



Issue Date: February 1, 2016

Mandatory Pre-Proposal Conference:
February 8, 2016 @ 9:00 a.m.
Room 16, City Hall
200 East University Avenue
Gainesville, FL 32601

Bid Due Date: February 17, 2016 @ 3:00 p.m. local time

Deadline for receipt of questions: February 10, 2016 @ 12:00 P.M. (Noon), local time. All questions must be submitted to Purchasing Representative in writing.

REQUEST FOR PROPOSAL

RFP NO. ECOD-160017-DD

License Agreement for Parking Lot #2 – Area Redevelopment

Purchasing Representative:
Doug Drymon, Senior Buyer
Purchasing Division
Phone: (352) 334-5021
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Email: drymonjd@cityofgainesville.org

City of Gainesville
200 East University Avenue, Room 339 – Gainesville, Florida 32601

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**CITY OF GAINESVILLE
REQUEST FOR PROPOSALS FOR**

License Agreement for Parking Lot #2 – Area Redevelopment

SECTION I – REQUEST FOR PROPOSAL OVERVIEW & PROPOSAL PROCEDURES

RFP#: ECOD-160017-DD

February 17, 2016

A. INTRODUCTION/BACKGROUND

The City of Gainesville (hereafter "City") is requesting proposals from qualified providers of property development services for the licensing of parking spaces in City Parking Lot #2, with the goal of stimulating redevelopment in the general area of this City parking resource located in downtown Gainesville.

City Parking Lot #2 is located at 206 NW 2nd Street and is approximately .69 acres in size (please refer to Exhibit E). There are currently 73 metered and unmetered public parking spaces located on-site, with a portion of the parking lot reserved for City employee parking. (The City does not anticipate this latter use continuing.)

Much of the non-residential land in the general area where Parking Lot #2 is located has a land use designation of Mixed Use High, a zoning designation of Central City District (CCD), and is subject to the Traditional City Overlay for redevelopment purposes. There is residential land in the area immediately north of Parking Lot #2 which carries a land use designation of Residential Low, and a zoning designation of Residential Conservation.

B. RFP TIME TABLE

The anticipated schedule for the RFP and License Agreement approval is as follows:

RFP available for distribution	February 1, 2016
Mandatory Pre-Proposal Conference	February 8, 2016 @ 9:00 a.m.
Deadline for receipt of questions	February 10, 2016 @ 12:00 p.m. (Noon)
Deadline for receipt of proposals	February 17, 2016 @ 3:00 p.m. (local time)
Evaluation/Selection process	Week of February 22, 2016
Oral presentations, <u>if conducted</u>	March 14, 2016
Anticipated award date	February 29, 2016 (or March 15, 2016 if Orals are held)
Anticipated Project start date	Subject to issuance of redevelopment project Certificate of Occupancy (CO)

C. PROPOSAL SUBMISSION

One original and 7 copies (a total of eight sets) of the complete proposal must be received by February 17, 2016 at 3:00 p.m. local time at which time all proposals will be publicly opened. In addition, **proposer**

should provide one (1) electronic copy of their proposal in PDF format on a CD or USB flash drive.
Electronic documents should not be password protected, encrypted, etc.

The original proposal, all copies, and the separate sealed price envelope, if required, must be submitted in a sealed envelope or container stating on the outside the proposer's name, address, telephone number, RFP title, number and due date and delivered to:

City of Gainesville
General Government Purchasing
200 East University Avenue, Room 339
Gainesville, Florida 32601

Hand-carried and express mail proposals may be delivered to the above address **ONLY** between the hours of 7:00 a.m. and 6:00 p.m., local time, Monday through Thursday, excluding holidays observed by the City.

Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required address information appears on the outer wrapper or envelope used by such service.

Any proposal received after 3:00 p.m. (local time), February 17, 2016 will not be considered and will be returned unopened.

Both the Technical Proposal and the Price Proposal, if required to be submitted in a separate envelope, must be signed by an officer of the company who is legally authorized to enter into a License Agreement in the name of the proposer, and proposer(s) must affix their company's corporate seal to both Proposals. In the absence of a corporate seal, the Proposals must be notarized by a Notary Public.

The submittal of a proposal by a proposer will be considered by the City as constituting an offer by the Proposer to perform the required services at the stated fees.

D. MANDATORY PRE-PROPOSAL CONFERENCE

A mandatory pre-proposal conference has been scheduled for Monday, 9:00 A.M., on February 8, 2016 in Room 16, City Hall, located at 200 East University Avenue, Gainesville, FL 32601. At that time, prospective proposers or their representatives may discuss any questions pertaining to the project. **[Failure to attend this mandatory pre-proposal conference will disqualify proposers from further consideration.]**

E. CONTACT PERSON

The contact person for this RFP is Doug Drymon, Senior Buyer, at (352) 334-5021 in Purchasing. Explanation(s) desired by proposer(s) regarding the meaning or interpretation of this RFP must be requested from the contact person, in writing, as is further described below.

To ensure fair consideration and consistent and accurate dissemination of information for all proposers, the City prohibits communication to or with any department, employee, or agent evaluating or considering the proposals during the submission process, except as authorized by the contact person.

During the blackout period as defined herein, except as pursuant to an authorized appeal, no person may lobby, as defined herein, on behalf of a competing party in a particular procurement process, City officials or employees except the purchasing designated staff contact in the purchasing division. Violation of this provision shall result in disqualification of the party on whose behalf the lobbying occurred.

The blackout period means the period between the issue date which allows for immediate submittals to the City of Gainesville Purchasing Department for an invitation for bid or the request for proposal, or qualifications, or information, or the invitation to negotiate, as applicable, and the time the City Officials and Employee awards the

License Agreement. Lobbying means when any natural person, for compensation, seeks to influence the governmental decision-making, to encourage the passage, defeat or modification of any proposal, recommendation or decision by City officials and employees, except as authorized by procurement documents.

ADDITIONAL INFORMATION/ADDENDA

Requests for additional information or clarifications must be made in writing no later than the date specified in the RFP Timetable. The request must contain the proposer's name, address, phone number, and facsimile number. Electronic facsimile will be accepted at (352) 334-3163.

Facsimiles must have a cover sheet which includes, at a minimum, the proposer's name, address, number of pages transmitted, phone number, and facsimile number.

The City will issue responses to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the Proposal Due Date. Proposers should not rely on any representations, statements or explanations other than those made in this RFP or in any addendum to this RFP. Where there appears to be a conflict between the RFP and any addenda issued, the last addendum issued will prevail.

It is the proposer's responsibility to be sure all addenda were received. The proposer should verify with the designated contact persons prior to submitting a proposal that all addenda have been received. Proposers are required to acknowledge the number of addenda received as part of their proposals.

F. LATE PROPOSALS, LATE MODIFICATIONS AND LATE WITHDRAWALS

Proposals received after the Proposal Due Date and time are late and will not be considered. Modifications received after the Proposal Due Date are also late and will not be considered. Letters of withdrawal received after the Proposal Due Date or after License Agreement award, whichever is applicable, are late and will not be considered.

G. RFP POSTPONEMENT/CANCELLATION/WAIVER OF IRREGULARITIES

The City may, at its sole and absolute discretion, reject any and all, or parts of any and all, proposals; re-advertise this RFP; postpone or cancel, at any time, this RFP process; or waive any irregularities in this RFP or in the proposals received as a result of this RFP.

H. COSTS INCURRED BY PROPOSERS

All expenses involved with the preparation and submission of proposals to the City, or any work performed in connection therewith shall be borne by the proposer(s). No payment will be made for any responses received, or for any other effort required of or made by the proposer prior to commencement of work as defined by a License Agreement approved by the City Commission.

I. ORAL PRESENTATION

The City may require proposers to give oral presentations in support of their proposals or to exhibit or otherwise demonstrate the information contained therein.

J. EXCEPTION TO THE RFP

Proposers may take exceptions to any of the terms of this RFP unless the RFP specifically states where exceptions may not be taken. Should a proposer take exception where none is permitted, the proposal will be rejected as non-responsive. All exceptions taken must be specific, and the Proposer must indicate clearly what alternative is being offered to allow the City a meaningful opportunity to evaluate and rank proposals.

Where exceptions are permitted, the City shall determine the acceptability of the proposed exceptions and the proposals will be evaluated based on the proposals as submitted. The City, after completing evaluations, may accept or reject the exceptions. Where exceptions are rejected, the City may request that the Proposer furnish the services or goods described herein, or negotiate an acceptable alternative.

K. PROPRIETARY INFORMATION

Responses to this Request for Proposals, upon receipt by the City, become public records subject to the provisions of Chapter 119 F.S., Florida's Public Records Law. If you believe that any portion of your response is exempt, you should clearly identify the specific documents for which confidentiality is claimed, and provide specific legal authority of the asserted exemption. It is also strongly recommended that those specific materials that you assert qualify for exemption from Chapter 119 be submitted in a separate envelope and clearly identified as "TRADE SECRETS EXCEPTION," with your firm's name and the proposal number marked on the outside. Please also note that details of proposals, including alleged trade secrets, with the exception of a company's financial statements, may be disclosed at a public meeting.

In the event the City determines that any materials claimed to be exempt as trade secrets do not qualify as such, the proposer will be contacted and will have the opportunity to rescind their proposal or waive their claim to confidentiality. Please be aware that the designation of an item as a trade secret by you, and the refusal to disclose any materials submitted to the City, may be challenged in court by any person. By your designation of material in your proposal as a "trade secret" you agree to hold harmless the City for any award to a plaintiff for damages, costs or attorneys' fees and for costs and attorneys' fees incurred by the City by reason of any legal action challenging your claim, and the City's refusal to disclose.

