EMERGENCY TEMPORARY OCCUPANCY AGREEMENT

EMERGENCY TEMPORARY OCCUPANCY AGREEMENT COVERING PREMISES LOCATED AT 13087 RESEARCH BLVD, AUSTIN, TX 78729.

OWNER'S FED. TAX. I.D., NO. OR SOCIAL SECURITY NO.: 81-2746993

THIS EMERGENCY TEMPORARY OCCUPANCY AGREEMENT (the "Agreement"), between LVP FFI Austin LLC d/b/a Fairfield Inn & Suites Austin Northwest/Research Blvd, a Delaware limited liability company (the "Owner"), and the City of Austin, a Texas home-rule city and municipal corporation situated in Travis, Williamson, and Hays County, Texas (the "City" and together with the Owner the "Parties" and each individually a "Party")

THIS AGREEMENT IS ENTERED INTO PURSUANT TO SECTION 418 OF THE TEXAS GOVERNMENT CODE, SECTION 122 OF THE HEALTH AND SAFETY CODE, GOVERNOR GREG ABBOTT'S STATE OF EMERGENCY PROCLAMATION DATED MARCH 13, 2020, MAYOR STEVE ADLER'S LOCAL STATE OF DISASTER DECLARATION DATED MARCH 6, 2020, AND INTERIM HEALTH AUTHORITY DR. MARK E. ESCOTT'S ORDERS RELATED TO NON-CONGREGATE HOUSING DATED APRIL 1, 2020, AS EXTENDED, AND IS DIRECTLY RELATED TO THAT EMERGENCY AND NECESSARY FOR THE PRESERVATION OF PUBLIC HEALTH AND SAFETY.

1. Premises.

a. The Owner hereby authorizes the City and the City hereby hires from the Owner "AS IS" every guestroom with appurtenances of the Fairfield Inn & Suites (the "Hotel") located at 13087 Research Blvd, Austin, Texas, 78729 (the "Occupied Premises"), unlimited use of the Hotel's common areas and facilities, the Hotel's laundry facilities, and all furnishings, fixtures, and equipment located therein.

b. The City shall have access to and use of the Occupied Premises, the Hotel's common areas and facilities, the Hotel's laundry facility, and all furnishings, fixtures, and equipment located therein 24 hours per day, seven (7) days per week with no exceptions.

2. Term. The term of this Agreement shall commence on the 14th day of November, 2020 (the "Commencement Date"), and shall expire at 11:59 p.m. on the date that is sixty (60) days after the Commencement Date, with such rights of termination as may be hereinafter expressly set forth (the "Term"), provided however that the Parties may agree in writing to an earlier Commencement Date. The Term may be extended by the City for three (3) successive periods of thirty (30) days each by sending written notice to the Owner on or before the tenth calendar day

prior to the expiration of the Initial Term or any extension thereof (the "Extension Terms"). The Extension Terms shall automatically commence upon expiration of the Initial Term or the previous Extension Term if City timely sends its notice to extend. Any Extension Term shall be on the same terms as set forth herein.

3. Early Termination. The City may terminate this Agreement at any time by giving written notice to the Owner at least fourteen (14) days prior to the date when such termination shall become effective. If the City fails to complete its move out and comply with all actions required under this Agreement in connection with expiration or earlier termination of this Agreement and remains in the Occupied Premises, additional consideration shall be paid and prorated on a thirty day month in accordance with Paragraph 4, based on the actual number of days the City occupies the Occupied Premises following the effective date of termination.

