REDEVELOPMENT AGREEMENT
FOR THE HOTEL MARION

BETWEEN

CITY OF OCALA,
a Florida municipal corporation,

and

MARION OPPORTUNITY ZONE INVESTMENT I LLC,
a Florida limited liability company

REDEVELOPMENT AGREEMENT
FOR THE HOTEL MARION

THIS REDEVELOPMENT AGREEMENT ("Agreement"), is entered into effective as of this ____ day of _____, 2025 (the "Effective Date," as defined below) by and between:

- City of Ocala, a Florida municipal corporation ("City"); and
- Marion Opportunity Zone Investment I LLC, a Florida limited liability company ("Developer").

WHEREAS:

A. City is committed to the redevelopment and revitalization of downtown Ocala.

B. City, like many local governments, has focused on economic development to improve its local economy by attracting business, creating jobs, and encouraging private investment.

C. The Developer is the owner of the Property[1] located in downtown Ocala being more particularly described on **Exhibit A** (the "Property").

D. City desires the Property be redeveloped for use consistent with the aesthetic of downtown Ocala, and in furtherance of City's Master Plan.

E. City has established, pursuant to Part III, Chapter 163, Florida Statutes (the "CRA Act") a community redevelopment area (the "CRA").

F. The CRA Act includes downtown Ocala, and specifically the Property.

G. The City recognizes a certain amount of joint effort and investment by both parties is necessary to advance the type of development it desires in downtown ; however, the potential benefits derived from the Project to both City and Developer are great. If successful, the Project will likely contribute greatly to the revitalization and redevelopment of downtown Ocala.

H. City Council, finding this economic development opportunity to be in the best interest of City and the health, safety and welfare of the citizens of Ocala, has offered to facilitate the Project by providing certain economic incentives to the Developer and making certain specific investments in, and improvements to, downtown Ocala with the expectation the City's involvement will preserve a historic asset in midtown while encouraging and accelerating the timing of redevelopment, thus generating additional tax revenues, benefiting the downtown economy and enhancing the potential for future development and re-occupancy of neighboring properties.

I. City Council finds the City's provision of economic incentives and investments pursuant to this Agreement constitutes a public purpose.

J. The Florida Legislature has found government sponsored public-private arrangements and the promotion and support, including financial assistance, of economic development activities are in the public interest and achieve a public benefit.

[1] Terms capitalized in these whereas clauses and not otherwise defined are defined in paragraph 1.1 below.

K. City and Developer wish to memorialize their understanding of the development of the Property, the economic incentives, the City's investment, infrastructure and improvements to downtown Ocala and the respective duties and responsibilities of the parties.

NOW THEREFORE, in consideration of the foregoing matters (which are incorporated herein by reference) and the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by all parties, the parties hereto agree as follows:

1. **Definitions**.

1.1. Generally. In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings.

1.1.1. *Agreement* – This agreement, including any Exhibits attached hereto, and any revisions or amendments to this agreement.

1.1.2. *Approval* – The final, unconditional approvals (i.e., site plan, building approval) from all applicable governmental agencies reasonably necessary to allow for the immediate issuance of building permits and commencement of construction of the Project, and the expiration of time for the filing of an appeal or other challenge, without such an appeal or challenge having been filed.

1.1.3. *Approval Date* – The date on which Project Approval is obtained for the Project.

1.1.4. *Approved Plans* – The Plans for the Project submitted by Developer and on file with City.

1.1.5. *Building* – The building to be constructed by Developer as part of the Project.

1.1.6. *Business Day* (regardless of whether the term is capitalized) – Any day other than Saturday, Sunday, any legal holiday, any day on which the government offices of City are closed, and any other day on which commercial banks in the State of Florida are required or authorized to be closed.

1.1.7. *City Code* – The Code of Ordinances of City of Ocala.

1.1.8. *City CRA Payments* – City's payments of the amounts set forth in paragraph 4.1.

1.1.9. *City Grant* – City's payments of the amounts set forth in paragraph 4.3.

1.1.10. *City Improvements* – The improvements set forth in paragraph 4.4.

1.1.11. *City Incentives* – One or more of the following:

a). The City CRA Payments.

b). The City Grant.

c). The City Improvements.

d). The City Review Contribution.

e). Lot 6 Property Donation

1.1.12. *City Incentives Target* – As set forth in paragraph 4.6.2.

