon to Developer Parties, any Notice of Default thereafter given to Developer Parties. 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 the applicable time periods for cure specified in this Agreement. If, however, the Event of Default or such noncompliance is of a nature which can only be remedied or cured by such Mortgagee upon obtaining possession of the Hotel Complex, or

portion thereof, such Mortgagee shall seek to obtain possession with diligence and continuity (but in no event later than ninety (90) days after a copy of the Notice of Default is given to Mortgagee) through a receiver or otherwise, and shall thereafter remedy or cure such Event of Default or noncompliance promptly and with diligence and dispatch after obtaining possession. Other than an Event of Default or noncompliance (i) for failure to pay money or (ii) that is reasonably susceptible of remedy or cure prior to a Mortgagee obtaining possession, so long as such Mortgagee is pursuing cure of the Event of Default or noncompliance in conformance with the requirements of this Section 8.3, none of the City Parties shall exercise any right or remedy under this Agreement on account of such Event of Default or noncompliance. When and if a Mortgagee acquires the interest of Owner encumbered by such Mortgagee's Mortgage and such Mortgagee elects in writing to become a Transferee pursuant to this Section 8.3, then such Mortgagee shall promptly cure all monetary or other Events of Default or noncompliance then reasonably susceptible of being cured by such Mortgagee to the extent such that such Events of Default or noncompliance are not cured prior to such Mortgagee's becoming a Transferee pursuant to Section 8.3.

8.4 Priority of Mortgages. For purposes of exercising any remedy of a Mortgagee pursuant to this Article VIII, the applicable Laws of the State of Texas shall govern the rights, remedies and priorities of each Mortgagee, absent a written agreement between Mortgagees otherwise providing.

8.5 Collateral Assignment. As additional security to a Mortgagee under a Mortgage on the Project or any portion thereof, the Developer Parties shall have the right to execute a collateral assignment of the Developer Parties' rights, benefits and remedies under this Agreement in favor of the Mortgagee ("**Collateral Assignment**") on the standard form provided by the Mortgagee.

ARTICLE IX

COVENANTS RUNNING WITH THE LAND

During the Term of this Agreement, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the Parties (and their respective heirs, successors (by merger, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all other Persons that acquire a legal or equitable interest of Owner in the Hotel Complex, or any portion thereof, whether by operation of Laws or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective heirs, successors (by merger, consolidation or otherwise) and permitted assigns as Transferees, as covenants running with the land.

ARTICLE X

NOTICES

10.1 Delivery of Notices. All notices, statements, demands, consents and other communications ("**Notices**") required or permitted to be given by any Party to another Party pursuant to this Agreement or pursuant to any applicable law or requirement of public authority shall be properly given only if the Notice is: (a) made in writing (whether or not so stated elsewhere in this Agreement); (b) given by one of the methods prescribed in Section 10.2; and

(c) sent to the Party to which it is addressed at the address set forth below or at such other address as such Party may hereafter specify by at least five (5) calendar days prior written notice:

If to City:

City of Midlothian
104 West Avenue E
Midlothian, Texas 76065
Attn: City Manager
Facsimile: 972-995-7122

If to MCDC

Midlothian Community Development Corporation
104 West Avenue E
Midlothian, Texas 76065
Attn: Chairman
Facsimile: 972-995-7122

and to:

David G. Drumm
Carrington Coleman
901 Main Street, Suite 5500
Dallas, Texas 75202
Facsimile: 214-758-3732

If to Developer:

Gatehouse Midlothian Development, Inc.
1501 Dragon Street, Suite 101
Dallas, TX 75207
Attn: Marty Collins

If to Owner:

Gatehouse Midlothian Ownership, LLC
1501 Dragon Street, Suite 101
Dallas, TX 75207
Attn: Marty Collins

and to:

Rick Kopf
Munsch Hardt Kopf Harr, PC
3800 Ross Tower, 500 N. Akard
Dallas, Texas 75201
Facsimile: 214-978-4360

10.2 Methods of Delivery. All Notices required or permitted to be given hereunder shall be deemed to be duly given: (a) at the time of delivery, if such Notice is personally delivered; or (b) on the third business day after mailing, if such Notice is deposited with the United States Postal Service, postage prepaid, for mailing via certified mail, return receipt requested; or (c) on the next business day, if such Notice is sent by a nationally recognized overnight courier which maintains evidence of receipt; or (d) upon receipt of delivery, if such Notice is sent by facsimile transmission before 5:00 p.m. C.S.T. with a confirmation copy delivered the following day by a nationally recognized overnight courier which maintains

evidence of receipt. Notices shall be effective on the date of receipt. If any Notice is not received or cannot be delivered due to a change in address of the receiving Party, of which notice was not properly given to the sending Party, or due to a refusal to accept by the receiving Party, such Notice shall be effective on the date delivery is attempted.

10.3 Franchise Agreement Notices. The Developer Parties shall notify the City Parties of its receipt of any notice or result of inspection by the Franchisor within thirty (30) days of the receipt of the same, and upon request, the City Parties shall be entitled to a copy of any correspondence from Franchisor or the Owner to Owner's lender regarding the Franchise Agreement. Owner shall notify the City Parties of any Termination, modification, amendment or other material change to the Franchise Agreement within thirty (30) days of its receipt of the same. In addition to the foregoing, the existence of a default under the Franchise Agreement shall be disclosed in writing pursuant to the notice requirements of this Article X as soon as is reasonably possible, but in any event, within three (3) business days of the Developer Parties learning of said default.

ARTICLE XI

GENERAL PROVISIONS

11.1 Negation of Partnership. The Parties specifically acknowledge that the Hotel Complex is a private development, that no Party is acting as the agent of any other in any respect hereunder, and that each Party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the Parties in the businesses of the Developer Parties, the affairs of the City Parties, or otherwise, or cause them to be considered joint venturers or members of any joint enterprise. This Agreement is not intended and shall not be construed to create any third Party beneficiary rights in any Person who is not a Party or a Transferee; and nothing in this Agreement shall limit or waive any rights Owner or Developer may have or acquire against any third Person with respect to the terms, covenants or conditions of this Agreement.

