

Dane County Contract Cover Sheet

Res 015

Dept./Division	Alliant Energy Center
Vendor Name	W-R Properties LLC
Vendor MUNIS #	12652
Brief Contract Title/Description	This agreement gives the County's approval for the three current Clarion Hotel owners to assign their ground lease with the County to 2110 Rimrock Acquisition Partners, LLC.
Contract Term	Current Ground Lease Ends 3-31-2050
Total Contract Amount	\$ N/A

Contract # <small>Admin will assign</small>	14343
Addendum	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of Contract	
<input type="checkbox"/>	Dane County Contract
<input type="checkbox"/>	Grant
<input type="checkbox"/>	County Lessee
<input checked="" type="checkbox"/>	County Lessor
<input type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input type="checkbox"/>	Other

Purchasing Authority	<input type="checkbox"/> \$11,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$11,000 – \$37,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input type="checkbox"/> Over \$37,000 (\$25,000 Public Works) (Formal RFB/RFP required)	RFB/RFP #
	<input type="checkbox"/> Bid Waiver – \$37,000 or under (\$25,000 or under Public Works)	
	<input type="checkbox"/> Bid Waiver – Over \$37,000 (N/A to Public Works)	
	<input checked="" type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	

MUNIS Req.	Org Code	Obj Code	Amount	\$
Req #	Org Code	Obj Code	Amount	\$
Year	Org Code	Obj Code	Amount	\$

Resolution	A resolution is required if the contract exceeds \$100,000 (\$40,000 Public Works). A copy of the Resolution must be attached to the contract cover sheet.				
	<input checked="" type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works) – a resolution is not required.				
	<input type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.			Res #	015
	<input type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.			Year	2021

Contract Review/Approvals				
Initials	Dept.	Date In	Date Out	Comments
mg	Received by DOA	5/6/21		
	Controller			approvals from all departments via email attached herein
	Purchasing			
	Corporation Counsel			
	Risk Management			
	County Executive			

Dane County Dept. Contact Info		Vendor Contact Info	
Name	Brent Kyzer-McHenry	Name	John Walsh
Phone #	608-267-3982	Phone #	608-283-6744
Email	McHenry.Brent@alliantenergycenter.com	Email	JGWalsh@axley.com
Address	1919 Alliant Energy Center Way Madison, WI 53713	Address	Axley Brynelson LLP 2 E. Mifflin St. #200 Madison, WI 53703

Certification: The attached contract is a:	
<input type="checkbox"/>	Dane County Contract <u>without</u> any modifications.
<input type="checkbox"/>	Dane County Contract <u>with</u> modifications. The modifications have been reviewed by:
<input checked="" type="checkbox"/>	Non-standard contract.

Contract Cover Sheet Signature

Department Approval of Contract		
Dept. Head / Authorized Designee	Signature	Date
	Printed Name	
	Brent Kyzer-McHenry	

Contracts Exceeding \$100,000

Major Contracts Review – DCO Sect. 25.11(3)

Director of Administration	Signature	Date
	Comments	
Corporation Counsel	Signature	Date
	Comments	

Goldade, Michelle

From: Goldade, Michelle
Sent: Thursday, May 6, 2021 10:12 AM
To: Hicklin, Charles; Clow, Carolyn; Gault, David; Lowndes, Daniel
Cc: Stavn, Stephanie; Oby, Joe
Subject: Contract #14343
Attachments: 14343.pdf

Tracking:	Recipient	Read	Response
	Hicklin, Charles	Read: 5/6/2021 11:02 AM	Approve: 5/6/2021 11:02 AM
	Clow, Carolyn		Approve: 5/6/2021 11:16 AM
	Gault, David	Read: 5/6/2021 10:19 AM	Approve: 5/6/2021 10:21 AM
	Lowndes, Daniel		Approve: 5/6/2021 10:53 AM
	Stavn, Stephanie	Read: 5/6/2021 11:13 AM	
	Oby, Joe		

Contract #14343

Department: Alliant Energy Center

Vendor: W-R Properties LLC

Contract Description: Agreement to approve the assignment of Clarion Hotel Ground Lease to 2110 Rimrock Acquisition Partners LLC (Res 015)

Contract Term: 6/1/21 – 3/31/2050

Contract Amount: \$--

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Thanks much,
Michelle

Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703
PH: 608/266-4941
Fax: 608/266-4425
TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays in accordance with COVID 19 response guidelines.

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2021 RES-015

CONSENTING TO ASSIGNMENT OF HOTEL GROUND LEASE AT THE ALLIANT ENERGY CENTER

Ragatz LLP, the assignee under an existing ground lease for a hotel at the Alliant Energy Center, desires to assign its interests in the lease to Rimrock Acquisition Partners, LLC. Paragraph 13.1 of the lease requires the express consent of both the county board and the county executive. This request for consent to an assignment results from the intention of Ragatz LLP to sell the hotel to Rimrock Acquisition Partners, LLC.

NOW, THEREFORE BE IT RESOLVED, that the ground lease assignment is hereby approved.

BE IT FINALLY RESOLVED, that the County Executive and County Clerk are authorized to sign the ground lease assignment documents.

ASSIGNMENT OF LEASE

This Assignment of Lease ("**Assignment**"), which may be executed in counterparts, is entered into by and among Ragatz LLP, a Wisconsin limited liability partnership, State Street Partners I, LLP, a Wisconsin limited liability partnership, and Oriental Specialties, Inc., a Wisconsin corporation, as tenants in common (collectively, the "**Assignor**"), and 2110 Rimrock Acquisition Partners, LLC, a Delaware limited liability company ("**Assignee**"), and consented to by Dane County ("**County**"), a quasi-municipal corporation organized and existing under the laws of the State of Wisconsin.

RECITALS:

WHEREAS, Legacy Hospitality LLC ("**Legacy**") and the County entered into Ground Lease No. 2419 dated July 14, 1998, attached hereto with all amendments and incorporated herein as **Exhibit A** (hereinafter, the "**Lease**"); and

WHEREAS, on April 21, 2000, Legacy assigned its interest and obligations in the Lease to Expo Hospitality Partners LLC ("**Expo**"), the County having consented thereto; and

WHEREAS, on December 22, 2000, Expo assigned its interest and obligations in the Lease to GLC Madison Hotel, LLC ("**GLC**"), the County having consented thereto; and

WHEREAS, on December 12, 2004, GLC assigned its interest and obligations in the Lease to the Assignor, the County having consented thereto; and

WHEREAS, Assignor wishes to assign its interest and obligations in the Lease to Assignee, Assignee desires to assume all rights, duties, and liabilities that Assignor has under the Lease, including payment of rent to the County; and

WHEREAS, the Lease as assigned to Assignor requires the County's express written consent in order for Assignor to assign its rights and responsibilities under the Lease to a third party;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties to this Assignment, the receipt and sufficiency of which is acknowledged by each party for itself, the parties agree as follows:

1. Assignor assigns all rights and responsibilities it has in and to the Lease to Assignee.
2. Assignee accepts this Assignment of the Lease from Assignor and agrees to be bound, as Lessee, by the terms of the Lease as originally executed and thereafter amended, including the duty to pay rent to the County.
3. The County consents to the Assignment of the Lease to Assignee.
4. This Assignment shall be effective upon execution by all parties.

IN WITNESS WHEREOF, Assignor, Assignee, and the County, by their respective authorized agents, have caused this Assignment to be executed effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

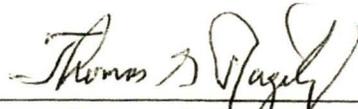
[signature pages follow]

ASSIGNOR:

RAGATZ LLP, a Wisconsin limited liability partnership

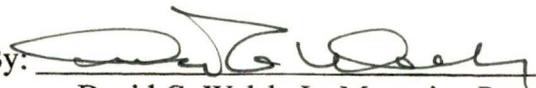
By: TGR Corp., a Wisconsin corporation, Its
Managing Partner

Date Signed: _____, 2021

By: 
Thomas G. Ragatz, President

STATE STREET PARTNERS I, LLP, a
Wisconsin limited liability partnership

Date Signed: _____, 2021

By: 
David G. Walsh, Its Managing Partner

ORIENTAL SPECIALTIES, INC., a Wisconsin
corporation

Date Signed: _____, 2021

By: _____
Frederic W. Ragatz, President

ASSIGNEE:

RIMROCK ACQUISITION PARTNERS, LLC, a
Delaware limited liability company

Date Signed: _____, 2021

By: _____
Title: _____
Print Name: _____

ASSIGNOR:

RAGATZ LLP, a Wisconsin limited liability partnership

By: TGR Corp., a Wisconsin corporation, Its Managing Partner

Date Signed: _____, 2021

By: _____
Thomas G. Ragatz, President

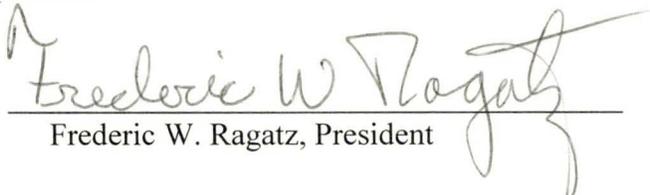
STATE STREET PARTNERS I, LLP, a Wisconsin limited liability partnership

Date Signed: _____, 2021

By: _____
David G. Walsh, Its Managing Partner

ORIENTAL SPECIALTIES, INC., a Wisconsin corporation

Date Signed: _____, 2021

By: 
Frederic W. Ragatz, President

ASSIGNEE:

2110 RIMROCK ACQUISITION PARTNERS, LLC, a Delaware limited liability company

Date Signed: _____, 2021

By: _____
Title: _____
Print Name: _____

COUNTY:

DANE COUNTY, a Wisconsin quasi-municipal corporation

Date Signed: _____, 2021

By: _____
Joseph T. Parisi, County Executive

By: _____
_____, County Clerk

EXHIBIT A

Ground Lease No. 2419

See Attached

Lease No. 2419

Dane County, Wisconsin

and

Ground Lease

Dane County Exposition Center

Madison, Wisconsin

Dane County Exposition Center

Madison, Wisconsin

EXHIBIT A

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3 DANE COUNTY, WISCONSIN
4 AGREEMENT AND LEASE OF PREMISES
5 DANE COUNTY EXPOSITION CENTER
6 MADISON, WISCONSIN
7
8

9 THIS LEASE, made and entered into by and between the County of Dane,
10 Wisconsin, a quasi-municipal corporation organized and existing under the laws of
11 the State of Wisconsin (hereinafter referred to as "COUNTY"), and Legacy
12 Hospitality LLC, organized and existing under the laws of the State of Wisconsin
13 (hereinafter referred to as "LESSEE");
14

15 WHEREAS COUNTY controls and operates a facility known as the Dane County
16 Exposition Center, located in the Town of Madison, State of Wisconsin, which facility
17 and any additions or improvements thereto or changes therein which COUNTY
18 hereafter makes or authorizes are hereinafter collectively called "the exposition
19 center"; and
20

21 WHEREAS COUNTY has determined that the patrons of its exposition center would
22 be better served by a hotel located on its exposition center grounds; and
23

24 WHEREAS LESSEE is able and willing to construct, operate and maintain a first
25 class hotel on COUNTY's exposition center grounds;
26

27 WHEREAS LESSEE desires to construct and operate a hotel, with a minimum of 175
28 rooms, and pedestrian connector to the Exposition Hall;
29

30 NOW, THEREFORE, for and in consideration of the mutual covenants and
31 agreements herein contained, COUNTY and LESSEE do hereby mutually undertake,
32 promise and agree, each for itself and its successors and assigns, as follows:
33

34
35 **ARTICLE I - TERM OF AGREEMENT**
36

37 1.1 There shall be a preliminary term of this Lease during which LESSEE shall be
38 obligated to solicit financing for construction of a hotel. The preliminary term shall
39 commence upon execution of this Lease and shall expire 90 days thereafter. If at
40 the expiration of the preliminary term LESSEE notifies COUNTY that LESSEE has
41 been unable to obtain financing, this Lease shall be null and void. If no such notice
42 has been received, the Primary Term of this Lease, as set forth in section 1.2 below,
43 shall automatically commence without further action by either party.
44
45

46 1.2 The term of this Lease (the "Primary Term") shall be for a period commencing
47 immediately upon expiration of the preliminary term (the "Commencement Date"),
48 and expiring fifty (50) years from "Substantial Completion", as defined in section 3.1,
49 below, unless sooner terminated as hereinafter provided. Upon notice to COUNTY
50 of its intent to do so, LESSEE may elect to extend the primary term by fifteen (15)
51 years, and upon the same notice, LESSEE may elect to extend this Lease a second
52 time for an additional ten (10) years. The total length of the primary term and the
53 extensions shall not exceed 75 years. A notice of intent to extend this Lease shall
54 be in writing and shall be delivered to COUNTY by certified mail at least 180 days,
55 but not more than 300 days, prior to the expiration of the-then existing term.

56
57 1.3 LESSEE understands that it must obtain a conditional use permit for the
58 operation of a hotel on the Leased Premises from COUNTY's zoning & natural
59 resources committee. LESSEE agrees to make timely application for such permit.
60 By entering into this Lease, LESSEE understands and agrees that COUNTY does
61 not guarantee that any such conditional use permit will be issued by COUNTY's
62 zoning & natural resources committee, and the committee's decision to issue or deny
63 the required conditional use permit will be decided on its own merits without
64 reference to the existence of this Lease. Should COUNTY's zoning & natural
65 resources committee refuse to issue the conditional use permit for the operation of a
66 hotel, this Lease shall be null and void, and any payments theretofore made by
67 LESSEE to COUNTY shall be refunded to LESSEE. COUNTY assumes no
68 responsibility for any other expenses or costs whatsoever which are paid or payable
69 to third parties or which are indirect costs of LESSEE itself and which are or may be
70 incurred by LESSEE in anticipation of the issuance of a conditional use permit for the
71 operation of a hotel on the Leased Premises.

72
73 1.4 Upon the expiration of the Primary Term or any extension thereof, COUNTY
74 shall be free to solicit new tenants for the Leased Premises, to negotiate with one or
75 more of them and to consummate a new lease of the Leased Premises with a third
76 party on such terms and for such purpose as COUNTY deems appropriate in its sole
77 discretion, which successor lease will not commence until expiration of the Primary
78 Term of this Lease or any extension thereof. Thereafter, LESSEE shall have no
79 further or other rights whatsoever concerning renewal of this Lease, the Leased
80 Premises or any facility constructed thereon.

81
82 1.5 In the event COUNTY elects to continue operation of the hotel after expiration
83 or termination of this Lease, LESSEE shall have first right of refusal to operate such
84 hotel on such terms as tendered to COUNTY by any other bona fide potential hotel
85 operator acceptable to COUNTY.

86
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88
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91 ARTICLE II - LEASED PREMISES

92
93 2.1 COUNTY, in consideration of the compensation, covenants and agreements
94 set forth herein to be kept and performed by LESSEE, does hereby lease to
95 LESSEE, upon the conditions hereinafter set forth, all of which LESSEE accepts, the
96 Leased Premises consisting of 136,000 square feet of land surface area, more or
97 less, (hereinafter referred to as "Leased Premises") as more particularly described
98 on Exhibit "A", for use by LESSEE solely as a commercial hotel operation. LESSEE
99 shall also have rights of ingress to and egress from the Leased Premises generally
100 as shown on Exhibit "A", subject to the right of COUNTY to make reasonable
101 modifications thereto for the benefit of the operation of the exposition center and
102 related activities.