1.1.13. *City Investments Total* – The sum of the value of all City Incentives calculated as set forth in paragraph 4.6.3.

1.1.14. *Closing* – The delivery of a deed and other documents pursuant to paragraph ___ to Developer for the Lot 6 Property.

1.1.15. *Completion* (regardless of whether the term is capitalized) – When construction of the Project is substantially completed as determined pursuant to paragraph 8.1.1.

1.1.16. *Construction Costs* (regardless of whether the phrase is capitalized) – All actual costs of construction, renovations and site development work incurred by Developer in connection with the Project.

1.1.17. *Control* – The power to direct the management and policies of an entity or business by ownership, beneficial interest, contract or otherwise.

1.1.18. *Develop* (regardless of whether the term is capitalized) – To perform activity associated with the development of the Project including the design and construction of the Project on the Property pursuant to this Agreement. The term is synonymous with "redevelop" under this Agreement.

1.1.19. *Developer Principal* – Collectively, David Midgett and Azim Saju.

1.1.20. *Development Costs* (regardless of whether the phrase is capitalized) – All costs incurred in connection with or directly attributable to the Project, regardless of whether they were incurred prior or subsequent to the Effective Date of this Agreement, including acquisition of the Property; demolition of blighted improvements prior to the Effective Date of this Agreement; Construction Costs; furniture; fixture and equipment costs; and directly related "soft costs" (i.e. design, permitting, professional fees, consulting fees, etc.).

1.1.21. *Development Order* (regardless of whether the term is capitalized) – Site plan approvals, issuance of building permits or similar action by City and all other government entities with jurisdiction over the Project, or any portion thereof, necessary for Developer, as may be applicable, to develop such portions of the Project pursuant to the requirements of this Agreement.

1.1.22. *Effective Date* – The date or effective date of this Agreement is the date upon which City or Developer last signs this Agreement. [The last party executing this Agreement is authorized to fill in the Effective Date in the blank in the first paragraph of this Agreement.]

1.1.23. *Force Majeure* – Those conditions beyond the reasonable control of City or the Developer which will excuse any delay in the performance of their respective obligations and covenants hereunder as such conditions are set forth in paragraph 12 of this Agreement.

1.1.24. *Hotel* – The hotel to be constructed as part of the Project as further described in this Agreement.

1.1.25. *Lot 6 Property* – That certain real property and improvements currently owned by City and operated as a parking lot known as "Lot 6" (Marion County Parcel ID No. 2854-042-000), more particularly described as follows: Block 42 of OLD SURVEY OF OCALA, according to the Plat thereof as recorded in Plat Book E, Page(s) 1 and 2, of the Public Records of Marion County, Florida, as such Block was affected by a Resolution passed by the Board of Commissioners of Marion County, at a meeting dated April 6, 1847, and recorded in Board of County Commissioner's Minutes Book Volume 1, Page 28, of the Public Records of Marion County, Florida (which Resolution resized the dimensions of City Blocks shown on the above mentioned Plat).

1.1.26. *Master Plan* – Collectively, the City of Ocala Downtown Master Plan adopted by City Council on January 20, 2004, and the City of Ocala Midtown Master Plan adopted by City Council on August 20, 2019, as may be amended by City Council from time to time.

1.1.27. *Month* (regardless of whether the term is capitalized) – When used with reference to calculation of dates, shall refer to the monthly anniversary of the starting date or event for example, two (2) months after February 15, 2026, is April 15, 2026.

1.1.28. *Person* (regardless of whether the term is capitalized) – An individual, corporation, limited liability company, partnership, or similar entity or group of individuals or persons.

1.1.29. *Plans* – The site plan and building plan for the Project, and other applications necessary to obtain a building permit and other development approvals for the Project.

1.1.30. *Project* – The construction of the Building, including the Hotel, and other improvements to be constructed on the Property described herein.

1.1.31. *Property* – The real property described on the attached **Exhibit A**, upon which the Project shall be constructed.

1.1.32. *Redevelopment Program* – The development of the Property and the construction of the Project, pursuant to this Agreement.

1.1.33. *Schedule* – The schedule for performance of certain requirements of the Project as set forth herein.

1.1.34. *Substantial Change* – A change wherein the Project has been revised such that, in the reasonable opinion of City, the Approved Plans has been substantially modified to: (a) reduce the size or scale of the Project as denoted by the proposed total area; or (b) adversely impact the uses and amenities set forth in paragraph 3.3.1.