11.2 Approvals and Assistance. Unless otherwise provided in this Agreement, whenever approval, consent, satisfaction, or decision (herein collectively referred to as an "**Approval**"), is required of a Party pursuant to this Agreement, it shall not be unreasonably withheld or delayed. If a Party shall disapprove, the reasons therefore shall be stated in reasonable detail in writing. Approval by a Party to or of any act or request by the other Party shall not be deemed to waive or render unnecessary approval to or of any similar or subsequent acts or requests. Whenever, under this Agreement, the term "approve" (or any grammatical variant thereof, such as "approved" or "approval") is used in connection with the right, power or duty of the City Parties, or any representative board, commission, committee or official of the City Parties, to act in connection with any City Approval, such term shall only include the right to approve, conditionally approve, or disapprove in accordance with the applicable terms, standards and conditions of City Regulations, applicable state or local law and to the extent not inconsistent therewith, this Agreement. In the event the City proposes a Law that the Developer Parties identify to the City as adverse or burdensome on the construction, development, occupancy, use or operation of the Hotel Complex or any portion thereof, City agrees to exercise good faith in hearing the expressed concerns of the Developer Parties to consider potential alternatives to said Law that

achieves the Law's stated public purpose while minimizing unnecessary negative impacts on the Hotel Complex, at the request of the Developer Parties.

11.3 Not A Public Dedication. Except as shown on any approved final plat of the Hotel Site, nothing herein contained shall be deemed to be a gift or dedication of the Hotel Site or any buildings or improvements constructed on the Hotel Site, to the general public, for the general public, or for any public use or purpose whatsoever (except those public benefits described in this Agreement which accrue to the City through the development of local business activity, employment and development, none of which in any way entitle the City or any other governmental or quasi-governmental entity to any gift or dedication of the Hotel Site as private property), it being the intention and understanding of the Parties that this Agreement be strictly limited to and for the purposes herein expressed for the development of the Hotel Site as private property.

11.4 Severability. Invalidation of any of the provisions contained in this Agreement, or of the application thereof to any Person, by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other Person or circumstance and the same shall remain in full force and effect, unless enforcement of this Agreement as so invalidated would be unreasonable or grossly inequitable under all the circumstances or would frustrate the purposes of this Agreement.

11.5 Exhibits. The Exhibits, to which reference is made herein, are deemed incorporated into this Agreement in their entirety by reference thereto.

11.6 Amendment or Termination. Except as expressly provided in this Agreement, this Agreement may be Terminated, modified or amended only by the written consent of the Parties.

11.7 Entire Agreement. This written Agreement and the Exhibits hereto and the additional documents referenced herein, contain all the representations and the entire agreement among the Parties with respect to the subject matter hereof. Upon execution of this Agreement, any prior or contemporaneous 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 the Parties, 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.

11.8 Construction of Agreement. All of the provisions of this Agreement have been negotiated at arms-length among the Parties and after advice by counsel and other representatives chosen by each Party, and the Parties are fully informed with respect thereto. Therefore, this Agreement shall not be construed for or against any Party by reason of the authorship or alleged authorship of any provisions hereof, or by reason of the status of either Party. The provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any Party and consistent with the provisions hereof, in order to achieve the objectives and purpose of the Parties hereunder. The captions preceding the text of each Article and Section are included only for convenience of reference and shall be disregarded in the construction and interpretation of this Agreement.

11.9 Further Assurances; Covenant to Sign Documents. Each Party shall take all actions and do all things, and execute, with acknowledgment or affidavit if required, any and all documents and writings, which may be necessary or proper to achieve the purposes and objectives of this Agreement.

11.10 Governing Law. This Agreement, and the rights and obligations of the Parties, shall be governed by and interpreted in accordance with the laws of the State. All actions to interpret or enforce this Agreement shall be brought in the district courts sitting in and for Ellis County, Texas.

11.11 Signature Pages. For convenience, the signatures of the Parties to this Agreement may be executed and acknowledged on separate pages which, when attached to this Agreement, shall constitute this as one complete Agreement.

11.12 Recording. The Parties agree that this Agreement shall not be recorded. In lieu thereof, the Parties shall prepare a separate Memorandum of Agreement, a form of which is attached hereto as Exhibit "H", to be recorded in the Official Records of Ellis County, Texas.

11.13 Time. Time is of the essence of this Agreement and of each and every term and condition hereof.

11.14 No Personal Liability. No member of Developer or Owner shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement. The City Parties shall look solely to the Hotel and the assets of Owner for the payment of any claim under this Agreement.

{signatures on the following page}

The Parties hereto have duly executed this Agreement to be effective as of the Adoption Date.

CITY:

**THE CITY OF MIDLOTHIAN, TEXAS,
a municipal corporation**

By: _____
Name: _____
Its: _____

MCDC:

**MIDLOTHIAN COMMUNITY
DEVELOPMENT CORPORATION,
a Texas nonprofit corporation**

By: _____
Name: _____
Its: _____

DEVELOPER:

**GATEHOUSE MIDLOTHIAN
DEVELOPMENT, LLC,
a Texas limited liability company**

By: _____
Name: _____
Its: _____

OWNER:

**GATEHOUSE MIDLOTHIAN OWNERSHIP,
LLC,
a Texas limited liability company**

By: _____
Name: _____
Its: _____

EXHIBIT “A”

Conceptual Site Plan

[see attached]

[illegible]

SITE PLAN SUBMISSION

Project number: 13123.709
 day: 06.19.2016

L.1

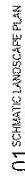


EXHIBIT “B”

Average Bad Weather Day Count

[see attached]

weatherbase

MIDLOTHIAN, TEXAS

Elevation: 750 feet Latitude: 32.29N Longitude: 097.00W



PRECIPITATION

Average Precipitation

Years on Record: 30

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| in | 40.9 | 2.6 | 2.7 | 3.3 | 3.3 | 4.4 | 4.4 | 3.5 | 2.3 | 3.4 | 4.8 | 3.2 | 3.2 |

Average Number of Days With Precipitation

Years on Record: 30

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|------|--------|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Days | 92.5 | 7.6 | 9.5 | 10.1 | 7.1 | 7.7 | 8.2 | 5.6 | 5.5 | 7 | 9.2 | 7.6 | 7.4 |

Most Reported Precipitation in a Month

Years on Record: 25

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----|--------|-----|-----|-----|------|------|-----|-----|-----|-----|------|-----|-----|
| in | 13.5 | 8.6 | 9.3 | 9.1 | 13.5 | 10.2 | 9.4 | 7 | 6.8 | 7.7 | 12.6 | 9.1 | 8.6 |

Least Reported Precipitation in a Month

Years on Record: 25

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| in | --- | --- | --- | --- | --- | 1.4 | 0.2 | --- | --- | --- | --- | --- | --- |

Most Precipitation Reported in a Day

Years on Record: 25

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|----|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| in | 5.7 | 5.1 | 2.9 | 3.1 | 3.8 | 4.4 | 5.5 | 2.8 | 4.6 | 5 | 5.7 | 3.2 | 3.5 |