L. QUALIFICATIONS OF PROPOSERS

Proposer shall have a background and substantial experience in urban development/redevelopment in an urban core setting, and must be able to demonstrate successful project completion as well as possessing the financial resources necessary to bring the associated redevelopment proposal to fruition.

As a part of the Proposal evaluation process, City may conduct a background investigation of proposer, including a record check by the Gainesville Police Department. Proposer's submission of a Proposal constitutes acknowledgment of the process and consent to such investigation.

No proposal shall be accepted from, nor will any License Agreement be awarded to, any proposer who is in arrears to City upon any debt, fee, tax or License Agreement, or who is a defaulter, as surety or otherwise, upon any obligation to City, or who is otherwise determined to be irresponsible or unreliable by City.

If Proposer is determined to be irresponsible or unreliable, City will notify Proposer of its finding, including evidence used, and allow proposer an informal hearing and the opportunity to come into compliance within three business days of notification.

M. NEGOTIATIONS

The City may award a License Agreement on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the proposer's best terms from a cost or price and technical standpoint.

The City reserves the right to enter into License Agreement negotiations with the selected proposer. If the City and the selected proposer cannot negotiate a successful License Agreement, the City may terminate said negotiations and begin negotiations with the next selected proposer. This process will continue until a License Agreement has been executed or all proposers have been rejected. No proposer shall have any rights against the City arising from such negotiations.

N. RIGHTS OF APPEAL

Participants in this RFP solicitation may protest RFP specifications or award in accordance with Section 41-580 of the City of Gainesville's Financial Services Procedures Manual.

O. RULES; REGULATIONS; LICENSING REQUIREMENT

The proposer shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, including those applicable to conflict of interest and collusion. Proposers are presumed to be familiar with all Federal, State and local laws, ordinances, codes and regulations that may in any way affect the services offered.

P. REVIEW OF PROPOSALS

Each proposal will be reviewed to determine if the proposal is responsive to the submission requirements outlined in the RFP. A responsive proposal is one which follows the requirements of the RFP, includes all required documentation, is submitted in the format outlined in the RFP, is of timely submission, and has the appropriate signatures as required on each document. Failure to comply with these requirements may deem your proposal non-responsive.

Q. LOCAL SMALL BUSINESS PARTICIPATION

It is the policy of the City of Gainesville that qualified local small business (SBEs) as defined in the City of Gainesville's Local Small Business Procurement Program (the "Program") shall have the maximum practical opportunity to participate in the competitive process of supplying commodities and services to the City. Notification is hereby given that local small businesses are strongly encouraged to submit a bid in response to any procurement opportunity let by the City of Gainesville. Prime Licensees are strongly encouraged to utilize qualified local small business subcontractors and material suppliers.

Any individual or entity that engages in fraud, misrepresentation, or other wrongful conduct, whether by act or omission, related to its participation in or eligibility to participate in the Program or in the performance of its SBE obligations under a City License Agreement, shall be in violation of the Program. This determination shall be solely at the discretion of the City. Violators of the Program may be subject to, on an individual and/or entity basis, the debarment or suspension from participating in the City's contracts in accordance with the City of Gainesville's Debarment and Suspension Policy.

R. LIVING WAGE

- This License Agreement is a covered service. (See Living Wage Decision Tree - Exhibit C attached hereto)
 This License Agreement is **not** a covered service.

The Living Wage ordinance, Ordinance 020663, as amended at Ordinance 030168, and as shown on the City's web page, applies to certain contracts and agreements for specific "Covered Services," which the City has determined may include services purchased under this License Agreement, depending upon the cost/price of the contract or Agreement awarded. A copy of the ordinance, as amended, will be attached to and made a part of the executed License Agreement. Bidders/Proposers should consider the effect/cost of compliance, if any, with the requirements of the Living Wage Ordinance if the services purchased are "Covered Services", the prime License Agreement amount exceeds the threshold amount, the bidder/proposer meets the definition of Service Licensee/sub-Licensee (and is not otherwise excluded from the application of the ordinance) and the ordinance provisions, which are incorporated herein, apply to any Covered Employees.

If applicable, the adjusted Living Wage for this License Agreement will be \$11.6587 per hour (Living Wage with Health Benefits) or \$12.91 per hour if Health Benefits are not offered.

If applicable, a successful Service Licensee/sub-Licensee shall be required to execute the certification, attached as Exhibit B hereto, prior to the City executing the License Agreement. Once executed, such

certification will become part of the License Agreement; however, failure to sign such certification will prevent execution of the License Agreement, may result in forfeiture of any applicable bid or proposal bond, and could result in other adverse action.

During the performance of this License Agreement, the Licensee agrees as follows:

- (1) The Licensee shall comply with the provisions of the City of Gainesville's living wage requirements, as applicable. Failure to do so shall be deemed a breach of License Agreement and shall authorize the City to withhold payment of funds until the living wage requirements have been met.
- (2) The Licensee will include the provision of (1) above in each sub-license Agreement for Covered Services with a Service Licensee/sub-Licensee, as defined herein, so that the provisions of (1) above will be binding upon each such Service Licensee/sub-Licensee. The Licensee will take such action with respect to any such sub-license Agreement as may be directed by the License Agreement administrator as a means of enforcing such provisions; provided, however, the City shall not be deemed a necessary or indispensable party in any litigation between the Licensee and a sub-Licensee concerning compliance with living wage requirements.

S. LOCAL PREFERENCE

In bidding of, or letting License Agreements for procurement of, supplies, materials, equipment and services, as described in the purchasing policies, the city commission, or other purchasing authority, may give a preference to local businesses in making such purchase or awarding such License Agreement in an amount not to exceed five percent of the local business' total bid price, and in any event the cost differential should not exceed \$25,000.00. Total bid price shall include not only the base bid price but also all alterations to that base bid price resulting from alternates which were both part of the bid and actually purchased and awarded by the City Commission or other authority. In the case of requests for proposals, letter of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses. Local Businesses are assigned five (5) percent of the total points of the total evaluation points. If Local Preference is requested by the proposer, the attached Exhibit A must be submitted with the proposal.

Local business means the proposer has a valid business tax receipt, issued by the City of Gainesville at least six months prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and a physical business address located within the limits of said locality, in an area zoned for the conduct of such business, from which the proposer operates or performs business on a day-to-day basis. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, in the Bid or RFP evaluation, the proposer must provide a copy of the business tax receipt and Zoning Compliance Permit. Exhibit -A-(Attach Codified document)

T. RECORDS/AUDIT

Licensee shall maintain records sufficient to document their completion of the scope of services established by this License Agreement. These records shall be subject at all reasonable time to review, inspect, copy and audit by persons duly authorized by the City. These records shall be kept for a minimum of three (3) years after completion of the License Agreement. Records which relate to any litigation, appeals or settlements of claims arising from performance under this Order shall be made available until a final disposition has been made of such litigation, appeals, or claims.

U. INVESTIGATION OF ALLEGED WRONGDOINGS, LITIGATION/SETTLEMENTS/FINES/PENALTIES

The City Commission specifically requests that responders to this document indicate in writing any investigations of wrongdoings, litigation and/or settlements, and fines or penalties (anywhere in the U.S) involving the Licensee and specific Licensees listed as projected to provide services to the City. You may be required to respond to questions on this subject matter.

V. DISCRIMINATION PROHIBITION

No person shall, on the grounds of race, color, religion, gender, national origin, marital status, sexual orientation, age, disability, and gender identity, be refused the benefits of, or be otherwise subjected to, discrimination under any activities resulting from this RFQ.

W. ART IN PUBLIC PLACES

In 1989, the City of Gainesville adopted an ordinance (Art in Public Places) requiring that, “each appropriation for the original construction or major renovation of a local government building which provides public access shall include an amount of at least one (1) percent of the total appropriation for the construction or major renovation of the building to be used for the acquisition of art”. Compliance with the Art in Public Places ordinance may be required for this project, and in such case, will require coordination between the Licensee, architect and an artist. A copy of the ordinance is available upon request.

X. DAVIS-BACON

It will be the responsibility of the Licensee to check with the department project manager to determine if compliance with the Davis Bacon Act and the DOL regulations are required.

SECTION II – SCOPE OF SERVICES

A. INTENT

It is the intent of the City of Gainesville to obtain proposals for the licensing of parking spaces in City Parking Lot #2, with the goal of stimulating redevelopment in the general area of this City parking resource located in downtown Gainesville. The City anticipates entering into a license agreement with a property development provider similar to one that is attached (refer to Attachment A) which has been utilized for other parking agreements with the City of Gainesville.

B. MINIMUM REQUIREMENTS

- i. Proposer should indicate how their proposal for License Agreement for Parking Lot #2 – Area Redevelopment, will contribute to an overall redevelopment project within the general area. Proposals should contain the proposed business terms sought for the License Agreement and the associated redevelopment proposal (inclusive of all aspects of the proposed project) consistent with the existing development review regimen and City development review ordinances inclusive of any approvals sought by either the City of Gainesville or Gainesville Community Redevelopment Agency (CRA).
- ii. Proposer must submit along with their proposal draft architectural/civil engineering plans that depict the associated general area redevelopment proposal.
- iii. Proposer shall also submit as part of their proposal a minimum of three (3) references associated with similar urban core development/redevelopment projects that have incorporated the provision of parking within them.