1.1.35. *Title Insurance Company* – First American Title Insurance Company, Old Republic Title Insurance Company, or such other title underwriter mutually acceptable to City and Developer.

1.2. Rules of Construction. For the purposes of the interpretation, construction, administration, and implementation of this Agreement, unless otherwise stated in this Agreement or the context clearly indicates to the contrary, the following rules of construction shall apply:

1.2.1. Words importing the singular number shall include the plural, and vice versa.

1.2.2. Where a provision involves two or more items, conditions, provisions or events connected by the conjunction "and," "or" or "either or," the conjunction shall be interpreted as follows: "and" indicates that all the connected terms shall apply; "or" indicates that the connected terms may apply singly or in any combination; and "either or," indicates that only one of the connected terms may apply.

1.2.3. The word "includes" shall be assumed to be followed by the phrase "without limitation," and therefore shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

1.2.4. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Agreement.

1.2.5. The term "heretofore" shall mean prior to the execution of this Agreement.

2. **Purpose**. The purpose of this Agreement is to provide for the redevelopment of a portion of downtown Ocala in accordance with the Redevelopment Program, so as to improve quality of place, enhance the quality of life and the aesthetic and useful enjoyment of the downtown area, promote economic development and investment in the downtown area, and further the objectives of the Master Plan.

3. **Requirements of Developer**.

3.1. Generally. Developer's development of the Property consistent with this Agreement is a material inducement for City to enter into this Agreement. The opportunity for Developer to develop the Project pursuant to this Agreement, and the other obligations of City pursuant to this Agreement, are material inducements for Developer to enter into this Agreement.

3.2. Land Use and Zoning. The parties intend that the Property is to be developed for commercial use consisting of the Hotel, and other uses as set forth in paragraph 3.3.2. The parties understand and agree that the Project will be developed to be consistent with the Form Based Code zoning district and High Intensity/Central Core future land use classification and that no change to such zoning or land use classifications shall be required.

3.3. Project.

3.3.1. The Plans for the Project shall be generally consistent with the plans and building permit submissions on file with the City of Ocala. The City Designee may determine whether there has been a Substantial Change in the proposed Development plan and Developer may then request City Council to determine whether there has been a Substantial Change and, if so, whether the Plans are acceptable to City. If the City Designee determines that there has been a Substantial Change, and Developer does not request City Council to determine

whether there has been a Substantial Change, the City may, in its sole discretion, reject the Plans until City Council determines that the Plans are acceptable to City.

3.3.2. Developer shall cause to be designed and renovated the existing improvements on the Property formerly serving as a condominium building into a 46,775 square foot, 59-room, boutique, fine art inspired hotel, together with a restaurant, gym, meeting rooms, open and enclosed pre-function areas, a business center, covered and uncovered patios, and a valet lane located along the eastern boundary of the Property and/or within South Magnolia Avenue.

3.3.3. Developer's total Development Costs shall be no less than Twenty-Eight Million Nine Hundred Ninety-Six Thousand Six Hundred Ninety-Five Dollars ($28,996,695.00) as set forth on the schedule attached hereto as **Exhibit B**.

a). For purposes of this paragraph, Developer's Development Cost shall consist solely of the Development Costs paid by Developer for the Project and should not consider the value or amount of any City Incentives.

b). Upon completion of the Project, Developer shall provide to City documentation (consisting of copies of applicable invoices and corresponding copies of cancelled checks relating to development and construction of the Project) of its Development Costs establishing that Developer's actual Development Costs incurred in connection with the Project were equal to, or in excess of, the amount set forth in paragraph 3.3.3. Developer shall not be required to provide any documentation concerning Development Costs in excess of such amount.

c). If Developer's total Development Costs are less than the amount set forth in paragraph 3.3.3, the amount of the deficit shall reduce the City Incentives Target pursuant to paragraph 4.6, thereby reducing the amount of the City Incentives that may be paid to Developer pursuant to paragraph 4.6.

3.3.4. Developer shall cause Completion of the Project to occur set forth in paragraph 8.1.1.

3.4. Developer Payment of Fees. Except to the extent they are paid by the City Review Contributions, Developer is responsible for all charges or fees for plan review, permits and inspections for the Project.