Avg. No. of Days w/Precip. Above 0.1in/2.5mm

Years on Record: 30

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|------|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Days | 53.6 | 4.2 | 4.5 | 5.6 | 4.6 | 5.3 | 6 | 3.5 | 3.2 | 4.1 | 4.9 | 3.9 | 3.8 |

Avg. No. of Days w/Precip. Above 0.2in/5mm

Years on Record: 25

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|------|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Days | 40 | 4 | 4 | 3 | 5 | 5 | 4 | 2 | 2 | 2 | 3 | 3 | 3 |

Avg. # of Days w/Precip. Above 0.4in/10mm

Years on Record: 25

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|------|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Days | 26 | 2 | 2 | 2 | 3 | 3 | 3 | 1 | 2 | 2 | 2 | 2 | 2 |

Avg. No. of Days w/Precip. Above 0.5in/13mm

Years on Record: 30

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|------|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Days | 27.2 | 2.2 | 1.5 | 2.6 | 2.2 | 2.8 | 3.2 | 1.9 | 1.5 | 2.4 | 2.9 | 2.1 | 1.9 |

Avg. No. of Days w/Precip. Above 1in/25mm

Years on Record: 30

| | ANNUAL | JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
|------|--------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| Days | 12.2 | 1 | 0.5 | 1.3 | 0.7 | 1.1 | 1.3 | 1 | 0.6 | 1 | 1.5 | 1.3 | 0.9 |

EXHIBIT “C”

Form of Comfort Letter

[to be attached]

EXHIBIT “D”

Standard Development Fees

[see attached]

| ANIMAL CONTROL FEES | |
|---------------------|-----|
| TYPE | FEE |

Currently Being Revised

| POLICE DEPARTMENT FEES | |
|-------------------------------|----------|
| TYPE | FEE |
| Alarm Permit | \$ 20.00 |
| Clearance Letters | \$ 2.00 |
| Fingerprinting (Non-Resident) | \$ 10.00 |
| Accident Reports | \$ 6.00 |

| ADMINISTRATION FEES | |
|-----------------------|--|
| TYPE | FEE |
| Information Requests: | |
| 1 to 50 pages | cost per page \$ 0.10 |
| 51 pages & greater | cost per page plus labor and overhead cost \$ 0.10 |

The City follows guidelines established by the Texas Building and Procurement Commission when applicable. The City will not charge for making available for inspection information maintained in standard paper form. Charges for copies are assessed when the City is asked to provide for inspection information that contains confidential information, information that must be edited or redacted or information that is old or voluminous.

CITY OF MIDLOTHIAN**FEE SCHEDULE**

| COMMUNITY SERVICES | | |
|--|----|------------|
| TYPE | | FEE |
| <i>Food Establishment Fees</i> | | |
| Food Establishment Permit (Fixed and Mobile Vendors) (Valid January 1 through December 31) | \$ | 225 |
| Food Establishment Permit (Late Renewals) (Annual) | \$ | 450 |
| Food Establishment Reinspection Fee (per reinspection) | \$ | 225 |
| Temporary Food Permit (per event) | \$ | 30 |
| <i>Mobile Food Vendor</i> | \$ | 595 |
| - Background Check (\$20.00) | | |
| - Solicitor Application Fee (\$50.00) | | |
| - Solicitor Permit Fee (\$300.00) | | |
| - Annual Food Permit (\$225.00) (if renewed before December 31) | | |
| <i>Solicitor Permit</i> | \$ | 145 |
| - Background Check Fee (\$20) | | |
| - Solicitor Application Fee (\$50) | | |
| - Solicitor Permit Fee (\$75) (valid for 60 days) | | |
| <i>Solicitor Permit Note:</i> If a solicitor permit is approved, it is valid for 60 days and <i>each person</i> soliciting is required to have a permit. Some exceptions are made for non-profit groups, charities or political speech. | | |
| <i>Other Fees</i> | | |
| Garage Sale Permit (per sale) | \$ | 5 |
| Alarm Permit (every three years) | \$ | 20 |
| Billboard / Off-Site Advertising Sign Permit (annual) | \$ | 100 |
| Temporary Sign Permit (initial placement) (maximum of 90 consecutive days) | \$ | 50 |
| Temporary Sign Permit (follow up placement) | \$ | 50 |

CITY OF MIDLOTHIAN**FEE SCHEDULE**

| BUILDING INSPECTION FEE SCHEDULES | |
|--|--|
| TYPE | FEE |
| Certificate of Occupancy | \$ 40.00 |
| Change of Occupancy | \$ 40.00 |
| Fence | \$ 25.00 |
| Demolition | \$ 40.00 |
| Temporary Job Site Office | \$ 50.00 |
| In-Ground Swimming Pool | \$ 100.00 |
| House Moving | \$ 50.00 + \$10,000 Bond |
| Re-Inspection/Red Tag | \$ 50.00 |
| Fee calculated as follows based upon valuation (excluding land costs): | |
| \$1.00 - \$500 | \$ 23.50 |
| \$501 - \$2,000 | \$23.50 for the first \$500 plus \$3.05 for each additional \$100, or fraction thereof, to and including \$2,000. |
| \$2,001 - \$25,000 | \$69.25 for the first \$2,000 plus \$14.00 for each additional \$1,000, or fraction thereof, to and including \$25,000. |
| \$25,001 - \$50,000 | \$391.75 for the first \$25,000 plus \$10.10 for each additional \$1,000, or fraction thereof, to and including \$50,000. |
| \$50,001 - \$100,000 | \$643.75 for the first \$50,000 plus \$7.00 for each additional \$1,000, or fraction thereof, to and including \$100,000. |
| \$100,001 - \$500,000 | \$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000, or fraction thereof, to and including \$500,000. |
| \$500,001 - \$1,000,000 | \$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000, or fraction thereof, to and including \$1,000,000. |
| \$1,000,000 and up | \$5,608.75 for the first \$1,000,000 plus \$3.65 for each additional \$1,000, or fraction thereof. |
| Plan Review | Additional fee equal to sixty-five percent (65%) of the permit fee. |

