

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: May 26, 2016

Action Requested By: Engineering

Agenda Type: Resolution

Subject Matter:

Modification to a Revocable License Agreement with Providence Hotel.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to execute Modification No. 1 to Revocable License Agreement between the City of Huntsville, Alabama, and Providence Hotel Partners II, LLC.

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

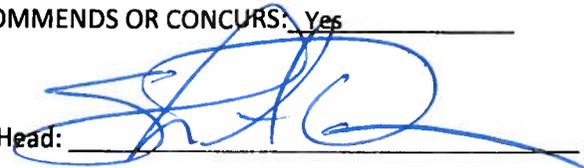
Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost: 0

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 5/20/16

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: **Engineering**

Council Meeting Date: **5/26/2016**

Department Contact: **Kathy Martin**

Phone # **427-5319**

Contract or Agreement: **Mod. 1 to Revocable License Agreement Providence Hotel**

Document Name: **Mod. 1 to Revocable License Agreement Providence Hotel**

City Obligation Amount: **0**

Total Project Budget: **0**

Uncommitted Account Balance: **0**

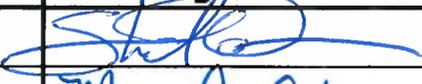
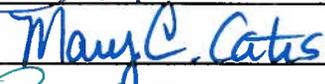
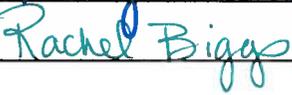
Account Number:

Procurement Agreements

Not Applicable	Not Applicable
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Grant-Funded Agreements

Not Applicable	Grant Name:
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Department	Signature	Date
1) Originating		5/20/16
2) Legal		5/20/2016
3) Finance		5/20/16
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 16-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to execute Modification No. 1 to Revocable License Agreement by and between the City of Huntsville, Alabama, and Providence Hotel Partners II, LLC, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "Modification No. 1 to Revocable License Agreement between the City of Huntsville, Alabama, and Providence Hotel Partners II, LLC," consisting of three (3) pages, and the date of May 26, 2016, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 26th day of May, 2016.

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

APPROVED this the 26th day of May, 2016.

Mayor of the City of
Huntsville, Alabama

**Modification No. 1 to
Revocable License Agreement between
the City of Huntsville, Alabama and
Providence Hotel Partners II, LLC**

MODIFICATION NO. 1 TO REVOCABLE LICENSE AGREEMENT

This Modification No. 1 (this "Amendment") is hereby made as of the 26th day of May, 2016, to the Revocable License Agreement dated September 10, 2015, between the City of Huntsville, a municipal corporation in the State of Alabama ("City"), and Providence Hotel Partners II, LLC, an Alabama limited liability company ("Company").

WITNESSETH:

WHEREAS, the City and Company entered into a Revocable License Agreement dated September 10, 2015, Resolution No. 15-707 (the "Original Agreement"); and

WHEREAS, subsection (a) of section 1 of the Original Agreement set forth a definition of Canopy Site that stated as follows:

Canopy Site means the air space in the Canopy Area starting at a minimum of 15 feet above the PROW, as measured from finished grade, which is occupied by the Canopy

which definition the Company has requested be modified in order to lower the Canopy height to 12'6" above finished grade, in order to correspond to the designed elevations on the Hotel building; and

WHEREAS, in order to accommodate the request to lower the Canopy height, the City's Director of Inspection has determined that, based on the location of the sidewalk, the height of the Canopy can be lowered, provided that the projection of the Canopy over the Canopy Area is no greater than 18'4" from the face of the Hotel building; and

WHEREAS, the parties hereto desire to agree upon and enter into this Amendment in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual benefits and foregoing premises contained herein, the parties hereto agree as follows:

A. The definition of Canopy Site set forth in subsection (a) of section 1 of the Original Agreement is hereby amended to read as follows:

Canopy Site means the air space in the Canopy Area starting at a minimum of 12 feet 6 inches (12'6") above the PROW, as measured from finished grade, and projecting from the face of the Hotel building a maximum of 18 feet 4 inches (18'4"), which space is occupied by the Canopy.

B. Subsection (b)(1) of section 2 of the Original Agreement is hereby amended to read as follows:

(1) The Canopy shall be allowed to occupy the Canopy Site; provided, however, the Canopy shall be supported from the walls of the Hotel building without any supporting structures allowed to be installed on any portion of the PROW. There shall be no signage installed on the Canopy. In addition to any emergency or safety lighting that may be required by the City's Fire Marshal or Inspection Department, the City Representative, in her sole discretion, may allow lighting to be installed within the Canopy Area; provided that it is not installed on City Property, the installation meets applicable City Laws, power for the lighting is on the Hotel's meter, and the City does not incur any costs or expenses associated with the approved lighting, if any. The Canopy shall be designed and constructed in a manner so as to prevent drainage of storm water onto the PROW. In addition, the City's Director of Inspection, or his designee(s), shall have the right, but not the obligation, to approve the location of the sidewalk within and around the Canopy Area and to determine the location of the Canopy in order to effectuate the terms of this License.

C. The Company hereby represents and warrants to the City, which is relied upon by the City and material to this Amendment, that: (1) the Company owns the Development Site, as that term is described in the Original Agreement; (2) the Company has the power and authority to execute this Amendment and to perform and carry out all obligations on its part to be performed under and pursuant to this Amendment; and (3) all entity actions and consents required on the Company's part to execute this Amendment have been completed.

D. The parties hereby ratify the Original Agreement, as hereby amended, and confirm that the Original Agreement, as hereby amended, remains in full force and effect. If any provision of this Amendment conflicts with the terms or conditions of the Original Agreement, then the provisions of this Amendment shall be controlling.

E. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one agreement.

IN WITNESS WHEREOF the parties, by their duly authorized representatives, have entered into this Amendment agreement as of the date first above written.

**The City of Huntsville, a municipal corporation
in the state of Alabama**

By: _____
Tommy Battle, Mayor

ATTEST:

Kenneth Benion
City Clerk-Treasurer

[signature(s) continue on next page]

