

PROJECT ASSISTANCE AGREEMENT

THIS PROJECT ASSISTANCE AGREEMENT (hereinafter, the "Agreement"), made as of May 13, 2019, by and between the **COUNTY OF ORLEANS INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at 121 North Main Street, Albion, New York 14411 (the "Agency"), and **MEDINA HOSPITALITY, LLC**, a Delaware limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, with offices at 301 Russ Lane, St. Mary's, Pennsylvania 15857 (the "Company").

WITNESSETH:

WHEREAS, the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") authorizes and provides for the creation of industrial development agencies in the several counties, cities, villages and towns in the State of New York and empowers such agencies, among other things, to promote, develop, encourage and assist in the acquiring, construction, reconstruction, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities including industrial pollution control facilities and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, pursuant to and in accordance with the provisions of the Enabling Act, the Agency was established by Chapter 918 of the 1971 Laws of New York, as amended (which, together with the Enabling Act, is referred to herein as the "Act"), for the benefit of the County of Orleans and inhabitants thereof; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: The construction and equipping by the Agency without the proceeds of a bond issue of a 58-room hotel and conveyance of the Project pursuant to a lease of the Project to the Company, such Project to be located at 11591 Maple Ridge Road, Medina, New York; and

WHEREAS, by a Resolution adopted on April 22, 2019, a copy of which is attached hereto as Exhibit A (the "Resolution"), the Agency has agreed to provide to the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: (a) an exemption from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Project or used in the acquisition, construction or equipping of the Project, (b) an exemption from mortgage recording tax, and (c) a partial abatement of real estate taxes through a non-standard payment in lieu of tax arrangement with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption, the mortgage recording tax exemption, and the partial abatement of real estate taxes, are hereinafter referred to as the "Financial Assistance"); and

WHEREAS, the Company has estimated in the Application the value of the Financial Assistance sought by the Company in connection with the Project and the Agency has authorized in the Resolution an exemption from New York State and local sales and use taxes for purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$2,507,000.00 and an exemption from mortgage recording tax for mortgages aggregating an amount not to exceed \$5,500,000.00; and

WHEREAS, the Resolution authorizes the Agency to acquire an interest in the Project and to enter into the Project Documents (as defined in the Resolution) which will provide for the completion of the Project by the Company and the provision of the Financial Assistance by the Agency, all in accordance with Act and the Resolution; and

WHEREAS, pursuant to the Act, no Financial Assistance shall be provided to the Company prior to the effective date of this Agreement, which sets forth certain terms and conditions under which the Financial Assistance will be provided to the Company.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Purpose of Project. It is understood and agreed by the parties hereto that the Agency has agreed to provide the Financial Assistance in connection with the Project and to enter into the Project Documents in order to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project to advance the job opportunities, health, general prosperity and economic welfare of the people of Orleans County and to otherwise accomplish the public purpose of the Act.

2. PILOT Agreement. The Payment in Lieu of Tax Agreement (“PILOT Agreement”) authorized in the Resolution shall require the Company to make payments in lieu of real estate taxes in accordance with the schedule and formula more particularly set forth in the Resolution.

3. Limitation on Sales Tax Exemption. In accordance with the Resolution the Company further: (i) covenants that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$2,507,000.00, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$200,560.00.

4. Termination, Modification and/or Recapture of Agency Financial Assistance. In the event, because of the involvement of the Agency, the Company claims an exemption from New York State sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized in the Resolution, or which exemption is in excess of the amounts authorized thereunder; or is otherwise not permitted under the Resolution or this Agreement, or if the Company shall fail to comply with a material term or condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in the Resolution or in this Agreement or in any document authorized in the Resolution and such failure extends beyond any applicable notice and cure periods, then the Company shall be required to

remit to the Agency an amount equal to the amount of New York State sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the New York State Commissioner of Taxation and Finance of New York State sales and use taxes, together with any relevant penalties and interest. In addition to the foregoing, in the event the Company ceases to operate the Project as required (including a material alteration in the use of the Project, closure of the Project or reduction in the operations at the Project such that, in the Agency's reasonable judgment, the economic benefit to be derived from the Project is substantially impaired) or if there occurs a material non-compliance with or breach of the terms of this Agreement or the Project Documents which exist beyond any applicable notice and cure periods, the Agency may, in its sole discretion, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such cessation of or change in operations or breach, make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its reasonable discretion) of the total value of (x) all sales tax exemptions claimed and actually received by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under the Resolution, (y) any exemption from real estate taxes received by reason of the Agency's leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency's involvement with the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s), unless otherwise agreed to by any affected tax jurisdiction.