4. Consideration.

a. A fee for use of the Occupied Premises shall be paid by the City to Owner, by check or wire transfer, as follows (the "Occupancy Fee"):

i. $4,200 per day of City occupancy when no guests are occupying the guest rooms, including the time used by the City to mobilize operations and to sanitize the Occupied Premises.

ii. $5,880 per day of City occupancy when guests are occupying any of the guest rooms.

b. Payment for the first thirty (30) days of the Term shall be issued to the Owner within ten (10) business days of the Commencement Date. Thereafter, payment shall be made monthly, in advance, on the first (1st) day of each month based on the fee contemplated by Section 4.a.ii. The City may effect true-ups of the Occupancy Fee for the prior month in the next month's payment based on the numbers of days of the month that the fee set forth in Section 4.a.i was in fact applicable (subject to the Owner's right to audit and conduct verifications of any such true-ups).

c. Payments due under this section for any period of time less than one month shall be paid at the applicable daily rate. If the City terminates the Agreement in accordance with Section 3, Owner shall, within 15 days of the effective termination date, reimburse the City for any unused pre-paid days.

d. Payments shall be paid to Owner at the address specified in Paragraph 4 or to such other address as the Owner may designate by a notice in writing.

e. Consideration and other payments due hereunder shall:

i. be made payable to LVP FFI Austin LLC d/b/a Fairfield Inn & Suites Austin Northwest/Research Blvd or its designee; and

ii. be mailed or delivered to:

NAME: Island Hospitality Management. Attn: Barbara Bachman

ADDRESS: 222 Lakeview Avenue, Suite 200, West Palm Beach, FL, 33401

5. Conditions Precedent to City's and Owner's Obligations. Any provision in this Agreement to the contrary notwithstanding, it is understood and agreed that the City's obligations under this Agreement are subject to the approval of this Agreement by the City Council. If approval of this Agreement is not obtained, this Agreement shall terminate and shall be of no further force and effect.

6. Notice.

a. Unless specifically stated otherwise in this Agreement, all notices, demands, requests, consents, approvals, or other communications (for purposes of this section collectively referred to as "Notices") shall be in writing and delivered to the addresses set forth below, by one the following methods:

i. personal delivery, whereby delivery is deemed to have occurred at the time of delivery;

ii. overnight delivery by a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier;

iii. registered or certified mail, postage prepaid, return receipt requested, whereby delivery is deemed to have occurred on the third business day following deposit with the United States Postal Service; or

iv. electronic transmission provided that such transmission is completed no later than 5:00 pm Central Time on a business day and the original is also sent by personal delivery, overnight delivery, or by mail in the manner previously described, whereby delivery is deemed to have occurred at the end of the business day on which the electronic transmission is complete.

To the Owner:

LVP FFI Austin LLC d/b/a Fairfield Inn & Suites Austin Northwest/Research Blvd.
2220Lakeview Avenue, Suite 200
West Palm Beach, FL 33401
Phone: 561-227-1317
Email: BBachman@ih-corp.com

With a copy to

Attn: General Manager Cory Armer
13087 Research Blvd
Austin TX 78750
Phone: 512-412-1762
Email: CArmer@ih-corp.com

And

The Lightstone Group
1985 Cedar Bridge Avenue, Suite 1
Lakewood, NJ 08701
Attn: Legal Department
Email: generalcounsel@lightstonegroup.com

To the City:

Alex Gale
Interim Officer
Office of Real Estate Services
City of Austin
P.O. Box 1088
Austin, Texas 78767
Phone No.: (512) 974-1416
Email: alex.gale@austintexas.gov

With a copy to:

Sean Creegan
Assistant City Attorney
P.O. Box 1088
Austin, Texas 78767
Phone No. (512) 974-6461
Email: sean.creegan@austintexas.gov

b. The address to which notices and correspondence shall be mailed to either party may be changed by giving written notice to the other party.

7. Parking. Upon the Commencement Date, parking spaces that are part of the Hotel shall be unobstructed by Owner and its agents and completely accessible for City's use; provided, however that employees, consultants, service providers and vendors of Owner shall be permitted to utilize the Hotel parking at any time such parties are providing services to the Hotel.