103
104 2.2 LESSEE understands that a certified survey map of the parcel which consists
105 of the Leased Premises will have to be made by a registered land surveyor.
106 LESSEE shall reimburse COUNTY its actual costs incurred in the preparation of the
107 survey, provided that LESSEE shall be under no obligation to do so unless and until
108 the Primary Term commences as provided for in Article I, section 1.1.

109
110 2.3 COUNTY expressly reserves from this Lease of the Leased Premises the
111 following:

112 :
113 A. All gas, oil and mineral rights in and under the soil.

114
115 B. The right to grant utility rights-of-way to others over, under, through, and
116 across the Leased Premises, provided that such use will not unreasonably or
117 materially interfere with LESSEE's use of the Leased Premises or LESSEE's
118 improvements thereon constructed in accordance with plans and specifications
119 approved by COUNTY under the terms of this Lease.

120
121
122 ARTICLE III - RENTALS AND CHARGES

123
124 3.1 LESSEE's obligation to pay rent begins with the date by which LESSEE holds
125 its hotel open for business, which date is hereinafter referred to as the "Rent
126 Commencement Date", but in no event later than October 1, 2000.

127
128 3.2 LESSEE shall pay COUNTY rents during the preliminary term of \$1.00.

129
130 3.3 After the Rent Commencement Date, LESSEE shall pay COUNTY ground rent
131 of \$56,700 per year payable in equal monthly in installments in advance.

132
133 3.4 Each year of the Primary Term of this Lease and during each year of any
134 extension thereof the ground rent shall be adjusted in accordance with changes in
135

136 the Consumers Price Index-United States All Urban Consumers - All Items -
137 Milwaukee -Racine area. Ground rent adjustments shall be computed as follows:

138
139
$$\frac{\text{CPI Index for most recent year}}{\text{CPI Index for December of next most recent year}} \times \text{most recent year's ground rent} =$$

140
141 new adjusted ground rent

142
143
144 Example: 1998 ground rents \times $\frac{\text{CPI for December 1998}}{\text{CPI for December 1997}}$ = 1999 ground rent
145
146

147
148 The parties to this Lease understand and agree that the change in rent
149 resulting from the CPI adjustment shall be effective on the anniversary of the Rent
150 Commencement Date during each year of the Primary Term of this Lease and each
151 year during any extension thereof.
152

153 3.5 The rental provided for above shall be paid by LESSEE monthly, in advance on
154 the first day of each month, without deduction or setoff. Rentals more than five (5)
155 days past due shall be subject to a service charge of one and one-half percent
156 (1-1/2%) per month or partial month past due. In the event that this Lease
157 commences or expires, or is terminated effective on, other than on the first or last
158 day of a month, pro rata payments shall be made for the fractional part of a month
159 involved.
160

161 3.6 All rental payments due under this Lease shall be timely paid by LESSEE to
162 COUNTY without the necessity of demand or notice to LESSEE.
163

164 3.7 It is expressly understood and agreed that COUNTY shall not be construed or
165 held to be a partner, associate or joint venturer of LESSEE in the conduct of its
166 business, but LESSEE shall, at all times, have the status of an independent
167 contractor.
168

169 3.8 Without prejudice to any right or remedy which COUNTY might otherwise rely
170 upon to resolve an arrearage in the rental payment or payments or other breach of
171 this Lease, if COUNTY is required or if it elects to pay any sum or incurs any
172 obligations or expense, by reason of a failure, neglect or refusal of LESSEE to
173 perform any one or more of the terms, conditions or covenants of this Lease or as
174 the result of any act or omission of LESSEE contrary to said terms, conditions and
175 covenants, and LESSEE does not correct or remedy such failure, neglect or refusal
176 or act or omission with all deliberate speed and in a sound, economical and efficient
177 manner after written notice thereof is given to LESSEE, then the sum or sums so
178 paid or the expenses of correction or remediation so incurred by COUNTY, including
179 all interest, costs and damages to the extent reasonable and necessary, together
180

181 with any penalties imposed upon COUNTY by another unit of government, may be
182 added to any installment of rent thereafter due and each and every part of the same
183 shall be and become additional rent recoverable by COUNTY in the same manner
184 and with like remedies as if it were originally part of the rent as set forth hereinabove.
185 LESSEE may, if in good faith and on reasonable grounds, dispute the validity of any
186 charge, complaint, penalty or action taken or commenced pursuant to or under color
187 of any statute, rule, order, ordinance, requirement, or regulation; defend against the
188 same, and in good faith diligently conduct any necessary proceedings to prevent and
189 avoid any adverse consequence of the same. LESSEE agrees that any such
190 contest shall be prosecuted to a final conclusion as speedily as possible and that it
191 will hold COUNTY harmless with respect to any actions taken by any lawful
192 governmental authority with respect thereto or in consequence thereof.

193

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195

**ARTICLE IV - ACTIVITIES, USES, PRIVILEGES
AND OBLIGATIONS OF LESSEE**

196

197

198 4.1 LESSEE shall construct, furnish, operate and maintain a first class hotel on the
199 Leased Premises. The hotel shall be a Hawthorn Suites, Ltd., Hotel. Title to the
200 hotel and ancillary buildings, if any, shall remain with LESSEE throughout the
201 Primary Term of this Lease and any extension thereof. LESSEE shall execute a bill
202 of sale or quit claim deed, or both, on COUNTY's request in order to transfer title to
203 the hotel and ancillary buildings to COUNTY at expiration or termination of this
204 Lease. LESSEE shall not be allowed to terminate or change its affiliation without the
205 prior written consent of COUNTY, which approval may not be unreasonably or
206 arbitrarily withheld if the new entity is a first class hotel operation. LESSEE shall
207 have during the Primary Term of this Lease and any extension thereof, and as long
208 as LESSEE is not in default hereunder, the exclusive right to operate such a hotel on
209 the existing property owned by COUNTY at the exposition center; provided,
210 however, if COUNTY at any time during the Primary Term or any extension thereof
211 desires additional hotel accommodations at the exposition center, and if LESSEE
212 declines to build and operate the additional facilities, then COUNTY will be free to
213 enter into a lease with a third party to build and operate such additional hotel
214 facilities. Provided LESSEE is complying with the terms of this Lease, COUNTY
215 shall not require construction of additional hotel facilities at the exposition center: (i)
216 unless LESSEE has experienced not less than seventy (70%) average daily
217 occupancy of its rooms during the thirty-six months immediately preceding the date
218 of COUNTY's feasibility study; (ii) COUNTY has received a feasibility study from an
219 independent, reputable hotel consultant reasonably acceptable to COUNTY and
220 LESSEE that a specific number or range of additional hotel rooms are needed at the
221 exposition center to satisfy existing and reasonably anticipated demand, taking into
222 account the hotel rooms already being operated by LESSEE and the desire for all
223 hotel facilities at the exposition center to operate at not less than a reasonable profit;
224 and (iii) COUNTY permits no more than the number of hotel rooms deemed to be
225 justified in the consultant's report to be constructed and operated at the exposition

226 center unless LESSEE otherwise consents in writing. COUNTY shall give LESSEE
227 the right of first refusal to construct the additional hotel provided that LESSEE shall,
228 within 60 days of tender of such a lease from COUNTY, exercise such right of first
229 refusal by executing such lease.

230

231 4.2 LESSEE shall construct an at-grade covered walkway from its hotel to
232 COUNTY's Exposition Hall. The walkway shall be fully enclosed, offering
233 pedestrians protection from the elements. The walkway shall be constructed
234 according to plans approved by COUNTY's public works committee. Title to the
235 walkway shall pass to COUNTY upon completion and acceptance by COUNTY's
236 public works committee, and LESSEE shall execute a bill of sale or quit claim deed,
237 or both, on COUNTY's request. During the Primary Term of this Lease and any
238 extension thereof, LESSEE shall be entitled to exclusive use of the walkway (subject
239 to occasional use by COUNTY staff), and LESSEE shall be solely responsible for its
240 maintenance, repair and upkeep during the term of this Lease.

241

242 4.3 LESSEE agrees to participate in marketing of COUNTY's exposition center by
243 setting aside rooms for exposition center events or by providing special group rates
244 for such events, or both, all as may be negotiated by the parties on an
245 event-by-event basis. COUNTY agrees to include LESSEE in its marketing efforts
246 wherever feasible provided, however, that this provision shall not be construed to
247 require the expenditure of funds by COUNTY. LESSEE shall be allowed to use the
248 term "Expo Center Headquarters Hotel" or similar terminology approved by
249 COUNTY's exposition center director.

250

251 4.4 During the Primary Term of this Lease and any extension thereof, LESSEE
252 shall be entitled to the exclusive use of the Leased Premises for the purpose of
253 carrying out any of the activities provided for herein, subject, however, to the
254 conditions herein generally or particularly set forth, and its employees, guests,
255 patrons, invitees and suppliers shall have rights of ingress to and egress from the
256 Leased Premises without charge therefore, except the considerations set out herein.
257 LESSEE agrees that in no event shall it exercise a right or privilege not directly
258 related to a first class commercial hotel operation, as defined herein.

259

260 4.5 LESSEE will not suffer or permit to be maintained upon the Leased Premises,
261 or upon any improvements thereon, any billboards or advertising signs except
262 building and other signage which receives prior written approval of COUNTY. It is
263 specifically agreed, however, that LESSEE may maintain, on the outside of any
264 building erected on the Leased Premises, its name in neatly painted, electric or neon
265 sign or signs, subject to the written approval of COUNTY as to size, design and
266 placement.

267

268 4.6 LESSEE agrees to pay all taxes, assessments or special assessments that
269 may be levied against its personal, real or other property situated on the exposition

270

271 center or the Leased Premises, and to pay all costs or charges for utility services
272 furnished to or required by it.

273

274 4.7 The Leased Premises shall be used only for the purposes specified in this
275 Lease. LESSEE shall, at all times during the Primary Term hereof and any
276 extension thereof, actively use the Leased Premises for those purposes, and shall
277 not at any time leave the Leased Premises vacant without the written consent of
278 COUNTY. LESSEE shall not do or permit anything to be done in or about the
279 Leased Premises, or bring or keep anything therein which will in any way conflict with
280 any applicable law, ordinance, rule or regulation, or use or allow the Leased
281 Premises to be used for any improper, immoral or unlawful purpose, or place any
282 loads upon the floors, walls or ceilings which endanger the structure, or obstruct the
283 sidewalks or passageways or stairways in front of, within, or adjacent to the Leased
284 Premises.

285

286 4.8 LESSEE covenants and agrees that it will continuously operate and manage
287 the hotel and other services and facilities offered in connection therewith in a
288 first-class manner which at a minimum meets the standards of the Hawthorn Suites,
289 Ltd., Hotel chain, without interruption (subject to Force Majeure) during the entire
290 Primary Term of this Lease and any extension thereof, and that the rates and
291 charges for the rental of rooms in said hotel and for other services rendered upon the
292 Leased Premises shall be reasonable and competitive. LESSEE further covenants
293 and agrees to operate in such a way as to maximize at all times the use and
294 occupancy of the hotel by guests, to include advertising in various media,
295 continuously updated amenities for guests, and periodic refurbishing and updating of
296 the decor (both interior and exterior) and furnishings sufficient to maintain at least a
297 three-diamond rating from the American Automobile Association ("AAA"), provided
298 that COUNTY may impose a comparable standard in the event of AAA adopts a
299 different rating system than that which is now in use or otherwise changes its ratings
300 system so as to vitiate the three-star standard. If LESSEE is otherwise in
301 compliance with the requirements of this Lease, LESSEE may request from
302 COUNTY a temporary deferral of some or all of the scheduled updating and
303 refurbishing requirements, which deferral will not be refused by COUNTY if COUNTY
304 is satisfied in its sole opinion (acting in good faith) that the hotel's interior and exterior
305 are still considered to be current in terms of the then-existing leading trends in the
306 hotel industry and are in good condition consistent with the requirements of this
307 section 4.8; in which case COUNTY will issue a written deferral to LESSEE
308 specifically stating the period of time for which updating and refurbishing are thus
309 deferred. LESSEE shall also take all reasonable steps necessary to maximize the
310 availability and convenience of the hotel to travelers and patrons of the exposition
311 center. LESSEE shall at no time offer sleeping room rental rates for less than full
312 day increments, nor shall it offer or allow long term room rentals which would
313 essentially constitute a permanent or indefinite residency by a guest.

314

315

316 4.9 Sleeping accommodations in the hotel shall be offered twenty-four (24) hours a
317 day, each day of the year, except when it may be necessary to close the hotel or any
318 part thereof temporarily owing to damage or destruction by casualty or for the
319 purpose of making alterations, refurbishing or additions, or on account of conditions
320 or causes beyond the control of LESSEE.

321

322 4.10 All foods, drinks, beverages, confections and other such items sold or kept for
323 sale by LESSEE pursuant to this Lease shall be of high quality, wholesome and
324 pure, and must conform, in all respects, to applicable federal, state and local laws,
325 ordinances and regulations. LESSEE shall maintain continuously the necessary
326 restaurant and/or liquor license(s), and any food or beverage operation shall be
327 maintained and operated in conformity with the health and sanitary requirements of
328 the Dane County Health Department. All such service shall be prompt, clean,
329 courteous and efficient.

330

331 4.11 LESSEE shall at all times during the Primary Term of this Lease and any
332 extension thereof engage and have on duty a staff of employees adequate and
333 necessary for the proper operation of the hotel and its facilities, including qualified
334 supervisory employees. LESSEE shall require its employees to be clean, courteous,
335 neat and efficient and to comply with the applicable laws and regulations of civil
336 authorities and the rules and regulations governing the operation of the exposition
337 center.

338

339 4.12 LESSEE, its employees, agents, or servants, shall at all times comply with the
340 laws and regulations of the United States of America and the State of Wisconsin and
341 all applicable ordinances, codes and regulations of Dane County and the Town of
342 Madison and the rules and regulations governing the operation of the exposition
343 center. Violations thereof by LESSEE, its agents or employees, or revocation of
344 permits or licenses required in the performance of this Lease, shall constitute a
345 default and be cause for immediate termination of this Lease at the option of
346 COUNTY, if not corrected with all deliberate speed and in a sound, economical and
347 efficient manner after LESSEE's receipt of notice of violation or revocation from any
348 source. LESSEE shall immediately notify COUNTY of all notices of such violations
349 or revocations (or threatened governmental action with respect thereto) upon
350 LESSEE's receipt thereof. LESSEE shall have the right to contest any claimed
351 violation in the manner and subject to the conditions wet forth in Article III, section
352 3.8.

353

354 4.13 LESSEE shall bear at its own expense all costs of operating, maintaining and
355 repairing the hotel, pedestrian walkway and related services, and shall pay in
356 addition to rental all other costs connected with the use of the Leased Premises,
357 facilities, rights and privileges granted. LESSEE shall pay for all licenses, permits,
358 and other similar authorizations as required under federal, state or local laws and
359 regulations insofar as they are necessary to comply with the requirements of this
360 Lease and the rights and privileges extended hereunder.