5. Annual Reporting. As a condition to receiving the Financial Assistance, the Company agrees to deliver to the Agency on an annual basis a certified statement enumerating (i) the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. In addition, the Company shall report, on an annual basis, the value of Financial Assistance received and the amount of Project costs incurred and paid by the Company. The form of certification is attached as Exhibit B.

6. Compliance with Laws. By entering into this Agreement the Company certifies, under penalty of perjury, that the Company and any other owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all

applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.

7. Termination of Agreement. As set forth in the Resolution, in the event the Project Documents have not been executed by Company by the expiration date (as such date may be extended) or termination of the Resolution, the Company shall be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and machinery and equipment which constitute the Project. This Agreement and any Financial Assistance shall terminate upon the termination or expiration of the Resolution (as the same may be extended), provided, however, that the obligation of the Company to provide reports for the time period for which any Financial Assistance was received in accordance with the Resolution and this Agreement shall survive such termination.

8. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Agreement to the Agency regardless of any investigation made by the Agency.

9. Notices. All notices, certificates and other communications under this Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by Federal Express, and shall be addressed to the Agency and the Company at the addresses set forth at the beginning of this Agreement or to such other address as any party may specify in writing to the other.

10. Amendments. No amendment, change, modification or alteration of this Agreement shall be made except in writing upon the written consent of the Company and the Agency.

11. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Agreement or any part thereof.

12. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State, without regard or reference to its conflict of laws principles.

13. Section Headings. The headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

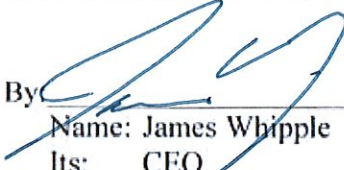
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[Signature Page to Project Assistance Agreement]

IN WITNESS WHEREOF, the parties hereto have executed this Project Assistance Agreement as of the day and year first above written.

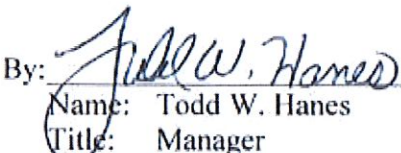
**COUNTY OF ORLEANS INDUSTRIAL
DEVELOPMENT AGENCY**

Dated: 5/13/19

By: 
Name: James Whipple
Its: CEO

MEDINA HOSPITALITY, LLC

Dated: 5-10-2019

By: 
Name: Todd W. Hanes
Title: Manager

SCHEDULE A

Resolution

m 0419-05

RESOLUTION OF THE COUNTY OF ORLEANS INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE CONSTRUCTION AND EQUIPPING OF AN APPROXIMATELY 31,000+/- SQUARE FOOT HOTEL FACILITY BY MEDINA HOSPITALITY, LLC TO BE LOCATED AT 11591 MAPLE RIDGE ROAD IN THE VILLAGE OF MEDINA, NEW YORK FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASE TO MEDINA HOSPITALITY, LLC, THE EXECUTION OF LEASE AGREEMENTS, A NON-STANDARD PILOT AGREEMENT AND THE TAKING OF OTHER ACTIONS.

WHEREAS, the County of Orleans Industrial Development Agency (the "Agency") is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 918 of the 1971 Laws of New York, as amended (collectively, the "Act"), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, Medina Hospitality, LLC, for itself or for related individuals or entities (the "Company"), has entered into negotiations with officials of the Agency with respect to the construction and equipping by the Agency without the proceeds of a bond issue of a 58-room hotel (the "Project") and conveyance of the Project pursuant to a lease of the Project to the Company, such Project to be located at 11591 Maple Ridge Road, Medina, New York (the "Premises"); and