SECTION III – PROPOSAL FORMAT

Instructions to proposers: Proposals must contain each of the below enumerated documents, each fully completed, signed, and notarized as required. Proposals submitted which do not include the following items may be deemed non-responsive and may not be considered for License Agreement award.

A. FORMAT AND CONTENTS OF PROPOSAL

1. Table of Contents

The table of contents should outline in sequential order the major areas of the proposal, and all pages of the proposal, including the enclosures, must be clearly and consecutively numbered and correspond to the table of contents.

2. Technical Proposals

The technical proposal is a narrative which addresses the scope of work, the proposed approach to the work, the schedule of the work, and any other information called for by the RFP which the proposer deems relevant.

3. Price Proposal

The price proposal is a presentation of the proposer's total offering price for the licensing of parking spaces in Lot #2 in connection with an associated general area redevelopment proposal.

If a prescribed format for the price proposal is appended, proposers must use it; otherwise, proposers may use formats of their choice.

4. Qualifications

The response to the minimum qualification requirements contained below is a list of the minimum qualification requirements prescribed for the RFP. Proposers must provide documentation which demonstrates their ability to satisfy all of the minimum qualification requirements. Proposers who do not meet the minimum qualification requirements or who fail to provide supporting documentation will not be considered for award. If a prescribed format or required documentation for the response to minimum qualification requirements is stated below, proposers must use said format and supply said documentation.

A copy of your Business tax receipt and Zoning Compliance Permit should be submitted with the proposal if a local preference is requested.

B. QUALIFICATIONS/STATEMENT OF QUALIFICATIONS

Proposer shall have a background and substantial experience in urban development/redevelopment in an urban core setting, and must be able to demonstrate successful project completion as well as having the financial resources necessary to bring the associated redevelopment proposal to fruition. By way of demonstrating past background and experience in urban development/redevelopment, Proposer shall submit as part of their proposal a minimum of three (3) references associated with similar urban core development/redevelopment projects that have incorporated the provision of parking within them.

SECTION IV – EVALUATION CRITERIA AND PROCEDURES

A. EVALUATION CRITERIA

1.0 SELECTION AND EVALUATION CRITERIA

Proposals will be evaluated in accordance with the procedures described in the City's Professional Services Evaluation Handbook. The proposals will be evaluated in four stages: Technical Qualifications Evaluation, Written Proposal Evaluation and/or Presentation/Interview Evaluation, and Other Factors as deemed appropriate. The City shall consider the ability of the firm's professional personnel, willingness to meet time and budget requirements, workload, location, past performance, volume of previous work with the City, and location. The Evaluation process provides a structured means for consideration of all these areas.

1.1 Technical Qualifications Evaluation

The Technical Qualifications Evaluation will assess each responding firm's ability based on experience and qualifications of key team members, the firm's capability of meeting time and budget requirements, and the firm's record with regard to this type of work, particularly in the City of Gainesville or in the State of Florida. This stage does not involve review and evaluation of a proposal addressing the project scope of work. Consideration will be given to the firm's current workload, financial stability, and the location where the majority of the technical work will be produced. The City will not be impressed with excessive amounts of boilerplate, excessive numbers of resumes, excessive length of resumes, excessive numbers of photographs, work that distant offices have performed, or work not involving personnel to be assigned to the proposed project.

1.2 Written Proposal Evaluation

The Written Proposal Evaluation will assess the firm's understanding of the project and the proposed approach to be undertaken as addressed in a written proposal. The evaluation process will assess how effectively the requirements of the scope of services have been addressed. The written proposal should identify a project manager and other key members of the project/service team. It should relate the capabilities of the project/service team to the requirements of the scope of services.

1.3 Presentation/Interview Evaluation

The Proposal Presentation/Interview Evaluation is based on an oral presentation that addresses both the technical qualifications of the firm and the approach to the project. Importance is given to the firm's understanding of the project scope of work, the placement of emphasis on various work tasks, and the response to questions. The evaluation process will assess the project manager's capability and understanding of the project and his/her ability to communicate ideas. The role of key members of the project/service team should be established based on the scope of services and the firm's approach to the project/service. The role of any subcontracted firm in the proposal should be clearly identified. Unique experience and exceptional qualifications may be considered with emphasis on understanding of the project/service, particularly "why it is to be done" as well as "what is to be done." The City of Gainesville will not be impressed with excessive boilerplate, excessive participation by "business development" personnel, and the use of "professional" presenters who will not be involved in the project or future presentations.

1.4 Other factors

The Other Factors to be considered, based upon the specific project (but not limited to), are those items, such as SBPP and/or Local Preference. Fee proposals, when requested and deemed appropriate, are also to be considered in the evaluation process, where the request for such fees is in accordance with the City's Purchasing Policies and Procedures.

B. SELECTION PROCESS

The Licensee(s) will be selected from the qualified proposers submitting responses to this Request for Proposals. The selection process will be as follows:

1. Evaluators consisting of staff will review the written proposals. The evaluation process provides a structured means for consideration of all proposals.
2. Upon review and evaluation, the City may request oral presentations from the top ranked proposers. During the oral presentations, the proposers shall further detail their qualifications, approach to the project and ability to furnish the required services. These presentations shall be made at no cost to the City. **Firms selected for further presentations should provide one (1) electronic copy of materials presented in PDF format on a CD.**
3. Prior to final ranking of firms, the apparent top ranked proposer will be required to furnish proof to the City that it complies with the specifications.
4. The final ranking of firms will be in accordance with the procedures described in the City's Professional Services Evaluation Handbook. If required, the final ranking of firms will be presented to the City Commission. The City Commission will be requested to approve the recommended ranking and authorize negotiation and execution of an agreement, beginning with the top ranked proposer.
5. Provided that the City Commission approves the ranking and an award, the City will negotiate a License Agreement for Parking Lot #2 with the top ranked proposer. Should the City be unable to negotiate a satisfactory License Agreement with the top ranked proposer, negotiations will be terminated with that proposer and negotiations will be initiated with the second most qualified proposer, and so on until a satisfactory License Agreement is negotiated.

SECTION V – GENERAL PROVISIONS

A. LICENSE AGREEMENT AWARD

The award(s), if any, shall be made to the proposer(s) whose proposal(s) shall be deemed by the City to be in the best interest of the City. The decision of the City of whether to make the award(s) and which proposal is in the best interest of the City shall be final.

The License Agreement to be entered into with the successful proposer will designate the successful proposer as the City's Licensee and will include, but not be limited to, the following terms and conditions.

B. GENERAL TERMS AND CONDITIONS

Following are the General Terms and Conditions, supplemental to those stated elsewhere in the Request for Proposals, to which the Proposer must comply to be consistent with the requirements for this Request for Proposals. Any deviation from these or any other stated requirements should be listed as exceptions in a separate appendix of the proposal.

1. Public Entity Crimes. Section 287.133 (2)(a), Florida Statutes, contains the following provisions: "A person or affiliate who has been placed on the convicted proposer list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity, in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted proposer list."
2. Tie Bids. Whenever two or more bids which are equal with respect to price, quality and service are received, preference shall be given in the following order: (1) Bidders submitting the attached Drug-Free Workplace form with their bid/proposal certifying they have a drug free workplace in accordance with Section 287.087, Florida Statutes; (2) Bidders located within the City of Gainesville, if not subject to the Local Preference Ordinance; (3) Bidders located within Alachua County; and (4) Bidders located within the State of Florida. In the case where Federal funds are being utilized, articles 2,3 and 4 will not apply.
3. Drugfree Workplace. Preference shall be given to submitters providing a certification with their qualifications certifying they have a drug-free workplace whenever two or more bids which are equal with respect to price, quality, and service are received in accordance with Section 287.087, Florida Statutes. The attached form should be filled out and returned with the qualifications in order to qualify for this preference.
4. Indemnification. The Licensee shall agree to indemnify and save harmless the City, its officers, agents, and employees, from and against any and all liability, claims, demands, fines, fees, expenses, penalties, suits, proceedings, actions and costs of action, including attorney's fees for trial and on appeal, of any kind and nature arising or growing out of or in any way connected with the performance of the License Agreement whether by act or omission or negligence of the Licensee, its agents, servants, employees or others, or because of or due to the mere existence of the License Agreement between the parties.
5. Insurance. Licensee shall provide proof of insurance in an amount as noted below:

Worker's Compensation Insurance providing coverage in compliance with Chapter 440, Florida Statutes.

Public Liability Insurance (other than automobile) consisting of broad form comprehensive general liability insurance including License Agreement coverage \$1,000,000 per occurrence (combined single limit for bodily injury and property damage).

The City shall be an additional insured on such Public Liability Insurance and the Licensee shall provide copies of endorsements naming the City as additional insured.

Automobile Liability Insurance

Property Damage \$500,000 per occurrence (combined single limit for bodily injury and property damage).

The Licensee shall furnish the City a certificate of insurance in a form acceptable to the City for the insurance required. Such certificate or an endorsement provided by the Licensee must state that the City will be given thirty (30) days' written notice (except the City will accept ten (10) days written notice for non-payment) prior to cancellation or material change in coverage.