361

362 4.14 LESSEE covenants that any rights granted by this Lease shall not be exercised
363 in such a way as to interfere with or adversely affect COUNTY's use, operation or
364 maintenance of the exposition center. LESSEE shall not do anything or permit
365 anything to be done within its Leased Premises which may interfere with the
366 effectiveness or accessibility of the drainage or sewerage system, and the facilities
367 for the protection of the exposition center and the public.

368

369 4.15 Leave blank.

370

371 4.16 LESSEE shall restrict the use of its parking lot on the Leased Premises to the
372 motor vehicles of LESSEE's guests, employees and suppliers. In order to maintain
373 the integrity of COUNTY's exposition center parking operations, LESSEE agrees to
374 monitor its parking lot and restrict parking solely to its suppliers, guests and on-duty
375 employees.

376

377 4.17 For the term of this Lease, including any extensions, LESSEE shall be entitled
378 to allow LESSEE's guests and employees the use of up to 160 parking spaces on
379 COUNTY's exposition center parking lot, as designated by COUNTY in an area of
380 the parking lot generally proximate to the site of LESSEE's hotel, provided, however,
381 that LESSEE shall furnish and install at its sole expense (i) barriers preventing
382 vehicular travel between the area so designated and other portions of COUNTY's
383 exposition center parking lot and (ii) signs indicating such area is restricted to its
384 guests and employees. LESSEE shall indemnify, defend and hold COUNTY
385 harmless for any losses, damages, personal injury or other claims whatsoever arising
386 out of LESSEE's guests' and employees' use of the parking lot areas designated
387 pursuant to this section.

388

389 4.18 LESSEE may provide a shuttle service for the purpose of transporting
390 passengers and luggage from the exposition center to the hotel. LESSEE also may
391 install a telephone at COUNTY designated phone banks at the exposition center.
392 LESSEE shall also have the opportunity to install a telephone at COUNTY's airport,
393 subject to the same terms and conditions as other businesses installing or seeking to
394 install telephones at the airport.

395

396 4.19 During the Primary Term of this Lease or any extension thereof, LESSEE shall
397 not directly or indirectly engage in any activity within a radius of two and one-half
398 (2-1/2) miles from the outside boundary of the exposition center which is similar to or
399 competing with the business uses specifically permitted by this Lease.

400

401 4.20 LESSEE shall provide COUNTY with a performance bond conditioned upon
402 construction of the hotel and covered walkway in accordance with plans and
403 specifications approved by Hawthorn Suites, Ltd., in the case of the hotel, and by
404 COUNTY in the case of the walkway, and upon payment of all costs thereof.
405 COUNTY may waive the requirement for a performance bond if LESSEE's lender or

406 lenders formally requires or require LESSEE to adhere to safeguards which are
407 substantially similar, in the sole discretion of COUNTY's exposition center director.

408

409

410

ARTICLE V - RIGHTS AND COVENANTS OF COUNTY

411

412 5.1 COUNTY covenants that it has full right and authority pursuant to the statutes
413 of the State of Wisconsin to lease the Leased Premises to LESSEE.

414

415 5.2 COUNTY covenants that LESSEE shall have peaceful possession and quiet
416 enjoyment of the Leased Premises in accordance with the terms of this Lease during
417 the Primary Term or any extension thereof so long as LESSEE timely performs and
418 observes all of the covenants, agreements, terms and conditions hereof.

419

420 5.3 COUNTY makes no warranty concerning the suitability of all or any part of the
421 Leased Premises for LESSEE's intended use.

422

423 5.4 COUNTY reserves the right to maintain and keep in repair all facilities of the
424 exposition center, together with the right to direct and control all activities of LESSEE
425 in any way directly and adversely affecting the operation of the exposition center,
426 provided that COUNTY's actions shall not unreasonably interfere with the conduct of
427 LESSEE's business.

428

429 5.5 COUNTY reserves the right to further develop or improve all facilities of the
430 exposition center as it sees fit, regardless of the desire or views of LESSEE, and
431 without interference or hindrance by LESSEE, provided that COUNTY shall not
432 undertake a development or improvement which will unreasonably interfere with the
433 conduct of LESSEE's business.

434

435 5.6 COUNTY reserves the right to take any action it considers necessary to protect
436 the exposition center against damage or destruction, together with the right to
437 prevent LESSEE from erecting, or permitting to be erected, any building or other
438 structure on the exposition center, except as provided in Article VII below, which in
439 the opinion of COUNTY would limit the maximum use of the exposition center.

440

441 5.7 This Lease shall be subordinate to the provisions of any outstanding agreement
442 between COUNTY and other parties relative to the maintenance, operation or
443 development of the exposition center, including COUNTY's agreement with its
444 concessionaire. COUNTY represents nothing in such agreement currently prohibits
445 construction and operation of a hotel at the exposition center.

446

447 5.8 COUNTY shall have the right to adopt, modify from time to time and enforce
448 reasonable rules and regulations with respect to the use of the exposition center and
449 facilities thereon, and LESSEE shall comply with the same.

450

451 5.9 COUNTY's current plans do not contemplate relocation of its exposition center
452 operations or buildings to a different site and COUNTY has no foreseeable plans to
453 do so. Subject to the provisions of this Article V, COUNTY will continue to operate
454 the exposition center in a manner consistent with its current operating objectives
455 during the Primary Term of this Lease or any extension thereof, but LESSEE
456 understands that COUNTY's operations of its exposition center can and will be
457 affected by federal, state and local mandates, limitations, requirements and funding,
458 by the availability of service from commercial enterprises, by market forces and by
459 changes in technology and industry standards. COUNTY therefore does not
460 guarantee continued operation of an exposition center, and LESSEE shall have no
461 recourse against COUNTY should COUNTY at some date in the future cease
462 operating an exposition center at its present location except that LESSEE shall have
463 the option of then renegotiating the terms of this Lease. See sec. 11.1 A

464

465

466 ARTICLE VI - SITE PREPARATION AND INITIAL COSTS

467

468 6.1 Prior to the commencement of LESSEE's hotel operations, COUNTY agrees to
469 provide and/or pay for the following site preparation items:

470

471 A. Provide utility lines (gas, water, electricity, sewer) up to the boundary of
472 the Leased Premises.

473

474 B. Boundary survey describing the Leased Premises.

475

476 6.2 LESSEE understands that there are presently underground utility lines (gas,
477 water, electricity, sewer) located on and under the Leased Premises, and LESSEE
478 agrees to relocate same, if necessary, at its sole expense and shall hold COUNTY
479 harmless for the expense thereof.

480

481

482 ARTICLE VII - CONSTRUCTION OF FACILITIES BY LESSEE

483

484 7.1 LESSEE agrees, as a condition to this Lease, that it will construct at its cost a
485 Hawthorn Suites, Ltd., Hotel facility containing not less than 175 guest sleeping
486 rooms, with all of the appropriate landscaping, furnishings, fixtures and equipment.
487 Said hotel shall be constructed, at a minimum, according to the standards set forth in
488 Hawthorn Suites, Ltd., Hotel's construction manual. No changes in the number of
489 rooms or general design and layout of the hotel shall be made by LESSEE without
490 the prior written approval of COUNTY. Upon completion of construction, a true and
491 complete set of record drawings for the hotel shall be furnished by LESSEE to
492 COUNTY, which shall accurately show all plans and specifications for such
493 construction, as actually completed, including any deviations from the plans and
494 specifications originally approved by COUNTY.

495

496 7.2 LESSEE agrees that if a lien shall be filed upon the Leased Premises or the
497 hotel facility, LESSEE shall protect COUNTY against any loss, liability or expense by
498 reason thereof, and LESSEE shall undertake or defend at its expense, such action
499 or proceedings as may be necessary in connection therewith and shall immediately
500 post such cash or bond as is required by statute in order to remove such lien from
501 the Leased Premises.

502
503 7.3 LESSEE covenants and warrants that construction of the hotel and other
504 improvements shall be completed in a good and workmanlike manner using only new
505 materials, fixtures and equipment (except as otherwise specifically called for in the
506 approved final plans and specifications) and in compliance with all applicable
507 building, zoning, health, safety and other codes, regulations or statutes, and shall
508 conform absolutely to the approved final plans and specifications. No construction
509 shall be commenced unless LESSEE has secured, and submitted to COUNTY for
510 approval, committed, irrevocable financing sufficient, in the reasonable opinion of
511 COUNTY, to enable LESSEE to properly complete and furnish the hotel project in
512 accordance with approved plans and specifications. LESSEE covenants to complete
513 and furnish the hotel, as approved by COUNTY, and to commence full scale
514 operation thereof by no later than October 1, 1999, subject only to delays resulting
515 from "Force Majeure" (as defined in section 16.5, below).

516
517 7.4 No requirement that LESSEE obtain COUNTY's approval of any plans,
518 specifications, financing or other matters relating to the construction of the hotel, or
519 the fact that COUNTY exercises any of its discretion hereunder to grant or deny
520 approvals, or to require modifications, shall in any way make COUNTY liable to
521 LESSEE or anyone else for any error, deficiency or defect in any items approved or
522 recommended by COUNTY, it being understood and agreed that such approval
523 rights are reserved to COUNTY for the sole purpose of protecting its own interests
524 and that COUNTY is not thereby undertaking any duty to protect the interests of
525 LESSEE or any third party.

526

527

528 **ARTICLE VIII - IMPROVEMENTS, MAINTENANCE AND INSPECTION**

529

530 8.1 All improvements which are to be located upon the Leased Premises, including
531 buildings, fences, signs and paving, are to be constructed by LESSEE and are the
532 property of LESSEE and shall remain so for the Primary Term of this Lease and any
533 extension thereof, subject only to the provisions of section-8.7 and the termination
534 provisions of this Lease. LESSEE agrees that COUNTY shall have no maintenance
535 responsibility with respect to the Leased Premises or any of LESSEE's furnishings,
536 fixtures, equipment, landscaping or improvements located thereon.

537

538 8.2 LESSEE agrees, in connection with the construction of any additional facilities,
539 improvements or appurtenances on or in connection with the Leased Premises,
540 including remodeling, expansion or modification thereof, that the plans and

541 specifications for any of the same must be submitted for approval in writing by
542 COUNTY before commencement of said construction except that COUNTY approval
543 of detailed plans shall not be required if the same are approved by Hawthorn Suites,
544 Ltd., Hotels.

545
546 8.3 LESSEE agrees, at its own expense, to cause the Leased Premises, and any
547 furnishings, fixtures, equipment, landscaping and improvements, which may be
548 located thereon, to be maintained at all times in good and presentable condition and
549 repair consistent with a first class hotel and good business practices. This shall
550 include, although not be limited to, the obligation of LESSEE to maintain the Leased
551 Premises in a safe, clean, neat and orderly condition at all times, and to perform the
552 necessary mowing, landscape maintenance and snow removal on the Leased
553 Premises during the appropriate periods of the year. LESSEE further agrees, at its
554 expense, to cause to be kept and maintained all structures, paving and all other
555 facilities on the Leased Premises in good repair during the Primary Term of this
556 Lease or any extension thereof.

557
558 8.4 LESSEE shall, at its own expense, cause to be removed from the Leased
559 Premises all waste, garbage and rubbish, and agrees not to deposit the same,
560 except temporarily in approved, sanitary, vermin-proof containers in connection with
561 collection for prompt (at least semi-weekly) removal to lawful disposal sites, on any
562 part of the Leased Premises or other property of COUNTY constituting the exposition
563 center and shall provide, at its own expense, such trash removal, exterminator,
564 janitor, toilet and cleaning services and supplies as may be necessary or required for
565 the safe and sanitary operation and maintenance of the Leased Premises.

566
567 8.5 LESSEE agrees that it will be responsible for any damage caused by the
568 wrongful or negligent acts or omissions of LESSEE, its agents, employees,
569 contractors or its suppliers, to any structures, paving, landscaping or other property
570 belonging to COUNTY.

571
572 8.6 COUNTY and COUNTY's authorized officers, employees, agents, contractors,
573 subcontractors and other representatives, shall have the right to enter upon or in the
574 Leased Premises and any facilities located on the Leased Premises for the following
575 purposes:

576
577 A. To inspect the Leased Premises at reasonable intervals during regular
578 business hours on 24 hours advance notice to LESSEE's on-site
579 manager, or at any time in case of emergency, to determine whether
580 LESSEE has complied and is complying with the terms and conditions
581 of this Lease with respect to such Leased Premises; and to perform any
582 and all maintenance, repairs and replacements on any portion of the
583 Leased Premises, improvements or appurtenances thereto when and to
584 the extent LESSEE has been required by Hawthorn Suites, Ltd., Hotels
585 to do so but has unreasonably failed or refused, in which event

586 LESSEE, promptly upon demand, shall reimburse COUNTY for
587 COUNTY's reasonable costs thereof.

588
589 B. To inspect the Leased Premises and perform any and all things with
590 reference thereto which COUNTY is obligated or authorized to do as set
591 forth herein. No entry by or on behalf of COUNTY within or upon the
592 Leased Premises shall cause or constitute a termination of the letting
593 thereof or be deemed to constitute an interference with the possession
594 thereof by LESSEE.

595
596 8.7 Upon expiration of this Lease at the end of the Primary Term or any extension
597 thereof, or upon termination if sooner for any other reason or cause, LESSEE shall
598 return the Leased Premises to COUNTY and, if so directed in writing by COUNTY at
599 or prior to the termination date, clear of the hotel, all improvements, obstacles,
600 utilities, and hazardous materials (as hereinafter defined in section 10.1.A, below)
601 both above and below ground level. In the event of the failure of LESSEE to restore
602 the Leased Premises as herein required within sixty (60) days of the termination of
603 this Lease, COUNTY may then make such restoration at the expense of LESSEE,
604 and LESSEE shall reimburse COUNTY for LESSEE's share of all such expense on
605 demand. Notwithstanding any of the foregoing to the contrary, the cost of
606 demolishing and removing the hotel and related improvements shall be LESSEE's
607 responsibility. COUNTY shall have no liability or responsibility for clean-up, removal
608 or disposal of any waste contamination, pollution or other hazardous materials above
609 or below ground level, in connection therewith. COUNTY may waive its right to have
610 the Leased Premises restored, clear of the hotel, all improvements, obstacles and
611 utilities; however, such waiver shall only be effective if in writing, given within sixty
612 (60) days of the date of expiration or termination of this Lease, and LESSEE shall
613 thereupon surrender the Leased Premises and improvements to COUNTY on the
614 effective date of the expiration or termination together with a bill of sale duly
615 authorized and executed by LESSEE, including a warranty of merchantable title to
616 the improvements by LESSEE and warranty and full indemnity from LESSEE that
617 there are no hazardous materials on the Leased Premises, either above or below
618 ground level, or any hazardous materials on property adjacent to the Leased
619 Premises, either above or below ground level, which emanated or had its source
620 upon the Leased Premises.