3.5. Utility Requirement. Developer will comply with all of the following (the "Utility Requirement").

3.5.1. Developer shall purchase from City all electricity and fiber optic Internet service ("Internet Service") needed on the Property.

3.5.2. Developer shall not:

a). Obtain electricity or Internet Service from a provider of electricity or Internet Service or source other than City.

b). Sell, transfer, exchange, give or otherwise transmit electricity or Internet Service generated by Developer to any other person, or any improvements, located off of the Property.

3.5.3. Nothing set forth in paragraphs 3.5.1 or 3.5.2 shall preclude Developer from:

a). Utilizing one or more generators to provide electricity when the City is unable to provide electricity; or

b). Obtaining, and utilizing, a backup provider of Internet Service to utilize when City is unable to provide Internet Service.

c). After all City CRA Payments have been fulfilled, the Developer may choose to use an alternative provider for Internet Service if it reasonably determines that the other provider offers superior or more cost-effective services compared to those provided by City.

3.5.4. Developer acknowledges and agrees as follows:

a). The Utility Requirement is a reasonable condition imposed by City in consideration for City's agreement to provide the City Incentives.

b). The Utility Requirement is not designed to be an unreasonable or impermissible prohibition, impairment or limitation on Developer's generation, purchase or consumption of electric energy, including renewable energy as defined under Florida law (currently set forth in Section 366.91(2)(d), Florida Statutes); rather, it is merely a condition of the City Incentives which Developer has accepted.

c). The Utility Requirement does not constitute a regulation of renewable energy or a supplier thereof.

d). The Utility Requirement is not a condition of developing, occupying or using the Project; rather, it is merely a condition of the City Incentives.

3.5.5. It is the intent of the parties hereto that the Utility Requirement is not severable from the obligations of City to provide the City Incentives. Thus, in the event that the litigation as hereafter instituted by or on behalf of Developer concerning the Utility Requirement and, in such litigation, the Utility Requirement is determined by a final judgment to be unenforceable, the parties agree that:

a). City may terminate any further installments of the City CRA Payments or the City Grant; and

b). Developer may not recover any amounts from City previously paid by Developer to comply with the Utility Requirement.

4. **Requirements of City**.

4.1. City CRA Payments. City shall pay to Developer the following amounts (the "City CRA Payments") pursuant to the provisions of this paragraph 4.1.

4.1.1. As an incentive to construct the desired improvements associated with the Project, and in anticipation of the benefits to be received by downtown Ocala and the public if the Project is constructed, City shall pay, to Developer, City CRA Payments calculated as set forth in paragraph 4.1.3 pursuant to the schedule (the "City CRA Payments Schedule") attached hereto as **Exhibit C**. The City CRA Payments shall terminate upon the earlier of: (a) the last payment date based on the City CRA Payments Schedule; or (b) the date that the City Incentives Total equals the City Incentives Target as set forth in paragraph 4.6.

4.1.2. The City CRA Payments shall be paid in annual installments, with the first installment being paid on the March 1 of the second year after the date of Completion of the Project (as determined pursuant to paragraph 8.1.1) and the last installment being paid as set forth in paragraph 4.1.1. Nothing set forth herein shall preclude City from paying any installment payment prior to the date it is due hereunder.

4.1.3. The amount of each installment shall be the percentage (the "Tax Increment Percentage") of the Tax Increment set forth on the City CRA Payments Schedule. For purposes of this Agreement, "Tax Increment" shall equal (1) the amount of City and County ad valorem taxes assessed against the Property for the calendar year preceding the year in which the City CRA Payment is due (regardless of the calendar year during which such taxes were assessed) that are paid into the CRA (being the percentage set forth by resolution then in effect or 95% of such City and County taxes) in excess of (2) the City and County ad valorem taxes the Property for the calendar year in which Completion of the Project occurs. The Tax Increment shall not include any ad valorem taxes assessed by the Marion County School Board, the St. Johns River Water Management District or any governmental entity other than City and County.

4.1.4. Notwithstanding that installments of City CRA Payments may be calculated based on the Tax Increment:

a). The Tax Increment is utilized only to calculate such installments, and the installments need not be paid from the ad valorem taxes that are utilized to calculate the Tax Increment.

b). The City CRA Payments do not constitute a rebate to Developer of any taxes collected by City on the Property.

c). City does not pledge its full faith and credit or taxing power in connection with its obligation to pay the City CRA Payments.

d). Neither Developer nor any other person or entity has a right to require City to impose any tax or establish any tax rate in order to generate funds for the City CRA Payments.

e). City's obligation to pay the City CRA Payments does not constitute a lien upon any property of City.