8. Services, Utilities, and Supplies.

a. During the Term, Owner, including through a third party that Owner has engaged to manage or operate the Hotel (the "Manager"), at Owner's sole cost and expense, shall furnish or cause to be furnished the following services, utilities, and supplies to the Hotel and the Occupied Premises on substantially the same basis as was provided prior to the execution of this Agreement:

i. Elevator service, repair, and maintenance;

ii. Sewer, normal trash disposal (excluding trash disposal from the Occupied Premises), and water service, including both hot and cold water;

iii. Electricity and/or gas as necessary to provide power for heating, ventilating, and air conditioning, and electrical or gas service as needed for City's operations;

iv. Television and internet service; and

v. Hotel operations and management, excluding laundry services but including without limitation:

1. Phone reception and operator service to the Hotel and the Occupied Premises;

2. Janitorial, repair, and maintenance service to the Hotel and the common areas thereof excluding the Occupied Premises; and

3. Guest room supplies – shampoo, soap, towels, sheets, pillows, comforter.

vi. When requested by City, hotel staff will provide laundry, room cleaning, make ready, and janitorial services to rooms occupied by non-isolation guest including City staff, first responders, and other persons occupying the property for administrative reasons.

b. In the event the Owner fails to furnish any of the above services, utilities, and supplies in a satisfactory manner, the City may furnish the same and deduct the reasonable cost of furnishing the same from the Occupancy Fee.

c. The Owner is not obligated to provide alcoholic beverages.

d. The City will be responsible for providing security for the Occupied Premises.

9. Meals. The Parties understand and agree that the City will use a third-party vendor to provide meals to City staff and guest rooms occupants.

10. Laundry Facilities. The Owner understands and agrees that the City or a City Representative may use the Hotel's laundry facilities to launder materials collected from Hotel guest rooms and materials brought to the Hotel from off-site locations.

11. Repair and Maintenance.

a. During the Term, the City shall maintain the interior of the guestrooms used by the City and all furnishings, fixtures, and equipment therein in as good order, condition, and repair as existed when the City occupied them, except for reasonable ordinary use and wear thereof and damage by fire or other casualty over which City has no control.

12. Assignment and Subletting. The City shall not assign this Agreement or any of its rights or obligations hereunder or sublet the Occupied Space without the express prior written consent of Owner. If Owner gives its consent to any assignment or subletting, the City shall at all times remain fully responsible and liable for compliance with all of the City's obligations under this Agreement.

13. Destruction. If the Hotel or the Occupied Premises are destroyed in whole or in part by fire or other casualty, this Agreement shall terminate.

14. Surrender of Occupancy.

a. Upon termination or expiration of this Agreement, the City will peacefully surrender to the Owner the Occupied Premises in as good order and condition and repair as when received, except for reasonable, ordinary use and wear thereof and damage by fire or other casualty over which City has no control. City shall ensure, at no cost to Owner, that all City's employees, guests, and invitees have completely vacated the Occupied Premises prior to the termination of this Agreement.

b. If the City fails to surrender the Occupied Premises to Owner in the condition required, the City shall be liable for all costs incurred by Owner (or third parties under contract with the Owner) to repair or restore the Occupied Premises to the required condition. The City's liability under this section shall survive the expiration or earlier termination of the Agreement.

15. Binding upon Successors. Time is of the essence of this Agreement, and the terms and provisions of this Agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and permitted assigns to the respective parties hereto, subject to the restrictions on assignment and subletting hereunder. If more than one person or entity has executed this Agreement as "City" or as "Owner", the obligations of such persons or entities hereunder will be joint and several with respect to the applicable party.

16. No Oral Agreements. It is mutually understood and agreed that no alterations or variations of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the Parties. The City Manager for the City of Austin, or designee, has the authority to negotiate and execute ministerial or administrative amendments to this Agreement without further action of the City Council. Any amendment that would constitute a substantive modification to the Agreement must be approved by the City Council.

17. Insurance.

a. The City is self-insured.

b. The City shall require that any permitted assignee and any contractor and/or subcontractor performing any work on or in the Occupied Premises (the "City Representative") maintain the following types of insurance:

i. Workers Compensation insurance in full satisfaction of applicable laws and Employers Liability insurance with a limit not less than $1,000,000 each accident for bodily injury, $1,000,000 each employee for bodily injury by disease, and $1,000,000 policy limit for disease. The policy shall include the following endorsements in favor of the City, LVP FFI Austin LLC, The Lightstone Group, Marriott International Inc. and Island Hospitality Management:
   1. Waiver of Subrogation, form WC 420304, or equivalent;
   2. 30 Day Notice of Cancellation, form WC 420601, or equivalent.

ii. Commercial General Liability (CGL) insurance with a limit of coverage not less than $1,000,000 each occurrence covering liability arising from independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract.