621
622 8.8 In the event that COUNTY waives its right to require LESSEE to restore the
623 Leased Premises as contemplated by section 8.7, then as of the date of expiration or
624 termination of this Lease, all structures and other improvements located on the
625 Leased Premises shall become the property of COUNTY and upon the expiration of
626 thirty (30) days following such waiver by COUNTY, all machinery, fixtures, apparatus
627 and equipment remaining on the Leased Premises shall become the property of
628 COUNTY.

629
630

ARTICLE IX - INDEMNIFICATION AND INSURANCE

631

632

633 9.1 COUNTY shall stand indemnified by LESSEE as herein provided. LESSEE is
634 and shall be deemed to be an independent contractor and operator responsible to all
635 parties for its respected acts, and COUNTY shall in no way be responsible therefore.
636 In the use of the Leased Premises, in the erection or construction of any
637 improvements thereon, and in the exercise of enjoyment of the privileges herein
638 granted, LESSEE shall indemnify, save harmless and defend COUNTY from any and
639 all losses that may approximately result to COUNTY because of its acts or omissions
640 on the part of LESSEE, its agents, assigns or sublessee's and their use of the
641 Leased Premises, including without exclusion because of the enumeration any and
642 all damages by fire, theft, or any damage to any property of LESSEE which may at
643 any time be situated within limits of the Dane County Exposition Center, except any
644 damage or liability as may be caused by negligence on the part of said COUNTY.

645

646 9.2 In order to protect itself and COUNTY, its officers, boards, commissions,
647 agencies, employees and representatives under the Indemnity provisions of section
648 9.1 above, LESSEE will at all times during the Primary Term of this Lease and any
649 extension thereof keep in full force and in effect comprehensive general liability
650 insurance issued by a company or companies authorized to do business in the State
651 of Wisconsin and licensed by the Wisconsin Insurance Department, with liability
652 coverage provided for therein the amounts of at least Five Million Dollars
653 (\$5,000,000) CSL (Combined Single Limits), said minimum amount to be reviewed
654 by COUNTY every five years for adequacy. Coverage provided will be primary.
655 COUNTY shall be given ten (10) days advance notice of cancellation or nonrenewal.
656 Upon execution of this Lease, LESSEE should furnish COUNTY with a Certificate of
657 Insurance listing COUNTY, COUNTY's board of supervisors, exposition center
658 commission, exposition center director, COUNTY's officers, agents and employees,
659 as additional insured and upon request, certified copies of the required insurance
660 policies. If LESSEE's insurance is underwritten on a claim-made basis, the
661 retroactive date shall be prior to or coincide with the date of this Lease, the
662 Certificate of Insurance shall indicate the retroactive date, and shall state whether
663 coverage on the basis of "claims-made" or "occurrence", whereupon LESSEE shall
664 maintain such coverage for the duration of this Lease, and, if coverage is
665 "claims-made" for two (2) years following the completion of this Lease. LESSEE
666 shall furnish COUNTY, annually on the policy renewal date, a Certificate of
667 Insurance as evidence of coverage. It is also agreed that on "claims-made" policies,
668 either LESSEE or COUNTY may invoke the tail option, if available, for two (2) years
669 following the completion of this Lease, on behalf of both parties, and that the
670 extended reporting period premium should be paid by LESSEE. This provision shall
671 not apply in the event that LESSEE's insurance is underwritten on an "occurrence"
672 basis.

673

674 9.3 LESSEE shall at all times during the Primary Term of this Lease and any
675 extension thereof keep or cause all improvements on the Leased Premises to be

676 kept fully insured, for all risks of direct physical loss with companies authorized to do
677 business in Wisconsin or other companies approved in writing by COUNTY.
678 Insurance coverage herein provided should be for the benefit for both COUNTY and
679 LESSEE as their respective interest may appear. LESSEE agrees to have an
680 inspection of the improvements to be made by the company or the companies
681 carrying the above insurance at least every five (5) years to add to increase the
682 insurance coverage, if necessary, so that the full insurable value of the
683 improvements is at all times fully covered. LESSEE shall furnish COUNTY with
684 copies of the above inspection reports when received and with certificates of
685 insurance as policies are acquired by LESSEE.

686

687 9.4 LESSEE, for itself, its successors and assigns, as part of the consideration
688 hereof, does hereby covenant and agree as a covenant running with the land, that
689 (1) no person on the grounds of age, race, ethnicity, religion, color, gender, disability,
690 marital status, sexual orientation, national origin, cultural differences, ancestry,
691 physical appearance, arrest record or conviction record, military participation or
692 membership in the national guard, state defense force or any other reserve
693 component of the military forces of the United States, or political beliefs shall be
694 excluded from participating in, denied the benefits of, or be otherwise subjected to
695 discrimination in the use of facilities; (2) that in the construction of any improvements,
696 on, over, or under such land and the furnishing of services thereon, no person on the
697 aforesaid grounds shall be excluded from participation in, denied the benefits of, or
698 be otherwise subjected to discrimination; (3) that LESSEE shall use the Leased
699 Premises in compliance with all other requirements imposed by or pursuant to
700 federal, state and local law, and as the same may be amended from time to time.

701

702

703 ARTICLE X - ENVIRONMENTAL COMPLIANCE

704

705 10.1 As used in this Article,

706

707 A. "Hazardous materials" include, but are not limited to, any hazardous
708 substances, hazardous wastes, pollutants or pollution, contaminants or
709 contamination, or petroleum, as those terms are commonly used or as
710 defined or designated under any law.

711

712 B. "LESSEE-controlled hazardous materials" means any hazardous
713 materials arising out of LESSEE's use or occupancy of the Leased
714 Premises or LESSEE's acts or omissions. "LESSEE-controlled
715 hazardous materials" includes, but it not limited to any hazardous
716 materials used, stored, released, discharged or transported by LESSEE.
717 As used herein, LESSEE includes LESSEE's employees, agents,
718 successors, customers, sublessees, assigns, contractors,
719 subcontractors, or persons acting on behalf of LESSEE.

720

721 C. "Law" or "laws" include, but are not limited to, local, state, federal, or
722 regional statutes, regulations, ordinances, rules, policies, directives,
723 orders, demands or other laws of whatever nature, as they now exist or
724 may hereinafter be adopted or amended.

725

726 D. "Waters" include groundwater.

727

728 10.2 LESSEE shall comply with all laws relating to hazardous materials on the
729 Leased Premises or related to LESSEE's activities at the Leased Premises.
730 LESSEE shall not use or store hazardous materials on the Leased Premises, or
731 surrounding areas, except as reasonably necessary for the permitted use of the
732 Leased Premises. LESSEE shall not dispose of any hazardous materials on the
733 Leased Premises or surrounding lands or waters. LESSEE shall provide a written
734 list of hazardous materials used or stored, or intended to be used or stored, at the
735 Leased Premises, and the approximate quantities used or stored, prior to opening
736 the hotel for public accommodations. No additional hazardous materials, or
737 significant additional quantities, may be used or stored on the Leased Premises
738 without the express written approval of COUNTY, which approval shall not be
739 unreasonably withheld. LESSEE shall provide COUNTY with copies of all reports,
740 complaints, claims, citations, demands, inquiries, or notices relating to the
741 environmental condition of the Leased Premises, or any alleged material
742 noncompliance with environmental laws by LESSEE at the Leased Premises,
743 reasonably promptly (and in no event later than 10 calendar days) after such
744 documents are generated by LESSEE or received by LESSEE. LESSEE shall also
745 promptly notify COUNTY of any material spills, releases, or other discharges of
746 LESSEE-controlled hazardous materials by LESSEE on the Leased Premises and
747 promptly abate and remove any such discharges. All reporting requirements under
748 any laws with respect to spills, releases or discharges of hazardous materials by
749 LESSEE at the Leased Premises under any law are the responsibility of LESSEE.

750

751 10.3 The storage, disposition and handling of hazardous materials on the Leased
752 Premises shall be the sole responsibility of LESSEE and LESSEE shall be liable for
753 and responsible for, including without limitation, at LESSEE's sole cost (i) removal,
754 remediation, assessment, transportation, testing and disposal of LESSEE-controlled
755 hazardous materials as directed by any governmental agency, as required by any
756 law, or as necessary to prevent or eliminate any nuisance, trespass, waste or
757 diminution in the value of the Leased Premises; (ii) damages for injury to persons,
758 property, the Leased Premises and surrounding lands and waters arising from
759 LESSEE-controlled hazardous materials; (iii) claims resulting therefrom; (iv) fines,
760 costs, fees, assessments, taxes, demands, orders, directives or any other
761 requirements imposed in any manner by any governmental agency asserting
762 jurisdiction, or under any law with respect to LESSEE-controlled hazardous
763 materials; (v) costs and expenditures for cleanup, remediation, assessment, testing,
764 investigation, transportation and disposal required hereunder arising from
765 LESSEE-controlled hazardous materials; (vi) damages, costs and expenditures for

766 injury to natural resources as required by applicable law arising from
767 LESSEE-controlled hazardous materials; (vii) compliance with laws regarding the
768 use, storage, transportation, or disposal thereof; and (viii) any other liability related to
769 LESSEE-controlled hazardous materials. While COUNTY is not required to incur
770 any costs, fees (including attorney, consultant and expert witness fees) or expenses
771 for environmental compliance, testing, investigation, assessment, remediation or
772 cleanup relating to LESSEE's use of hazardous materials, should COUNTY incur any
773 such costs, expenses or fees relating to the Leased Premises or surrounding lands,
774 waters, or air, LESSEE shall promptly reimburse COUNTY for said costs, expenses
775 or fees.

776

777 10.4 In addition to any other indemnity obligations in this Lease, LESSEE shall
778 defend, indemnify and hold harmless COUNTY, its officers, agents and employees
779 from any and all responsibilities, damages, claims, fines, liabilities, costs,
780 expenditures, attorneys' fees, litigation expenses and court costs relating to
781 LESSEE's use of hazardous materials, including without limitation, those liabilities
782 and responsibilities referred to in section 10.3 above or elsewhere in this Article.

783

784 10.5 The promises, conditions, covenants, and indemnities by LESSEE in this Article
785 shall apply without limitation to LESSEE's successors, assigns, sublessees,
786 assignees and guarantors of this Lease. Further, with respect to each of the
787 promises, conditions, covenants and indemnities in this Article, LESSEE assumes
788 responsibility to COUNTY for the acts or omissions of LESSEE's employees, agents,
789 customers, sublessees, assignees, successors, shareholders, subsidiaries,
790 contractors or subcontractors (whether or not such acts or omissions are negligent,
791 intentional, willful or unlawful) in any way relating to LESSEE-controlled hazardous
792 materials, or environmental compliance with respect to LESSEE-controlled
793 hazardous materials. Each of the promises and indemnities in this Article apply to
794 any discharges of hazardous materials at the Leased Premises (or emanating from
795 the Leased Premises) by LESSEE, and to any past, present or future assessment,
796 testing, investigation, remediation or cleanup, or any combination thereof, with
797 respect to LESSEE-controlled hazardous materials (including but not limited to such
798 activities during any prior tenancy), whether occurring before or after LESSEE
799 vacates the Leased Premises. The promises and indemnities set forth in this Article
800 by LESSEE are continuing and survive expiration or termination of the Lease.

801

802 10.6 In addition to LESSEE's other responsibilities, if underground storage tanks
803 storing hazardous materials are placed on the Leased Premises by LESSEE,
804 LESSEE shall monitor such underground storage tanks, obtain all required permits
805 therefor, maintain appropriate records therefor, implement reporting procedures
806 therefor, properly close such underground storage tanks, pay all fees, taxes, and
807 assessments applicable thereto, comply with all financial responsibility requirements
808 applicable thereto, and perform all other requirements relating to underground
809 storage of hazardous materials and cleanup, the Federal Underground Storage Tank

810

811 statute, 42 USC §6991, et seq., and related regulations to the extent applicable to
812 underground storage of hazardous materials by LESSEE, and all other laws relating
813 to the storage or cleanup of hazardous materials as they now exist or may
814 hereinafter be adopted or amended. For purposes of compliance with these laws,
815 LESSEE is deemed the owner and operator of all tanks, piping and related
816 equipment placed on the Leased Premises by LESSEE or used by LESSEE.

817

818 10.7 LESSEE agrees to permit entry upon the Leased Premises by state and federal
819 agents for the purpose of conducting any tests, measurements, investigation or
820 assessment they deem necessary in order to determine the presence of hazardous
821 materials. Nothing herein requires COUNTY to conduct any such testing,
822 measurement, investigation or assessment. COUNTY shall give LESSEE written
823 notice as soon as possible of any request by federal or state agents for such entry.

824

825 10.8 Prior to the expiration of the Primary Term or any extension thereof, or earlier
826 termination of this Lease, LESSEE shall remove or remediate as required under
827 section 10.3, all LESSEE-controlled hazardous materials from the Leased Premises
828 and surrounding lands and waters. Unless instructed otherwise by COUNTY,
829 LESSEE shall also prior to vacating the Leased Premises remove all tanks, piping
830 and other equipment which it installed and which stored hazardous materials, or
831 which are contaminated by any LESSEE-controlled hazardous materials. LESSEE
832 shall give COUNTY at least ten (10) days written notice prior to removing such tanks,
833 piping and other equipment. Should LESSEE fail to comply with this subdivision, in
834 addition to all other damages and remedies which may be available to COUNTY,
835 LESSEE shall be liable to COUNTY for the fair rental value of the Leased Premises
836 as if uncontaminated (which shall not be less than the rent set forth in this Lease), or
837 to the extent the Leased Premises can be partially occupied by others, the reduction
838 in the fair rental value, until the required removal or remediation has occurred.
839 Nothing in this subdivision shall operate to extend the Primary Term of this Lease or
840 any extension thereof or earlier termination, or give LESSEE a right of occupancy
841 beyond the Primary Term of this Lease or any extension thereof or earlier
842 termination of this Lease, without the express written consent of COUNTY.

843

844 10.9 Any greater obligations on LESSEE, or further protection provided to COUNTY,
845 under this Article shall prevail over any terms or conditions in this Lease which are
846 less stringent upon LESSEE, create less protection for COUNTY, or are
847 contradictory or inconsistent with this section. LESSEE's obligations under this
848 Article survive destruction of the Leased Premises, condemnation and force majeure.
849 In determining whether to consent to any assignment or subletting, COUNTY may
850 consider the proposed assignee's or sublessee's use of hazardous materials.
851 LESSEE and the proposed assignee or sublessee shall submit detailed information
852 on the proposed use of hazardous materials, and provide to COUNTY any additional
853 information related to hazardous materials requested by COUNTY.

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ARTICLE XI - TERMINATION BY LESSEE

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859 11.1 In addition to all other remedies available to LESSEE, this Lease shall be
860 subject to termination by LESSEE should any one or more of the following events
861 occur:

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863

A. The permanent abandonment of the exposition center by COUNTY.

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B. The issuance by a court of competent jurisdiction of any injunction which shall remain in force for at least sixty (60) days preventing or restraining the use of the exposition center in such a manner as to substantially restrict LESSEE from conducting its commercial hotel operation.

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C. The breach by COUNTY of any of the terms, covenants, or conditions of this Lease to be kept, performed and observed by COUNTY and the failure of COUNTY to remedy such breach for a period of sixty (60) days after receipt of written notice from LESSEE of the existence of such breach.