WHEREAS, the Company has submitted an application and other materials and information (collectively, the "Application") to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Application sets forth certain information with respect to the Company and the Project, including the following: that the Company desires Agency financing for a 58-room Cobblestone Inn & Suites Hotel located at 11591 Maple Ridge Road, Medina, New York, for hotel and hospitality purposes, all at a cost of \$6,750,000.00; that the Company anticipates that twelve (12) new full-time equivalent jobs will be created as a result of the Project at the end of three (3) years of operation thereof; that (i) there will be no substantial adverse disruption of existing employment of facilities of a similar nature in the Village of Medina or the County of Orleans, (ii) the Project will provide substantial employment and substantial capital investment, and (iii) that if Agency financing is disapproved, the Company would likely not proceed with the Project; and that, therefore, Agency financing is necessary to encourage the Company to proceed with the Project in the Village of Medina; and

WHEREAS, the Agency has reviewed the Application and a cost-benefit analysis with respect to the Project, including the extent to which the Project will create permanent, private-sector jobs, the value of the real property tax abatement to be provided, the amount of private sector investment generated or likely to be generated by the Project, the likelihood of accomplishing the

proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and other public benefits that might occur as a result of the Project; and

WHEREAS, based upon the Application, the Agency has determined that the Project includes facilities or property which will be primarily used in making retail sales (as defined in Section 862(2) of the New York General Municipal Law) to customers who personally visit such facilities and that the Agency is permitted to provide financial assistance with respect to the Project because (i) the predominant purpose of the Project would be to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the Village of Medina because of a lack of reasonably accessible retail trade facilities offering such goods or services, and (ii) the Project is located in a "highly distressed area" as such term is defined in Section 862(2)(b) of the General Municipal Law; and

WHEREAS, the Agency further finds, based on the Application, that the Project will serve the public purpose of Article 18-A of the General Municipal Law by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in New York State; and

WHEREAS, the Company has requested that the Agency consider entering into an agreement for payment in lieu of taxes ("PILOT") that deviates from the Agency's standard PILOT schedule set forth in the Agency's Uniform Tax Exemption Policy (the "UTEP"); and

WHEREAS, in accordance with paragraph D of the UTEP, the Agency may determine, on a case-by-case basis, to deviate from its standard PILOT schedule for a project that is expected to have significant impact in the locality where it is located; and

WHEREAS, the Agency determines that the Project will have a significant impact in the Village of Medina, New York; and

WHEREAS, pursuant to Section 874(4)(b) of the General Municipal Law and the UTEP, the Agency duly issued a notice of deviation to the affected taxing jurisdictions in connection with the proposed non-standard PILOT agreement for the Project; and

WHEREAS, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project on April 1, 2019, and has considered all oral and written presentations made at or in connection with said public hearing; and

WHEREAS, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project; and

WHEREAS, the Company has not yet determined whether it will provide the funds necessary to complete the Project by using its own funds or by obtaining a conventional loan from a third party, and if the Company will finance the Project with funding from a third party the Company has requested that the Agency execute any and all documents required by the parties,

including any collateral mortgages on the Project given to secure a loan(s) obtained by the Company to finance the cost of the Project; and

WHEREAS, the Company has completed and submitted to the Agency Part 1 of an Environmental Assessment Form ("EAF") in accordance with the provisions of the State Environmental Quality Review Act and regulations adopted pursuant thereto (collectively, "SEQRA"); and

WHEREAS, the Agency has completed Part 2 of the EAF and has considered the proposed Project and reviewed the EAF and the criteria set forth in SEQRA in order to determine whether the Project will have a significant effect on the environment and wishes to make the findings required of an agency under SEQRA.

NOW, THEREFORE, THE COUNTY OF ORLEANS INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The Agency hereby resolves that the proposed Project will not have a significant impact on the environment for the reasons more particularly set forth in the negative declaration prepared by the Agency and, in accordance with SEQRA, hereby adopts such negative declaration with regard to the Project.

Section 2. The Project is described in the recitals to this Resolution. The financial assistance (the "Financial Assistance") to be provided by the Agency in connection with the Project includes (i) an exemption from sales and use taxes for building materials and machinery, equipment, fixtures and furnishings purchased for incorporation into or use at the Project location having a total cost not to exceed \$2,507,000.00, (ii) an exemption from mortgage recording taxes for one or more mortgages having a principal amount not to exceed \$5,500,000.00, and (iii) a ten-year abatement from real property taxes in accordance with the non-standard payment in lieu of tax schedule set forth in Schedule A attached hereto. The payment in lieu of tax arrangement shall be set forth in a Payment in Lieu of Real Estate Taxes Agreement to be entered into between the Agency and the Company (the "PILOT Agreement").

