

**FIRST AMENDMENT TO AMENDED AND RESTATED CONTRACT
FOR SALE AND PURCHASE**

THIS FIRST AMENDMENT ("First Amendment") is made by and between the **CITY OF GAINESVILLE, Florida, a Florida municipal corporation** ("Seller") and **HORIZON HOSPITALITY MANAGEMENT, INC., a Georgia corporation** ("Buyer.") This First Amendment shall be effective as of the date the last party executes this First Amendment (the "Effective Date.")

Whereas, Seller and Buyer are parties to an Amended and Restated Contract for Sale and Purchase dated October 28, 2016 (the "Contract") for certain real property located in Alachua County, State of Florida, as more particularly described in the Contract; and

Whereas, Seller and Buyer desire to amend the Contract as set forth in this First Amendment;

NOW, THEREFORE, the parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

A. The following sections of the Contract are amended as set forth below. Except as amended herein, the remaining terms of the Contract remain in full force and effect.

Section 2 is deleted in its entirety and replaced with the following new Section 2:

| | |
|---|-------------|
| 2. PURCHASE PRICE (U. S. currency): | \$1,078,500 |
| PAYMENT: | |
| (a) Original deposit paid in October 2015 and held by the City | \$25,000 |
| (b) Additional deposits to be made to City as described in Section 4a | \$100,000 |
| (c) Balance to close by cash or LOCALLY DRAWN cashier's or official bank check(s), subject to adjustments or prorations. | \$953,500 |

Section 4 is deleted in its entirety and replaced with the following new Section 4:

4. a. **DEPOSITS:** On or before the dates specified below, the Buyer shall make additional deposits to the City in the amounts specified below. The original deposit and additional deposits (collectively, the "Deposits") shall be credited to the Purchase Price at Closing. If Buyer fails to make the additional deposits, it shall be deemed a Buyer Failure of Performance under Standard R.

On or before 30 calendar days from the Effective Date, Buyer shall make an additional deposit of \$50,000.

On or before 90 calendar days from the Effective Date, Buyer shall make an additional deposit of \$50,000.

b. **PERFORMANCE BENCHMARKS:** On or before the dates specified below, the Buyer shall obtain and provide to Seller documents sufficient to evidence that Buyer has satisfied each performance benchmark specified below. The documents shall be executed by the duly authorized representative of the party providing the commitment to the Buyer and shall state with specificity the nature of the commitment and may state generally that the commitment is subject to terms and conditions as disclosed to the Buyer. If Buyer fails to meet any performance benchmark, it shall be deemed a Buyer Failure of Performance under Standard R.

| Deadline | Performance benchmark |
|----------------------------|--|
| On or before 10/01/2017 | (1) Title Commitment (as per Section 5) (2) Complete the survey (as per Section 8) |
| On or before 11/30/2017 | (3) Submit complete application for hotel franchise, including payment of application fees (4) Obtain approval of hotel franchise (5) Complete all property due diligence as required by Buyer, its lenders, equity partners and hotel franchisor (as per Section 8b) (6) File complete applications (as determined by the Department of Doing) for all necessary City planning, zoning and development approvals |

Section 5 is amended to extend the date for obtaining a Title Commitment to on or before October 1, 2017.

Section 6 is deleted in its entirety and replaced with the following new Section 6:

6. **CLOSING DATE:** This transaction shall be closed and the closing documents delivered on or before November 30, 2017 ("Closing.") In the event this transaction does not close on or before November 30, 2017 regardless of the reason or cause, this Contract shall automatically terminate at midnight on November 30, 2017, without further action by either party, and Seller shall retain the Deposits as agreed upon liquidated damages, consideration for the execution of this Contract and in full settlement of any claims.

Section 8 is deleted in its entirety and replaced with the following new Section 8:

8. **SURVEY AND DUE DILIGENCE:**

a. **SURVEY:** The Buyer shall have until October 1, 2017 to have the property surveyed at its expense. Buyer shall have 5 days from date of receiving the Survey to examine it and, if the survey shows any encroachments upon or shortages in the land herein described or that the improvements located on the land herein described encroach on the

land of others, notify Seller in writing specifying the defect(s). Seller shall have the time to cure such defect(s) as Standard A allows to cure defects of title. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the survey as it then is.

