

MANAGEMENT SERVICES AGREEMENT

This MANAGEMENT SERVICES AGREEMENT (this "Agreement") dated as of _____, 2019, is entered by and between the City of Killeen, a municipal corporation, whose mailing address is P. O. Box 1329, Killeen, Texas, 76540-1329 (hereinafter called "Permittee"), and Let Us Do the Cooking, LLC whose mailing address is 111 S. Main, Nolanville, Texas 76559 (hereinafter called "Manager"), upon the following terms and conditions:

RECITALS

WHEREAS, Permittee is the owner of the Killeen Civic & Conference Center Complex located at 3601 South W.S. Young Drive, Suites A, B & C, in Killeen, Texas, 76542 and other City facilities;

WHEREAS, Manager, by virtue of its operation as a mixed beverage service provider, has sufficient staff, expertise, and knowledge to provide certain operating, accounting, and other services to Permittee in connection with Permittee's service of mixed beverages and other related services to guests at ~~allowed~~ and authorized City facilities.

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

1. *Appointment.* Permittee hereby grants Manager the exclusive right to provide management services for the operation of Permittee's mixed beverage service, including the service of beverages, both alcoholic and non-alcoholic, and other related services, (the "Operation") at allowed City facilities. Manager will provide such services during the term of this Agreement in accordance with the terms and conditions herein contained.

The performance of all activities by Manager hereunder shall be in the name of and for the account of Permittee. It is expressly understood and agreed between the parties hereto that Permittee shall at all times maintain control of its operations and employees. Permittee shall retain the right to purchase alcoholic and non-alcoholic beverages.

2. *Term and Termination.*

2.1 *Term.* Subject to the terms of Section 2.2 below, this Agreement shall begin on March 10, 2019 and shall continue for a period of two (2) years. If both parties agree, this agreement may be extended by up to two (2) additional two -year terms. All of the terms and conditions of this agreement shall apply during any renewal term. A renewal shall be completed in writing by both parties not less than ninety (90) days before the expiration of the prior term.

2.2 *Termination.* This Agreement may be terminated at any time by either Permittee or Manager upon ninety (90) days written notice given to the other party.

3. *Management of Operation.* Manager will provide management, supervision, and direction of the Operation in a manner that is in accordance with standards comparable to those prevailing in other first-class mixed beverage operations in Texas. Such management services

will include, without limitation: serving beverages, both alcoholic and non-alcoholic, as well as other additional customer services as referenced in Manager's proposal (See Exhibit A) to Permittee's customers at City facilities, as allowed by state law and local ordinances and in accordance with Permittee's needs; maintaining all records and financial information required by the Texas Alcoholic Beverage Commission (hereinafter called "Commission"); submitting same to the Commission pursuant to its requests; negotiating service contracts required in the ordinary course of business on behalf of Permittee; advising and consulting with Permittee personnel regarding operational matters; and generally providing day-to-day supervision and direction for the Operation.

4. *Maintenance of Inventories; Procurement.* Manager will maintain sufficient inventories of all alcoholic and non-alcoholic beverages, beverage mixers and supplies. Such items and services will be purchased from dependable suppliers at competitive prices, taking into account the quality and quantity required by Permittee for the necessary and proper maintenance of the Operation.

Permittee shall pay for the cost of procuring all alcoholic and non-alcoholic beverages, beverage mixers, and supplies. Permittee shall retain full authority and control over the purchase and storage of alcoholic beverages. Permittee shall pay for the cost of procuring all other beverages, supplies, equipment, and outside services which are directly related to the service of mixed beverages.

Permittee shall deliver its initial inventory of beverages, beverage mixers and supplies to Manager upon the date of commencement of this Agreement for Manager's use in the Operation in accordance with the terms hereof. Costs of beverages, beverage mixers and supplies used in the Operation on a monthly basis shall be determined by adding purchases made during each Accounting Period, as defined in Section 7 below, to the opening inventory for that Accounting Period and then subtracting the value of ending inventory for that Accounting Period. Inventory on hand upon termination of this Agreement shall be delivered to Permittee at no further cost.

