



HISTORIC
FRANKLIN
TENNESSEE

ITEM #22
BOMA
07/08/14

MEMORANDUM

June 20, 2014

TO: Board of Mayor and Aldermen

FROM: Eric S. Stuckey, City Administrator
Russ Truell, Assistant City Administrator

SUBJECT: Transfer of Management Contract for Cool Springs Conference Center

Purpose

The purpose of this agenda item is to acknowledge the transfer of management at the Cool Springs Conference Center from Franklin Realco LLC to CH Realty VI/H Franklin Cool Springs LLC., and approve the Estoppel Certificate and Agreement and the Assignment of the Conference Center Operating Agreement with the company.

Background

During the 16 year history of the Cool Springs Conference Center, the ownership of the adjoining hotel has changed several times. In some cases, the purpose of the change was to refinance the hotel property; in other cases, there was an outright change in ownership. In each case, the management contract between the City of Franklin and Williamson County, as co-owners of the Conference Center, and the company who operates the Conference Center under City contract 2010-129, has continued intact. The contract provides a process for change in the management, under which the co-owners have to agree to the change. The obligations under the contract for both co-owners of the Conference Center and the management company remain unchanged.

Attached to this memo is some background information on the proposed management company and ownership group. City and County staff members have met with executives of the company and are pleased with their level of experience and professionalism.

Financial Impact

There is no anticipated, discernible financial impact to the City or County from a transfer of responsibilities under the management contract. All indications are that a majority of the existing staff will be retained or given the option to be retained. The management contract has continued in force through its initial fifteen year term, and through the first year of a twelve year extension beginning in 2013. Financial results from the Conference Center are heavily dependent on the general economy and the local economy, regardless of the management company. The existing team has produced exceptional results during their tenure, and there is no reason to assume that we will see a material change under new ownership.

Options

Acknowledge receipt and approval of the estoppel agreement and the catering agreement. These agreements are considered draft documents at this point as they are under review by the City Attorney and County legal counsel.

Recommendation

Staff recommends approval.

Founded in Memphis, TN, and currently headquartered in Atlanta, GA, Davidson Hotels & Resorts is an award-winning, full-service hotel management company that provides management, development/renovation, acquisition, consulting and accounting expertise for the hospitality industry. The company has amassed one of the purest full-service hotel portfolios in the industry, ranging from the upper-upscale to near-luxury segments, encompassing 46 upscale, full-service, independent and branded hotels with over 13,000 rooms across the United States. Davidson is a trusted partner and a preferred operator for Marriott, Hilton, Hyatt and Starwood Family hotels.

Davidson has a 40-year presence as a company in Memphis, TN, and has operated hotels in Tennessee for virtually our entire tenure therein, such as the Hilton Memphis, Sheraton Memphis Downtown, Hilton Knoxville, The Park Vista – a DoubleTree Hotel Gatlinburg and the Sheraton Nashville Downtown (formerly managed). In addition, Davidson has extensive experience in banquets, catering and convention services as we have nearly 1.5 million square feet of meeting and convention space under management including four city convention centers. The convention centers we currently service are located in Memphis (TN), Little Rock (AR), Eugene (OR) & Pittsburgh/Monroeville (PA).

As one of the largest privately held management companies in the lodging industry, Davidson Hotels & Resorts has built a proven track record of creating and maximizing asset value for some of the most sophisticated and demanding property groups and institutional owners in the country.

The Crow Holdings/Davidson Hotels & Resorts Relationship

Crow Holdings and Davidson Hotels & Resorts have been working together for over a decade in hotel ownership and management. Our first deal together was located in Memphis, TN in 2003. Since that time, we have partnered on a total of 10 hotels in various cities around the country. We are very familiar with each other and have had a longstanding and successful partnership.

4/21/2014

Crow Holdings Background

Crow Holdings is a privately owned business based in Dallas, Texas, that makes investments on behalf of the Trammell Crow family and its investment partners. Today, Crow Holdings has a substantial stake in the ownership of various businesses, both real estate and non-real estate related.