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D. The assumption by the United States Government, or any authorized agency thereof, of the operation, control or use of the exposition center and its facilities in such a manner as to substantially restrict LESSEE from conducting its commercial hotel operation, if such restriction continues for a period of three (3) months or more.

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E. The discovery of hazardous materials present on the Leased Premises or the immediately adjoining property as a result of any release which occurred prior to the date of this Lease, provided LESSEE gives COUNTY notice thereof within one (1) month of the date of discovery, which notice shall be accompanied by a current report of an environmental investigation of the site performed by a qualified environmental engineer.

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11.2 No exercise by LESSEE of its right to terminate under this Article XI shall be deemed to be a waiver of any right LESSEE might otherwise have against COUNTY to recover damages on account of default by COUNTY under the terms of this Lease.

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ARTICLE XII - TERMINATION BY COUNTY

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12.1 In addition to all other remedies available to COUNTY, this Lease shall be subject to cancellation by COUNTY should any one or more of the following events occur (any of which shall constitute a default under the terms of this Lease):

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- A. To the extent permitted by applicable law, and subject to the rights of LESSEE's lender under Article XVII, below (which lender shall not be required to cure a default by LESSEE under this subsection A. if the lender or a receiver has taken possession of the Leased Premises and hotel pursuant thereto): If LESSEE shall file a petition of bankruptcy, or if proceedings in bankruptcy shall have been instituted against it; or if an order for relief is thereafter entered; or if a court shall take jurisdiction of LESSEE and its assets pursuant to proceedings brought under the provisions of any Federal reorganization act; or if a receiver for LESSEE's assets is appointed; or if LESSEE shall be divested of its rights, powers and privileges under this Lease by operation of law.
- B. If LESSEE shall default in or fail to make any payments at the times and in the amounts required of it under this Lease.
- C. If LESSEE shall abandon or discontinue operating a first class commercial hotel service on the Leased Premises, or terminate or change hotel franchises without first obtaining the Authority's consent.
- D. If LESSEE shall fail to timely perform, keep and observe all the covenants and conditions contained in this Lease to be performed, kept and observed by it.

12.2 Upon the happening of any of the contingencies recited in subsections B, C and D of section 12.1, COUNTY shall give written notice to LESSEE to correct or cure such default and if, within thirty (30) days from the date of such notice (provided if the default is non-monetary and reasonably requires more than said thirty (30) days to cure and LESSEE is diligently undertaking effective measures in good faith to achieve such cure, then such additional time, not to exceed an additional forty-five (45) days, as may be reasonably necessary to effect the cure), the default complained of shall not have been corrected, then and in any such event, COUNTY shall have the right at once and without further notice to LESSEE to declare this Lease terminated and to enter upon and take full possession of the Leased Premises subject to statutory eviction procedures.

12.3 Upon the happening of any of the contingencies enumerated in section 12.1-A, this Lease shall *ipso facto* and without entry or any other action by COUNTY, terminate, subject to be reinstated only if such bankruptcy or insolvency proceedings, petitions for reorganization, trusteeship, receivership, or other legal act divesting LESSEE of his rights under this Lease shall be denied, set aside, vacated or terminated in LESSEE's favor within forty-five (45) days from the happening of the contingency. Upon the happening of said latter event, this Lease shall be reinstated as if there had been no breach occasioned by the happening of said contingencies provided that LESSEE shall, within ten (10) days, discharge any and all sums of

946 money which may have become due under this Lease in the interim and shall then
947 remain unpaid and shall likewise fully perform and discharge all other obligations
948 which may have accrued and become payable in the interim.

949

950 12.4 The acceptance of rental payments and fees by COUNTY for any period or
951 periods after a default of any of the terms, covenants, and conditions herein
952 contained to be performed, kept and observed by LESSEE shall not be deemed a
953 waiver of any rights of COUNTY to cancel this Lease for failure by LESSEE to so
954 perform, keep, or observe any of the terms of this Lease to be kept, performed, and
955 observed by LESSEE. Nothing herein shall limit in any way the right of COUNTY to
956 also recover from LESSEE such damages as COUNTY may incur by reason of
957 LESSEE's default, even if COUNTY also elects to thus terminate this Lease.

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ARTICLE XIII - ASSIGNMENT AND SUBLETTING

961

962 13.1 This Lease and the right to use and occupy the Leased Premises granted
963 herein are personal to LESSEE and LESSEE shall not assign or sublet the same or
964 any portion thereof, or assign or sublet the Leased Premises or any portion thereof
965 without COUNTY's express written consent, and any purported assignment in
966 violation hereof shall be void and shall constitute a default by LESSEE. Any transfer
967 of ownership or control of LESSEE shall be deemed to constitute an assignment of
968 this Lease. As used in this section 13.1 and in section 13.2, "COUNTY's express
969 written consent" refers to approval by the Dane County Board of Supervisors and the
970 Dane County Executive.

971

972 13.2 All provisions of this Lease applicable to LESSEE shall be equally binding upon
973 any party to which the privileges contained herein or premises leased hereunder are
974 assigned, sublet or underlet, provided this section shall not relieve LESSEE of the
975 obligation to first obtain COUNTY's express written consent thereto, which consent
976 may be withheld for any reason COUNTY deems appropriate.

977

978 13.3 If LESSEE requests a release from further liability under this Lease first
979 accruing after the date of any approved assignment (but not in the case of a
980 sublease) COUNTY shall not refuse to grant such release if COUNTY is reasonably
981 satisfied that the assignee is creditworthy and financially capable of performing its
982 obligations under this Lease, and no such release shall in any way relieve or
983 diminish LESSEE's liability for any obligations accruing prior to the effective date of
984 the approved assignment.

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ARTICLE XIV - HOLDING OVER

988

989 14.1 In the event LESSEE shall hold over and remain in possession of the Leased
990 Premises after expiration of this Lease without any written approval thereof, such

991 holding over shall not be deemed to operate as a renewal or extension of this Lease,
992 but shall only create a tenancy from month to month which may be terminated at any
993 time by COUNTY, but at a rental rate which is one and one-half times the rents
994 theretofore payable by LESSEE under the terms of this Lease.

995
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997 **ARTICLE XV - SUCCESSORS AND ASSIGNS BOUND BY COVENANTS**

998

999 15.1 All covenants, stipulations and agreements in this Lease shall extend to and
1000 bind the legal representatives, successors and assigns of the respective parties
1001 hereto.

1002

1003

1004 **ARTICLE XVI - GENERAL PROVISIONS**

1005

1006 16.1 Notices to COUNTY provided for in this Lease shall be sent by certified or
1007 registered mail, postage prepaid, addressed to the exposition center director, Dane
1008 County Exposition Center, 1919 Expo Way, Madison, WI 53713, and notices to
1009 LESSEE if sent by certified or registered mail, postage prepaid, addressed to:

1010

1011

Manager, Hawthorn Suites Hotel
Expo Center
Madison, WI 53713

1012

1013

1014

1015 with a copy to:

1016

1017

Legacy Hospitality LLC
4125 Terminal Drive
McFarland, WI 53558

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1021 or to such other address as a party may designate to the other from time to time in
1022 writing.

1023

1024 16.2 LESSEE represents that it has carefully reviewed the terms and conditions of
1025 this Lease and is familiar with such terms and conditions and agrees faithfully to
1026 comply with the same to the extent to which said terms and conditions apply to its
1027 activities, authorized and required by this Lease. LESSEE also represents that it has
1028 carefully inspected the Leased Premises and if fully apprised of the condition of the
1029 hotel site and hereby takes the same "AS IS", with all faults and without any
1030 representation or warranty by COUNTY not specifically set forth in this Lease.

1031

1032 16.3 Where this Lease speaks of approval and consent by COUNTY, such approval
1033 is understood to be manifested by act of the exposition center director, except as
1034 otherwise expressly stated in this Lease.

1035

1036 16.4 This Lease is entered into pursuant to the provisions of the appropriate statutes
1037 of the State of Wisconsin. This Lease shall be governed exclusively by the
1038 provisions hereof and by the laws of the State of Wisconsin as the same from time to
1039 time exist, subject to the waivers and exclusions herein contained. Venue for any
1040 litigation between the parties shall be in Dane County Circuit Court, State of
1041 Wisconsin.

1042
1043 16.5 Notwithstanding any requirement of performance (as it relates to the
1044 construction of LESSEE's improvements) on the part of LESSEE if, by the specific
1045 provisions of this Lease, such performance is subject to excusable delay resulting
1046 from "Force Majeure", then Force Majeure shall mean, delays affecting LESSEE
1047 directly, or any contractor or subcontractor of LESSEE, caused by or due to fire, the
1048 elements, casualties, strikes, lockouts or any other cause, event or circumstance
1049 which is similar or dissimilar to the foregoing, beyond the control of LESSEE, its
1050 contractors or subcontractors. It is further agreed without limiting the generality of
1051 the foregoing, that interruptions or delays consequent upon the existence of any
1052 governmental laws, orders and regulations limiting or restricting construction or other
1053 activities or limiting the use to which materials normally required in construction or
1054 other activity may be put, or granting priority for use of such materials to work or for a
1055 purpose other than the work or activity contemplated to be performed by LESSEE or
1056 limiting or restricting the employment of labor for such work or activity, shall be
1057 deemed as within the scope of Force Majeure.

1058
1059 16.6 Time is of the essence with respect to the performance of LESSEE's
1060 obligations under this Lease.

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1062
1063 **ARTICLE XVII - SUBORDINATION**
1064

1065 17.1 COUNTY agrees that in order to finance improvements from time to time on the
1066 Leased Premises, it may be necessary for LESSEE to obtain mortgage loans.
1067 Subject to COUNTY's review and approval of LESSEE's loan documents, including
1068 appraisals and financial statements, LESSEE may at any time and from time-to-time
1069 during the Primary Term of this Lease or any extension thereof, at its own expense,
1070 negotiate and obtain a loan or loans (and to extend, renew, refinance or replace any
1071 such loan and/or to negotiate and obtain a new loan or loans) which shall be secured
1072 by a mortgage on both the fee interest in the Leased Premises (or any part thereof)
1073 and the improvements constructed or to be constructed thereon by LESSEE. Any
1074 such mortgage loan or loans or extension, renewal, refinancing or replacement
1075 thereof (hereinafter referred to as a "mortgage loan" or "mortgage"), (i) shall be made
1076 by, and may be in such principal amount and such terms as may be obtained from, a
1077 bona fide recognized institutional lender (hereinafter referred to as a "mortgagee"),
1078 including without limitation a mortgage banker, bank, trust company, savings and
1079 loan or building association, insurance company, or pension or profit-sharing fund;
1080 (ii) shall be due and payable and fully amortized over a period of time ending at least

1081 one (1) year prior to the expiration of the Primary Term; (iii) shall impose no personal
1082 liability on COUNTY (the sole recourse of the mortgagee to be against LESSEE
1083 and/or the Leased Premises and the improvements); and (iv) shall, in principal
1084 amount, never exceed ninety percent (90%) of (a) the total construction and other
1085 costs of the improvements constructed or to be constructed by LESSEE upon the
1086 Leased Premises, and (b) other development costs of the improvements including,
1087 without limitation, construction interest, insurance premiums during construction,
1088 bonds, and fees of architects, engineers and attorneys.

1089
1090 17.2 It is expressly understood and agreed that the proceeds of any initial mortgage
1091 loan secured by the fee interest in the Leased Premises shall be paid to and become
1092 the property of LESSEE, but shall be used only for the development of the Leased
1093 Premises. Upon the written request of COUNTY, LESSEE will deliver to COUNTY a
1094 written statement specifying the name of the mortgagee, summarizing the terms of
1095 the mortgage loan, and showing in reasonable detail the manner in which such
1096 proceeds of the mortgage were disbursed, which statement shall be certified by
1097 LESSEE's chief financial officer. The requirement that the loan proceeds be used
1098 only for development of the Leased Premises shall not be construed to impose an
1099 obligation on the lender to enforce such provision, said requirement being one only
1100 between COUNTY and LESSEE, and LESSEE's failure to restrict use of the
1101 mortgage loan proceeds to development of the Leased Premises shall not impinge
1102 upon the validity of the mortgage or the security for the mortgage.

1103
1104 17.3 For the purpose of this Article, the term "mortgage" or "mortgage loan" shall
1105 include a mortgage, or other such classes of security instruments as are commonly
1106 given to secure loans or advances on, or the unpaid purchase price of, real estate
1107 and leasehold interests under the laws of the State of Wisconsin or the credit
1108 instruments, if any, secured thereby.

1109
1110 17.4 LESSEE agrees to pay all charges for securing and making any mortgage loan,
1111 including all brokerage, commission charges, fees for examination of title, attorney's
1112 fees for drawing papers in connection therewith, recording fees, title insurance, and
1113 such other costs and expenses as any mortgagee may require to be paid.

1114
1115 17.5 LESSEE is hereby given the absolute right without COUNTY's consent to
1116 create a security interest in this Lease and of LESSEE's improvements during the
1117 Primary Term of this Lease, provided that no security interest in this Lease shall
1118 extend to or affect COUNTY's fee title to the Leased Premises, the reversionary
1119 interest, or any reversionary rights of COUNTY in and to any land or building and
1120 improvements now or hereafter erected on the Leased Premises, provided COUNTY
1121 is given a true and complete copy of the signed security agreement and any related
1122 documents within two (2) weeks after the same has been executed and, provided
1123 further, all rights and interest acquired under said security interest shall be subject to
1124 each and every term, covenant and condition of this Lease and all of COUNTY's
1125 rights under this Lease, and this consent to the grant of a security interest in

1126 LESSEE's interest in this Lease shall in no way be deemed to be a waiver by
1127 COUNTY of its right to strictly enforce any or all provisions of this Lease. Any
1128 creditor who takes possession of the Leased Premises or any of the improvements
1129 thereon under the terms of its security interest shall not assign this Lease or
1130 sublease the Leased Premises or any portion thereof without the prior written
1131 consent of COUNTY, which consent shall not be unreasonably withheld if the
1132 transferee is creditworthy in the reasonable opinion of COUNTY and reasonably can
1133 be expected to satisfy all of the requirements of this Lease.

1134

1135 17.6 No security interest in this Lease or assignment thereof shall be binding upon
1136 COUNTY in the enforcement of its rights under this Lease, nor shall COUNTY be
1137 deemed to have any notice thereof, unless and until a fully conformed copy of each
1138 instrument affecting such security interest, in form proper for record, shall have been
1139 delivered to COUNTY.

1140

1141 17.7 If the holder of any such security interest shall give COUNTY, before any
1142 default shall have occurred in this Lease, a written request for notice containing the
1143 name and post office address of such holder together with the expiration date of its
1144 security interest, COUNTY shall thereafter (until the stated expiration date of security
1145 interest) give to such holder a copy of each notice of default by LESSEE at the same
1146 time as any such notice of default shall be given by COUNTY to LESSEE. The copy
1147 of such notice of default shall, in each instance, be deemed duly given to the holder
1148 of such security interest when deposited with any United States Post Office postpaid,
1149 and addressed to such holder at the post office address of such holder last furnished
1150 to COUNTY.