CITY OF MIDLOTHIAN

FEE SCHEDULE

| BUILDING INSPECTION FEE SCHEDULES | |
|--|--|
| Exception #1: One and two family residential - fee calculated at \$52.00/sq. ft. valuation using fee schedule. | |
| Exception #2: Additions, alteration, detached accessory buildings to one and two family residential - fee calculated at \$52.00/sq. ft. maximum valuation using fee schedule. | |
| Grading Permit: The fee for a grading permit shall be deducted from the total fee due for a building permit for the entire project. The fee for a grading permit is calculated as follows: | |
| 50 Cubic Yards or Less | \$ 23.50 |
| 51 to 100 Cubic Yards | \$ 37.00 |
| 101 to 1,000 Cubic Yards | \$37.00 for the first 100 cubic yards plus \$17.50 for each additional 100 cubic yards or fraction thereof. |
| 1,001 to 10,000 Cubic Yards | \$194.50 for the first 1,000 cubic yards plus \$14.50 for each additional 1,000 cubic yards or fraction thereof. |
| 10,000 to 100,000 Cubic Yards | \$325.00 for the first 10,000 cubic yards plus \$66.00 for each additional 10,000 cubic yards or fraction thereof. |
| Walks/Curb Cuts | \$ 50.00 |
| Residential and Commercial less Structure (i.e., parking lot, flatwork): | \$2.00 per \$1,000 valuation |

| ELECTRICAL PERMIT TYPE | FEE |
|--|--|
| Minimum Fee | \$ 40.00 |
| Temporary Service | \$ 50.00 |
| Mobile Homes | \$ 40.00 |
| Swimming Pool, Spa Hot Tub | \$ 40.00 |
| New Service or Upgrade of Service | \$50 - < 150 amps \$100 - 151 to 500 amps \$150 - > 500 amps |
| Electrical Openings | \$0.50 - each up to 100 \$0.25 - each over 100 |
| Appliance, Machines, Controls, Welders, Generators, Signs, Gas Pumps, Yard Lights, Elevators | \$5.00 - each up to 100 \$3.00 - each over 100 |
| Motors | \$3.00 - each < 5 hp \$6.00 - each 5 to 10 hp \$10.00 - each > 10 hp |
| Electrical Contractor License | \$ 150.00 |
| Renew Contractor License | \$ 50.00 |
| Master Electrician License | \$ 100.00 |
| Renew Master Electrician License | \$ 50.00 |
| Journeyman Electrician License | \$ 15.00 |
| Renew Journeyman License | \$ 15.00 |
| Late Renewal | \$ 25.00 |

CITY OF MIDLOTHIAN**FEE SCHEDULE****BUILDING INSPECTION FEE SCHEDULES**

| PLUMBING PERMIT TYPE | FEE |
|-----------------------------|---|
| Minimum Fee | \$ 40.00 |
| Fixture or Trap | \$ 7.00 |
| Building or Trailer Sewer | \$ 15.00 |
| Water Service | \$ 7.00 |
| Gas Piping Outlets | \$5.00 each up to & including 5 \$1.00 each (6 and more) |
| Water Heater | \$ 7.00 |
| Interceptor & Grease Trap | \$ 7.00 |
| Water Line | \$ 7.00 |
| Lawn Sprinkler System | \$ 7.00 |
| Vacuum Breaker | \$ 5.00 |
| Fire Sprinkler System | \$ 50.00 |
| Fire Extinguisher System | \$ 50.00 |

| MECHANICAL PERMIT TYPE | FEE |
|---|--|
| Minimum Mechanical Permit | \$ 40.00 |
| Furnace or Burner | \$9.00 each to 100,000 BTU/H \$11.00 over 100,000 BTU/H |
| Floor Furnace | \$ 9.00 |
| Install, Relocate Suspended Heater, Recessed Wall or Floor Mounted | \$ 9.00 |
| Install, Replace Appliance Vent | \$ 4.00 |
| Boiler Compressor | \$9.00 each < 3 hp/tons \$16.00 each > 3 to 15 hp/tons \$22.00 each > 15 up to 30 hp/tons \$33.00 each > 30 up to 50 hp/tons \$56.00 each > 50 hp/tons |
| Separate Air Handling Unit | \$ 6.00 |
| Mechanical Exhaust Hood | \$ 6.00 |
| Commercial / Industrial Incinerator | \$ 45.00 |

| SIGN PERMIT TYPE | FEE |
|--------------------------------------|--|
| Sign - New or Alteration of Existing | \$ 50.00 |
| Portable Sign | \$50.00 for the display of one portable sign for a period of seven consecutive days in each 3-month of a one year period. |
| Annual Temporary Advertising Device | \$50.00 for the display of one device for five periods in a 12-month period. Each of the five periods consisting of 30 consecutive days. |