Crow Holdings Capital Partners, L.L.C. (“CHCP”) (www.crowholdingscapital.com) provides real estate investment strategies and execution on behalf of the Trammell Crow family and its real estate investment partners. The real estate group manages CHCP’s real estate holdings by providing asset and portfolio management for the expansion of these businesses.

Crow Holdings Capital Partners, L.L.C. (“CHCP”) is a Dallas-based global asset fund manager. Since inception in 1998, CHCP and CHCP-affiliated entities have managed six private equity real estate funds. Equity capital from these funds totals approximately \$4.1 billion, approximately \$675 million of which has been committed by Crow Family Holdings. Crow Holdings Realty Partners VI is the latest fund in the series, closing with capital commitments of \$1.067 billion in August 2013. For more information on CHCP, visit www.CrowHoldingsCapital.com/Real-Estate/About-Us

The real estate private equity funds seek to acquire or develop a diversified portfolio of domestic real estate both independently and with operating partners which includes warehouses, retail centers, multi-family housing, office buildings, convenience and gas stores, hotels, and lot development. The Funds’ strategies include both the acquisition of existing assets and investment in new development, redevelopment and assets under development.

Hotel Investments

Across the six funds to date, CHCP has invested in 32 hotels with over 7,500 rooms. All are upscale or upper upscale, full-service hotels. Hotel investments have been part of CHCP’s acquisition strategy since it raised its first fund. Following is a list of hotel investments by the various CHCP funds.

Property	Location
Monaco Denver*	Denver, CO
Monaco Chicago*	Chicago, IL
Monaco Salt Lake City*	Salt Lake City, UT
Palomar*	San Francisco, CA
Pacific Palisades*	Vancouver, BC, Canada
Monaco New Orleans*	New Orleans, LA
Monaco Washington DC*	Washington, DC
Cypress Hotel*	Cupertino, CA
Argonaut Hotel*	San Francisco, CA
Hotel Portfolio (8)*	Brookfield, WI

	Charlotte, NC Dallas, TX Novi, MI (Detroit) Overland Park, KS (Kansas City) Pleasanton, CA Schaumburg, IL (Chicago) Wood Dale, IL (Chicago)
Memphis Hilton*	Memphis, TN
Chicago Marriott Medical Center*	Chicago, IL
Park Vista Gatlinburg*	Gatlinburg, TN
Marriott Country Club Plaza*	Kansas City, MO
Nashville Sheraton*	Nashville, TN
Embassy Suites Pittsburgh Airport*	Pittsburgh, PA
Hilton Raleigh-Durham*	Raleigh, NC
Doubletree Roswell*	Roswell, GA (Atlanta)
Doubletree Columbus*	Columbus, OH
Dolce Atlanta-Peachtree Conference Center*	Peachtree City, GA (Atlanta)
Westin Avon*	Avon (Beaver Creek), CO
Omni Royal Orleans*	New Orleans, LA
Doubletree IAH Airport	Houston, TX
Hilton Alexandria Mark Center	Alexandria, VA
Westin Annapolis	Annapolis, MD

* These assets have been sold.

Outside of the CHCP funds, Crow Family Holdings owns the Hilton Anatole Hotel in Dallas, TX and the Windsor Court Hotel in New Orleans, LA. The Hilton Anatole Hotel is the largest convention hotel in the Southwest and is comprised of 1,604 rooms and nearly 350,000 square feet of meeting and exhibit space. The hotel is approximately 2 million square feet in size and sits on 47 acres, including a 7-acre sculpture park. The hotel has five food and beverage outlets, a full-service health club and spa, three swimming pools, full service business center and extensive collection of fine art.