The policy shall include the following endorsements in favor of the City, LVP FFI Austin LLC, The Lightstone Group, Marriott International Inc. and Island Hospitality Management:

1. Additional Insured, form CG 2010, or equivalent
2. 30 Day Notice of Cancellation, form CG 0205, or equivalent
3. Waiver of Subrogation, form CG 2404, or equivalent

iii. If the City Representative's scope of work under this Agreement requires or involves the ownership, maintenance or use of an auto, Business Auto Insurance with a combined single limit of insurance not less than $1,000,000 per accident covering all owned, non-owned, and hired vehicles. The policy shall include the following endorsements in favor of the City, LVP FFI Austin LLC, The Lightstone Group, Marriott International Inc. and Island Hospitality Management:

1. Additional Insured, form CA 2048, or equivalent
2. 30 Day Notice of Cancellation, form CA 0244, or equivalent
3. Waiver of Subrogation, form CA 0444, or equivalent

c. Owner shall maintain and shall require that any permitted assignee and any Manager, contractor and/or subcontractor performing any work on or in the Occupied Premises (the "Owner Representative") maintain the following types of insurance:

i. Workers Compensation insurance in full satisfaction of applicable laws and Employers Liability insurance with a limit not less than $1,000,000 each accident for bodily injury, $1,000,000 each employee for bodily injury by disease, and $1,000,000 policy limit for disease. The policy shall include the following endorsements in favor of the City:

1. Waiver of Subrogation, form WC 420304, or equivalent;
2. 30 Day Notice of Cancellation, form WC 420601, or equivalent.

ii. Commercial General Liability (CGL) insurance with a limit of coverage not less than $1,000,000 each occurrence covering liability arising from independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract. The policy shall include the following endorsements in favor of the City:

1. Additional Insured, form CG 2010, or equivalent
2. 30 Day Notice of Cancellation, form CG 0205, or equivalent
3. Waiver of Subrogation, form CG 2404, or equivalent

iii. If the Owner or Owner's Representative's scope of work under this Agreement requires or involves the ownership, maintenance or use of an auto, Business Auto Insurance with a combined single limit of insurance not less than $1,000,000 per accident covering all owned, non-owned, and

hired vehicles. The policy shall include the following endorsements in favor of the City:

1. Additional Insured, form CA 2048, or equivalent
2. 30 Day Notice of Cancellation, form CA 0244, or equivalent
3. Waiver of Subrogation, form CA 0444, or equivalent

d. Insurance companies affording the coverage required above shall have an AM Best Rating of no less than B+/VII. The insurance coverages required above are required minimums and are not intended to limit the responsibility or liability of the Owner or Owner Representatives. Failure to maintain the required insurance may result in termination of the Agreement.

e. Owner and Owner's Representative shall furnish City with certificates of insurance providing evidence of compliance with the above requirements within three (3) days of City providing notice to commence the agreement. If City is not furnished with the required certificates of insurance within three (3) days, City may, at its sole and only discretion, extend the Commencement Date or terminate this Agreement. All endorsements naming the City as additional insured, waivers, and notice of cancellation endorsements as well as certificates of insurance shall be addressed to: City of Austin, Attention: Property Management, P.O. Box 1088, Austin, Texas 78767.

f. City Representative shall furnish Owner with certificates of insurance providing evidence of compliance with the above requirements on or before the Commencement Date. If the Owner is not furnished with the required certificates of insurance on or before the Commencement Date, the Owner may, at its sole and only discretion, extend the Commencement Date or either Party may terminate this agreement. All certificates of insurance evidencing LVP FFI Austin LLC, The Lightstone Group, Marriott International Inc. and Island Hospitality Management as additional insured, waivers, and notice of cancellation compliance shall be addressed to: The Lightstone Group, 1985 Cedar Bridge Avenue, Suite 1, Lakewood NJ 08701.