4.1.5. City's obligation to pay Developer the City CRA Payments is conditioned upon the following; if such conditions do not occur or cease to exist, then City's

obligation to pay the City CRA Payments shall be deemed terminated, and therefore, City shall be relieved from its obligation to pay Developer, any unpaid City CRA Payments due thereafter:

a). Developer causing Completion of the Project as and when required by paragraph 8. City may not declare this condition has not occurred unless City first provides Developer with notice the Completion has not occurred, and the Completion does not occur within three (3) months after such notice. If someone other than Developer (i.e., mortgage lender) causes Completion of the Project to occur, this condition shall be deemed not to have occurred; City shall not be required to provide Developer with notice or an opportunity to cure in such situation.

b). Developer, paying all taxes and assessments (including real property and intangible personal property taxes and assessments) due on the Property (and its contents to the extent they are taxed) on or prior to the dates they are due under applicable law. City may not declare that this non-payment has not occurred unless City first provides Developer, new owner or assignee with notice that the condition has not occurred, and the condition does not occur within three (3) months after such notice.

c). The Hotel remaining open for business for at least six (6) years after the date of Completion of the Project. The Hotel shall not be deemed "open for business," but rather shall be deemed to be "closed for business," should it not be available for members of the public to obtain rooms in the manner that guests customarily do in a hotel. The Hotel shall be "open for business" even if the restaurant located therein is not available for members of the public to obtain meals in the manner that patrons customarily do in a restaurant. Should the Hotel close for business for more than thirty (30) consecutive days, or more than sixty (60) total days during any consecutive three hundred sixty-five (365) day period, the Hotel shall be deemed to have failed to remain open for purposes of this condition. The foregoing notwithstanding, periods of closure due to construction, remodeling, renovation or events qualifying as Force Majeure shall not be deemed to constitute failure to remain open for purposes of this paragraph.

d). The Developer retaining ownership of the Project until Completion of the Project. Failure to retain ownership during such time period shall be defined as the occurrence of any of the foregoing:

1). Developer assigns this Agreement in whole or in part, or an Interest Transfer occurs, other than as permitted in paragraph 13.

2). Conveyance of fee simple title in the Property to:

(a). An individual other than a Developer Principal; or

(b). An entity: (a) in which the Developer Principals, individually or collectively, retain less than 51% of the ownership and voting interests; or (b) of which no Developer Principal maintains Control.

3). Developer enters into a lease of the Property or with a third party where Developer retains no Control over Hotel operations and is compensated solely for the use of the Hotel and not based upon performance thereof. This shall specifically exclude: (a) a lease customarily entered into such as a lease of a bar or restaurant (if it is operated by a third party) or of retail space or of office space within the Project or (b) a management agreement with a third party where Developer either retains ultimate Control over management decisions or is compensated based upon performance of the Project.

4.1.6. Notwithstanding paragraph 4.1.5, Developer shall not, under any circumstances, be required to return to City any City CRA Payments received by Developer before the termination of City's obligation to pay City CRA Payments.

4.1.7. Developer shall be required to notice any change of ownership to the City promptly. If Developer fails to notify the City of such change of ownership, it may cause termination of City CRA Payments to Developer.

4.1.8. Developer's right to receive the City CRA Payments shall be appurtenant to, and run with title to, the portion of the Property upon which the Hotel is constructed.

4.1.9. City and Developer acknowledge that the City CRA Payments are to be paid through the City of Ocala Community Redevelopment Agency (CRA). In the event that, as a result of a change in law (e.g. substantial revisions to Florida law that eliminate or significantly reduce ad valorem taxes), it is no longer possible for City to pay the City CRA Payments pursuant to this paragraph 4.1, City and Developer will negotiate in good faith to amend this Agreement to provide an alternative mechanism for Developer to realize the benefit of the City CRA Payments.