Investment History in Tennessee

Various CHCP real estate funds have invested in nine retail, multi-family, hotel and industrial developments in Tennessee over time. These investments are summarized below:

Investment Name	Product	City	Size	Units
Bell Forge Square	Retail	Nashville	130,500	SF
Germantown Collection	Retail	Memphis	55,297	SF
The Preserve at Southwind	Multi-Family	Memphis	306	Units
Wyndchase Aspen Grove	Multi-Family	Nashville	560	Units
2400 Charlotte	Multi-Family	Nashville	279	Units
Memphis Hilton	Hotel	Memphis	405	Rooms
Park Vista Hotel	Hotel	Gatlinburg	312	Rooms
Centre & South Portfolio	Industrial	Nashville	1,778,400	SF

Contract 2014-0144

ESTOPPEL CERTIFICATE AND AGREEMENT

TO: CH Realty VI/H Franklin Cool Springs, L.L.C. ("**Purchaser**")
CH Realty VI/H Franklin Cool Springs Operating, L.L.C. ("**Operating Tenant**")

FROM: City of Franklin, Tennessee, and Williamson County, each a political subdivision of the state of Tennessee ("**Owners**")

DATE: _____, 2014

RE: Franklin Marriott Cool Springs (the "**Project**") and the Conference Center at Cool Springs (the "**Conference Center**")

This Estoppel Certificate and Agreement (this "**Estoppel**") is being executed and delivered by Owners, as of the date set forth above, to and for the benefit of each of the addressees listed above and their respective lenders, successors and assigns (collectively, the "**Addressees**"). Owners have been informed that Purchaser intends to buy the Project and assume the Agreements (as defined herein) and delivers this Estoppel to the Addressees in connection with such purchase and assumption. Each of the Owners hereby represents, warrants and certifies to the Addressees and agrees as follows, recognizing that the Addressees will rely on the information contained herein:

1. Each of the Owners is a party to the following agreements: (1) that certain Reciprocal Easement, Operating and Use Agreement, dated December 19, 1997 (the "**REA**"), between Owners and Franklin Realco, LLC ("**Seller**"), as successor-in-interest (through a series of assignments) to Cool Springs Hotel Associates, LLC ("**CSHA**"), a true, correct and complete copy of which is attached hereto as Exhibit A; (2) that certain Conference Center Operating Agreement, dated as of October 15, 1997, as amended by that certain Addendum to Conference Center Operating Agreement, executed on or about June 25, 2013 (as amended, the "**Operating Agreement**"), between Owners and Franklin Opco, Inc. ("**Operator**"), as successor-in-interest (through a series of assignments) to Stormont Trice Management Corporation, a true, correct and complete copy of which is attached hereto as Exhibit B; and (3) that certain Catering Agreement, dated as of October 15, 1997 (the "**Catering Agreement**"; together with the REA and the Operating Agreement, the "**Agreements**"), between Owners and Operator, as successor-in-interest (through a series of assignments) to CSHA, a true, correct and complete copy of which is attached hereto as Exhibit C.

2. Each of the Agreements is currently in full force and effect and has not been amended, modified or supplemented other than as set forth above, and each Agreement as attached hereto constitutes the entire agreement among the parties with respect to the subject matter thereof. There are no other agreements or representations among such parties with respect to such matter.

3. Neither Owner has delivered a notice of default to Seller or Operator under any of the Agreements.

4. To the best knowledge of each of the Owners, neither Seller or Operator is in default in the performance of any of its obligations under any of the Agreements, nor has anything occurred that, with the passage of time or delivery of notice, would become a default under any of the Agreements. Further, to the best knowledge of each of the Owners, neither Seller nor Operator is in default in the performance of its obligations under any other Agreements with Owners or to which the Owners are a party with respect to the Project.

5. The Project, Conference Center and the operations conducted thereon are in full compliance with the terms of the Agreements, and Owners have no defense, rights of set-off, or counterclaims against any party under any of the Agreements.

6. *Undefined initially-capitalized terms used in this paragraph 6 have the meanings assigned to them in the REA.* With respect to the REA: (a) the Annual Operating Budget for the current calendar year, attached hereto as Exhibit D, has been approved for the current calendar year; (b) there are no disagreements or disputes with respect to the Allocable Shares of the parties for the calendar year, nor has any such disagreement or dispute at any time been submitted to a third party for resolution pursuant to Section 5.1 of the REA; (c) the deadline for delivery to the Owners of the Annual Operating Budget for the next calendar year is [____]; and (d) all required payments under the REA have been paid through [_____].