18. Hazardous Substances.

a. City agrees that it will comply with all applicable laws existing during the term of this Agreement pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law. To the extent allowed by Texas law, the City agrees that it is responsible to the exclusion of any such responsibility of the Owner for its own proportionate share of liability for its negligent acts and omissions for claims, suits, and causes of action, including claims for property damage, personal injury and death, arising out of or connected to the City's illegal storage, transportation, or disposal of any hazardous substance as determined by a court of competent jurisdiction.

b. Where the City is found to be in breach of this provision due to the issuance of a government order directing the City to cease and desist any illegal action in connection with a hazardous substance, or to remediate a contaminated condition caused by the City or any person acting under City's direct control and authority, City shall be responsible for all costs and expenses of complying with such order. In the event a government order is issued naming the City or the City incurs any liability during or after the term of this Agreement in connection with contamination which pre-existed the City's obligations and occupancy under this Agreement or which were not caused by the City, the Owner shall hold harmless, indemnify, and defend the City in connection therewith and shall be solely responsible as between the City and the Owner for all efforts and expenses thereto.

19. Restoration of Occupied Premises.

a. Upon termination of this Agreement, Owner agrees that any equipment installed by the City shall be and remain the property of the City, and City shall remove such property when vacating the Occupied Premises. Except as otherwise provided in this Agreement, upon termination of this Agreement, City shall restore the Occupied Premises to the condition as originally received by the City and existing prior to the installation of any of the City's property (excluding normal wear and tear), including, without limitation, restoration and repair of all interior surfaces, floors, walls, ceilings, including restoring damaged floor tile and patching and repainting damaged interior wall surfaces to match adjacent existing surfaces, and including restoration and repair of all furnishings, fixtures and equipment. City shall clean the Occupied Premises per the then current health and safety protocols established by public health officials during the term and immediately prior to vacating the Occupied Premises.

b. The City shall provide certification to the Owner that the Occupied Premises was vacant for a minimum of ten (10) calendar days prior to being returned to Owner. Cleaning and sanitization procedures performed in anticipation of restoring the Occupied Premises for Owner can occur during this ten-day period.

20. Hotel Staff. Owner warrants that this Agreement will not impact the employment status of any hotel staff for the duration of this Agreement, except as such changes may be implemented in the ordinary course of business. Owner and/or its agents shall ensure that all hotel staff will receive the same compensation as they would otherwise have received absent any City occupancy, whether they are reassigned to another hotel or relieved of duty for the duration of the Agreement.

21. Taxes. Owner is solely responsible for all tax liabilities with respect to the Occupied Premises.

22. No Tenancy; Relief from Eviction Laws. In no event will this Agreement be deemed or construed to run with the land or create any tenancy or other permanent possessory rights on the part of the City or its invitees. This Agreement does not create any recordable interest and will

not be recorded in any land records. No tenancy and/or eviction laws, regulations, rules, requirements, processes and proceedings ("Eviction Laws") shall be applicable with respect to the use of the Occupied Premises by the City and its invitees hereunder. The City shall waive the applicability of all Eviction Laws with respect to the Occupied Premises. In the event any individual is claiming tenancy rights, then the City, at the City's sole cost and expense, shall take all such necessary actions to remove such individual from the Occupied Premises prior to expiration or termination of the Agreement.