1151

1152 17.8 COUNTY will accept performance by the holder of any obligation under this
1153 Lease required to be performed by LESSEE, if at the time of such performance
1154 COUNTY shall be furnished with evidence satisfactory to COUNTY of the interest in
1155 this Lease claimed by the person, firm, or corporation tendering such performance or
1156 payment. The holder of such security interest shall have ten (10) days in addition to
1157 any applicable cure period provided to LESSEE under the terms of this Lease within
1158 which to cure any default by LESSEE.

1159

1160 17.9 Whenever COUNTY gives LESSEE a notice of default, it shall also give any
1161 mortgagees of LESSEE known to COUNTY the same notice. Any mortgagee shall
1162 have the same right to cure a default as does LESSEE. COUNTY shall recognize as
1163 a permitted valid assignee of LESSEE any mortgagee who acquires the interest of
1164 LESSEE by foreclosure or by assignment or other proceedings in lieu of foreclosure
1165 and any transferee of such mortgagee. COUNTY shall cooperate with LESSEE to
1166 comply with any reasonable requirements of a mortgagee.

1167

1168 17.10 The lender under any security interest given by LESSEE shall give
1169 COUNTY copies of all notices of default by LESSEE under any loan documents at
1170 the same time as such notices of default are sent to LESSEE. COUNTY shall have

1171 the right, but not the obligation, to cure LESSEE's default under said loan
1172 documents, in which case COUNTY shall be subrogated to that extent to the lender's
1173 rights against LESSEE under said loan documents.

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ARTICLE XVIII - RESTORATION OF PREMISES

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1178 18.1 If the Leased Premises or improvements thereon are damaged by fire,
1179 explosion, the elements, or other casualty, the same shall be repaired or replaced in
1180 conformance with the plans and specifications approved by COUNTY, and otherwise
1181 in accordance with Article VII, above, which work shall be commenced as soon as
1182 possible and carried on continuously to completion with due diligence by LESSEE at
1183 its own cost and expense, subject only to delays for Force Majeure. There shall be
1184 no abatement of rents during the period of any repairs or restoration.

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ARTICLE XIX - CONDEMNATION

1188

1189 19.1 In the event of total or partial condemnation of the Leased Premises, COUNTY
1190 shall be entitled to the value of its reversionary interest in the Leased Premises and
1191 improvements condemned, and LESSEE shall be entitled to the value if any of its
1192 leasehold estate therein.

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ARTICLE XX - MISCELLANEOUS PROVISIONS

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1197 20.1 In the event that any covenant, condition, or provision herein contained is held
1198 to be invalid by any court of competent jurisdiction, the invalidity of any such
1199 covenant, condition or provision shall in no way affect any other covenant, condition
1200 or provision herein contained; provided that the validity of any such covenant,
1201 condition or provision does not materially prejudice either COUNTY or LESSEE in its
1202 respective rights and obligations contained in the valid covenants, conditions, or
1203 provisions of this Lease.

1204

1205 20.2 LESSEE warrants that it has complied with all necessary requirements to do
1206 business in the State of Wisconsin, that the persons executing this Lease on its
1207 behalf are authorized to do so, and, if a corporation, that the name and address of
1208 LESSEE's registered agent is Arthur E. Sandridge, 4125 Terminal Drive, McFarland,
1209 WI 53558. LESSEE shall notify COUNTY immediately, in writing, of any change in
1210 its registered agent, his or her address, and LESSEE's legal status. For a
1211 partnership, the term 'registered agent' shall mean a general partner.

1212

1213 20.3 This Lease is intended to be an agreement solely between the parties hereto
1214 and for their benefit only. No part of this Lease shall be construed to add to,
1215 supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of

1216 any third party or parties, including but not limited to employees of either of the
1217 parties.

1218

1219 20.4 The entire Lease of the parties is contained herein, and this Lease supersedes
1220 any and all oral Leases and negotiations between the parties relating to the subject
1221 matter hereof. The parties expressly agree that this Lease shall not be amended in
1222 any fashion except in writing, executed by both parties.

1223

1224 20.5 The parties may evidence their agreement to the foregoing upon one or several
1225 counterparts of this instrument, which together shall constitute a single instrument.

1226

1227 IN WITNESS WHEREOF, COUNTY and LESSEE, by their respective duly
1228 authorized officers and agents, have caused this Lease and its Exhibits to be
1229 executed, effective as of the date by which all parties hereto have affixed their
1230 respective signatures, as indicated below.

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1232

FOR LESSEE:

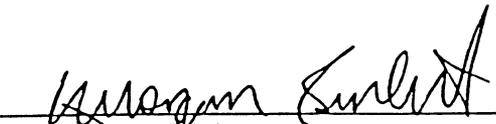
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1237 Date: 6/5/98

1238 By: 
R. Morgan Burkett

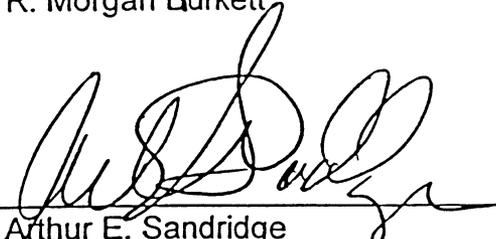
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1243 Date: 6/8/98

1244 By: 
Arthur E. Sandridge

1245

1246

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1248

FOR COUNTY:

1249

1250

1251

1252 Date: 7/13/98

1253 By: 
KATHLEEN M. FALK
County Executive

1254

1255

1256

1257

1258 Date: 7-14-98

1259 By: 
JOSEPH T. PARISI
County Clerk

1260

1260

AMENDMENT OF LEASE AGREEMENT

THIS AMENDMENT, by and between the County of Dane (hereinafter referred to as "COUNTY") and Legacy Hospitality LLC (hereinafter, "LESSEE")

WITNESSETH:

WHEREAS LESSEE and COUNTY, by a separate document (hereinafter, "the Master Agreement"), have proposed to enter into a ground lease of certain lands at the Dane County Exposition Center; and

WHEREAS COUNTY and LESSEE wish to amend the Master Agreement in order to take into account the need for a zoning ordinance change, which change is necessary to allow the construction and operation of a hotel on the Exposition Center grounds,

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged by each party for itself, the parties do agree as follows:

1. The Master Agreement, when fully executed, shall be in full force and effect unchanged in any manner by this amendment except as specifically set forth herein. This amendment shall control only to the extent of any conflict between the terms of the Master Agreement and this amendment. This amendment shall take effect simultaneously with the Master Agreement.

2. Section 1.1 of the Master Agreement is amended to read as follows:

1.1 There shall be a preliminary term of this Lease during which LESSEE shall be obligated to solicit financing for construction of a hotel. The preliminary term shall commence upon passage of the ordinance amendment referred to in s. 1.25 of this Lease and shall expire 90 days thereafter. If at the expiration of the preliminary term LESSEE notifies COUNTY that LESSEE has been unable to obtain financing, this Lease shall be null and void. If no such notice has been received, the Primary Term of this Lease, as set forth in section 1.2 below, shall automatically commence without further action by either party.

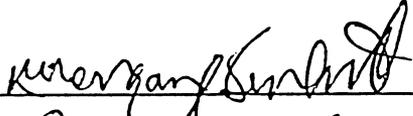
3. Section 1.25 of the Master Agreement is created to read as follows:

1.25 LESSEE understands that the County of Dane is in the process of amending its zoning ordinance to allow, as a conditional use, a hotel in the EXP-1 Exposition District. LESSEE recognizes that the amendment process is not yet completed and that the actual approval of the amendment by the Dane County Board of Supervisors and the Dane County Executive necessarily involves the exercise of governmental powers which cannot be

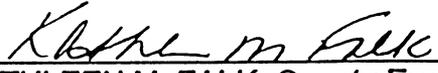
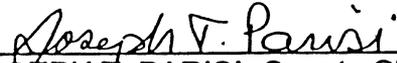
contracted away. By entering into this Lease, LESSEE understands and agrees that COUNTY does not guarantee that any such zoning ordinance amendment will be adopted by COUNTY's county board or approved by COUNTY's county executive, and each of them retains full discretion when acting in their respective governmental capacities, without regard to the existence of this Lease. Should COUNTY fail to adopt the necessary zoning ordinance amendment to allow the operation of a hotel, this Lease shall be null and void, and any payments theretofore made by LESSEE to COUNTY shall be refunded to LESSEE. COUNTY assumes no responsibility for any other expenses or costs whatsoever which are paid or payable to third parties or which are indirect costs of LESSEE itself and which are or may be incurred by LESSEE in anticipation of the adoption of a zoning ordinance amendment to allow the operation of a hotel on the Leased Premises.

IN WITNESS WHEREOF, COUNTY and LESSEE, by their respective authorized agents, have caused this amendment to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR LESSEE:

Date Signed: 6/8/98 
Date Signed: 6/9/98 

FOR COUNTY:

Date Signed: 7/13/98 
KATHLEEN M. FALK, County Executive
Date Signed: 7-14-98 
JOSEPH T. PARISI, County Clerk

* [print name and title, below signature
line of any person signing this document]

AMENDMENT OF LEASE AGREEMENT

THIS AMENDMENT, by and between the County of Dane (hereinafter referred to as "COUNTY") and Legacy Hospitality LLC (hereinafter, "LESSEE")

WITNESSETH:

WHEREAS LESSEE and COUNTY, by a separate document (hereinafter, "the Master Agreement"), have proposed to enter into a ground lease of certain lands at the Dane County Exposition Center; and

WHEREAS COUNTY and LESSEE wish to amend the Master Agreement in order to take into account the need for a zoning ordinance change, which change is necessary to allow the construction and operation of a hotel on the Exposition Center grounds,

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged by each party for itself, the parties do agree as follows:

1. The Master Agreement, when fully executed, shall be in full force and effect unchanged in any manner by this amendment except as specifically set forth herein. This amendment shall control only to the extent of any conflict between the terms of the Master Agreement and this amendment. This amendment shall take effect simultaneously with the Master Agreement.

2. Section 1.1 of the Master Agreement is amended to read as follows:

1.1 There shall be a preliminary term of this Lease during which LESSEE shall be obligated to solicit financing for construction of a hotel. The preliminary term shall commence upon passage of the ordinance amendment referred to in s. 1.25 of this Lease and shall expire 90 days thereafter. If at the expiration of the preliminary term LESSEE notifies COUNTY that LESSEE has been unable to obtain financing, this Lease shall be null and void. If no such notice has been received, the Primary Term of this Lease, as set forth in section 1.2 below, shall automatically commence without further action by either party.

3. Section 1.25 of the Master Agreement is created to read as follows:

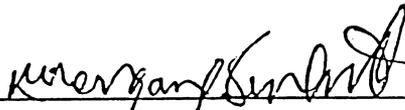
1.25 LESSEE understands that the County of Dane is in the process of amending its zoning ordinance to allow, as a conditional use, a hotel in the EXP-1 Exposition District. LESSEE recognizes that the amendment process is not yet completed and that the actual approval of the amendment by the Dane County Board of Supervisors and the Dane County Executive necessarily involves the exercise of governmental powers which cannot be

contracted away. By entering into this Lease, LESSEE understands and agrees that COUNTY does not guarantee that any such zoning ordinance amendment will be adopted by COUNTY's county board or approved by COUNTY's county executive, and each of them retains full discretion when acting in their respective governmental capacities, without regard to the existence of this Lease. Should COUNTY fail to adopt the necessary zoning ordinance amendment to allow the operation of a hotel, this Lease shall be null and void, and any payments theretofore made by LESSEE to COUNTY shall be refunded to LESSEE. COUNTY assumes no responsibility for any other expenses or costs whatsoever which are paid or payable to third parties or which are indirect costs of LESSEE itself and which are or may be incurred by LESSEE in anticipation of the adoption of a zoning ordinance amendment to allow the operation of a hotel on the Leased Premises.

IN WITNESS WHEREOF, COUNTY and LESSEE, by their respective authorized agents, have caused this amendment to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR LESSEE:

Date Signed: 6/8/98



Date Signed: 6/7/98

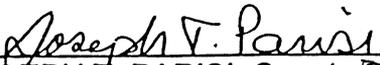


FOR COUNTY:

Date Signed: 7/13/98


KATHLEEN M. FALK, County Executive

Date Signed: 7-14-98


JOSEPH T. PARISI, County Clerk

* [print name and title, below signature
line of any person signing this document]

AMENDMENT NO. 2 OF LEASE AGREEMENT

THIS AMENDMENT, by and between the County of Dane (hereinafter referred to as "COUNTY") and Legacy Hospitality LLC (hereinafter, "LESSEE")

WITNESSETH:

WHEREAS LESSEE and COUNTY, by a separate document (hereinafter, "the Master Agreement"), have entered into a ground lease of certain lands at the Dane County Exposition Center; and

WHEREAS LESSEE and COUNTY, by a separate document (hereinafter, "Amendment No. 1"), have previously amended the Master Agreement; and

WHEREAS COUNTY and LESSEE wish to amend the Master Agreement further, in order to take into account the need for an extension of time within which to complete LESSEE's analysis of market conditions for a hotel on the Exposition Center grounds as well as to foreshorten the date for completion of hotel construction and commencement of hotel operation;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged by each party for itself, the parties do agree as follows:

1. The Master Agreement, when fully executed, shall be in full force and effect unchanged in any manner by this amendment except as specifically set forth herein. This amendment shall control only to the extent of any conflict between the terms of the Master Agreement and this amendment. This amendment shall take effect simultaneously with the Master Agreement.

2. Section 1.1 of the Master Agreement is amended to read as follows:

1.1 There shall be a preliminary term of this Lease during which LESSEE shall be obligated to solicit financing for construction of a hotel. The preliminary term shall commence upon passage of the ordinance amendment referred to in s. 1.25 of this Lease and shall expire ~~February 15, 1999, 90 days thereafter.~~ If at the expiration of the preliminary term LESSEE notifies COUNTY that LESSEE has been unable to obtain financing, this Lease shall be null and void. If no such notice has been received, the Primary Term of this Lease, as set forth in section 1.2 below, shall automatically commence without further action by either party.

46 3. Section 1.35 of the Master Agreement is created to read as follows:

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1.35 Notwithstanding any other provision of this Lease to the contrary, LESSEE shall be obligated to complete construction of the hotel by March 1, 2000. LESSEE shall also be obligated to commence commercial operation of the hotel by March 1, 2000.

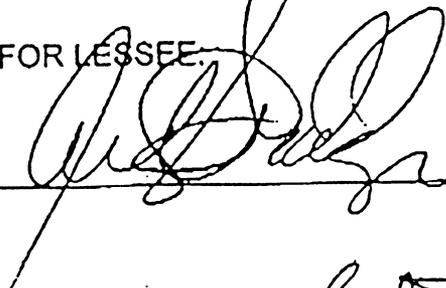
4. Section 3.1 of the Master Agreement is amended to read as follows:

3.1 LESSEE's obligation to pay rent begins with the date by which LESSEE holds its hotel open for business, which date is hereinafter referred to as the "Rent Commencement Date", but in no event later than ~~March~~ October 1, 2000.