Manager shall conduct a monthly inventory of all beverages, beverage mixers and supplies to provide ending inventory balances to Permittee within five (5) days of completion of the inventory. Permittee will be given sufficient notice of each upcoming inventory and will be present at each inventory. Each monthly inventory shall fully report spills and/or breakage of alcoholic beverages, and sufficient documentation of the spills and/or breakage shall be appended to each monthly inventory.

An inventory will be conducted weekly by Manager. Permittee will be given sufficient notice of each weekly inventory and will be present at each inventory. An inventory report shall be submitted to Permittee within forty-eight (48) hours after the weekly inventory is completed.

5. *Personnel.* Manager will designate an Operations Manager and such other employees necessary to perform services for the benefit of Permittee. Manager will train, supervise, direct, discipline, and, if necessary, discharge personnel working at the Operation in accordance with Manager's personnel policies.

Manager shall ensure that its employees will be neatly groomed and attired in a designated company uniform while performing the duties associated with the mixed beverage services, and

will conduct themselves in a courteous, professional and businesslike manner while providing responsible and reliable service to guests.

Manager shall provide and maintain an adequate number of employees with skills, licenses, and certifications appropriate to mixed beverage services conducted.

6. *Cleaning; Maintenance; Repairs.* Manager will be responsible for maintaining the Operation and all equipment and fixtures related thereto in good condition and repair. Manager will provide cleaning service as needed to support functions when necessary for the Operation to operate according to the highest sanitary standards and in compliance with all applicable health and sanitation laws and regulations.

7. *Accounting; Monthly Operating Statement; Audit.* Permittee will keep and maintain complete and accurate books of account, and all tax records and returns incident to the service of mixed beverages for the Permittee, including the gross receipts and applicable taxes on mixed beverage services relating to the Operation. Such books and records will reflect the gross receipts of all service charges. All such records and books will be kept and prepared in accordance with generally accepted accounting principles and comply with the record keeping requirements of the Commission.

Within thirty (30) days after the close of each calendar month (each such calendar month being hereinafter referred to as an "Accounting Period"), Permittee will furnish Manager with an operating statement showing in reasonable detail the results of the Operation during such prior Accounting Period, including a balance sheet and income statement. Permittee will also submit payment of the Management Fee for such Accounting Period or Partial Accounting Period along with the required operating statements.

Manager shall have the right to audit all of Permittee's accounts, books, and records at any time upon reasonable notice. Permittee will keep all financial books, accounts, and records of receipts and disbursements relating to the Operation for three (3) years, and will make same available for examination for Manager or its auditors during normal business hours. The City Auditor will audit Permittee's accounts, books and records at least annually.

Permittee and Manager shall at all times absolutely comply with all laws, ordinances, rules, and regulations of any governmental authority, including, without limitation, the Commission.

8. *Utilities.* Permittee will provide, or cause to be provided, all utility services, including gas, electricity, hot and cold running water, heat, air conditioning, and all other services needed for the efficient, economical, and sanitary running of the Operation.

9. *Licenses and Permits.* Permittee will obtain and maintain in full force and effect all licenses and permits as are necessary to run the Operation. Permittee will be responsible for the keeping of records and preparation and filing of reports required by the City and the Commission related to the purchase, storage, and service of mixed beverages. The operations and business of Permittee and Manager shall at all times be in compliance with the Texas Alcoholic Beverage Code (hereinafter called "Code"), as amended, and all rules and regulations of the Commission. Purely by way of example and not by limitation, Manager specifically agrees that it

will not serve any inebriated or underage person at any time.