7. *Undefined initially-capitalized terms used in this paragraph 7 have the meanings assigned to them in the Operating Agreement.* With respect to the Operating Agreement: (a) the Operating Term commenced on July 1, 1999, and shall expire on October 15, 2027; (b) the Operator's Fee for the current Fiscal Year is [____]; (c) the balance in the CEP Reserve account as of the date hereof is [____] subject to amounts to be deposited for [____] based upon the Gross Revenues for [____]; (d) the balance in the Agency Account as of the date hereof is [____]; (e) the Annual Operating Projections that have been approved for the current Fiscal Year are attached hereto as Exhibit E; (f) the deadline for delivery to the Owners of the Annual Operating Projections for the next Fiscal Year is [____]; (g) each Fiscal Year commences on July 1 and ends on June 30; (h) all required payments under the Operating Agreement have been paid through [____]; and (i) all conditions subsequent set forth in Section 14.3 of the Operating Agreement were timely performed and satisfied or deemed satisfied by the parties.

8. *Undefined initially-capitalized terms used in this paragraph 8 have the meanings assigned to them in the Catering Agreement.* With respect to the Catering Agreement: (a) the term commenced on July 1, 1999, and shall expire on [____]; (b) the monthly fee referenced in Section 3.2 thereof for the current calendar year is [____]; (c) all required payments under the Catering Agreement have been paid through [____]; and (d) all conditions subsequent set forth in Section 12.3 of the Catering Agreement were timely performed and satisfied or deemed satisfied by the parties.

9. There is no action, suit or proceeding, whether existing, pending or known to be threatened against or affecting the Project or the Conference Center or Owners' performance thereunder in any court or before any arbitrator, or governmental authority.

10. Owners currently have in place property and casualty insurance for the Conference Center in accordance with the certificate attached hereto as Exhibit F. At any time during the term of the Agreements, Owners will promptly confirm the continued existence of such insurance coverage upon written request by the Lender.

[Signatures on next page]

DRAFT

This Estoppel Certificate and Agreement is executed by each of the Owners by their respective duly authorized representatives, effective as of the date first written above.

CITY OF FRANKLIN, TENNESSEE

By: _____
Name: _____
Title: _____

WILLIAMSON COUNTY

By: _____
Name: _____
Title: _____

DRAFT

THIS DOCUMENT IS A DRAFT DOCUMENT FOR DISCUSSION PURPOSES ONLY AND IS NOT INTENDED TO BE AND SHALL NOT BE DEEMED TO BE CONTRACTUALLY BINDING IN ANY WAY ON ANY PERSON (AN "APPLICABLE PERSON"). THIS DOCUMENT DOES NOT OBLIGATE ANY APPLICABLE PERSON TO NEGOTIATE IN GOOD FAITH OR TO PROCEED TO COMPLETION AND EXECUTION OF A FINAL AGREEMENT. NO APPLICABLE PERSON IS BOUND BY ANY PROVISION OF THIS DOCUMENT UNTIL IT IS EXECUTED BY SUCH PERSON. NO APPLICABLE PERSON HAS OR SHALL HAVE ANY CLAIM AGAINST ANY OTHER APPLICABLE PERSON IN CONNECTION WITH THIS DOCUMENT OR THE NEGOTIATION THEREOF.

**CONTRACT 2014-0143
ASSIGNMENT AND ASSUMPTION OF
CONFERENCE CENTER OPERATING AGREEMENT**

This ASSIGNMENT AND ASSUMPTION OF CONFERENCE CENTER OPERATING AGREEMENT (this "Assignment") is made and entered into as of this ___ day of _____, 20___, by and between FRANKLIN REALCO, LLC, a Delaware limited liability company (hereinafter referred to as "Assignor"), and CH REALTY VI/H FRANKLIN COOL SPRINGS, L.L.C., a Delaware limited liability company (hereinafter referred to as "Assignee").