6. Sovereign Immunity. Nothing in the executed License Agreement shall be interpreted that the City waives its sovereign immunity granted under Section 768.28, Florida Statutes.
7. Term. Provided Licensee is not otherwise in default (beyond any applicable cure periods) of its obligations hereunder, and except as otherwise stipulated in the License Agreement, the term of the License Agreement shall be for 30 years, or such period of time that is mutually agreeable to the City and the Licensee, subject to any extensions which both parties may wish to negotiate and agree to.
8. Termination. In addition to such other conditions as may be negotiated between the City and the Licensee, the License Agreement will provide termination by either party without cause upon 30 days prior written notice to the other party. In the event of termination, the Licensee will be compensated (if required by the terms of the License Agreement) for services rendered up to and including the day of termination.
9. Applicable Law. The License Agreement and the legal relations between the parties hereto shall be governed and construed in accordance with the laws of the State of Florida. Venue in the courts of Alachua County, Florida.
10. Joint Bidding/Cooperative Purchasing Agreement: All bidders submitting a response to this invitation to bid agree that such response also constitutes a bid to all State Agencies and Political Subdivisions of the State of Florida under the same terms and conditions, for the same prices and the same effective period as this bid, should the bidder deem it in the best interest of its business to do so. This agreement in no way restricts or interferes with any State Agency or Political Subdivision of the State of Florida to rebid any or all items.
11. Subcontractors. All successful contractors specific to construction in the amount of \$300 thousand or more to include material suppliers shall be required to provide information of subcontractors in addition to sub and sub subcontractors prior to final payment under the contract.
12. Florida Public Records Act
 Florida has a very broad public records law. By entering into an agreement with the City, the Licensee acknowledges that it will comply with the Florida Public Records Act (Chapter 119, Florida Statutes). In complying with the Florida Public Records Act the Licensee shall:
 - a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;
 - b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided by law;
 - c) Ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law;
 - d) Meet all requirements for retaining public records and transfer, at no cost, to the City all public record in possession of the Licensee upon termination of the License Agreement and destroy any

duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

Failure to comply with the Florida Public Records Act, including failure to provide a public record upon request, is a breach of the License Agreement between City and Licensee. City may pursue all remedies for breach of this agreement

SECTION VI – TECHNICAL SPECIFICATIONS

A. SCOPE

The City of Gainesville (hereafter "City") is requesting proposals from qualified providers of property development services for the licensing of parking spaces in City Parking Lot #2, with the goal of stimulating redevelopment in the general area of this City parking resource located in downtown Gainesville.

Each proposal submitted shall include draft architectural/civil engineering plans that depict the associated general area redevelopment proposal that the Provider is offering the City.

B. BACKGROUND

City Parking Lot #2 is located a 206 NW 2nd Street and is approximately .69 acres in size (please refer to Exhibit E). There are currently 73 metered and unmetered public parking spaces located on-site, with a portion of the parking lot reserved for City employee parking. (The City does not anticipate this latter use continuing.)

Much of the non-residential land in the general area where Parking Lot #2 is located has a land use designation of Mixed Use High, a zoning designation of Central City District (CCD), and is subject to the Traditional City Overlay for redevelopment purposes. There is residential land in the area immediately north of Parking Lot #2 which carries a land use designation of Residential Low, and a zoning designation of Residential Conservation.

SECTION VII – PRICE PROPOSAL

Consistent with the structure of the attached sample license agreement (please refer to Attachment A), Proposers should submit as part of their proposal a payment arrangement with the City that is supportable based on the size, scope and quality of the general area redevelopment project they are proposing. The final payment arrangement that is negotiated between the City and the Licensee will become part of the terms of the License Agreement.

DRUG-FREE WORKPLACE FORM

The undersigned proposer in accordance with Florida Statute 287.087 hereby certifies that

_____ does:

(Name of Business)

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for the drug abuse violations.
3. Give each employee engaged in providing the commodities or License Agreemental services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or License Agreemental services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Bidder's Signature

Date

DEBARRED AND SUSPENDED BIDDERS:

Breach of Contract

1. **Scope.**
This policy prescribes policies and procedures relating to:
 - (a) the debarment of bidders for cause;
 - (b) the suspension of bidders for cause under prescribed conditions;
and,
 - (c) the rejection of bids, revocation of acceptance and termination of contracts for cause.
 It is directly applicable to the advertised and negotiated purchases and contracts, for equipment and services of the City.
2. **General.**
Debarment and suspension are measures which may be invoked by the City either to exclude or to disqualify bidders and contractors from participation in City contracting or subcontracting. These measure should be used for the purpose of protecting the interests of the City and not for punishment. To assure the City the benefits to be derived from the full and free competition of interested bidders, these measures should not be instituted for any time longer than deemed necessary to protect the interests of the City, and should preclude awards only for the probably duration of the period of non-responsibility.
 - 2.1 **Definitions.**
 - (a) "Debarment" means, in general, an exclusion from City contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense, improper conduct or the inadequacy of performance.
 - (b) "Suspension" means a disqualification from City contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence (See Section 6) of engaging in criminal, fraudulent, improper conduct or inadequate performance.
 - (c) A "debarment list" or "debarred bidders list" means a list of names of concerns or individuals against whom any or all of the measures referred to in this policy have been invoked.
 - (d) "Bidders" means, wherever the term is used in this policy, an offerors bidding pursuant to an invitation for bids or a request for proposals.
 - (e) "Affiliates" means business concerns which are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.
 - (f) "Business operations" means commercial or industrial activity engaged in regularly and continuously over a period of time for the purpose of receiving pecuniary benefit or otherwise accomplishing an objective. "Business operations" constitute and are equivalent to "carrying on business", "engaged in business", "doing business".
3. **Establishment and Maintenance of a List of Concerns or Individuals Debarred or Suspended.**
 - (a) The Purchasing Department shall establish and maintain on the basis contained in Sections 6 and 6.1, a consolidated list of concerns and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited.
 - (b) The list shall show as a minimum the following information:
 - (1) the names of those concerns or individuals debarred or suspended (in alphabetical order) with appropriate cross-reference where more than one name is involved in a single action;
 - (2) the basis of authority for each action;
 - (3) the extent of restrictions imposed; and,
 - (4) the termination date for each debarred or suspended listing.
 - (c) The list shall be kept current by issuance of notices of additions and deletions.
4. **Treatment to be Accorded Firms or Individuals Debarred or Suspended**
Firms or individuals listed by the Purchasing Department as debarred or suspended shall be treated as follows.
 - (a) **Total restrictions.** A contract shall not be awarded to a concern or individual that is listed on the basis of a Section 5(a)(1), (2) or (3) felony "conviction", or to any concern, corporation, partnership, or association in which the listed concern or individual has actual control or a material interest; nor shall bids or proposals be solicited therefrom. However, when it is determined essential in the public interest by the City Commission, an exception may be made with respect to a particular procurement action where the individual or concern is effectively the sole source of supply or it is an emergency purchase.
 - (b) **Restrictions on subcontracting.** If a concern or individual listed on the debarred and suspended bidders list is proposed as a subcontractor, the Purchasing Department shall decline to approve subcontracting with that firm or individual in any instance in which consent is required of the City before the subcontract is made, unless it is determined by the City to grant approval City Commission essential to public interest and the individual or concern is effectively the sole source of supply or it is an emergency purchase.
5. **Causes and Conditions Applicable to Determination of Debarment.**

Subject to the following conditions, the Purchasing is authorized to debar a firm or individual in the public interest for any of the following causes occurring with ten (10) years of debarment.

- (a) Causes
 - (1) "Conviction" for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.
 - (2) "Convictions" of embezzlement, theft, forgery, issuance of worthless checks, bribery, falsification or destruction of records, perjury, or receiving stolen property where the conviction is based upon conduct which arose out of, or was related to, business operations of the bidder.
 - (3) "Conviction" for bid-rigging activities arising out of the submission of bids or proposals.
 - (4) Violation of contract provisions, as set forth below, of a character which is regarded by the City to be so serious as to justify debarment action:
 - (i) willful failure to perform in accordance with the specifications or within the time limit provided in the contract;
 - (ii) a record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts. Failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment.
 - (5) Debarment by any other governmental agency.
- (b) Conditions.
 - (1) Debarment for any of the causes set forth in this section shall be made only upon approval of the Purchasing.
 - (2) The existence of any of the causes set forth in (a) of this section does not necessarily require that a firm or individual be debarred except as provided in 4(a). In each instance, whether the offense or failure, or inadequacy of performance, be of criminal, fraudulent, or serious nature, the decision to debar shall only be made if supported by a preponderance of the credible evidence available. Likewise, all mitigating factors may be considered in determining the seriousness of the offense, failure, or inadequacy of performance, in deciding whether debarment is warranted. The actual or apparent authority of an involved individual, the present relationship of involved individuals with the bidder, the past performance of the individual or concern, and the relationship of the violation to the services or materials involved shall be considered.
 - (3) The existence of a cause set forth in (a)(1), (2), and (3) of this section shall be established by criminal "conviction" by a court of competent jurisdiction. In the event that an appeal taken from such conviction results in reversal of the "conviction", the debarment shall be removed upon the request of the bidder (unless other causes for debarment exists). for the purposes of this policy, the following shall have the same effect as a "conviction": pleading guilty or nolo contendere, or being found guilty by a jury or court of, the offense in question, regardless of whether probation is imposed and adjudication withheld.
 - (4) The existence of a cause set forth in (a)(4) and (5) of this section shall be established by a preponderance of credible evidence by the Purchasing.
 - (5) Debarment for the cause set forth in (a)(5) of this section (debarment by another agency) shall be proper if one of the causes for debarment set forth in (a)(1) through (4) of this section was the basis for debarment by the original debarring agency. Such debarment may be based entirely on the record of facts obtained by the original debarring agency, or upon a combination of such facts and additional facts.