10. *TABC Certification.* All persons involved in the service, dispensing, or delivery of alcoholic beverages in the Operation shall hold a currently-effective certificate issued by the Commission evidencing his/her successful completion of a Commission-certified Seller Training Program in accordance with the provisions of Section 106.14 of the Code and the rules of the Commission promulgated thereunder. Manager agrees that (a) any new employees who do not hold such a currently-effective certificate on the date of employment shall successfully complete a Commission-certified Seller Training Program within thirty (30) days of such date, and (b) it will comply with all other applicable provisions of the Code to insure that Permittee is at all times in full compliance with the requirements of the Code and the Commission's rules to obtain the benefits afforded under Section 106.14, as same may be amended from time to time. Manager shall provide Permittee a copy of certificates from the Commission Seller Training for all current employees of Manager that will be part of the Operation upon execution of this agreement, and Manager shall provide copies of certificates for those employees added during the term of this agreement.

11. *Cash Receipts.* Manager will collect and be accountable for all cash receipts from the Operation. Manager is responsible for any losses that occur between collection of the cash and delivery of the cash to Permittee. Notwithstanding anything herein to the contrary, all cash and other receipts collected by the Manager from the Operation shall be delivered to Permittee on a daily basis at a designated location. Cash receipts shall be supported by sales reports from the Point of Sale system, which shall be date stamped and signed by the Manager's staff. The cash receipts report shall be submitted to Permittee within forty-eight (48) business hours of the conclusion of the mixed beverage related event.

12. *Operating Expenses.* The term "Operating Expenses" as used in this Agreement shall mean all direct costs and expenses incurred in connection with the Operation whatsoever, including, without limitation, the Management Fee required under Section 13 herein below, exclusive of salaries, wages, benefits, and other costs of Manager's employees working in the Operation; including the costs of inventories, beverages, supplies, equipment, utensils, and goods (including the cost of replacement), services, repair, replacement and maintenance of equipment; office expenses; all taxes or charges levied or assessed with respect to the Operation, including gross receipts taxes, sales and use taxes, and taxes levied or assessed on wages, salaries, beverages, services, goods, and Manager's property, if any, used or sold in the Operation; and any penalties, fines, interest, fees, charges, and other expenses incurred by Manager; licenses or permit fees, including renewal fees, or other charges attributable to the Operation; and professional fees, including accounting and legal fees. Notwithstanding the foregoing, Operating Expenses shall not include any penalties, fines, interest, fees, or charges assessed against Permittee and/or Manager based upon its violation of the terms of this Agreement, the Code or any other law, ordinance, rule, or regulation of any governmental authority.

12.1 *All Actions on Permittee's Behalf.* It is understood and agreed that everything done by Manager in the performance of its obligations hereunder, and all expenses incurred pursuant thereto, shall be and on behalf of Permittee and for Permittee's account.

13. *Management Fee.* Permittee agrees to pay Manager as compensation the

following percentages of the gross receipts realized by Permittee for mixed beverage service charges (the "Management Fee") during the previous calendar month:

- (a) Forty Percent (40%) of Gross Receipts realized by Permittee for mixed beverage service charges (including service charges collected on behalf of Permittee hereunder);
- (b) Table Service – charged to client at an hourly rate, depending on the number of servers requested. Base rate will be \$25.00 per hour. Permittee will receive 10% of total table service fees ordered for event.
- (c) Glass Rentals – beverage glassware rental provided by Manager. Permittee will receive 10% of revenue from each event renting glassware through Manager.
- (d) Beverage Service – Manager will provide coffee and water for events requested such as meetings, trainings, etc. Permittee will receive 10% revenue from this provided service from Manager
- (e) Speciality Cocktail/Mocktail Service and Stations – Manager will provide Signature drinks to be created and served for events. Pricing will be determined based on amounts and ingredients needed. Additional signature items may include items such as Mimosa, Bloody Mary stations and customized stations as ordered for the event. Permittee will receive 10% of Specialty Service ordered.

As used herein, the term "gross receipts" shall mean all monies paid or payable to Permittee for mixed beverage service charges under the alcoholic beverage licenses or permits issued to Permittee by the Commission for its operations and any additional service as referenced in item b-e above.