CITY OF MIDLOTHIAN

FEE SCHEDULE

COURT MUNICIPAL FINES

| VIOLATION | FINE | VIOLATION | FINE |
|--|--------|---|--------|
| Assault | \$ 260 | Minor in Possession of Alcohol | \$ 159 |
| Assault / Family Violence | \$ 260 | Minor in Possession of Tobacco | \$ 159 |
| Changed Lane When Unsafe | \$ 159 | Motor Vehicle Fuel Theft | \$ 259 |
| Consumption of Alcohol | \$ 260 | No Driver's License (1st Offense) | \$ 159 |
| Contempt of Court | \$ 209 | No Driver's License (2nd Offense) | \$ 259 |
| Criminal Mischief | \$ 260 | No Driver's License (3rd Offense) | \$ 359 |
| Defective Lights | \$ 134 | No Insurance - FMFR (1st Offense) | \$ 259 |
| Disorderly Conduct / Discharging Firearms | \$ 260 | No Insurance- FMFR (2nd Offense) | \$ 459 |
| Disorderly Conduct / Displaying Firearms | \$ 260 | No Insurance- FMFR (3rd Offense) | \$ 759 |
| Disorderly Conduct / Offensive Gesture Display | \$ 260 | No Protective Headgear (Motorcycle) | \$ 134 |
| Disorderly Conduct / Fighting | \$ 260 | No Tobacco Warning Notice Posted | \$ 259 |
| Disorderly Conduct / Language | \$ 260 | Obedience to Signal (Train) | \$ 259 |
| Disregard "No Passing Zone" | \$ 159 | Obstructing Railroad Crossing | \$ 300 |
| Disregard Official Traffic Device | \$ 159 | Obstruction to Driver's View | \$ 134 |
| Disregarding a Police Officer | \$ 259 | Open Container Law | \$ 259 |
| Disregarding School Crossing Guard | \$ 259 | Operate All Terrain Vehicle on Public Roadway | \$ 159 |
| Disregard Signal at Railroad Crossing | \$ 259 | Operate Vehicle with Child in Open Bed | \$ 159 |
| Driver's License Restrictions | \$ 159 | Ordinance (Park Curfew) | \$ 144 |
| Driving on One Way Street the Wrong Way | \$ 159 | Ordinance 334 Noise Disturbance | \$ 159 |
| Driving While License Invalid | \$ 260 | Ordinance 346 Dead Animals | \$ 134 |
| Driving without Lights | \$ 134 | Ordinance 86.33 High Grass / Weeds | \$ 219 |
| Expired Driver's License | \$ 159 | Ordinance 86.51 Truck Route | \$ 104 |
| Expired Vehicle Inspection Certificate | \$ 134 | Ordinance 87.74 Poss. or Discharge of Fireworks | \$ 259 |
| Expired Vehicle Registration | \$ 134 | Ordinance 89.13 Fence around Swimming Pool | \$ 159 |
| Failure to Stop for School Bus | \$ 297 | Ordinance 91.11 Dog Running at Large | \$ 159 |
| Failure to Change Address on Driver's License | \$ 134 | Parked - No Lights | \$ 105 |
| Failure to Control Speed / Unsafe Speed | \$ 159 | Parking Violations TC 545.302 | \$ 105 |
| Failure to Dim Headlights | \$ 134 | Parking Violation - Handicap | \$ 272 |
| Failure to Drive in Single Lane | \$ 159 | Parking City Ordinance | \$ 105 |
| Failure to ID | \$ 259 | Passing authorized emergency vehicle | \$ 259 |
| Failure to Signal | \$ 159 | Permit Unlicensed Driver to Operate Motor Vehicle | \$ 159 |
| Failure to Stop and Exchange Information | \$ 159 | Possession of Narcotic Paraphernalia | \$ 259 |
| Failure to Stop and Render Aid | \$ 259 | Possession of Tobacco on School Property | \$ 159 |
| Failure to Yield Right of Way | \$ 159 | Possession of Alcohol on School Property | \$ 159 |
| Failure to Yield to an Emergency Vehicle | \$ 259 | Public Intoxication | \$ 260 |
| Following too Closely | \$ 159 | Racing, Drag Racing, Exhibition of Acceleration | \$ 209 |
| Illegal, Unsafe or Improper Turn | \$ 159 | Reckless Damage or Destruction | \$ 260 |
| Impeding Traffic | \$ 159 | Red Lights Prohibited | \$ 159 |
| Improper Passing | \$ 134 | Required Signals | \$ 159 |
| Inspection Sticker- None | \$ 134 | Running Stop Sign/Signal Light | \$ 159 |
| Leaving Child Unattended in Vehicle | \$ 259 | Safety Belt Violation (Driver or Passenger) | \$ 159 |
| Leaving the Scene of an Accident (Fled) | \$ 259 | Soliciting without a Permit | \$ 172 |
| License Plate - Not on Front or Rear | \$ 134 | Theft | \$ 260 |
| Littering | \$ 134 | Transporting Child Unsecured | \$ 197 |
| Making Alcohol Available to a Minor | \$ 259 | Transporting Loose Material | \$ 205 |
| License Plate - Not on Front or Rear | \$ 134 | Unsecured Load | \$ 205 |
| Littering | \$ 134 | Wrong Registration Sticker or License Plate | \$ 134 |
| Making Alcohol Available to a Minor | \$ 259 | DUI - Minor / Alcohol | \$ 305 |
| Making Tobacco Available to a Minor | \$ 259 | | |

Speeding - Base fine of \$40.00 (up to 1-10 miles over), plus court costs, plus additional \$5.00 for each mile over limit.

Speeding in a School Zone or Construction Zone - \$10.00 per mile for each mile over the speed limit.

The charge of *DRIVING* with an *EXPIRED DRIVER'S LICENSE*, *EXPIRED MVI* OR *EXPIRED MVR* may be dismissed if the defendant takes the proper corrective action within 10 days from the date the citation was issued and provides proper proof to the Court within the time requirements.

Service Fees:

| | |
|--------------------|-------|
| Residential Alarms | \$ 20 |
| Accidents Reports | \$ 6 |

CITY OF MIDLOTHIAN

FEE SCHEDULE

| DEVELOPMENT SERVICES | |
|--|---|
| TYPE | FEE |
| Zone Change - Standard Zoning District | \$500 + \$10/acre |
| Zone Change - Planned Development | \$500 + \$30/acre |
| Specific Use Permit | \$300 + \$10/acre |
| Zoning Board of Adjustment Action | \$ 200 |
| Miscellaneous Application: Masonry Exemption, ROW Abandonment, Septic Waiver, Subdivision Ordinance Variance, etc. | \$ 100 |
| Annexation / Deannexation | \$ 250 |
| Zoning Verification Letter | \$ 50 |
| Sign Permit - Temporary | \$ 50 |
| Sign Permit - Permanent | \$ 100 |
| Site Plan Review | \$300 + \$5 per 1,000 s.f. > 20,000 s.f. |
| Final Plat Application | \$400 + \$10 per lot |
| Preliminary Plat Application | \$300 + \$10 per lot |
| Replat Application | \$300 + \$10 per lot |
| Amended Plat Application | \$250 + \$10 per lot |
| Minor Plat Application | \$ 200 |
| Oil and Gas Drilling Fees: | |
| - New Drilling Specific Use Permit | \$300 + \$10/acre |
| - Amended Drilling Specific Use Permit | \$300 + \$10/acre |
| - New Drilling Permit | \$ 5,000 |
| - Amended Drilling Permit | \$ 2,500 |
| Emergency Plat Filing (72 hour turnaround) | \$ 300 |
| Civil Engineering Plan Review (Grading, Paving, Utility and Drainage Facilities) | \$500 plus \$250 for Each Resubmittal |
| Development Construction Inspection Fee (Grading, Paving, Utility and Drainage Facilities) | 3% of Infrastructure Construction Cost |
| Flood Plain Development Application Fee | \$500 + cost of 3rd party review (not to exceed \$2,500) |
| Gas Well Inspection Fee (per gas well) | \$ 7,500.00 |
| Gas Well Annual Registration Fee (per operating well) | \$ 1,000.00 |
| Gas Well Abandonment Fee (per gas well) | \$ 700.00 |

| PARK FEES | | | |
|---|----|-----------------------------------|--------------|
| TYPE | | CITY RESIDENT | NON-RESIDENT |
| PARTICIPATION FEES (PER SEASON)* | | | |
| Youth | \$ | 5.00 | \$ 15.00 |
| Adults | \$ | 10.00 | \$ 20.00 |
| * This fee is collected by sports associations and organizations and paid to the City of Midlothian. | | | |
| FIELD RENTAL FEES (ATHLETIC FIELDS/COURTS) | | | |
| Unlit Fields | | \$15 Per Field, Per Hour | |
| Lit Fields** | | \$30 Per Field, Per Hour | |
| Tournament Fee | | \$150 Per Field, Per Day | |
| Tennis Court | | \$2 Per Court, Per Hour | |
| ** This fee is paid in advance at the time of reserving the field. Fee includes coverage for the number of hours the lights are required for the reservation. | | | |
| PICNIC RENTAL | | | |
| Gazebo | | \$10.00 Per Hour / 2 Hour Minimum | |
| Pavilion | | \$10.00 Per Hour / 2 Hour Minimum | |