WITNESSETH

WHEREAS, contemporaneously herewith, Assignor sold and conveyed to Assignee all that tract or parcel of land more particularly described in Exhibit A attached hereto, together with the hotel and all other improvements and personal property located thereon, commonly known as the "Franklin Marriott Cool Springs," and all rights, easements and appurtenances thereto (hereinafter collectively referred to as the "Property"), pursuant to that certain Contract of Purchase and Sale (the "Contract") between Assignor and CH REALTY/ACQUISITIONS VI NQ, L.L.C., a Delaware limited liability company (as predecessor-in-interest to Assignee);

WHEREAS, in connection with such conveyance of the Property, Assignor and Assignee have agreed that Assignor shall transfer and assign to Assignee all of its right, title and interest in and to that certain Conference Center Operating Agreement, dated as of October 15, 1997, as amended by that certain Addendum to Conference Center Operating Agreement, executed on or about June 25, 2013 (as amended, the "Operating Agreement"), a true, correct and complete copy of which is attached hereto as Exhibit B, between the City of Franklin, Tennessee, and Williamson County, each a political subdivision of the state of Tennessee (collectively, the "Municipalities"), and Assignor, as successor-in-interest to Stormont Trice Management Corporation;

WHEREAS, Assignor and Assignee have further agreed that Assignee shall expressly assume all of the obligations of Assignor arising under the Operating Agreement from and after the date of this Assignment;

WHEREAS, contemporaneously herewith, and pursuant to that certain Hotel Operating Lease (the "Lease") between Assignee and CH REALTY VI/H FRANKLIN COOL SPRINGS OPERATING, L.L.C., a Delaware limited liability company and an affiliate of Assignee

("Lessee"), Assignee has granted to Lessee an exclusive leasehold interest in the Property, together with, among other things, an assignment of all agreements necessary for the operation and maintenance of the Property, including the Operating Agreement;

WHEREAS, contemporaneously herewith and pursuant to that certain Management Agreement (the "Management Agreement") between Lessee and DAVIDSON HOTEL COMPANY LLC d/b/a DAVIDSON HOTELS & RESORTS ("Manager"), Lessee has engaged Manager to handle all management and day-to-day operational responsibilities at the Property, which engagement includes the delegation of [all of][certain of] Lessee's rights and duties under the Operating Agreement; and

WHEREAS, unless otherwise noted, capitalized terms that are undefined herein have the meanings assigned to them in the Operating Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each party hereto, Assignor and Assignee hereby agree as follows:

1. Assignment and Assumption. Effective as of the closing of the Contract, Assignor hereby sells, transfers, assigns and sets over to Assignee, its successors and assigns, all of its right, title and interest in and to the Operating Agreement, and all of its duties and obligations thereunder, and Assignee hereby acquires and assumes all of Assignor's right, title, interest, duties and obligations in, to and under the Operating Agreement.

2. Cut-Off Time; Accounts. This Assignment shall be effective immediately as of the closing of the Contract. The Agency Account and the CEP Reserve account (collectively, the "Accounts") shall be deemed closed out as of the Cut-Off Time (as defined in the Contract), and by this Assignment Assignor does hereby transfer to Assignee or its designee all funds in the Accounts or otherwise held by Assignor pursuant to the Operating Agreement on behalf of the Municipalities. Assignee hereby acknowledges receipt of the Accounts and all funds on deposit therein, and assumes and agrees to observe and perform all of the obligations and duties of Assignor under the Operating Agreement arising from and after, but not before, the Cut-Off Time. Thereafter, Assignor shall have no further obligations to manage the Conference Center.

3. Proration. In connection with the execution and delivery of this Assignment, Assignor and Assignee have prorated, as between Assignor and Assignee as of the Cut-Off Time, all amounts paid or payable to Assignor, or payable by Assignor, under the Operating Agreement. Gross Revenues and Operating Expenses from the Conference Center for the day prior to the day on which Cut-Off Time occurs shall be considered Gross Revenues and Operating Expenses of the Conference Center arising prior to this Assignment and will be accounted for in the manner provided in the Operating Agreement for calculating the Operator's Fee accruing and owing to Operator as of the Cut-Off Time. Assignor and Assignee have made such cash adjustment as between Assignor and Assignee as is necessary to reflect such proration in conjunction with the closing of the Contract, which amounts may be subject to adjustment and reconciliation pursuant to the terms of the Contract.

