



## Legislation Text

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**File #:** 150179., **Version:** 3

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### **First Amendment to McGurn License Cancellation and Termination Agreement (B)**

#### **This is a request for the City Commission to approve a First Amendment to the McGurn License Cancellation and Termination Agreement.**

The McGurn License Agreement for Use of Parking Garage was executed in December 2003 by the City of Gainesville and Kenneth and Linda McGurn. The Agreement is applicable to operations regarding the City's SW Downtown Parking Garage.

On January 21, 2016 the City Commission approved a termination of the McGurn License Agreement for Use of Parking Garage in order to make parking spaces available to Horizon Hospitality Management Inc. for proposed development of Lot #10. The License Cancellation and Termination Agreement was executed on February 9, 2016.

Early termination of the McGurn License Agreement is a contingency of the Amended and Restated Contract for Sale and Purchase for Lot #10 approved by the City Commission on October 20, 2016, and McGurn has accepted early termination of the Agreement without any future encumbrances upon parking spaces contemplated in the Agreement.

The First Amendment to License Cancellation and Termination Agreement indicates the following:

City shall pay MCG an amount as calculated in accordance with Paragraph 18 of the License Agreement as of the actual date of Closing on the sale of Lot 10, as full and complete consideration for this cancellation and termination of the License Agreement. Payment shall be made upon Closing on the sale of Lot 10 to Horizon Hospitality Management, Inc.

If the Closing on the sale of Lot 10 does not occur on or before November 30, 2017, then the Termination Agreement, as amended by this First Amendment, shall expire, and the terms of the License Agreement shall remain in full force and effect.

Upon Closing on the sale of Lot 10, at the time the City makes payment to MCG pursuant to Section 3 above, the City and MCG shall execute, in recordable form, a Termination and Release of License Agreement. The City shall thereafter record the Termination and Release in the Public Records of Alachua County, Florida.

Based upon the CPI level as of September 30, 2015, the proposed early termination of the McGurn License Agreement for Use of Parking Garage would total \$1,953,579. However, a precise amount will be calculated at closing.

In the short-term, initiating the termination of the Agreement will require the City to utilize \$1,953,579 or final closing amount of General Fund reserves to make the termination payment. Assuming the sale of Lot #10 to Horizon Hospitality closes, the \$1,078,500 payment for Lot 10 will flow back into reserves, leaving a net

reserve reduction of approximately \$875,079.

The City Commission: 1) approve the First Amendment to License Cancellation and Termination Agreement contingent upon closing on the sale of Lot #10 property to Horizon Hospitality Management, Inc.; and 2) authorize the City Manager to execute this agreement subject to review by the City Attorney as to form and legality and deliver it with payment upon the closing on the sale of Lot #10.