5.1 Period of Debarment.

- (a) Debarment of a firm or individual shall be for a reasonable, definitely stated period of time commensurate with the seriousness of the offense or the failure or inadequacy or performance. As a general rule, a period of debarment shall not exceed five (5) years. However, when partial or total debarment for an additional period is deemed necessary, notice of the proposed additional debarment shall be furnished to that concern or individual in accordance with Section 8.
- (b) A debarment may be removed or the period thereof may be reduced by the City Manager upon the submission of an application supported by documentary evidence, setting forth appropriate grounds for the granting of relief; such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which the debarment was imposed. The City Manager may request additional information, shall consider all relevant facts, and shall render a decision within twenty (20) days of receipt of the application unless a longer period is warranted under the circumstances.

6. Suspension of Bidders.

- (a) Suspension is a drastic action and, as such, shall not be based upon an unsupported accusation. In assessing whether evidence exists for invoking a suspension, consideration should be given to the amount of credible evidence which is available, to the existence or absence of corroboration as to important allegations, as well as to the inferences which may properly be drawn from the existence or absence of affirmative facts. This assessment should include an examination of basic documents, such as contracts, inspection reports, and correspondence. In making a determination to suspend, the Purchasing shall consider the factors set forth in Section 5(b)(2). A suspension may be modified by the City Manager as described in Section 5.1(b).

- 6.1 Causes and Conditions Under Which the City May Suspend Contractors
- (a) The Purchasing may, in the interest of the City, suspend a firm or individual when the firm or individual is suspected, upon credible evidence, of having committed one or more the following act(s) within three (3) years of the date of suspension:
 - (1) Commission of fraud or a criminal offense as an incident to obtaining, attempting to obtain, or in the performance of a public contract;
 - (2) Violation of statutes concerning bid-rigging activities out of the submission of bids and proposals; and,
 - (3) Commission of embezzlement, theft, forgery, issuance of worthless checks, bribery, falsification, or destruction of records, perjury, receiving stolen property. Commission of any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a City contractor.
- 6.2 Period of Suspension.
- (a) All suspension shall be for temporary period pending the completion of an investigation and such legal proceedings as may ensue. In the event that prosecution has not been initiated within twelve (12) months form the date of the suspension, the suspension shall be terminated. Upon removal of suspension, consideration may be given to debarment in accordance with Section 5 of this policy.
7. Scope of Debarment or Suspension.
- (a) A debarment or suspension may include all known affiliates of a concern or individual.
 - (b) Each decision to include a known affiliate within the scope of a proposed debarment or suspension is to be made on a case-by-case basis, after giving due regard to actual or apparent authority of the controlling concern or individual and similarity of the services provided by the affiliate to those provided by the debarred individual or concern.
 - (c) The criminal, fraudulent, or seriously improper conduct of an individual may be imputed to the business concern with which he is connected, where such impropriety was accomplished within the course of his official duty or apparent authority, or was effected by him with the knowledge and approval of that concern. When the individual was an officer of the concern, knowledge and approval may be presumed. Likewise, where a concern is involved in criminal, fraudulent, or seriously improper conduct, any individual who was involved in the commission of the impropriety may be debarred or suspended.
8. Notice of Debarment of Suspension.
- When the Purchasing seeks to debar or suspend a concern or individual (or any affiliate thereof) for cause, it shall furnish that party with a written notice:
- (1) stating that debarment or suspension is being considered;
 - (2) setting forth the reasons for the proposed action;
 - (3) indicating that such party will be afforded an opportunity for a hearing if he so requests one within ten (10) days; and,
 - (4) indicating that such party may make a written response in accordance with Section 9(a).
9. Response to Notice of Debarment or Suspension.
- (a) In lieu of requesting a hearing within the prescribed ten (10) day period, the party may, within said ten (10) day period, notify the City of its intent to provide a written reply and submit written evidence to contest the debarment or suspension. Such written evidence must be submitted within twenty (20) days after receipt of the notice of proposed debarment or suspension in order for it to be considered.
 - (b) Whatever response is received to the notice of intent to debar or suspend, such will be considered in determining whether debarment or suspension action will be made. Where a reply is received to the notice of intent to debar or to suspend, and evidence to refute such action is furnished but no hearing is requested, the information furnished will be considered in determining the action to be taken.
 - (c) If a hearing is requested, it shall be conducted by the City Manager. The hearing will be held at a location convenient to the City as determined by the City Manager and on a date and at a time stated. An opportunity shall be afforded to the firm or individual to appear with witnesses and counsel, to present facts or circumstances showing cause why such firm or individual should not be debarred or suspended. The proceeding shall be of an informal nature as determined by the City Manager. After consideration of the facts, the City Manager shall notify the firm or individual of the final decision.
 - (d) If no response is made to the notice of debarment or suspension within the first ten (10) day period, the decision of the Purchasing shall be deemed final and the party so notified.
10. Rejection of Bids, Breach of Contract.
- (a) Previously solicited and/or accepted bids may be rejected or acceptance revoked prior to beginning of performance upon discovery by the City that the bidder or its affiliates have committed any act which would have been cause for debarment.
 - (b) If after a contract is awarded and performance has been begun the City discovers that the bidder or its affiliates have committed any act prior to award or acceptance which would have been cause for debarment had it been discovered

prior to solicitation or acceptance, the City may consider such to be a material breach of the contract and such shall constitute cause for termination of the contract.

- (c) If after bids have been solicited and/or accepted or after a contract is awarded and performance begun, the City discovers that the bidder or its affiliates committed any act prior to award or acceptance which would have been cause for disbarment or suspension had it been discovered prior to solicitation or acceptance, the City may require additional satisfactory assurances that such act(s) have not occurred and that the contract can and will be faithfully performed. If additional assurances are requested and are not satisfactory or if the bidder or its affiliates fail to immediately cooperate with all reasonable requests, including requests for information reasonably calculated to lead to the discovery of relevant evidence, then such may be considered a material breach of the contract and such shall constitute cause for termination of the contract.

ARTICLE X. LOCAL PREFERENCE POLICY*

***Editor's note:** Section 9 of Ord. No. 001261 states: "This ordinance shall become effective October 1, 2004, and shall be reviewed by the City Commission October 1, 2005, and unless extended by action of the City Commission, shall be deemed repealed effective March 31, 2006, provided that it shall remain applicable to new contracts solicited prior to repeal."

Sec. 2-620. Findings of fact.

The city annually spends significant amounts on purchasing personal property, materials, and contractual services and in constructing improvements to real property or to existing structures. The dollars used in making those purchases are derived, in large part, from taxes, fees, and utility revenues derived from local businesses in the corporate city limits of Gainesville, and the city commission has determined that funds generated in the community should, to the extent possible, be placed back into the local economy. Therefore, the city commission has determined that it is in the best interest of the city to give a preference to local businesses in the corporate city limits of Gainesville in making such purchases whenever the application of such a preference is reasonable in light of the dollar-value of proposals received in relation to such expenditures.

(Ord. No. 001261, § 1, 3-29-04)

Sec. 2-621. Definition.

"Local business" means the proposer has a valid occupational license, issued by the City of Gainesville at least six months prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and a physical business address located within the limits of said locality, in an area zoned for the conduct of such business, from which the proposer operates or performs business on a day-to-day basis. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. In order to be eligible for local preference, the proposer must provide a copy of the occupational license.

(Ord. No. 001261, § 2, 3-29-04)

Sec. 2-622. Local preference in purchasing and contracting.

In bidding of, or letting contracts for procurement of, supplies, materials, equipment and services, as described in the purchasing policies, the city commission, or other purchasing authority, may give a preference to local businesses in making such purchase or awarding such contract in an amount not to exceed five percent of the local business' total bid price, as described below, and in any event the cost differential should not exceed \$25,000.00. Total bid price shall include not only the base bid price but also all alterations to that base bid price resulting from alternates which were both part of the bid and actually purchased or awarded by the city commission or other authority. In the case of requests for proposals, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points.

(Ord. No. 001261, § 3, 3-29-04)

Sec. 2-623. Exceptions to local preference policy.

The preference set forth in this Article X shall not apply to any of the following purchases or contracts:

- (1) Good or services provided under a cooperative purchasing agreement;

EXHIBIT A

- (2) Contracts for professional services procurement of which is subject to the Consultants' Competitive Negotiation Act (F.S. § 287.055) or subject to any competitive consultant selection policy or procedure adopted or utilized by the city commission or charter officer;
- (3) Purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference; or
- (4) Purchases made or contracts let under emergency or noncompetitive situations, or for litigation related legal services, etc., as such are described in the city's purchasing policies;
- (5) Purchases with an estimated cost of \$50,000.00 or less;
- (6) Application of local preference to a particular purchase, contract, or category of contracts for which the city commission is the awarding authority may be waived upon written justification and recommendation of the charter officer and approval of the city commission. The preferences established herein in no way prohibit the right of the city commission or other purchasing authority to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preferences established herein in no way prohibit the right of the city commission or other purchasing authority from giving any other preference permitted by law in addition to the preference authorized herein.

(Ord. No. 001261, § 4, 3-29-04)

Sec. 2-624. Application, enforcement.

The local preference shall apply to new contracts for supplies, materials, equipment and services first solicited after October 1, 2004. This article shall be implemented in a fashion consistent with otherwise applicable city purchasing policies and procedures.

(Ord. No. 001261, § 5, 3-29-04)

Local Preference is requested: YES NO

If Local preference is requested this exhibit must be submitted with the proposal.

A copy of your Business tax receipt and Zoning Compliance Permit should be submitted with the proposal if a local preference is requested.