14. Insurance.

14.1 *Insurance Coverage.* Permittee will secure and maintain at all times during the term of this Agreement, liquor liability insurance with a separate liability limit of \$1,000,000 either as a separate policy or endorsement. Fifty Percent (50%) of the cost of the liquor liability insurance cost shall be reimbursed by Manager annually. The annual cost will be prorated over a twelve (12) month period. Permittee shall cause Manager to be at all times named as an additional insured on such policies. During months where the management fee does not exceed the amount due for the cost of liquor liability, no reimbursement will be required.

14.2 *Policies.* All policies of insurance shall be written by solvent insurance companies admitted to do business in the State of Texas that have at least an "A" rating with AM Best.

14.3 *Manager Insurance Requirements.* Manager shall be required to maintain its own minimum coverage as follows:

Type	Minimum Limits
Workers Compensation	Statutory
Commercial General	
Liability-Each Occurrence	\$1,000,000
Damage to rented premises	\$ 300,000
Personal & Advertising	\$1,000,000
Injury general aggregate	\$1,000,000
Products-comp/Op Agg.	\$ 1,000,000
Liquor Liability	\$ 300,000

The Permittee shall be named as additional insured and shall be furnished with Certificate of Insurance coverage in the above minimum amounts with the signed management services agreement and at any time during the agreement period that the Manager may change or extend coverage. The City shall have waiver of subrogation issued favoring Permittee on the General Liability and Workers Compensation policies. Current proof of coverage for all other types of insurance must be on file with the Permittee at all times.

15. *Events of Default; Notice.* The following events shall be deemed an event of default ("Event of Default") under this Agreement:

- (a) Any violation or default by either party of any requirement under the Code for which it is responsible hereunder, or the violation of any law, ordinance, rule, or regulation of any governmental authority;
- (b) The failure by either party to perform or observe the covenants, terms, and conditions of this Agreement.

Upon the occurrence of an Event of Default by one party under the terms of this Agreement, the other party shall give the defaulting party written notice of its intention to terminate this Agreement unless the Event of Default is cured on or before the expiration of thirty (30) days from the receipt of such notice. If the defaulting party fails or refuses to cure the Event of Default on or before the expiration of the thirty (30) day period, this Agreement shall be terminated at the end of such period without further notice or demand.

No waiver by the parties hereto of any default or breach of any term or agreement of this Agreement shall be deemed to be a waiver of any subsequent default or breach of the same or any other term or agreement contained herein.

16. *Miscellaneous.*

16.1 *Keys.* Permittee will furnish keys at no initial cost to Manager to the designated mixed beverage room and mixed beverage storage cooler. Manager will be responsible for safekeeping of such keys. Lost keys will be charged to Manager in accordance to the Fee Schedule depicted on Exhibit B. Manager may not add its own locks or change locks without consent of Permittee.

16.2 *Exhibits.* All exhibits, attachments, annexed instruments, and addenda referred to herein shall be considered a part hereof for all purposes with the same force and effect as if copied in full length herein.

16.3 *Captions.* The captions or headings of paragraphs in this Agreement are inserted for convenience only and shall not be considered in construing the provisions hereof if any questions of intent should arise.

16.4 *Assignment.* This Agreement shall not be assignable without the prior written consent of the non-assigning party.

16.5 *Notices.* Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to either party hereto at its respective address set out above, or at such other address as it has theretofore specified by written notice delivered in accordance herewith.

16.6 *General Provisions.* Manager hereby verifies that it does not boycott Israel and will not boycott Israel during the term of the agreement. Boycotting Israel is defined in Texas Government Code Section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business with Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

16.7 *Governing Law.* THIS AGREEMENT IS PERFORMABLE IN BELL COUNTY, TEXAS, AND IS BEING EXECUTED AND DELIVERED IN THE STATE OF TEXAS, AND THE LAWS OF SUCH STATE SHALL GOVERN THE VALIDITY, CONSTRUCTION, ENFORCEMENT AND INTERPRETATION OF THIS AGREEMENT.