4.2. Property Donation: City Conveyance of Lot 6 Property. As an incentive to construct the desired improvements associated with the Project, and in anticipation of the benefits to be received by downtown Ocala and the public if the Project is constructed, City shall convey the Lot 6 Property pursuant to the terms of this paragraph 4.2 and subject to the City's Right of Reverter set forth herein. City and Developer hereby agree that the market value of the Lot 6 Property is One Million Two Hundred Thousand Fifty-Four Dollars ($1,254,000) as set forth in the appraisal report conducted and certified by Stepehen J. Albright, Jr., MAI, dated October 1, 2025, and certified to the City.

4.2.1. *City Provision of Materials*. Within three (3) months after the Effective Date (the "Inspection Period"), City shall obtain, at City's expense, and provide Developer with the following:

a). Survey prepared by a licensed professional survey and mapper, signed and sealed, with a property certification to Developer or any parties directed by Developer (such as a lender or title agent). The Survey shall comply with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys (effective 2/23/21), including those set forth in paragraphs 1 through 4, 6(b), 7(a), 8, 11 and 20 of Table A to such requirements, and shall be certified to Developer and City.

b). A "Phase I" environmental site assessment for the Property pursuant to ASTM E1527–21 (the "*ESA-I*"). Developer may cause the ESA-I to be certified to Developer pursuant to the provisions thereof. Developer may, at its sole cost and expense, obtain a "Phase II" environmental assessment (the "*ESA-II*") during the Inspection Period.

c). A geotechnical report prepared by a licensed soil engineer satisfactory to Developer showing the locations of all borings, containing boring logs for all borings together with recommendations for the design of the foundations, paved areas and underground utilities for the Project, confirming that there are no mining facilities, sink holes or voids beneath the Property, confirming that no conditions exist which could cause subsidence of any portion of the Property and showing no findings which could adversely affect the Project.

4.2.2. *Title Insurance*.

a). City shall obtain, at City's expense, within thirty (30) days after the Effective Date, a commitment for an owner's title insurance policy from Title Company, or from an agent of Title Company, agreeing to insure title to the Property and subject to no exceptions other than the standard printed exceptions and exclusions from coverage customarily contained in an owner's policy from the Title Company (the "Commitment").

1). City shall provide to Developer a copy of the Commitment, together with copies of the exception documents, within five (5) business days of receipt of same.

2). Within twenty (20) days of its receipt of the Commitment and Survey, Developer shall notify City of any objections relating to the Commitment or to matters disclosed by the Survey. If Developer fails to do so, it shall be deemed to have accepted the Commitment and title to the Property as evidenced thereby.

3). Developer shall take title subject to zoning, restrictions and prohibitions imposed by governmental authority which would not inhibit, restrict or prohibit redevelopment of the Property consistent with this Agreement.

4). If the Commitment discloses unpermitted exceptions or matters that render the title non-marketable, City, shall have forty-five (45) days from the date of receiving written notice of defects from Developer within which to have the exceptions removed from the Commitment, or the defects cured to the reasonable satisfaction of Developer. City shall exercise reasonable diligence in the curing of any such exceptions or matters, including the payment and discharge of any liens or encumbrances affecting the title of the Property. If City fails to have the Commitment exceptions removed or the defects cured within the specified time, Developer may proceed with notice to City pursuant to paragraph 4.2.4.

4.2.3. *Developer's Inspection of the Property*. Within the Inspection Period, Developer shall have the right to enter upon the Property to make all inspections of the

condition of the Property which it may deem necessary, including, but not limited to, soil borings, percolation tests, engineering, environmental and topographical studies, inspections of zoning and the availability of utilities, all of which inspections shall be undertaken at Developer's sole cost and expense. Neither Developer nor Developer's agents shall conduct any inspection so as to damage the Property, except damage reasonably resulting from soil borings, but if any such damage occurs, Developer shall restore the Property to its pre-inspection condition no later than fifteen (15) days after the damage occurs. Developer shall, in a timely manner, pay in full the cost of all inspections, investigations, and inquiries of any kind, so that no person or entity shall have the right to file any lien against the Property. Further, in recognition that the Property is an active City parking lot, Developer shall coordinate with City to schedule inspections at a time and in a manner that minimizes impact on public use of the Property for such purposes.