b. **DUE DILIGENCE:** Commencing on the Effective Date, Buyer and its engineers, architects, and other agents shall have until November 30, 2017 (the "Due Diligence Period") within which to undertake such physical inspections and other investigations of, and inquiries concerning, the Property as may be necessary in order for Buyer, its lenders, equity partners and hotel franchisor, to evaluate the physical characteristics of the Property, including environmental conditions, as well as such other matters as may be deemed by Buyer to be reasonably necessary to generally evaluate the Property and determine the feasibility and advisability of Buyer's purchase of the Property for the Intended Use. For purposes of undertaking physical inspections and investigations of the Property, including but not limited to the Survey, Environmental Phase I, Environmental Phase II, soil studies, asbestos studies, topographical survey, land use and zoning review, water, sewer availability and capacity, ingress/egress, preliminary planning review, covenants and restrictions, coverage ratio, and construction time, Seller hereby grants to Buyer and its agents full right of entry upon the Property and any part thereof during the Due Diligence Period, as long as this Contract has not been terminated. Buyer, as a condition to its exercise of such right of entry, shall defend, indemnify and save and hold Seller harmless as the result of all claims and judgments arising out of the same incident or occurrence for any claim or judgment or portions against any and all loss, damage, liability, suit, claim, cost or expense (including reasonable attorneys' fees and reasonable attorneys' fees to enforce this indemnification) arising from the exercise by Buyer or its agents of Buyer's rights hereunder.

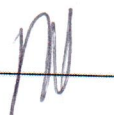

In the event Buyer is not satisfied with any results of its due diligence inquiries, Buyer's sole remedy shall be to terminate this Contract and Seller shall retain the Deposits as agreed upon liquidated damages and consideration for the execution of and amendments to this Contract.

Section 9.a. is deleted in its entirety and replaced with the following new Section 9.a.:

9. **SPECIAL CONDITIONS:**

- a. **Parking:** The parties have negotiated the terms of a thirty (30) year term License Agreement for Parking Spaces for 383 "floating" (not marked or fixed as to physical location) parking spaces, which is attached hereto and incorporated as **Exhibit A** (the "License Agreement".)

In advance of entering into the License Agreement, Seller negotiated and executed a License Cancellation and Termination Agreement and First Amendment, both of which are attached hereto as **Exhibit B**, to terminate that certain License Agreement for Use of Parking Garage entered between the City of Gainesville and Kenneth and Linda McGurn (now MCG Parking LLC) on December 1, 2003, First Amendment dated April 13, 2004, and Second Amendment dated May 16, 2007 (collectively, the "McGurn Parking Agreement.") By its terms, the License Cancellation and Termination Agreement and

First Amendment, expire on November 30, 2017.

The Buyer understands and acknowledges that this transaction must close on or before November 30, 2017 in order for Seller to satisfy the terms of the negotiated License Cancellation and Termination Agreement and First Amendment. The Buyer understands and acknowledges that Seller has no ability to further extend the License Cancellation and Termination Agreement and First Amendment, and if Closing does not occur on or before November 30, 2017, regardless of the reason or cause, the Contract and this First Amendment shall terminate and Seller shall retain the Deposits as agreed upon liquidated damages and consideration for the execution of and amendments to this Contract.

Section 9.b. is amended to add the following post-closing obligation and reverter event that will be included in the Special Warranty Deed:

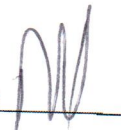
Binding Commitments to Fund the Construction of the Development: In the event Buyer fails to obtain binding commitments (and provide copies of same to the Seller as described below) to fund the construction of the Development (as defined in Section 9b(1)) from all lenders and equity partners on or before April 1, 2018, Seller shall have the absolute right, but not the obligation, to cause title to the Property to revert to Seller. The Buyer shall provide to Seller copies of the binding commitments executed by the duly authorized representative of the party providing the commitment to the Buyer and shall state with specificity the nature of the commitment and may state generally that the commitment is subject to terms and conditions as disclosed to the Buyer.

To exercise its right to this reversionary interest, Seller shall record an affidavit to that effect in the public records of Alachua County, Florida on or before August 1, 2018 (the "Construction Funding Reversion Deadline Date"). Within a reasonable time after such recording, Buyer and Seller shall close on the transfer of the Property back to the Seller. At the Closing, Buyer shall execute a deed to Seller, Seller will return to Buyer the Purchase Price, less the Deposits which shall be retained by Seller as liquidated damages. The Buyer shall provide title insurance to the Seller and shall convey the Property back to the Seller free and clear of all encumbrances.