CITY OF GAINESVILLE

CERTIFICATION OF COMPLIANCE WITH LIVING WAGE

The undersigned hereby agrees to comply with the terms of the Living Wage Ordinance and to pay all covered employees, as defined by City of Gainesville Ordinance 020663 as amended at 030168 (Living Wage Ordinance), during the time they are directly involved in providing covered services under the License Agreement with the City of Gainesville for Parking Lot #2 – Area Development, a living wage of \$11.6587 per hour to covered employees who receive Health Benefits from the undersigned employer and \$12.91 per hour to covered employees not offered health care benefits by the undersigned employer.

Name of Service Licensee/sub-Licensee: _____

Address: _____

Phone Number: _____

Name of Local Contact Person _____

Address: _____

Phone Number: _____

\$ _____
 (Amount of License Agreement)

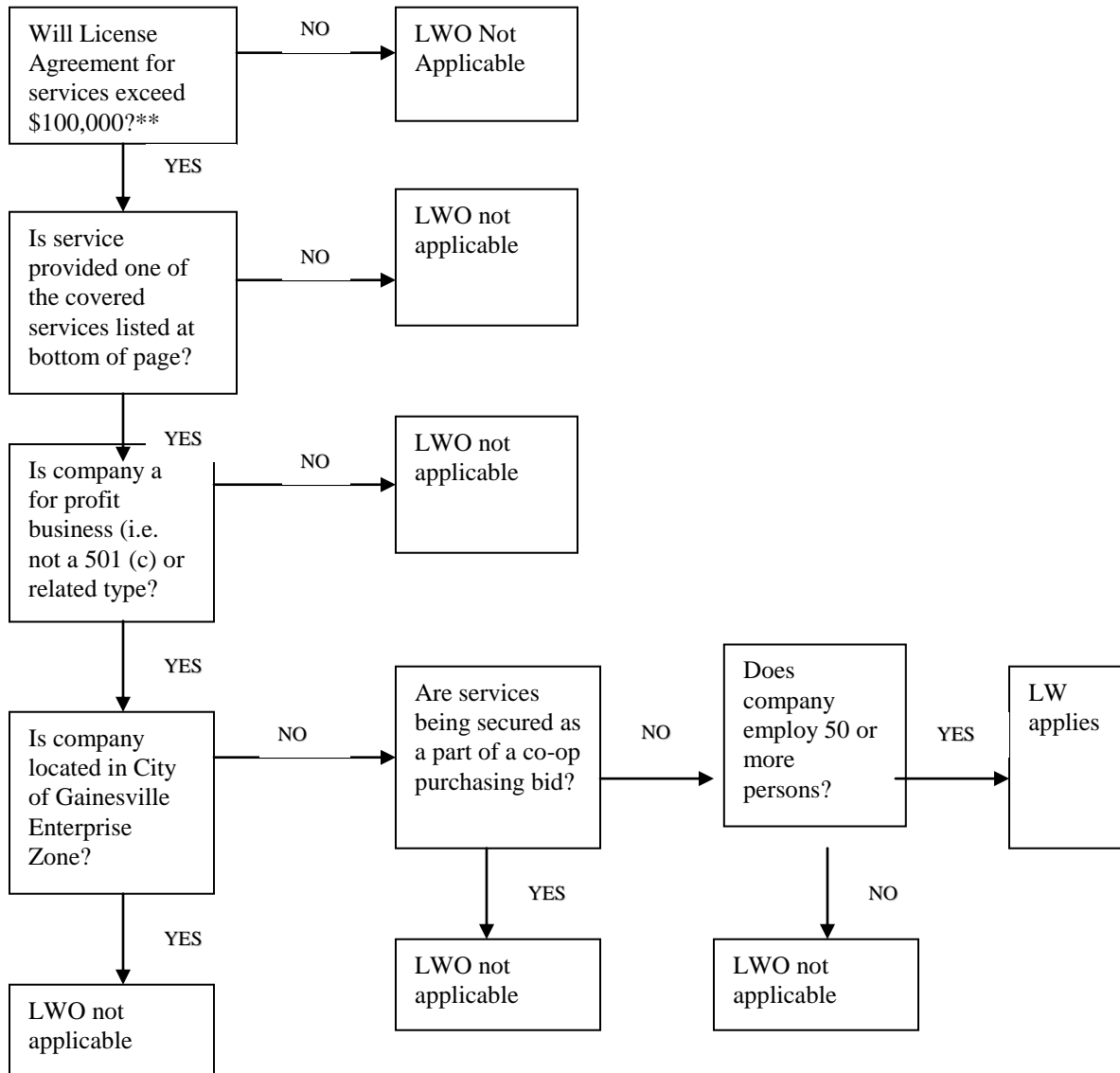
Signature: _____ Date: _____

Printed Name: _____

Title: _____

LIVING WAGE DECISION TREE

While not all encompassing, the following is provided as a guideline for Licensees in determining whether the City of Gainesville Living Wage Ordinance applies to their firm in the performance of specified service License Agreements for covered services* with the City. Licensees are advised to review the entire text of the Living Wage Ordinance in conjunction with this guideline.



***Covered Services:** food preparation and/or distribution; custodial/cleaning; refuse removal; maintenance and repair; recycling; parking services; painting/refinishing; printing and reproduction services; landscaping/grounds maintenance; agricultural/forestry services; and construction services
****Total value of License Agreement.**

LIVING WAGE COMPLIANCE

See Living Wage Decision Tree (Exhibit C hereto)

Check one:

- Living Wage Ordinance does not apply
(check all that apply)
- Not a covered service
 - License Agreement does not exceed \$100,000
 - Not a for-profit individual, business entity, corporation, partnership, limited liability company, joint venture, or similar business, who or which employees 50 or more persons, but not including employees of any subsidiaries, affiliates or parent businesses.
 - Located within the City of Gainesville enterprise zone.
- Living Wage Ordinance applies and the completed Certification of Compliance with Living Wage is included with this bid.

NOTE: If Licensee has stated Living Wage Ordinance does not apply and it is later determined Living Wage Ordinance does apply, Licensee will be required to comply with the provision of the City of Gainesville's living wage requirements, as applicable, without any adjustment to the bid price.

**CITY OF GAINESVILLE
GENERAL GOVERNMENT
PURCHASING DIVISION SURVEY
RFP INFORMATION**

RFP #: ECOD-160017-DD

DUE DATE: February 17, 2016

SEALED PROPOSAL ON: License Agreement for Parking Lot #2 – Area
Redevelopment

IF YOU DO NOT BID

Please check the appropriate or explain:

- _____ 1. Not enough bid response time.
- _____ 2. Specifications not clear.
- _____ 3. Do not submit bids to Municipalities.
- _____ 4. Current work load does not permit time to bid.
- _____ 5. Delay in payment from Governmental agencies.
- _____ 6. Do not handle this item.
- _____ 7. Other: _____

Company: _____

Address: _____

Are you a minority business? yes _____ no _____

RFP (09/22/03)
Rev. local pref. 10/1/04;7/25/05;10/05;4/06;10/06;3/07;10/11;05/12

This form Document No. P04-213 is a legal instrument approved by the City Attorney. Any deviations from its intended use should be authorized by the City Attorney

City of Gainesville
Community Development

Legend

-  Parcels
-  City Streets (PWD) \ Labels Only
-  Major Roads (PWD) \ Labels Only
-  Railroad

Aerial Image- 2014




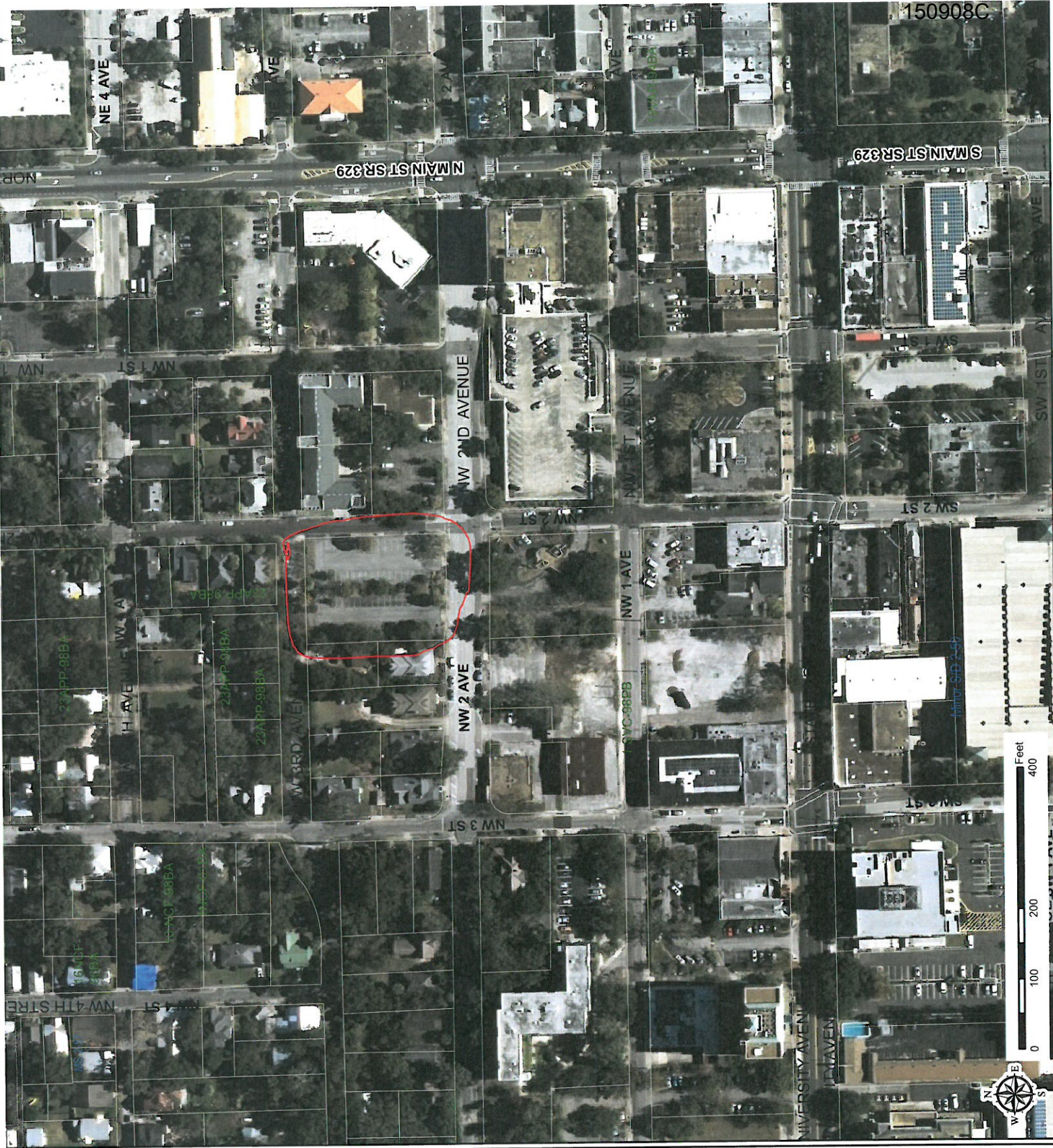
- RGB**
-  Red: Band_1
 -  Green: Band_2
 -  Blue: Band_3