Section 3. The Agency hereby determines that the Project and the financing thereof by the Agency pursuant to the New York State Industrial Development Agency Act will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act. The Agency has considered (i) the amount of private sector investment that is likely to be generated by the Project, (ii) that the real property at which the Project will be located is currently vacant land exempt from taxation and the extent to which the Project will provide additional sources of revenue for the affected taxing jurisdictions, (iii) that the Project will create twelve permanent private sector jobs, and (iv) other economic factors regarding the Project. Based on the foregoing, the Agency hereby determines that the Project is expected to have a significant impact in the Village of Medina, New York, and accordingly the aforementioned deviation from the Agency's standard PILOT schedule is warranted. The Agency further finds, based on the Application, that the Project will serve the public purpose of Article 18-A of the General Municipal Law by creating permanent, private sector jobs.

Section 4. The Agency further determines that the Project will be used in making retail sales to customers who visit the Project and would be considered a "retail facility." However, based upon the Application and supporting documentation submitted by the Company, the Agency hereby determines that the Agency is permitted to provide financial assistance with respect to the Project because the predominant purpose of the Project would be to make available goods or services which would not, but for the Project, be reasonably accessible to the residents of the city, town or village within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services, as evidenced by the following information contained in the application and otherwise provided to the Agency: there are currently no nationally-branded hotels located in the Village of Medina or in Orleans County. The Project will result in the construction and operation of a nationally-branded Cobblestone Inn & Suites Hotel in the Village of Medina. In addition, the place where the Project will be located is part of a census tract that meets the definition of a "highly distressed area" and is therefore eligible to receive financial assistance from the Agency pursuant to Section 862(2)(b) of the General Municipal Law.

Section 5. The Agency hereby authorizes the Company, as agents for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and the buildings thereon, if any, and to make renovations or additions thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in any Project Assistance Agreement, the Agency Lease Agreement or Installment Sale Contract (as hereinafter defined).

Section 6. The Chairman, Vice Chairman, Secretary, Treasurer, and any Assistant Secretary of the Agency, the CEO/CFO and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

Section 7. The Company is authorized, as agents of the Agency, to initiate the construction of a building or building addition constituting the Project, and the acquisition of machinery and equipment which will be a part thereof or will be used in connection therewith, and to advance such funds as may be necessary to accomplish such purposes. The designation of the Company as agent hereunder is limited to purchases of sales-taxable tangible personal property and services in connection with the Project which do not exceed a total cost of \$2,507,000.00 and shall not apply to any other purchase by the Company or any operating expenses of the Company. The Company shall report to the Agency, at such times as the Agency shall require, or as may otherwise be prescribed by the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner"), the value of all sales and use tax exemptions claimed by the Company or agents of the Company or any operators of the Project, including, but not limited to, consultants or subcontractors of such agents or Project operators under the authority granted pursuant to this Resolution. A failure to report may result in the revocation of the designation of the Company as agent and repayment of any sales and use tax exemptions claimed.

Section 8. The Agency is hereby authorized to enter into a Project Assistance Agreement with respect to the provision of the Financial Assistance authorized herein (the "Project

Assistance Agreement"), to acquire an interest in the Project site and construct a facility thereon, and execute and deliver a lease by the Company to the Agency (the "Company Lease"), an Agency Lease Agreement (the "Agency Lease Agreement") or Installment Sale Contract (the "Installment Sale Contract") between the Agency and the Company, the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the "Project Documents"), in form satisfactory to Agency counsel. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, any Assistant Secretary and the CEO/CFO are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Assistance Agreement, Company Lease, the Agency Lease Agreement, Installment Sale Contract, the PILOT Agreement and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

Section 9. In the event the Company obtains one or more conventional loans to finance the cost of the Project or which will otherwise be secured by a lien on the Project, the Agency is hereby authorized to execute and deliver to the lender(s) one or more collateral mortgages ("Mortgage Agreement") on the Project given to secure such loans, and such other documents as may be necessary to fulfill the intent of the parties to the transaction in form satisfactory to Agency counsel, provided that the aggregate amount of such mortgages shall not exceed \$5,500,000.00. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, any Assistant Secretary and the CEO/CFO are each authorized to execute such collateral mortgages and to make or approve such amendment(s) or modifications to such collateral mortgages and other documents executed and delivered in connection therewith as they may deem necessary under the circumstances, provided, however, that such modifications do not materially alter the risk to the Agency.