If Seller has not recorded such an affidavit on or before the Construction Funding Reversion Deadline Date, then the right of reversion shall expire, and the Property shall be automatically released of such reversion. In addition, Seller agrees to execute at Buyer's request a recordable release evidencing the expiration of such right of reversion as to the Construction Funding.

Section 9.b. is amended to extend the existing post-closing obligation and reverter dates as follows:

- The date to "obtain all necessary permits and commence construction (construction is defined as above ground, vertical improvements) of the Development" is extended to on or before Saturday, May 19, 2018;
- The "First Reversion Deadline Date" is extended to on or before Monday, September 17, 2018;




- The date to complete construction of the Development (as evidenced by the issuance of a Certificate of Occupancy) is extended to on or before Sunday, November 17, 2019; and
- The "Second Reversion Deadline Date" is extended to on or before Thursday, March 19, 2020

Standards A, O, R and T of the Standards for Real Estate Transactions are deleted in their entirety and replaced with the following new Standards A, O, R and T:

A. TITLE INSURANCE: The Title Commitment shall be issued by a Florida licensed title insurer agreeing to issue Buyer, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the purchase price, insuring Buyer's marketable title to the Real Property, subject only to matters contained in Paragraph 7 and those to be discharged by Seller at or before Closing. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law. Buyer shall have 5 days from date of receiving the Title Commitment to examine it and, if title is found defective, notify Seller in writing specifying the defect(s) which render title unmarketable. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted the title as it then is. Upon notification, Seller shall have until November 29, 2017 to remove the defects. In the event the Seller is unable, regardless of the reason or cause, to remove the title defects by November 29, 2017, the Contract and this First Amendment shall terminate and Seller shall retain the Deposits as agreed upon liquidated damages and consideration for the execution of and amendments to this Contract. The Buyer understands and acknowledges that this termination provision is necessary because Seller has no ability to further extend the License Cancellation and Termination Agreement and First Amendment (as explained in Section 9a above) and as such Closing must occur on or before November 30, 2017.

O. CLOSING PROCEDURE: The deed shall be recorded upon clearance of funds. The title agent shall insure adverse matters pursuant to Section 627.7841, F.S., as amended, in order for the settlement or closing funds to be disbursed on the date of Closing.

R. FAILURE OF PERFORMANCE: If Buyer fails to perform this Contract within the times specified, including payment of all deposits, the deposit(s) paid by Buyer and deposit(s) agreed to be paid, may be recovered and retained by and for the account of Seller as agreed upon liquidated damages, consideration for the execution of and amendments to this Contract and in full settlement of any claims; whereupon, Buyer and Seller shall be relieved of all obligations under this Contract; or Seller, at Seller's option, may proceed in equity to enforce Seller's rights under this Contract. If Seller neglects or refuses to perform this Contract, Buyer shall receive the return of Buyer's deposit(s) as agreed upon liquidated damages and in full settlement of any claims.

T. CONVEYANCE: Seller shall convey marketable title to the Real Property by statutory warranty, trustee's, personal representative's or guardian's deed, as appropriate to the status of Seller, subject only to matters contained in Paragraph 7 and those otherwise accepted by Buyer. Personal property shall, at the request of Buyer, be transferred by an absolute bill of sale with warranty of title, subject only to such matters as may be otherwise provided for herein.

B. The capitalized terms used herein have the meanings assigned to them in the Contract and this First Amendment.

C. To the extent any language contained in this First Amendment conflicts or is inconsistent with the Amended and Restated Contract, the language in this First Amendment shall control.

D. This First Amendment may be executed in a number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement. Evidence of execution may be transmitted by email or facsimile, which shall constitute an original for all purposes.

E. The Contract as amended by this First Amendment contains the entire agreement between the parties and neither this First Amendment nor the Contract may be altered, modified or amended unless first approved by the Gainesville City Commission and executed by the parties with the same formalities as this instrument is executed.

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date written below.

Signed, sealed, and delivered
in the presence of:

[Signature]
Witness

[Signature]
Witness

BUYER:
HORIZON HOSPITALITY MANAGEMENT, INC., a Georgia corporation

By: [Signature]
Its: [Signature]

Its: _____

Date: 5/24/17, 2017

SELLER:
CITY OF GAINESVILLE, a Florida municipal corporation

By: [Signature]
By: Anthony Lyons, City Manager

Date: May 22, 2017

Helan Harris
Witness

[Signature]
Witness

Approved as to Form and Legality
By: [Signature]
Nicolle M. Shalley
City Attorney

Buyer's initials: [Signature]

Seller's initials: [Signature]