23. Permitted Use. The City may use the Occupied Premises for COVID-19 related emergency housing and support services.

24. Licenses & Permits (including Liquor Licenses); Zoning.

a. The Owner shall, at the Owner's sole cost and expense, be responsible to obtain and maintain all licenses, permits, or other similar authorizations required for operations in effect as of the Commencement Date of this Agreement. This obligation shall include renewal (or cooperating with the City for the renewal, as applicable) of any permits for the Occupied Premises that expire or need to be renewed during the term of this Agreement. The City shall comply with (or obtain the necessary waivers of) all zoning requirements for its operation on the Occupied Premises during the term of this Agreement.

b. The City will reasonably work with any other government agencies and instrumentalities, whether City or local, that have jurisdiction over the Hotel to ensure that the City's occupancy of the Occupied Premises will not in any way affect the liquor license (if any), certificate of occupancy, zoning permits or exceptions, or any other licenses, permits, or approvals for the Hotel or the property on which the Hotel is located in effect as of the Commencement Date, and that any issues with the foregoing will be tolled during the duration of the City's occupancy. The City will further reasonably work with any other government agencies and instrumentalities to ensure that all licenses or permits (including the liquor license, if any) required for the operation and management of the Hotel as a hotel or transient lodging establishment shall be reinstated or continue in full effect after the expiration or termination of this Agreement without cost or expense to Owner.

25. City Liability. To the extent allowed by Texas law, the City agrees that it is responsible to the exclusion of any such responsibility of the Owner for its own proportionate share of liability for its negligent acts and omissions for claims, suits, and causes of action, including claims for property damage, personal injury and death, arising out of or connected to this Agreement and as determined by a court of competent jurisdiction, provided that the execution of this Agreement will not be deemed a negligent act.

26. COVID-19 REQUIREMENTS; COMPLIANCE WITH APPLICABLE LAW.

a. Compliance with Law. The City must conduct any business contemplated by this Agreement in all respects with applicable laws, including without limitation, any executive

orders, regulations or other decrees by any applicable governmental entity regarding the novel COVID-19 pandemic. The City will develop, implement and strictly enforce comprehensive protocols, policies and procedures to limit exposure to and spread of COVID-19 to its employees, clients, customers and all other persons in the Occupied Premises or on the Property, including but not limited to facemask requirements, social distancing, capacity limitations, hygiene and handwashing practices, temperature screenings, daily health screen questionnaires and any other "best practice" then in place or announced by the government to address COVID-19.

27. Owner Liability. City hereby waives all claims against Owner for consequential, special, or punitive damages allegedly suffered by City.

28. Liens. City agrees to keep the Occupied Premises and all equipment and property of Owner or Manager, located at the Occupied Premises and directly related to the operations thereof, free and clear of any and all liens for work performed or materials furnished to or at the request of City.

29. Alterations. City shall not perform any alterations (including, for example, any modification, demolition or reconfiguration of, or any improvement to) the Occupied Premises without the prior written consent of Owner in its sole discretion.

30. No Use of Names. Except as is required by law or on a need-to-know basis, City agrees not to use the name of the Hotel, the name of Owner or its affiliates, the name of Manager or its affiliates, or any other trade names, trademarks, service marks, or other intellectual property of Owner (or its affiliates), or of the Manager (or its affiliates), or any variation of any of the foregoing, without the express written approval of Owner and Manager, which may be given or withheld in their the sole discretion of Owner or Manager.

31. Remedies. If either Party defaults in the performance of any of its obligations under this Agreement, the non-breaching party will provide notice of the default the breaching party shall have three (3) days after receiving such notice to cure the default. Except with respect for defaults related to the payment of amounts due hereunder, if the breaching party is not reasonably able to cure the default within a three (3) day period, the cure period shall be extended as long as the breaching party commences the cure within the three (3) day period and thereafter diligently pursues the cure. In the event a default in the performance of any obligations under this Agreement remains uncured for more than three (3) days after the receipt of notice, or in the event such default is of such a nature that it cannot reasonably be cured within three (3) days and the breaching party has not commenced to cure the default with due diligence, the non-breaching party may pursue any and all legal and equitable rights and remedies permitted by applicable law including the termination of this Agreement.

32. Owner Entry. Upon three (3) day written notice to City, Owner, its agents, employees and contractors shall have the right to enter any part of the Hotel except for occupied guest rooms to inspect the same and to enforce or carry out any provision of this Agreement. In the event of an

emergency, Owner may enter any part of the Hotel (including occupied guest rooms) without notice and by any reasonable means to the extent necessary to prevent imminent danger to persons or property.