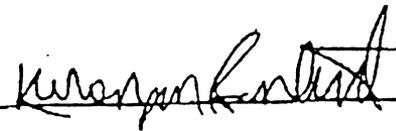
IN WITNESS WHEREOF, COUNTY and LESSEE, by their respective authorized agents, have caused this amendment to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR LESSEE:

Date Signed: 10/29/98

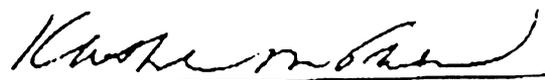


Date Signed: 10/29/98

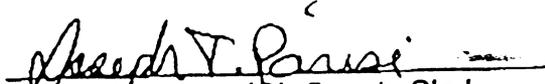


FOR COUNTY:

Date Signed: 11/9/98


KATHLEEN M. FALK, County Executive

Date Signed: 11-9-98


JOSEPH T. PARISI, County Clerk

* [print name and title, below signature line of any person signing this document]

1 AMENDMENT NO. 3 OF LEASE AGREEMENT

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3 THIS AMENDMENT, by and between the County of Dane (hereinafter referred to
4 as "COUNTY") and Legacy Hospitality LLC (hereinafter, "LESSEE")

5
6 WITNESSETH:

7
8 WHEREAS LESSEE and COUNTY, by a separate document (hereinafter, "the
9 Master Agreement"), have entered into a ground lease of certain lands at the Dane
10 County Exposition Center; and

11
12 WHEREAS LESSEE and COUNTY, by separate documents (hereinafter, "the
13 Prior Amendments"), have previously amended the Master Agreement; and

14
15 WHEREAS COUNTY and LESSEE wish to amend the Master Agreement further,
16 in order to take into account the need for an extension of time within which to enable
17 LESSEE to obtain financing for the construction of a hotel on the Exposition Center
18 grounds;

19
20 NOW, THEREFORE, in consideration of the above premises and the mutual
21 covenants of the parties hereinafter set forth, the receipt and sufficiency of which is
22 hereby acknowledged by each party for itself, the parties do agree as follows:

23
24 1. The Master Agreement, as previously amended by the Prior Amendments, shall
25 be in full force and effect unchanged in any manner by this amendment except as
26 specifically set forth herein. This amendment shall control only to the extent of any
27 conflict between the terms of the Master Agreement, as previously amended by the
28 Prior Amendments, and this amendment.

29
30 2. Section 1.1 of the Master Agreement, as previously amended by the Prior
31 Amendments, is further amended to read as follows:

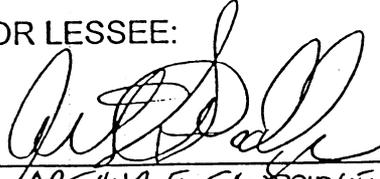
32
33 1.1 There shall be a preliminary term of this Lease during which
34 LESSEE shall be obligated to solicit financing for construction of a
35 hotel. The preliminary term shall commence upon passage of the
36 ordinance amendment referred to in s. 1.25 of this Lease and shall
37 expire May 14, 1999. If at the expiration of the preliminary term
38 LESSEE notifies COUNTY that LESSEE has been unable to obtain
39 financing, this Lease shall be null and void. If no such notice has
40 been received, the Primary Term of this Lease, as set forth in
41 section 1.2 below, shall automatically commence without further
42 action by either party.
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IN WITNESS WHEREOF, COUNTY and LESSEE, by their respective authorized agents, have caused this amendment to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

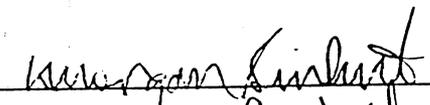
FOR LESSEE:

Date Signed: 1/22/99



ARTHUR E. SANDRIDGE, MEMBER

Date Signed: 1/24/99



R. Morgan Burkett, member

FOR COUNTY:

Date Signed: _____

KATHLEEN M. FALK, County Executive

Date Signed: _____

JOSEPH T. PARISI, County Clerk

* [print name and title, below signature line of any person signing this document]

1 AMENDMENT NO. 4 OF LEASE AGREEMENT

2
3 THIS AMENDMENT, by and between the County of Dane (hereinafter referred to as "COUNTY")
4 and Legacy Hospitality LLC (hereinafter, "LESSEE")

5
6 WITNESSETH:

7
8 WHEREAS LESSEE and COUNTY, by a separate document (hereinafter, "the Master Agreement"),
9 have entered into a ground lease of certain lands at the Dane County Exposition Center; and

10
11 WHEREAS LESSEE and COUNTY, by separate documents (hereinafter, "the Prior Amendments"),
12 have previously amended the Master Agreement; and

13
14 WHEREAS COUNTY and LESSEE wish to amend the Master Agreement further, in order to take
15 into account the need for the proper size of the hotel on the Exposition Center grounds under varying
16 conditions;

17
18 NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the
19 parties hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged by each party
20 for itself, the parties do agree as follows:

21
22 1. The Master Agreement, as previously amended by the Prior Amendments, shall be in full force
23 and effect unchanged in any manner by this amendment except as specifically set forth herein. This
24 amendment shall control only to the extent of any conflict between the terms of the Master Agreement,
25 as previously amended by the Prior Amendments, and this amendment.

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27
28 2. The fourth Whereas clause of the Master Agreement is amended to read as follows:

29
30 WHEREAS LESSEE desires to construct and operate a hotel, with a minimum of
31 125 rooms, and an enclosed pedestrian walkway connecting the hotel to the
32 Exposition Hall;

33
34
35 3. Section 1.35 of the Master Agreement is amended to read as follows:

36
37 1.35 Notwithstanding any other provision of this Lease to the contrary, LESSEE
38 shall be obligated to complete construction and commence commercial operation
39 of the hotel by July 1, 2000.

40
41
42 4. Section 3.1 of the Master Agreement is amended to read as follows:

43
44 3.1 LESSEE's obligation to pay rent begins on April 1, 2000.

45
46
47 5. Section 3.3 of the Master Agreement is amended to read as follows: -

48
49 3.3 After the Rent Commencement Date, LESSEE shall pay COUNTY ground
50 rent of \$56,700 per year payable in equal monthly installments in advance.

55 6. Section 4.1 of the Master Agreement is amended to read as follows:
56

57 4.1 LESSEE shall construct, furnish, operate and maintain a first class hotel on
58 the Leased Premises. The hotel shall be a Hawthorn Suites, Ltd., Hotel. Title to
59 the hotel and ancillary buildings, if any, shall remain with LESSEE throughout the
60 Primary Term of this Lease and any extension thereof. LESSEE shall execute a
61 bill of sale or quit claim deed, or both, on COUNTY's request in order to transfer
62 title to the hotel and ancillary buildings to COUNTY at expiration or termination of
63 this Lease. LESSEE shall not be allowed to terminate or change its affiliation
64 without the prior written consent of COUNTY, which approval may not be
65 unreasonably or arbitrarily withheld if the new entity is a first class hotel operation.
66 LESSEE shall have during the Primary Term of this Lease and any extension
67 thereof, and as long as LESSEE is not in default hereunder, the exclusive right to
68 operate such a hotel on the existing property owned by COUNTY at the
69 exposition center. In the event the average daily occupancy rate of LESSEE's
70 guest rooms during any consecutive twenty-four month period equals or exceeds
71 seventy (70%), COUNTY may at any time during the Primary Term or any
72 extension thereof require a feasibility study from an independent, reputable hotel
73 consultant, the purpose of said study to be to determine the feasibility of
74 additional guest rooms at LESSEE's hotel at the exposition center. COUNTY's
75 selection of a consultant is subject to LESSEE's approval which shall not be
76 unreasonably withheld. COUNTY shall not require construction of additional hotel
77 guest rooms at the exposition center unless the feasibility study from an
78 independent, reputable hotel consultant recommends that a specific number or
79 range of additional hotel rooms is feasible at the exposition center to satisfy
80 existing and reasonably anticipated demand, taking into account the hotel rooms
81 already being operated by LESSEE. COUNTY may require no more than the
82 number of hotel rooms deemed to be justified in the consultant's report to be
83 constructed and operated at the exposition center unless LESSEE otherwise
84 consents in writing. Upon receipt of a feasibility study recommending at least 50
85 additional rooms, COUNTY may tender to LESSEE an amendment to this lease
86 in the form set forth in Exhibit "B" attached hereto and incorporated herein by
87 reference. The amendment shall specify the total number of guest rooms at the
88 hotel, said total to include the required additional rooms. LESSEE shall, within 60
89 days of tender of such a lease amendment from COUNTY, deliver to COUNTY a
90 fully executed lease amendment and upon LESSEE's failure to do within such
91 period of time, COUNTY shall at anytime thereafter during the Primary Term of
92 this Lease or any extension thereof, have the right to exercise the option set forth
93 in section 4.22 below. In lieu of exercising the option to purchase LESSEE's
94 hotel, COUNTY may elect to contract with another hotel developer for an
95 additional hotel on the exposition center grounds, and in that event any exclusivity
96 rights granted LESSEE herein, including exclusive rights to the enclosed
97 pedestrian walkway, shall be deemed terminated, provided that LESSEE shall
98 continue to maintain the walkway except than a new hotel operator, if any, shall
99 assume the building and maintenance costs of that portion of the walkway which
100 it constructs.

101
102
103 7. Section 4.2 of the Master Agreement is amended to read as follows:
104

105 4.2 LESSEE shall construct an at-grade enclosed pedestrian walkway from its
106 hotel to COUNTY's Exposition Hall. The walkway shall be fully enclosed, offering
107 pedestrians protection from the elements and shall be equipped with heating and
108 air-conditioning systems adequate for the Wisconsin climate. The walkway shall

109 be constructed according to plans approved by COUNTY's public works
110 committee. Title to the walkway shall pass to COUNTY upon completion and
111 acceptance by COUNTY's public works committee, and LESSEE shall execute a
112 bill of sale or quit claim deed, or both, on COUNTY's request. During the Primary
113 Term of this Lease and any extension thereof, LESSEE shall be entitled to
114 exclusive use of the walkway (subject to occasional use by COUNTY staff); and
115 LESSEE shall be solely responsible for its maintenance, repair and upkeep,
116 including heating and air-conditioning systems.

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119 8. Section 4.3 of the Master Agreement is amended to read as follows:

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121 4.3 LESSEE agrees to participate in marketing of COUNTY's exposition
122 center by setting aside rooms for exposition center events or by providing special
123 group rates for such events, or both, all as may be negotiated by the parties on
124 an event-by-event basis, provided, that on request of COUNTY's exposition
125 center director and without the need for negotiation, LESSEE shall set aside a
126 block of rooms, the number (up to 100 rooms) to be determined by the exposition
127 center executive director or designee and to be held for the event until such time
128 released by the agreement of LESSEE and the exposition center executive
129 director or designee. COUNTY agrees to include LESSEE in its marketing efforts
130 wherever feasible provided, however, that this provision shall not be construed to
131 require the expenditure of funds by COUNTY. LESSEE shall be allowed to use
132 the term "Expo Center Headquarters Hotel" or similar terminology approved by
133 COUNTY's exposition center director.

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135
136 9. Section 4.17 of the Master Agreement is amended to read as follows:

137
138 4.17 Provided that LESSEE constructs the maximum number of surface
139 parking stalls on the demised premises consistent with local and state laws and
140 regulations, LESSEE shall for the term of this Lease, including any extensions, be
141 entitled to allow LESSEE's guests and employees the use of parking spaces on
142 COUNTY's exposition center parking lot, as designated by COUNTY in an area of
143 the parking lot generally proximate to the site of LESSEE's hotel, provided,
144 however, that LESSEE shall furnish and install at its sole expense (i) barriers
145 preventing vehicular travel between the area so designated and other portions of
146 COUNTY's exposition center parking lot and (ii) signs indicating such area is
147 restricted to its guests and employees. LESSEE shall indemnify, defend and hold
148 COUNTY harmless for any losses, damages, personal injury or other claims
149 whatsoever arising out of LESSEE's guests' and employees' use of the parking
150 lot areas designated pursuant to this section. The maximum number of
151 exposition center parking stalls available for LESSEE's use under ~~this~~ section is
152 the sum of guest rooms plus the number of hotel employees minus the number of
153 parking stalls LESSEE constructs on the demised premises. It is the intent of the
154 parties that LESSEE will be able to meet all of its parking needs for the 125 room
155 hotel with parking stalls constructed solely on the demised premises.

156
157
158 10. Section 4.21 of the Master Agreement is created to read as follows:

159
160 4.21 The parties shall share equally in the cost of the feasibility study referenced
161 in section 4.1 above. It is the intent of the parties that a feasibility study may be
162 undertaken any number of times and is limited only by the requirement that each

163 study must be preceded by an average daily occupancy rate of LESSEE's guest
164 rooms during any consecutive twenty-four month period which is equal to or
165 exceeds seventy (70%) of LESSEE's then available guest rooms.
166

167
168 11. Section 4.22 of the Master Agreement is created to read as follows:
169

170 4.22 In the event LESSEE fails or refuses to deliver to COUNTY a fully executed
171 lease amendment with in 60 days as contemplated in section 4.1 above,
172 COUNTY shall thereupon and continuing throughout the Primary Term and any
173 extensions be vested with an option to purchase LESSEE's hotel at its then fair
174 market value. As used in this section, "fair market value" means the value
175 established by the consultant performing the feasibility study referenced in
176 section 4.1 above. It is expressly understood and agreed to by LESSEE that the
177 option granted to COUNTY herein is assignable to a third party as COUNTY sees
178 fit in its sole discretion.
179

180
181 12. Section 5.7 of the Master Agreement is amended to read as follows:
182

183 5.7 This Lease shall be subordinate to the provisions of any outstanding
184 agreement between COUNTY and other parties relative to the maintenance,
185 operation or development of the exposition center, including COUNTY's
186 agreement with its concessionaire. COUNTY represents nothing in such
187 agreement currently prohibits construction and operation of a hotel at the
188 exposition center. LESSEE specifically acknowledges that COUNTY and its
189 concessionaire have entered into an agreement containing the following
190 provision:
191

192 *Subject to the financial and operational standards of whatever hotel*
193 *developer may become involved in developing a hotel on the Expo*
194 *grounds, CFDC has the exclusive food and beverage rights at the hotel*
195 *pursuant to the Agreement. CFDC will meet with any hotel developer to*
196 *discuss financial and other terms that may prove to be in the best*
197 *interests of the hotel and CFDC in implementing those exclusive rights*
198 *but is not required to surrender, sell, waive or modify its rights in any*
199 *respect.*
200

201 LESSEE agrees to be bound by the above provision and to participate as a party
202 in any arbitration involving any challenge by COUNTY's concessionaire claiming
203 an abridgment of the concessionaire's rights under its settlement agreement with
204 COUNTY as set forth in this section. LESSEE agrees to pay a one-third share of
205 any arbitration costs and to hold harmless and indemnify COUNTY ~~against~~ any
206 and all liability, loss, damages, costs or expenses which COUNTY may sustain,
207 incur or be required to pay by reason of LESSEE violating the provisions of this
208 section, provided that LESSEE's obligation to indemnify and hold harmless COUNTY
209 shall not apply to liabilities, losses, charges, costs, or expenses caused by or
210 resulting from the acts or omissions of COUNTY, its agencies, boards, commissions,
211 officers, employees or representatives.
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13. Section 7.1 of the Master Agreement is amended to read as follows:

7.1 LESSEE agrees, as a condition to this Lease, that it will construct at its cost a Hawthorn Suites, Ltd., Hotel facility containing not less than 125 guest sleeping rooms, with all of the appropriate landscaping, furnishings, fixtures and equipment. Said hotel shall be constructed, at a minimum, according to the standards set forth in Hawthorn Suites, Ltd., Hotel's construction manual. No changes in the number of rooms or general design and layout of the hotel shall be made by LESSEE without the prior written approval of COUNTY. Upon completion of construction, a true and complete set of record drawings for the hotel shall be furnished by LESSEE to COUNTY, which shall accurately show all plans and specifications for such construction, as actually completed, including any deviations from the plans and specifications originally approved by COUNTY. This section is subject to COUNTY's ability to require the construction of additional hotel rooms pursuant to the provisions of section 4.1 and 4.22.