Exhibit E



This map is for informational purposes only. Do not rely on this map for accuracy of dimensions, area or other information. The City of Gainesville is not responsible for any errors or omissions on this map. For specific information, you are advised to contact the City of Gainesville, Florida.



City of Gainesville
Dept. of Planning
and Dev. Services

Date: 1/25/2016

Attachment A

130847A

LICENSE AGREEMENT FOR PARKING SPACES

THIS LICENSE AGREEMENT ("Agreement") is made and entered into on this 5 day of January 2016, by and between the City of Gainesville, a municipal corporation of the State of Florida ("City") and Horizon Hospitality Management Inc., a Georgia for profit corporation whose address is 2950 Mansell Road, Alpharetta, Georgia 30022 ("Developer").

RECITALS:

WHEREAS, Developer has purchased from the City certain real property located at 150 SW 2nd Avenue, Gainesville, Florida 32601 (currently Tax Parcel # 14574-000-000, and commonly referred to as City Parking Lot #10) (the "Property"); and

WHEREAS, Developer desires to develop the Property as a mixed use development with a minimum of 8 stories to accommodate the following uses and quantities: a 180-220 room Embassy Suites hotel or other full service hotel, with 9,900-10,100 square feet of retail, 13,500-16,500 square feet of office, 22,500-27,500 square feet of meeting space (the "Project"), and in connection therewith, Developer desires for the City to provide parking for the Project, primarily at the City's Southwest Downtown Parking Garage located at 105 S.W. 3rd Street, Gainesville, Florida (the "Garage"); and

WHEREAS, the City is the owner and operator of the Garage; and

WHEREAS, the Developer has requested certain rights from the City and the City is willing to grant said rights, under the terms and conditions of this Agreement.

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

1. **RECITALS.** The recitations set forth in the Recitals above are true and correct and incorporated herein by reference.
2. **CONSIDERATION.** In consideration for this Agreement, the Developer agrees to pay to the City in accordance with paragraph 6, below.
3. **USE OF PARKING SPACES.** The license granted hereby shall be for the use of 383 parking spaces primarily located in the Garage ("Developer Parking Spaces"). The 383 Developer Parking Spaces shall be for the exclusive use for the Project, and for no other purpose. These spaces shall not be designated or marked in a particular physical location and shall be "floating" spaces. Upon issuance of a certificate of occupancy for the Project, the City shall provide 383 access cards to the Developer to provide access to the Developer Parking Spaces each month. Until the time that a certificate of occupancy is issued for the Project, the City reserves the right to lease or use these parking spaces as it deems fit.

At any given time, if additional or alternate parking spaces are needed for the City to meet its obligations under this Agreement, the City may utilize City Lot #13 directly to the north of the Property or other lots or public parking spaces in the Central City District for parking for the Project. The City's compliance with its parking obligations under this Agreement shall be determined with regard to *actual* demand for and availability of parking, and not with regard to *conceptual* availability based on agreements.

Developer agrees that as part of its rules and regulations for its employees, guests, and tenants, it shall require that they abide by rules and regulations promulgated by the City applicable to the Garage (the "Rules and Regulations"), as same may be amended from time to time. City shall issue to the Developer a copy of the Rules and Regulations at the time Developer is issued the access cards and at each time the Rules are amended.

In the event the City exercises its right of reverter contained in the Special Warranty Deed for the transfer of the Property from the City to the Developer, then this Agreement shall be deemed terminated upon City recording the Affidavit evidencing the reversion of title.

4. MAINTENANCE AND IMPROVEMENTS. If the Developer should desire a higher level of maintenance of, or improvements to, the Garage, the Developer may make a written request to the City, specifying the total cost of the work. The City may approve or deny such request in its sole discretion. Any proposed physical improvements to the Garage shall be subject to the control and approval by the City as to engineering, architectural design, and other aspects. Any work will be done by the City through its contracts and/or procurement process, subject to payment by the Developer. Any costs for work not included in the City's regular, budgeted maintenance of the Garage, that is requested by Developer pursuant to this paragraph shall be the sole responsibility of, and paid by, the Developer.

5. TERM. Provided Developer is not otherwise in default (beyond any applicable cure periods) of its obligations hereunder, and except as otherwise provided in this Agreement, the term of this Agreement is thirty (30) years, subject to extensions upon negotiation and mutual agreement of the parties.

Notwithstanding the foregoing, in the event the Project is destroyed through casualty or otherwise, or the Project otherwise ceases to exist, the City shall send a written notice to Developer inquiring as to whether the Project will be rebuilt and Developer shall have ninety (90) days from the date it receives such written notice from the City in which to decide whether or not to rebuild the Project and notify the City of such election. In the event the Developer elects not to rebuild the Project in substantially the same form and use, or does not make an election within such time frame, then the license granted hereby shall automatically terminate. If Developer does elect to rebuild, and rebuilds within eighteen (18) months of the Project being destroyed, then the license granted hereby shall continue in effect in accordance with its terms, provided the Developer is not otherwise in default of this Agreement. For purposes of this paragraph "destroyed through casualty or otherwise" means destruction which exceeds 75% of the Project's then physical value as determined by an M.A.I. appraisal provided by the

Developer. During the period of time the Project is being rebuilt the City may lease or use the Developer Parking Spaces as it deems fit and no payment is due from Developer.

6. DEVELOPER'S COMMITMENT AND PAYMENT FOR SPACES.

- a. Each month during the term of this Agreement, the Developer shall pay the City for 383 parking passes, regardless of whether the Developer actually uses less than such number of passes. The amount due shall be based on the actual usage and daily rate for hotel guest parking and the actual usage and monthly rate for employees, as described below and as illustrated by way of example in Exhibit A, attached hereto and incorporated. For the hotel guest parking passes, the Developer shall be responsible for payment to the City the higher of \$7 per day or 47% of what the Developer charged its hotel guests for parking passes. For the employee parking passes, the Developer shall be responsible for payment to the City at a monthly rate of \$20 per employee parking access card. The monthly rate shall increase to \$22.50 for the second year of the Agreement, \$25.00 for the third year, \$27.50 for the fourth year, and \$30 for the fifth year. After the fifth year, the monthly rate shall be the higher of \$30 or the monthly public parking rate for the Garage then in effect, as set by the City. Developer shall pay to the City on or before the thirtieth (30th) day of each month the appropriate amount due and owing for the preceding month, in a single combined payment for the total amounts due for parking for the month. All payments due under this paragraph shall be hand delivered or mailed to SW Downtown Parking Garage, 105 S.W. 3rd Street, Gainesville, Florida 32601. Developer shall maintain records of the number of guests each day who are issued parking passes, and shall make such records available to the City upon request. Developer is responsible for managing the use of its parking spaces and purchasing any equipment and/or software as necessary to interface and coordinate with City parking operations for purposes of implementing this Agreement without additional cost or administrative burden upon the City.

Developer acknowledges City's tax-exempt status. In the event that City is required to pay taxes, real or personal, on the Garage, due in whole or in part to Developer's rights to or use of the Garage under this Agreement, then Developer shall reimburse the City within thirty (30) days of such payment for Developer's pro rata share of said taxes based on receipt of sufficient documentation from City indicating the amount of taxes paid and the calculation of Developer's pro rata share. Developer's share shall be determined by dividing the number of Developer Parking Spaces licensed hereunder each tax year, divided by the total number of parking spaces in the Garage during such tax year. The resulting percentage shall be multiplied by the amount of taxes paid attributable to the parking operations of the Garage and such amount shall

be reimbursed by Developer to the City. Failure to pay its pro rata share of the taxes shall be considered a default under this Agreement.