33. Contract Work Hours and Safety Standards Act.

a. The Owner shall not require or permit any laborer or mechanic employed by the Owner, in any workweek in which he or she is employed, to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

b. In the event of any violation of the clause set forth in this section, the Owner shall be liable for the unpaid wages. In addition, the Owner shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in this section, in the sum of $26 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in this section.

c. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable under this Agreement or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, by and between the City and the Owner, such sums as may be determined to be necessary to satisfy any liabilities of the Owner for unpaid wages and liquidated damages as provided in the clause set forth in this section.

d. The Owner shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Owner shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

34. Clean Air Act.

a. The Owner agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

b. The Owner agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The Owner agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

35. Federal Water Pollution Control Act.

a. The Owner agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

b. The Owner agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The Owner agrees to include these requirements in each subcontract entered into during the Term exceeding $150,000 financed in whole or in part with Federal assistance provided by FEMA.

36. Suspension and Debarment

a. This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the Owner is required to verify that none of the Owner's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

b. The Owner must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

c. This certification is a material representation of fact relied upon by the City. If it is later determined that the Owner did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

d. The Owner agrees to include a provision requiring such compliance in its lower tier covered transactions.

37. Byrd Anti-Lobbying Amendment. Owner Certifies, and will submit to the City the Certification attached here as Attachment A, that it has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Owner shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded to the City who in turn will forward the certification to the awarding agency."

38. Access to Records. The following access to records requirements apply to this contract:

a. The Owner agrees to provide the City, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Owner which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

b. Owner agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

c. The Owner agrees to provide the FEMA Administrator or his authorized representatives access to the Hotel.

d. In compliance with the Disaster Recovery Act of 2018, the City and the Owner acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

39. Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Owner will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

40. No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Owner, or any other party pertaining to any matter resulting from the Agreement.

41. Program Fraud and False or Fraudulent Statements or Related Acts. The Owner acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Owner's actions pertaining to this contract."

42. Relationship of Parties. The relationship between Owner and City is solely that of owner and temporary occupant, and will not be deemed a partnership, joint venture, agency, or tenancy.

43. Confidentiality. The terms of this Agreement will be kept confidential by the parties, except as disclosure may be required by law, without the written consent of the other party.

44. Survival of Covenants. Any covenant, term or provision of this Agreement which, in order to be effective, must survive the termination of this Agreement, shall survive any such termination.

45. Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties concerning the subject matter of the Agreement and supersedes any and all prior oral or written agreements between the parties relating to that subject matter.

46. Governing Law. This Agreement shall be governed by and constructed in accordance with the laws of the State of Texas, not including the choice of law provisions thereof.

47. Counterparts; Electronic Signatures. This Agreement may be executed in any number of duplicate originals and each duplicate original will be deemed to be an original. This Agreement may be executed in any number of counterparts, each of which constitutes an original, and all the counterparts together constitute one and the same Agreement. Electronic copies of this Agreement and signatures thereon will have the same force, effect and legal status as originals.

IN WITNESS WHEREOF, this occupancy agreement has been executed by the Parties as of the date the last party signs the Agreement (the "Effective Date").

CITY OF AUSTIN

By: _____

Date: 11/12/2020

Name: Alex Gale

Title: Interim Officer

LVP FFI AUSTIN LLC
D/B/A FAIRFIELD INN & SUITES AUSTIN NORTHWEST/RESEARCH BLVD.

By: _____

Date: November 12, 2020

Name: Joseph E. Teichman

Title: Executive Vice President

APPROVED AS TO FORM

By Sean Creegan Digitally signed by Sean Creegan DN: cn=Sean Creegan, o=City of Austin, ou=Law Department, email=sean.creegan@austin.texas.gov, c=US Date: 2020.11.12 12:20:42 -06'00'

Name: Sean Creegan

Title: Assistant City Attorney