CITY OF MIDLOTHIAN

FEE SCHEDULE

| UTILITY IMPACT FEES | | | | |
|---------------------|-------------------------------|---------------|---------------|----------------|
| Meter Size | Equivalent Service Unit (ESU) | Water | Sewer | Total for Both |
| 5/8" | 1 | \$ 1,880.00 | \$ 2,771.00 | \$ 4,651.00 |
| 1" | 1.4 | \$ 2,632.00 | \$ 3,879.40 | \$ 6,511.40 |
| 2" | 4 | \$ 7,520.00 | \$ 11,084.00 | \$ 18,604.00 |
| 3" | 14 | \$ 26,320.00 | \$ 38,794.00 | \$ 65,114.00 |
| 4" | 24 | \$ 45,120.00 | \$ 66,504.00 | \$ 111,624.00 |
| 6" | 50 | \$ 94,000.00 | \$ 138,550.00 | \$ 232,550.00 |
| 8" | 72 | \$ 135,360.00 | \$ 199,512.00 | \$ 334,872.00 |
| 10" | 116 | \$ 218,080.00 | \$ 321,436.00 | \$ 539,516.00 |

| ROADWAY IMPACT FEES | | | | | | | |
|---|--|--|---|--|----------------|--|------------------------------------|
| Single-Family Detached Service Unit | | | | | | | |
| RATES | SERVICE AREA 1 | SERVICE AREA 2 | SERVICE AREA 3 | SERVICE AREA 4 | SERVICE AREA 5 | SERVICE AREA 6 | SERVICE AREA 7 |
| # Development Units | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Service Unit Rate | \$ 4.51 | \$ 4.51 | \$ 4.51 | \$ 4.51 | \$ 4.51 | \$ 4.51 | \$ 4.51 |
| Service Area Rate | \$ 123.67 | \$ 123.67 | \$ 123.67 | \$ 123.67 | \$ - | \$ 123.67 | \$ - |
| Roadway Impact Fee | \$ 557.75 | \$ 557.75 | \$ 557.75 | \$ 557.75 | \$ - | \$ 557.75 | \$ - |
| SUBDIVISION | Bryant Street Highland Meadows Millbrook Northridge Overlook Estates | Ashford Prairie Kensington Long Branch Meadows @ Long Branch Mockingbird Old Farmhouse Park Place Rose Estates Texanna Ranch | Crystal Forest VII Honeysuckle MidTowne Somerset Spring Creek Twin Creeks Hidden Meadow | Cotton Creek Ranch Mid Meadows V Villa @ Meadows Westside Preserve Woodcreek | | Brandi Ridge Country South Fox Run Hunters Glen \$22.72 Lawson Farms Mt. View Addition Rosebud Sweetwater Creek | 2nd Street Quarters Green Acres |
| FEES REVISED AS OF 07/12/11 PER APPROVAL & ORDINANCE (AGENDA 2011-23) | | | | | | | |

* Roadway impact fee is calculated as follows: # Development Units * Service Unit Rate * Service Area Rate

ROADWAY IMPACT FEE CALCULATIONS

| Category | Land Use | Development Units | Service Units |
|-------------|--------------------------------------|-------------------|---------------|
| Residential | Single Family Detached | Dwelling Units | 4.51 |
| | Apartment | Dwelling Units | 2.77 |
| | Condominium/Townhouse | Dwelling Units | 1.43 |
| | Retirement Community | Dwelling Units | 0.87 |
| | Independent Senior Living Facility | Dwelling Units | 0.84 |
| | Elderly Housing - Attached | Dwelling Units | 0.52 |
| | Elderly Housing - Detached | Dwelling Units | 0.87 |
| | Others Not Specified* | Dwelling Units | 4.29 |
| Office | General Office Building | 1,000 sq.ft. GFA | 7.19 |
| | Government Office Building | 1,000 sq.ft. GFA | 5.84 |
| | Corporate Headquarters Building | 1,000 sq.ft. GFA | 6.71 |
| | Medical-Dental Office Building | 1,000 sq.ft. GFA | 13.34 |
| | U.S. Post Office | 1,000 sq.ft. GFA | 10.31 |
| | Business Park | 1,000 sq.ft. GFA | 6.23 |
| | Research & Development Center | 1,000 sq.ft. GFA | 5.16 |
| | Others Not Specified* | 1,000 sq.ft. GFA | 6.23 |
| Commercial | Retail/Shopping Center | 1,000 sq.ft. GFA | 3.71 |
| | Quality Restaurant | 1,000 sq.ft. GFA | 4.72 |
| | Fast Food Restaurant w/Drive-Through | 1,000 sq.ft. GFA | 14.26 |
| | High Turnover Restaurant | 1,000 sq.ft. GFA | 6.79 |
| | Gas Station w/Convenience Market | 1,000 sq.ft. GFA | 8.46 |
| | Convenience Market w/Gasoline Pumps | 1,000 sq.ft. GFA | 5.16 |
| | Grocery/Supermarket | 1,000 sq.ft. GFA | 3.01 |
| | Discount Club | 1,000 sq.ft. GFA | 3.21 |
| | Auto Sales | 1,000 sq.ft. GFA | 2.83 |
| | Video Rental Store | 1,000 sq.ft. GFA | 4.20 |
| | Bank Drive-In | 1,000 sq.ft. GFA | 12.75 |
| | Bank Walk-In | 1,000 sq.ft. GFA | 5.99 |
| | Pharmacy/Drugstore w/Drive-Through | 1,000 sq.ft. GFA | 3.92 |
| | Pharmacy/Drugstore w/o Drive-Through | 1,000 sq.ft. GFA | 3.45 |
| | Apparel Store | 1,000 sq.ft. GFA | 1.87 |
| | Movie Theater | Screens | 4.86 |
| | Furniture Store | 1,000 sq.ft. GFA | 0.31 |
| | Home Improvement Superstore | 1,000 sq.ft. GFA | 1.72 |
| | Electronic Superstore | 1,000 sq.ft. GFA | 2.00 |
| | Hardware/Paint Store | 1,000 sq.ft. GFA | 1.37 |
| | Building Materials/Lumber Store | 1,000 sq.ft. GFA | 1.27 |
| | Nursery (Garden Center) | 1,000 sq.ft. GFA | 1.76 |
| | Nursery (Wholesale) | 1,000 sq.ft. GFA | 1.48 |
| | Hotel | Rooms | 0.98 |
| | Motel | Rooms | 0.78 |
| | All Suites Hotel | Rooms | 0.91 |
| | Auto Care Center | 1,000 sq.ft. GFA | 2.63 |
| | Quick Lube Shop | 1,000 sq.ft. GFA | 2.61 |
| | Auto Parts Sales | 1,000 sq.ft. GFA | 3.01 |
| | Tire Superstore | 1,000 sq.ft. GFA | 4.67 |
| | Wholesale Tire Store | 1,000 sq.ft. GFA | 3.55 |
| | Mini-Warehouse/Self Storage | 1,000 sq.ft. GFA | 0.66 |
| | Golf Course | Holes | 3.17 |
| | Golf Driving Range | Positions | 1.43 |
| | Multi-Recreational Facility | 1,000 sq.ft. GFA | 2.89 |
| | Others Not Specified* | 1,000 sq.ft. GFA | 2.22 |