Section 10. Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

Section 11. Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

Section 12. In the event a lease is not executed between the Company and the Agency by the expiration date of this Resolution (as such date may be extended as provided herein) or the termination of this Resolution, the Company shall then be required to pay all sales taxes which would have been levied in connection with the acquisition, construction and installation of all improvements of the real property and the machinery and equipment which constitute the Project, as if the Agency did not have an interest in the Project from the date the Company commenced its acquisition, construction and installation. In addition, in the event, because of the involvement of the Agency, the Company claims an exemption from state sales or use tax in connection with the Project, and such exemption is claimed with respect to property or services not authorized hereunder, or which exemption is in excess of the amounts authorized hereunder, or is otherwise not permitted under this Resolution, or if the Company shall fail to comply with a material term or

condition regarding the use of property or services acquired by the Company as agent for the Agency as set forth in this Resolution or in any document authorized hereunder, then the Company shall each be required to remit to the Agency an amount equal to the amount of state sales and use taxes for which such exemption was improperly claimed. A failure to remit such amounts may result in an assessment against the Company by the Commissioner of state sales and use taxes, together with any relevant penalties and interest.

In addition to the foregoing, in the event the Agency determines that Company is in violation of a material term, or in the event that the Company closes the Project or relocates its operations to a location outside of the Village of Medina within the time period during which the Company is receiving Financial Assistance from the Agency or in the event the Agency determines, in its judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a "Recapture Event"), the Agency may, in accordance with its policies and procedures then in effect, (i) revoke the designation of the Company and any agents of the Company (including, but not limited to, consultants, sub-contractors or equipment lessors of the Company) as agents for the Agency in connection with the Project and terminate the exemption from New York State and local sales and use taxes conferred with respect to the Project and/or (ii) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (iii) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of (x) all sales tax exemptions claimed by the Company and any agents of the Company, including, but not limited to, consultants, sub-contractors, or any equipment lessors of the Company under the authority granted under this Resolution and the Project Assistance Agreement, (y) any exemption from real estate taxes received by reason of the Agency's leasehold interest in the Project and/or (z) any exemption from mortgage recording tax received by reason of the Agency's involvement with the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

Section 13. The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company's purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or

maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof, or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

Section 14. Should the appropriate officers of the Agency determine, in their absolute discretion, that there is reason to believe that the activities of any past or present owner or operator of the Premises have resulted in the generation of any "hazardous substance" (as the term has been defined from time to time in any applicable federal or state law, rule or regulation), or that any party has stored, disposed or released any such substance on the Premises or within a one (1) mile radius thereof, the Agency shall be under no obligation to enter into a lease as contemplated by this Resolution.

Section 15. No covenant, stipulation, obligation or agreement herein contained or contained in the Project Documents, Mortgage Agreement or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

Section 16. Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect (except for the obligations in this Section 16), and the Agency shall have no liability to the Company hereunder or otherwise.

Section 17. This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company pursuant to Sections 11, 12 and 16 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company to complete such transactions. Upon any allowance of additional time to close, the Agency may charge the Company an extension fee in accordance with the Agency's fee schedule.

Section 18. This Resolution is subject to and contingent upon confirmation of the proposed actions by the Agency set forth herein by the chief executive officer of Orleans County.

The above resolution was moved for adoption by Skylar Draper
and seconded by John Misiti.

ROLL CALL VOTE:

	<u>Yes</u>	<u>No</u>	<u>Absent</u>	<u>Abstain</u>
Carol D'Agostino	[✓]	[]	[✓]	[]
E. John DeFilipps	[✓]	[]	[✓]	[]
Kenneth DeRoller	[✓]	[]	[✓]	[]
Merle Draper	[✓]	[]	[]	[]
Paul Hendel	[✓]	[]	[]	[]
John Misiti	[✓]	[]	[]	[]
Kenneth Rush	[✓]	[]	[]	[]

ACCEPTED AND AGREED TO: _____, 2019

MEDINA HOSPITALITY, LLC

By: _____

Name: Todd W. Hanes
Title: Manager

SCHEDULE B

FORM OF ANNUAL EMPLOYMENT AND SALARY AND FRINGE BENEFITS AND
RELATED PROJECT INFORMATION CERTIFICATION LETTER

_____, 20__

Re: County of Orleans Industrial Development Agency
Annual Reporting Requirements

Dear _____:

The County of Orleans Industrial Development Agency (the "Agency") is currently providing assistance in connection with the _____ Project.