16.8 *Attorneys' Fees.* If either party brings an action at law or in equity to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to recover its attorneys' fees and all court costs in addition to all other relief. "Prevailing party" shall include, without limitation, a party who obtains substantially the relief or result sought by it from the other party in any such action irrespective of whether such relief or result is obtained prior to or following full adjudication on the merits.

16.9 *Entirety; Amendments.* This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings, if any, and may be amended or supplemented only by an instrument in writing executed by the parties.

16.10 *Severability.* If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never comprised a part of the Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance from the contract.

16.11 *Time of the Essence.* It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement.

16.12 *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

EXECUTED as of the date first written above.

PERMITTEE:

City of Killeen

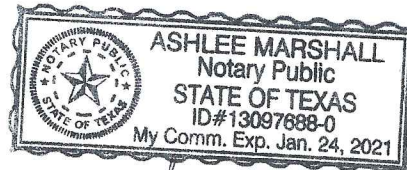
MANAGER:

Let Us Do the Cooking LLC

A Municipal Corporation

By _____
Ronald L. Olson, City Manager

By Meredith Viguers
Meredith Viguers, Owner

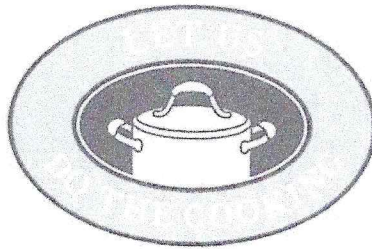


4/30/2019

Ashlee Marshall

Exhibit A

Proposal submitted by Let Us Do the Cooking – RFP 19-12



Proposal for City of Killeen Mixed Beverage Service
Killeen Civic and Conference Center
RFP - 19-12

Submitted by:

Let Us Do The Cooking LLC
Meredith Viguers, Owner
111 S Main Street
Nolanville, TX 76559
254-554-2665
254-466-9121 cell
meredith@letusdothecooking.com

Let Us Do The Cooking has been the standard bearer for providing excellent service in Central Texas for the last 13 years. Since our start in 2006, this has been our mission and we look forward to the opportunity to expand within the City of Killeen.

Due to the nature of our business, we already spend quite a large amount of time at the Killeen Civic and Conference Center and believe that we offer a unique perspective in to the operation and opportunities available for the mixed beverage service provider. With a staff of over 50 employees we have the resources and expertise to take what is a good service and make it great!

It is our proposition that current percentage of 60% for the City and 40% to the Vendor would remain, however we see several options to increase revenues making this a more lucrative venture for both parties. The current pricing sheet is appropriate, however based on our broad experience and the requests of many of our clients we would make changes to some of the brands offered. The following are just few of the ways we can provide additional service to increase revenues.

1. Bottled Water available for purchase at the bar for \$1.00 each.
- a constant challenge for any caterer is to keep staffing costs in check. One of the situations we run into on a frequent basis is having to keep someone at an event simply to have beverages available long after they've eaten. If the bar service included the option to purchase non-alcoholic beverages caterers would be able to leave events quicker and the bar service immediately increase revenues, specifically at military events.

2. Table Service - charged at an hourly rate to the client depending on the number of servers requested.
- this would allow a client the opportunity to have a server come to their tables to take orders and deliver the beverages, as well as bus tables and keep the event spaces cleaned up with out guests having to get up and clear their own beverages.
3. Glass Rentals - for more upscale events, the opportunity to have glassware for their beverages allows for a more formal feeling event. The rentals are charged per piece range from \$.55 to \$1.00 and are already owned by Let Us Do The Cooking. The City would receive 10% of the revenue for these items.
4. Simple Beverage Service - There are many events currently being held in City facilities that do not require bar service or catering but would love the option of just purchasing coffee and water for a meeting. We would recommend that this service be offered through the mixed beverage provider and will add an additional revenue source to the facilities.
5. Mobile Bar/Special Event Service - to include events at other City Facilities such as private charters from the Killeen Airport and Private Events held at Stone Tree Golf Course etc...
6. Specialty Cocktail/Mocktail service and stations - allows for a Signature Drink to be created and served for events. Pricing will be determined based on ingredients. Additional signature items can include things like Mimosa or Bloody Mary stations.