4. Indemnity. Assignor hereby indemnifies and holds Assignee harmless from and against all claims, demands, losses, damages, expenses and costs (including, but not limited to, reasonable attorneys' fees and expenses actually incurred) (collectively, "Liabilities") arising out of or in connection with Assignor's failure to observe, perform and discharge each and every one of the covenants, obligations and liabilities of Assignor under the Operating Agreement to be observed, performed or discharged that relate or accrue with respect to the period prior to the Cut-Off Time. Assignee hereby indemnifies and holds Assignor harmless from and against all Liabilities arising out of or in connection with Assignee's failure to observe, perform and discharge each and every one of the covenants, obligations and liabilities of Assignee under the Operating Agreement to be observed, performed or discharged that relate or accrue with respect to the period from and after the Cut-Off Time.

5. Notices. From and after the date hereof, Section 13.20 of the Operating Agreement shall be amended to replace the notice address provided for Operator with the following:

If to Operator: CH Realty VI/H Franklin Cool Springs, L.L.C.
3819 Maple Avenue
Dallas, Texas 75219
Attention: Diane Parmerlee,
Paul Whitehead & Kevin Bryant
Facsimile: (214) 445-0827
Telephone: (214) 661-8140

With a Copy To: Munsch Hardt Kopf & Harr, P.C.
500 N. Akard Street, Suite 3800
Dallas, Texas 72501-6659
Attention: Glenn B. Callison, Esq.
Facsimile: (214) 978-4351
Telephone: (214) 855-7557

6. Governing Law. This Assignment shall be governed by and construed in accordance with internal laws of the State of Tennessee without reference to the conflicts of laws or choice of law provisions thereof.

7. Binding Effect. This Assignment shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

8. Counterparts. This Assignment. may be executed in one or more counterparts, each of which shall constitute and original, and all of which, taken together, shall constitute but one and the same document.

IN WITNESS WHEREOF, Assignor and Assignee have each caused this Assignment to be executed by its duly authorized signatory as of the day and year first above written.

ASSIGNOR:

FRANKLIN REALCO, LLC,
a Delaware limited liability company

By: Franklin Manager, LLC,
a Delaware limited liability company,
Managing Member

By: _____
Name: _____
Title: _____

ASSIGNEE:

**CH REALTY VI/H FRANKLIN COOL
SPRINGS, L.L.C.,** a Delaware limited liability
company

By: FUND VI MANAGERS, L.L.C.,
a Texas limited liability company
its Manager

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT AND CONSENT

The CITY OF FRANKLIN, TENNESSEE (the "City"), and WILLIAMSON COUNTY (the "County"), hereby.

(i) acknowledge and consent to (a) the within and foregoing Assignment, (b) the assignment pursuant thereto of Assignee's right, title and interest in and to the Operating Agreement to Assignee, and (c) Assignee's assumption of all of the obligations and duties of Assignor thereunder from and after the date hereof;

(ii) acknowledge and consent to the assignment, pursuant to the Lease, of Assignee's rights and duties under the Operating Agreement to Lessee;

(iii) acknowledge and consent to the delegation of such applicable rights and responsibilities under the Operating Agreement by Lessee to Manager, as described in the recitals to the foregoing Assignment and pursuant to the terms of the Management Agreement;

(iv) acknowledge and agree that as used in the Operating Agreement "Operator" shall be deemed to refer to Assignee, Lessee, or Manager, as applicable in the context used;

(v) acknowledge and agree to the amendments to Section 13.20 as set forth in the foregoing Assignment; and

(vi) release and discharge Assignor from the performance or observance of any of duties and obligations under the Operating Agreement arising from and after, but not before, the Cut-Off Time.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the City and County have caused this Acknowledgement to be executed by their duly authorized signatories this __ day of July, 2014.

CITY:

CITY OF FRANKLIN, TENNESSEE

By: _____
Name: _____
Title: _____

COUNTY:

WILLIAMSON COUNTY

By: _____
Name: _____
Title: _____

[LEGAL DESCRIPTION]