The Agency is required to file an annual report with the New York State Comptroller providing information on its activities, and the activities of projects that are assisted by the Agency. In order for the Agency to compile that report, it is necessary that we obtain information relating to assistance provided and benefits derived from all entities that receive such assistance. Failure by the Agency to file the report information required by New York State could result in the Agency losing its ability to provide future assistance or the entity suffering claw-back provisions and forfeiting benefits previously received. Therefore, it is very important that this information be provided in an accurate and timely manner.

Attached please find a questionnaire to be completed and returned to the County of Orleans IDA by _____. If you have any questions regarding the required information, please do not hesitate to call our office.

We appreciate your assistance in this matter. A self-addressed stamped envelope is enclosed for your convenience or you may email it to _____.

Very truly yours,

Company name and address:

Project Name:

Company contact:

Contact phone number:

(Please correct any information above)

Bond Financing Information

Who must complete: all companies that have received Bond Financing on your Project during the reporting year.

This does not apply to my Project-Continue to next section.

- Original principal balance of bond \$ _____
- Principal paid during 20____ \$ _____
- Outstanding principal balance of bond as of December 31, 20____ \$ _____
- Interest rate on bond as of December 31, 20____ _____%
- Final maturity date of bond _____
- Is the company a not-for-profit? _____ Yes _____ No

Sales Tax Abatement Information

Who must complete: all companies that have received Sales Tax Abatement on your Project during the reporting year.

This does not apply to my Project-Continue to next section.

Provide the amount of sales tax savings received \$ _____

Attach a copy of the ST-340 sales tax report that was submitted to New York State for the reporting period.

Mortgage Recording Tax Information

Who must complete: all companies that have received Mortgage Tax Abatement on your Project during the reporting year.

This does not apply to my Project-Continue to next section.

The amount of the mortgage recording tax that was abated during 20____ \$ _____

Job Information

Who must complete: all companies that have continuing PILOT agreements, as well as other financial assistance.

This does not apply to my Project-Continue to next section.

For the fiscal year end 20____ the number of full time equivalent employees (“FTE”), defined as employees that work 35 or more hours per week. Part-time permanent jobs of less than 35 hours per week will be converted to full-time equivalent jobs by dividing the number of part-time hours by 35. This also includes independent contractors or employees of independent contractors that work at the Project location at your facility by job category and average hourly wage and fringe benefits for each.

<u>Category</u>	<u>New Hire FTEs FY 20__</u>	<u>Retained FTEs FY 20__</u>	<u>Total FTEs FY 20__</u>	<u>Average Hourly Wage FY 20__</u>	<u>Average Fringe Benefit % or \$</u>
Management	_____	+ _____	= _____	\$ _____	_____
Professional	_____	+ _____	= _____	\$ _____	_____
Administrative	_____	+ _____	= _____	\$ _____	_____
Production	_____	+ _____	= _____	\$ _____	_____
Other	_____	+ _____	= _____	\$ _____	_____
Total Annual Company Payroll for FY 20__				\$ _____	
FTE construction jobs during 20__				= _____	

A copy of the NYS 45 form for the project location is required to be submitted with this report. If the NYS 45 form is not available for the specific project location or the form does not accurately reflect the full time jobs created an internal report verifying the total jobs by employment category as outlined above at the location is required with this submission.

Project Costs

Who must complete: all companies that have continuing PILOT agreements, as well as other financial assistance.

This does not apply to my Project-Sign and date completed form.

Project costs incurred and paid in 20_____

Real Estate	\$ _____
Construction	\$ _____
Machinery and Equipment	\$ _____
Other Taxable Expenses	\$ _____
Other Non-Taxable Expenses	\$ _____
Total	\$ _____

The undersigned is an authorized officer of the Company or Corporation and hereby represents and warrants that to the best of his/her knowledge the information contained herein is true, accurate and complete.

Signed: _____ Title: _____