In the event industry, there is no such thing as regular operating hours and therefore we would be available to serve clients at any time they are contracted to be in the facility. We would propose a 3 year contract with a 3 year renewal option. We currently carry a Liability policy that meets all requirements listed in the RFP on which the City is already listed as an additional insured due to the fact that we work in the Civic Center and have been on the preferred caterers list for the last 13 years.

Our staff has provided mixed beverage services in multiple facilities just some of which include the following:

Brick and Barrel - Killeen
 Tenroc Ranch - Salado
 La Rio Mansion - Belton
 Cathedral Oaks - Belton
 Cultural Arts and Activities Center - Temple
 Hostess House - Lampasas

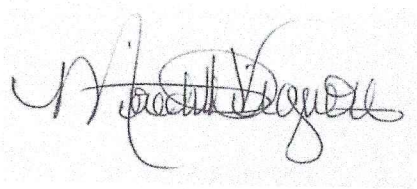
Please use the following references, should you need them:

Texell Credit Union
Mary Ann Nickolai
254-774-5180
mnickolai@texell.org

Brick and Barrel/ Christell's Flowers
Mike or Tammy Austin
254-526-6616

Should we be successful in winning this bid, the following can be expected for the City. An increased level of service, professionalism and excellence provided for your guests at every encounter with our staff. We believe that revenues will expand by at least 10% over the prior year with the opportunity for continued growth as we see additional opportunity. We will be a partner in looking for creative and innovative ways to meet client needs while increasing sales.

We sincerely appreciate your time and consideration in reviewing our bid and look forward to the opportunity to work with you on this project.

A handwritten signature in black ink, appearing to read "Meredith Viguers". The signature is fluid and cursive, with the first name "Meredith" written in a larger, more prominent script than the last name "Viguers".

Meredith Viguers, Owner
Let Us Do The Cooking

Exhibit B
Fees
City of Killeen and Let Us Do the Cooking, LLC

Fee Schedule

Percentage of Gross Receipts

40%

Table Service – charged to client at an hourly rate, depending on the number of servers requested. Base rate will be \$25.00 per hour. Permittee will receive 10% of total table service fees ordered for event.

Glass Rentals – beverage glassware rental provided by Manager. Permittee will receive 10% of revenue from each event renting glassware through Manager.

Beverage Service – Manager will provide coffee and water for events requested such as meetings, trainings, etc. Permittee will receive 10% revenue from this provided service from Manager

Specialty Cocktail/Mocktail Service and Stations – Manager will provide Signature drinks to be created and served for events. Pricing will be determined based on amounts and ingredients needed. Additional signature items may include items such as Mimosa, Bloody Mary stations and customized stations as ordered for the event. Permittee will receive 10% of Specialty Service ordered.

Sundry Charges

Replacement of lost keys

\$25.00 each occurrence, per key

FORM CIQ

OFFICE USE ONLY

Date Received _____

A person commits an offense if the person knowingly violates Section 178.006, Local Government Code. An offense under this section is a Class C misdemeanor.

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

Name of Officer

1/20/19
Date

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ADDENDUM TO CONTRACT FOR GOODS OR SERVICES

This addendum supplements that vendor or company, named Let Us Do the Cooking, LLC, dated February ____, 2019 made by and between the City of Killeen ("City") and Let US Do the Cooking, LLC ("Vendor").

1. **Verification by Vendor.** Vendor hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. Boycotting Israel is defined in Texas Government Code section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.
2. **Incorporation.** The provisions of this Addendum shall be incorporated into and are hereby made an essential part of the contract.
3. **Full Force and Effect.** Except as expressly modified herein, all other terms and provisions set for in the contract shall remain in full force and effect and shall not otherwise be affected by this Addendum.


The City and Vendor have duly executed this Addendum as of this _____ day of _____, 2019.

City of Killeen

By: Ron L. Olson

Title: City Manager

Vendor


Let Us Do The Cooking LLC
By: Meredith Viguers
Owner