ROADWAY IMPACT FEE CALCULATIONS

| Category | Land Use | Development Units | Service Units |
|-------------------|--------------------------|-------------------|---------------|
| Industrial | General Light Industrial | 1,000 sq.ft. GFA | 2.83 |
| | Manufacturing | 1,000 sq.ft. GFA | 3.00 |
| | Industrial Park | 1,000 sq.ft. GFA | 3.43 |
| | Warehousing | 1,000 sq.ft. GFA | 1.13 |
| | Truck Terminal | 1,000 sq.ft. GFA | 3.20 |
| | Others Not Specified* | 1,000 sq.ft. GFA | 2.82 |
| Rail Port | TIRZ | N/A | N/A |
| Institutional | Private School (K-12) | Students | 0.28 |
| | Junior/Community College | Students | 0.20 |
| | University/College | Students | 0.42 |
| | Library | 1,000 sq.ft. GFA | 3.93 |
| | Day Care Center | Students | 0.54 |
| | Hospital | Beds | 2.70 |
| | Nursing Home | Beds | 0.46 |
| | Assisted Living Center | Beds | 0.46 |
| Places of Worship | Cemetery | Acres | 0.83 |
| | Waived by Council | 1,000 sq.ft. GFA | N/A |

FEES REVISED 07/12/11 BY ORDINANCE 2011-23 (AGENDA 2011-265)

CITY OF MIDLOTHIAN

FEE SCHEDULE
UTILITY BILLINGUTILITY BILLING
WATER & WASTEWATER RATES

MONTHLY WATER RATES

Minimum Customer Charge
First 2,000 Gallons

| Meter Size | Within City Limits | Outside City Limits |
|--------------------|-----------------------|------------------------|
| ¾" | \$ 22.57 | \$ 27.08 |
| 1" | \$ 33.72 | \$ 40.46 |
| 1½" | \$ 37.89 | \$ 45.47 |
| 2" | \$ 57.40 | \$ 74.88 |
| 3" | \$ 89.52 | \$ 156.00 |
| 4" | \$ 137.43 | \$ 218.40 |
| 6" | \$ 183.38 | \$ 312.00 |
| 8" | \$ 242.86 | \$ 499.20 |
| Fire Hydrant Meter | \$ 208.00 | |

MONTHLY WATER RATES

Volume Charge per 1,000 Gallons
Added to Minimum Customer Charge After First 2,000 Gallons

| Type | Within City Limits | Outside City Limits |
|------------------------------|-----------------------|------------------------|
| Residential | | |
| - 2,001 to 10,000 gallons | \$ 3.70 | \$ 4.44 |
| - 10,001 to 20,000 gallons | \$ 4.45 | \$ 5.34 |
| - 20,001 gallons and greater | \$ 5.20 | \$ 6.24 |
| Commercial | | |
| - 2,001 gallons and above | \$ 3.78 | \$ 5.60 |

MONTHLY WASTEWATER RATES

Base Rates

| Type | Within City Limits | Inside Wastewater Only | Outside City Limits |
|-------------|-----------------------|------------------------------|------------------------|
| Residential | \$ 19.15 | \$ 22.10 | \$ 22.98 |
| Commercial | \$ 39.39 | \$ 44.67 | \$ 47.27 |

MONTHLY WASTEWATER RATES

Volume Charge per 1,000 Gallons (Based on Winter Average)*
Added to Base Rates

| Type | Within City Limits | Inside Wastewater Only | Outside City Limits |
|-------------|-----------------------|------------------------------|------------------------|
| Residential | \$ 4.99 | \$ 5.76 | \$ 5.99 |
| Commercial | \$ 4.99 | \$ 5.76 | \$ 5.99 |

*Wastewater volume (gallons used) is based upon the preceding winter average consumption of water. This average is calculated on the water used during the months of mid-November through mid-February. These averages are recalculated and adjusted on May 1 of each year.

CITY OF MIDLOTHIAN**FEE SCHEDULE
UTILITY BILLING****UTILITY BILLING
FEE SCHEDULE**

| UTILITY DEPOSITS | Within City Limits | Outside City Limits |
|---|-------------------------------|--------------------------------|
| Water Only/Water & Sewer - Residential | \$ 100.00 | \$ 100.00 |
| Water Only/Water & Sewer - Small Commercial | \$ 100.00 | \$ 100.00 |
| Water Only/Water & Sewer - Industrial | \$ 150.00 | \$ 150.00 |
| Sewer Only | \$ 100.00 | \$ 100.00 |
| Fire Hydrant Meter (Construction) | \$ 600.00 | \$ 600.00 |
| RESIDENTIAL WASTE DISPOSAL | Within City Limits | Outside City Limits |
| Garbage Fee | \$ 12.26 | N/A |
| Recycling Fee | \$ 1.95 | N/A |
| OTHER UTILITY BILLING CHARGES | Within City Limits | Outside City Limits |
| Service Application Fee | \$ 25.00 | \$ 25.00 |
| Damaged / Broken Lock | \$ 40.00 | \$ 60.00 |
| Meter Calibration under 1" | \$ 25.00 | \$ 25.00 |
| Meter Calibration over 1" | \$ 30.00 | \$ 30.00 |
| After Hours Water Cut-Off | \$ 50.00 | \$ 50.00 |
| 72-hour Temporary Service | \$ 30.00 | \$ 30.00 |
| Home Inspection Fee | \$ 30.00 | \$ 30.00 |
| Meter Re-Read (If Correct) | \$ 15.00 | \$ 15.00 |
| Late Fees: | | |
| Balance of \$6.00 to \$50.00 | \$ 5.00 | \$ 5.00 |
| Balance over \$51.00 | 10% of Balance | 10% of Balance |
| Reconnect Fees: | | |
| During Business Hours | \$ 30.00 | \$ 30.00 |
| After Business Hours | \$ 50.00 | \$ 50.00 |
| Return Check Fees | \$ 25.00 | \$ 25.00 |
| Tampering Fee (Plus Repair Costs) - 1st Offense | \$ 60.00 | \$ 60.00 |
| Tampering Fee (Plus Repair Costs) - 2nd Offense | \$ 120.00 | \$ 120.00 |
| Ordinance Violation (Per Day) | \$ 200.00 | \$ 200.00 |