7. **ASSIGNMENT.** Developer may not assign this Contract without the prior express written consent of Seller.
8. **NO WAIVER OF POLICE POWERS OR GRANT OF DEVELOPMENT RIGHTS.** This Agreement does not confer any development rights, or grant any development permits or orders as these terms are defined in Chapter 163, F.S., to construct any improvements on the Garage property. By entering into this Agreement, the City does not waive its police powers, or ordinances, or regulations relating to the development and use of the Garage.
9. **INSURANCE.** The Developer shall be responsible for providing, through an insurance policy, liability coverage for any loss or damages which may be caused by acts or omissions of the Developer, its employees, officers, contractors, agents, invitees and licensees within the Garage. The policy of insurance shall be issued by an insurance company with a minimum AM Best Rating of A VII, and shall be in a form, substance and amount acceptable to the City. The policy shall have an annual aggregate limit of not less than \$5,000,000, or such additional amount as reasonably required by the City and shall name the City as an additional insured.
10. **DAMAGE OR DESTRUCTION OF GARAGE.** If the Garage is destroyed through casualty or otherwise during the term of this Agreement, the City shall have the option of repairing or rebuilding the Garage; however, if the City does not elect within one hundred eighty (180) days to re-build or repair the Garage, then this Agreement will be deemed terminated and void ab initio at the end of the 180 days and neither party shall have any further obligations under its terms. In the event the City does elect to rebuild or repair the Garage, then any Garage repaired or rebuilt on the Garage property shall be subject to this Agreement. The City shall maintain an insurance policy, or a program of self-insurance, in full force and effect for the replacement value of the Garage. Should the City elect to rebuild or repair the Garage, any insurance proceeds shall be used by the City to repair or reconstruct the Garage as necessary during the term of this Agreement, and the expiration of this License Agreement shall be tolled for the length of time that the City could not provide parking for the Developer in the manner required by the License Agreement. For purposes of this paragraph "destroyed through casualty or otherwise" means destruction which exceeds 75% of the Garage's then physical value as determined by an M.A.I. appraisal provided by the City. In the event that destruction of the Garage negatively impacts Developer parking space allocation, the City will cooperate with Developer as to seeking parking alternatives within reasonable proximity of the Garage, but the City will be under no obligation to procure such parking or pay or compensate Developer for displaced or replacement parking.
11. **NOTICES.** Any notice or demand which must or may be given under this Agreement or by law shall be in writing and shall be deemed to have been given: (i) when physically

received by personal delivery; or (ii) when delivered by United States certified or registered mail, return receipt requested, postage prepaid; or (iii) when delivered by a commercial courier service such as Federal Express, addressed to the respective parties at the following addresses:

CITY:

City of Gainesville
City Manager
Post Office Box 490
200 E University Avenue
Gainesville, Florida 32602

DEVELOPER:

Horizon Hospitality Management, Inc.

2950 Mansell Road
Alpharetta, Georgia 30022

12. **SEVERABILITY.** If any portion of this Agreement is found by a court of competent jurisdiction to be unenforceable, then the parties agree that if the deletion of such provision shall not affect the overall intent (nor materially impair the benefits negotiated by each party hereunder) of this Agreement, then the remainder of this Agreement shall remain in full force and effect.
13. **GOVERNING LAW AND VENUE.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, notwithstanding its conflict of laws provisions. Any action, in equity or law, with respect to this Agreement must be brought and heard in Alachua County, Florida.
14. **BINDING EFFECT OF AGREEMENT.** This Agreement shall be binding upon the parties hereto, their respective successors, assigns, agents, and beneficiaries, if applicable.
15. **DEFAULT.**
- a. In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the alleged breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.
 - b. **Developer's Default.** The Developer's failure to comply at all times with its obligations contained herein shall be a material breach of this Agreement ("Event of Default"). Upon such Event of Default, the City shall provide written notice of such Event of Default to the Developer ("Notice of Default"), and the Developer's failure to cure such Event of Default within thirty (30) calendar days from the date of Developer's receipt of the Notice of Default shall, at the election of the City, result in the immediate termination of this Agreement.

- c. **City's Default.** In the event that the City materially defaults in any of its respective obligations contained herein, and fails to cure such default within thirty (30) calendar days from the date of the City's receipt of written notice of such default from the Developer, then the Developer shall have the right to require the City's specific performance under the terms and conditions of this Agreement. This shall be the exclusive remedy available to the Developer.
 - d. **Developer's Waiver.** Developer's obligation to make payment in accordance with paragraph 6, above, is independent of each and every other covenant of this Agreement. Developer agrees that the Developer's damages for City's breach shall in no case be deducted from any payment due the City, nor set off for purposes of determining whether any fee is due in any action.
16. **LIMITATION OF LIABILITY.** Notwithstanding any provision of this Agreement to the contrary, nothing in this agreement shall be construed as a waiver of the City's sovereign immunity, and the liability of the City shall be interpreted as limited to only such traditional liabilities for which the City could be liable under the common law interpreting the limited waiver of sovereign immunity. An action may not be instituted on a claim against the City unless the claimant presents the claim in writing to the Risk Manager within 3 years after such claim accrues or the Risk Manager denies the claim in writing. For purposes of this paragraph, the requirements of notice to the Risk Manager and denial of the claim are conditions precedent to maintaining an action but shall not be deemed to be elements of the cause of action and shall not affect the date on which the cause of action accrues; provided, however, this shall only apply to an action for damages and not to any action for specific performance. Notwithstanding any other provisions of this paragraph, liability of the City is limited to the maximum sum of \$200,000 as the result of all claims and judgments arising out of the same incident or occurrence, not to exceed the sum of \$100,000 for any claim or judgment or portions thereof. In addition, this paragraph shall be construed to limit recovery against the City to only those damages caused by the City, and shall specifically exclude any attorney's fees or costs associated therewith. In regard to any claim of default under this Agreement, the City shall not be liable for any incidental, consequential, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, or under any indemnity provision.
17. **INDEMNIFICATION.** The Developer, and its successors or assigns, agree to indemnify and hold harmless the City and its elected and appointed officials from and against any and all liability, losses, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of actions, including attorney's fees for trial and on appeal of any kind and nature arising out of or in any way connected with this Agreement, the construction, operation, and use of the Project, including, but not limited to the Garage.

18. **NO LIABILITY OR MONETARY REMEDY.** The Developer hereby acknowledges and agrees that it is sophisticated and prudent in business transactions and proceeds at its own risk under advice of its own counsel and advisors and without reliance on the City, and that the City bears no liability for direct, indirect or consequential damages.
19. **RELATIONSHIP.** This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture between the City and the Developer. The Developer cannot create any obligation or responsibility on behalf of the City or bind the City in any manner. Each party is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Agreement or any responsibility or obligation contemplated herein. The Developer further represents and acknowledges that no one was paid a fee, commission, gift or other consideration by the Developer as an inducement to entering into this Agreement.
20. **PERSONAL LIABILITY.** No provision of this Agreement is intended, nor shall any be construed, as a covenant of any official (either elected or appointed), director, employee or agent of the City in an individual capacity and neither shall any such individuals be subject to personal liability by reason of any covenant or obligation of the City hereunder.
21. **AMENDMENT.** This Agreement may not be amended, unless evidenced in writing and executed by all parties hereto.
22. **CAPTIONS.** The captions and headings of sections or paragraphs used in this Agreement are for convenient reference only and shall not limit, define or otherwise affect the substance or construction of provisions of this Agreement.
23. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof. Any representations or statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein.

IN WITNESS WHEREOF, the parties executed this Agreement on the dates indicated below.

CITY:

City of Gainesville

City Manager

Date: _____

Approved as to Form and Legality:

WITNESSES:

signature of witness

printed name of witness

signature of witness

printed name of witness

STATE OF FLORIDA }
COUNTY OF ALACHUA }

The foregoing instrument was acknowledged before me on this ____ day of _____, 2015 by _____, as City Manager of the City of Gainesville, a Florida municipality, who is personally known to me or did produce a driver's license as identification, and who did not take an oath.

Name:
Notary Public, State of Florida

DEVELOPER:

By: HORIZON HOSPITALITY
MANAGEMENT INC., a Georgia for profit
corporation

By: Nimish Patel

Name: Nimish Patel

Title: CEO

Date: 1/5/16

WITNESSES:

[Signature]
signature of witness

James Redd
printed name of witness

[Signature]
signature of witness

Anna Ayres
printed name of witness

STATE OF GEORGIA }
COUNTY OF FULTON }

The foregoing instrument was acknowledged before me on this 5 day of January, 2016 by Nimish Patel, as CEO of HORIZON HOSPITALITY MANAGEMENT INC., on behalf of such entity. He/she is personally known to me or did produce a driver's license as identification, and who did not take an oath.

[Signature]
Name: David Anderson
Notary Public, State of Georgia

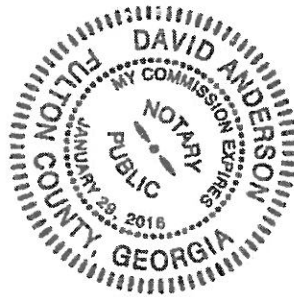


EXHIBIT A

Example:

Monthly revenues collected for daily overnight guests (per the Agreement) =
\$58,125

$$\$58,125 / (\$15^{[1]} \times 31^{[2]}) = 125$$

$$383 - 125 = 258$$

$$258 \times \$20^{[3]} \text{ per month} = \$5,160$$

The total amount owed to the City for the month =
(125 spaces x 31^[2] days/mo. x \$7^[4] = \$27,125) + (258 monthly spaces x
\$20^[3] per month = \$5,160) = \$32,285

- 1 - Amount Developer charged hotel guests for parking for parking per day.
- 2 - Number of days in that month.
- 3 - Monthly rate that is applicable at that time.
- 4 - Higher of \$7 per day or 47% of what Developer charged its hotel guests for parking per day.