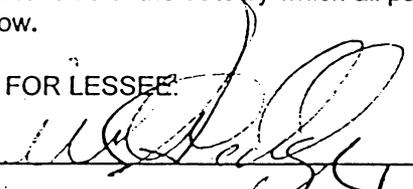
14. Section 7.3 of the Master Agreement is amended to read as follows:

7.3 LESSEE covenants and warrants that construction of the hotel and other improvements shall be completed in a good and workmanlike manner using only new materials, fixtures and equipment (except as otherwise specifically called for in the approved final plans and specifications) and in compliance with all applicable building, zoning, health, safety and other codes, regulations or statutes, and shall conform absolutely to the approved final plans and specifications. No construction shall be commenced unless LESSEE has secured, and submitted to COUNTY for approval, committed, irrevocable financing sufficient, in the reasonable opinion of COUNTY, to enable LESSEE to properly complete and furnish the hotel project in accordance with approved plans and specifications. LESSEE covenants to complete and furnish the hotel, as approved by COUNTY, and to commence full scale operation thereof by no later than July 1, 2000, subject only to delays resulting from "Force Majeure" (as defined in section 16.5, below).

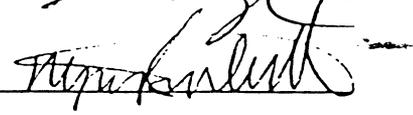
IN WITNESS WHEREOF, COUNTY and LESSEE, by their respective authorized agents, have caused this amendment to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR LESSEE:

Date Signed: 5/13/99

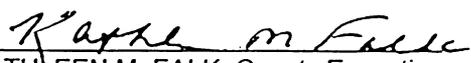


Date Signed: 5/13/99



FOR COUNTY:

Date Signed: 5/13/99


KATHLEEN M. FALK, County Executive

Date Signed: _____

JOSEPH T. PARISI, County Clerk

AMENDMENT NO. 5 OF LEASE AGREEMENT

THIS AMENDMENT, by and between the County of Dane (hereinafter referred to as "COUNTY") and Legacy Hospitality LLC (hereinafter, "LESSEE")

WITNESSETH :

WHEREAS LESSEE and COUNTY, by a separate document (hereinafter, "the Master Agreement"), have entered into a ground lease of certain lands at the Dane County Exposition Center; and

WHEREAS LESSEE and COUNTY, by separate documents (hereinafter collectively, "the Prior Amendments"), have previously amended the Master Agreement; and

WHEREAS COUNTY and LESSEE wish to amend the Master Agreement further, in order to take into account the need for an extension of time within which to enable LESSEE to complete construction of a larger hotel on the Exposition Center grounds;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged by each party for itself, the parties do agree as follows:

1. The Master Agreement, as previously amended by the Prior Amendments, shall be in full force and effect unchanged in any manner by this amendment except as specifically set forth herein. This amendment shall control only to the extent of any conflict between the terms of the Master Agreement, as previously amended by the Prior Amendments, and this amendment.

2. The Fourth Whereas clause of the Master Agreement is amended to read as follows:

WHEREAS LESSEE desires to construct and operate a hotel, with a minimum of 140 rooms, and an enclosed pedestrian walkway connecting the hotel to the Exposition Hall;

3. Section 1.35 of the Master Agreement, as previously amended by the Prior Amendments, is further amended to read as follows:

1.35 Notwithstanding any other provision of this Lease to the contrary, LESSEE shall be obligated to complete construction and commence commercial operation of the hotel by March 1, 2001.

4. Section 4.17 of the Master Agreement, as previously amended by the Prior Amendments, is further amended to read as follows:

4.17 Provided that LESSEE constructs the maximum number of surface parking stalls on the demised premises consistent with local and state laws and regulations, LESSEE shall for the term of this Lease, including any extensions, be entitled to allow LESSEE's guests and employees the use of parking spaces on COUNTY's exposition center parking lot, as designated by COUNTY in an area of the parking lot generally proximate to the site of LESSEE's hotel, provided, however, that LESSEE shall furnish and install at its sole expense (i) barriers preventing vehicular travel between the area so designated and other portions of COUNTY's exposition center parking lot and (ii) signs indicating such area is restricted to its guests and employees. LESSEE shall indemnify, defend and hold COUNTY harmless for any losses, damages, personal injury or other claims whatsoever arising out of LESSEE's guests' and employees' use of the parking lot areas designated pursuant to this section. The maximum number of exposition center parking stalls available for LESSEE's use under this section is the sum of guest rooms plus the number of hotel employees minus the number of parking stalls LESSEE constructs on the demised premises. It is the intent of the parties that LESSEE will be able to meet all of its parking needs for the 140 room hotel with parking stalls constructed solely on the demised premises.

5. Section 7.1 of the Master Agreement, as previously amended by the Prior Amendments, is further amended to read as follows:

7.1 LESSEE agrees, as a condition to this Lease, that it will construct at its cost a Hawthorn Suites, Ltd., Hotel facility containing not less than 140 guest sleeping rooms, with all of the appropriate landscaping, furnishings, fixtures and equipment. Said hotel shall be constructed, at a minimum, according to the standards set forth in Hawthorn Suites, Ltd., Hotel's construction manual. No changes in the number of rooms or general design and layout of the hotel shall be made by LESSEE without the prior written approval of COUNTY. Upon completion of construction, a true and complete set of record drawings for the hotel shall be furnished by LESSEE to COUNTY, which shall accurately show all plans and specifications for such construction, as actually completed, including any deviations from the plans and specifications originally approved by COUNTY. This section is subject to COUNTY's ability to require the construction of additional hotel rooms pursuant to the provisions of section 4.1 and 4.22.

IN WITNESS WHEREOF, COUNTY and LESSEE, by their respective authorized agents, have caused this amendment to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR LESSEE:

Date Signed: _____

Date Signed: _____

* * * *

FOR COUNTY:

Date Signed: _____
KATHLEEN M. FALK, County Executive

Date Signed: _____
JOSEPH T. PARISI, County Clerk

* [print name and title, below signature
line of any person signing this document]

ASSIGNMENT OF LEASE

This Assignment of Lease ("this Assignment") is entered into by and between GLC Madison Hotel, LLC ("GLC"), and Ragatz LLP, a Wisconsin limited liability partnership, State Street Partners I, LLP, a Wisconsin limited liability partnership, and Oriental Specialties, Inc., a Wisconsin corporation, as tenants in common (jointly and severally "ASSIGNEES"), and consented to by Dane County ("COUNTY"), a quasi-municipal corporation organized and existing under the laws of the State of Wisconsin.

RECITALS:

WHEREAS, Legacy Hospitality LLC and COUNTY have entered into a ground lease and amendments thereto, attached hereto and incorporated herein as Exhibit A (hereinafter, the "Lease"); and

WHEREAS, Legacy Hospitality LLC has previously assigned its interest and obligations in the Lease to Expo Hospitality Partners LLC ("EXPO"), COUNTY having consented thereto; and

WHEREAS, EXPO has previously assigned its interest and obligations in the Lease to GLC, COUNTY having consented thereto; and

WHEREAS, GLC wishes to assign its interest and obligations in the Lease to ASSIGNEES, ASSIGNEES desiring to assume all rights, duties, and liabilities that GLC has under the Lease, including payment of rent to COUNTY; and

WHEREAS, the Lease as assigned to GLC requires COUNTY's express written consent in order for GLC to assign its rights and responsibilities under the Lease to a third party;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties to this Assignment, the receipt and sufficiency of which is acknowledged by each party for itself, the parties agree as follows:

1. GLC assigns all rights and responsibilities it has in and to the Lease to ASSIGNEES.
2. ASSIGNEES accept this Assignment of the Lease from GLC and agree to be jointly and severally bound, as Lessee, by the terms of the Lease as originally executed and thereafter amended, including the duty to pay rent to COUNTY.
3. COUNTY consents to the Assignment of the Lease to ASSIGNEES.

4. This Assignment shall be effective upon execution by all parties.

IN WITNESS WHEREOF, GLC, ASSIGNEES, and COUNTY, by their respective authorized agents, have caused this Assignment to be executed effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

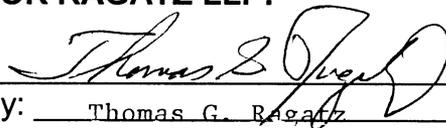
FOR GLC:

Date Signed: _____

By: _____
Its: _____

FOR RAGATZ LLP:

Date Signed: _____


By: Thomas G. Ragatz
Its: President of Managing Partner

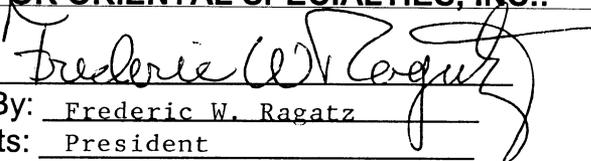
FOR STATE STREET PARTNERS I, LLP:

Date Signed: _____


By: David G. Walsh
Its: Partner

FOR ORIENTAL SPECIALTIES, INC.:

Date Signed: _____


By: Frederic W. Ragatz
Its: President

FOR COUNTY:

Date Signed: _____

Kathleen M. Falk, County Executive

Date Signed: _____

Joseph T. Parisi, County Clerk

*[print name and title below signature line of any person signing this document]

GROUND LESSOR ESTOPPEL CERTIFICATE

This GROUND LESSOR ESTOPPEL CERTIFICATE (this “*Certificate*”), dated as of [REDACTED], 2021 (the “*Effective Date*”), is executed by Dane County, a quasi-municipal corporation organized and existing under the laws of the State of Wisconsin (the “*Landlord*”).

Landlord currently leases the real property described in the Lease (defined below) to Ragatz LLP, a Wisconsin limited liability partnership, State Street Partners I, LLP, a Wisconsin limited liability partnership, and Oriental Specialties, Inc., a Wisconsin corporation, as tenants in common (collectively, the “*Tenant*”), pursuant to the terms of that certain Ground Lease No. 2419 dated July 14, 1998 between Landlord and Legacy Hospitality LLC, as amended, modified, supplemented, extended or assigned, attached hereto with all amendments and assignments incorporated herein (the “*Lease*”). All section references in this Certificate refer to the Lease.

Tenant desires to assign its interest in the Lease to 2110 Rimrock Acquisition Partners, LLC, a Delaware limited liability company (“*Transferee*”), and Transferee desires to assume Tenant's interest in the Lease.

Landlord hereby certifies, as of the Effective Date, to Transferee, who in material reliance on the certifications included in this Certificate is assuming the Lease and Tenant's leasehold interests, that:

1. Landlord (a) is the sole record fee owner of the Leased Premises, and (b) is the landlord under the Lease. To the actual knowledge of Landlord, Tenant is the tenant under the Lease. Landlord has received no written notice that Tenant has assigned or will assign the Lease and its leasehold interests therein except to Transferee.

2. The Lease, as amended, modified, supplemented, extended and assigned, is attached hereto as **Exhibit A** is a true, complete, and correct copy of the Lease and represents the entire understanding between Landlord and Tenant regarding the Lease. The Lease is in full force and effect and there has been no other amendment, modification, supplement, extension or assignment of any kind or nature varying the stated terms and conditions thereof.

3. The rent due under the Lease has been paid through February 28, 2021. The current monthly rent is Seven Thousand Two Hundred Eighty and 79/Dollars (\$7,280.79).

4. The “*Primary Term*” (as determined pursuant to the Lease) of the Lease commenced on May 14, 1999 and expires on March 30, 2050, unless sooner terminated pursuant to the terms of the Lease. All options to renew or extend the Lease are contained in the Lease and shall be available to Transferee. There remains to be exercised the following renewal options: Pursuant to Section 1.2 of the Lease, Lessee has two (2) renewal options to extend the primary term of the Lease. The first renewal option is for a period of fifteen (15) years, and the second renewal option is for a period of ten (10) years.

5. Tenant has no option to purchase the leased premises.

6. To the actual knowledge of Landlord, neither Landlord nor Tenant is in material default under the terms of the Lease and to the actual knowledge of Landlord, there exists no situation that with

the giving of notice or passage of time, or both, would give rise to a default by Tenant or Landlord. No controversy presently exists between Landlord and Tenant, including any litigation or arbitration, with respect to the Lease. To the actual knowledge of Landlord, there are no existing or outstanding offsets, counterclaims, defenses, deductions, or credits whatsoever with respect to the Lease, or any amount owing under the Lease.

7. Landlord has not assigned, transferred, sold, encumbered, or mortgaged its interest in the Lease. No consent or approval of any third party is required for Landlord to deliver this Certificate.

8. To the actual knowledge of Landlord, Landlord has not received written notice that it is in violation of any governmental law or regulation applicable to its interests in the Lease and Landlord has no reason to believe that there are any grounds for any claim of any such violation.

9. Landlord has not received written notice of any actual or pending eminent domain proceedings or other governmental actions against Landlord's interest in the Lease.

10. Landlord hereby consents to the assignment to Transferee of the Lease.

11. All notices, demands, requests, or other communications to be sent by one party to the other shall be provided in accordance with the notice provisions of the Lease and shall be provided to the following addresses: if addressed to Transferee at 801 Broad Street, Suite 200, Chattanooga, TN 37402, Attn: Mr. Ken DeFoor, and if addressed to Landlord, to Alliant Energy Center Director, 1919 Alliant Energy Center Way, Madison, WI 53713, or at such other address as may be designated by such party as herein provided.

12. To the actual knowledge of Landlord, all improvements constructed pursuant to the Lease are in compliance with the terms of the Lease and to the extent required as a condition precedent to the construction of all such improvements, the consent of Landlord was obtained in accordance with the terms of the Lease.

13. Landlord has read this Certificate and acknowledges and understands the certifications and representations made herein. The undersigned signatory represents and warrants that s/he is duly authorized to execute this Certificate on behalf of Landlord. This Certificate is executed by Landlord, intending reliance hereon by Transferee and its successors and assigns.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, and intending to be legally bound hereby, the undersigned has duly executed this Certificate as of the date first above written.

LANDLORD:

DANE COUNTY, a Wisconsin quasi-municipal corporation

By: _____

Name: _____

Title: _____

Sworn to before me _____, 2021.

[NOTARY]

By: _____

Notary Public

[AFFIX SEAL]

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