CITY OF MIDLOTHIAN**FEE SCHEDULE
UTILITY OPERATIONS****UTILITY OPERATIONS
FEE SCHEDULE**

| METERS | | FEE |
|---|----|-------------------------|
| ¾" Meter (Irrigation or Domestic) | \$ | 175.00 |
| 1" Meter (Irrigation or Domestic) | \$ | 250.00 |
| 2" Meter (Irrigation or Domestic) | \$ | 750.00 |
| Compound Meter | | To Be Determined |
| Meter Relocate | \$ | 400.00 |
| WATER TAPS | | FEE |
| 1" Tap (Irrigation or Domestic) | \$ | 750.00 |
| 2" Tap (Irrigation or Domestic) | \$ | 775.00 |
| > 2" Tap | | To Be Determined |
| Impact Fees | | See Impact Fee Schedule |
| SEWER SERVICE | | FEE |
| 4" Sewer Service Line (Including Materials) | \$ | 605.00 |
| Impact Fees | | See Impact Fee Schedule |
| STREET REPAIR / BORING | | FEE |
| Street Repair - Minimum Base Charge | \$ | 500.00 |
| plus Asphalt Replacement (Per Square Yard) | \$ | 75.00 |
| plus Concrete Replacement (Per Square Yard) | \$ | 90.00 |
| Street Boring (Per Linear Foot - \$500 Minimum) | \$ | 125.00 |
| CROSS-CONNECTION CONTROL FEES (BACKFLOW) | | FEE |
| Backflow Test Processing Fee (Per Test) | \$ | 35.00 |
| Tester Registration Fee (Annually) | \$ | 40.00 |
| Backflow Non-Compliance Fine (Per Day) | \$ | 2,000.00 |

EXHIBIT “E”

Permitted Title Exceptions

[see attached]

EXHIBIT E

- a. Any visible and apparent easements on or across the property herein described, which are not shown of record.
- b. Any portion of the subject property lying within the boundaries of any road or roadway.
- c. Easements or claims of easements which are not filed of record.
- d. Certain documents recorded in the public records may have language restricting land ownership or use because of race, color, creed, national origin, religion, disabilities, handicap, sex, or familial status (called herein "Personal Restrictions"). Federal law prohibits enforcement of such personal restrictions and even limits the ability of the title company to report or show them. To the extent such personal restrictions are contained in any document listed as an exception to title in this insuring form, such personal restrictions or covenants are omitted from the exception. If the Company or its title insurance agent have provided copies of documents containing such personal restrictions or covenants, we are simply providing a true copy of the recorded document and do not publish, state, or imply such personal restrictions or covenants are enforceable.
- e. Right of way easements to Magnolia Pipe Line Company as recorded in Volume 431, Page 219, Volume 431, Page 220 and Volume 431, Page 225, Deed Records, Ellis County, Texas, as modified by Partial Release Agreement by Mobil Pipe Line Company dated August 13, 1997, filed of record August 18, 1997, under Clerk's File Number 9714603.
- f. Encroachment of fence along the northerly most west property line and fence not exactly on the line on the northerly most east property line of subject tract, all as shown on survey of subject tract, dated July, 1997, prepared by Dale A. Smith, RPLS #4412.

EXHIBIT “F”

Construction Milestones

[see attached]

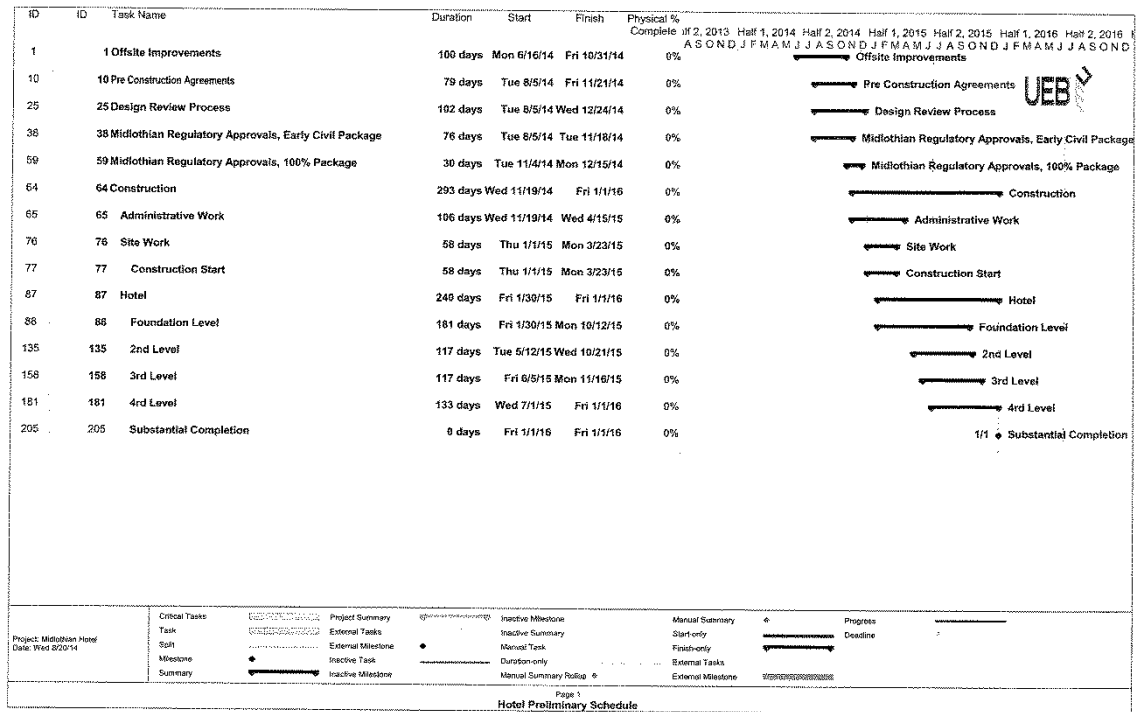


EXHIBIT “G”

Form of Memorandum of Agreement

[to be attached]