4.2.4. *Developer's Rights During the Inspection Period*.

a). If Developer's inspection of the Property is unsatisfactory to Developer for any reason whatsoever, Developer may deliver to City, prior to 5:00 p.m. Eastern Time in effect on the final business day of the Inspection Period, written notice identifying any concerns related to title, environmental, or geotechnical, characteristics or issues concerning the Lot 6 Property and its proposed use as a parking garage or mixed-use development including parking serving the Project. Together therewith, Developer shall provide any supporting materials further describing the identified concern. Upon receipt, City and Developer shall negotiate in good faith to resolve the issue at no expense to Developer or, alternatively, amend this Agreement to provide an alternative mechanism for Developer to realize the benefit of the City's conveyance of the Lot 6 Property (based on the appraised value set forth herein).

b). If City does not receive notice of termination from Developer by the end of the Inspection Period, Developer's right to terminate as aforesaid shall be deemed waived.

4.2.5. *Conveyance of Lot 6 Property*.

a). Closing Date. The Closing Date shall be a date selected by Developer upon at least ten (10) days written notice to City, which shall be after Developer's Completion of the Project. Such Closing Date may be extended for up to one (1) month at the option of Developer upon written notice to City, without the need to amend this Agreement.

b). Purchase Price. Developer and City acknowledge and agree that the purchase price of the conveyance of the Lot 6 Property consists of Developer's performance of its obligations under this Agreement. For purposes of documentary excise taxes, if any, and title insurance, the value of the Lot 6 Property shall be deemed to be $1,254,000. (This paragraph shall not preclude Developer from obtaining a title insurance policy in a greater amount).

c). Closing Affidavits. At Closing, City shall provide all evidence, affidavits, and other documentation reasonably required such that the Policy when issued shall not contain the so called "standard exceptions" for rights of parties in possession (other than tenants in possession under any leases accepted by Developer as "Permitted Exceptions"), matters of survey, unrecorded easements, and construction liens. The Commitment (and the Policy when issued) will contain an exception for the current year's taxes and taxes for subsequent years, unless the Closing takes place in November or December, in which case the exception for taxes shall be for the year following the Closing and subsequent years.

d). Form of Conveyance and Closing Costs.

1). City shall convey the Property to Developer pursuant to a special warranty deed subject only to: (a) the current year's taxes and taxes for subsequent years, unless the Closing takes place in November or December, in which case the exception for taxes shall be for the year following the Closing and subsequent years; (b) the Permitted Exceptions, and (c) the City's Right of Reverter set forth in subparagraph (e).

2). Documentary stamps, if any, on the special warranty deed shall be the expense of City.

3). Documentary stamps, if any, on any mortgage securing the Construction Loan, shall be the expense of Developer.

4). City shall pay for the cost of all title insurance commitments, the owner's title policy if issued, and recording of the deed.

5). Developer shall pay for the cost of any lender's policy, if issued, recording of any mortgage, and all other expenses associated with Developer's financing.

6). City shall pay for the cost of recording curative instruments.

7). Each party shall pay its respective attorney's fees.

e). City's Right of Reverter.

1). The special warranty deed conveying the Lot 6 Property shall include the following language:

Right of Reverter. Grantor expressly reserves unto itself, a right of reverter in and to the property described herein ("Property"), which right may be exercised at any time within six (6) years from the date of this Deed ("Reversion Period").

Grantor may exercise its right of reverter by providing written notice to Grantee within the Reversion Period. Within ninety (90) days after delivery of such notice, a closing shall occur at which

Grantee shall deliver to Grantor a special warranty deed conveying fee simple title to the Property, free and clear of any and all encumbrances, and Grantor shall deliver payment to Grantee, or its successors or assigns, in the amount of: (a) One Million Two Hundred Fifty-Four Thousand Dollars ($1,254,000.00), if closing occurs prior to the fourth anniversary of this Deed; or (b) the then-current appraised value as determined by an appraisal report conducted and certified by Stepehen J. Albright, Jr., MAI, obtained by City no more than six months prior to closing.

At such closing, the parties shall enter into a written agreement providing for: (a) Grantee's uninterrupted, exclusive use of one hundred (100) parking spaces ("Dedicated Spaces") in an alternative location within two blocks of the Property until completion of a parking garage on the Property, if a parking garage will be constructed by City, which shall be at City's sole and absolute discretion, (b) Grantee's uninterrupted, exclusive use of one hundred (100) Dedicated Spaces within any City parking garage located on the Property following completion of such parking garage, if constructed, and (c) Grantee's payment conditions for use of Dedicated Spaces. Such written agreement may limit the use of Dedicated Spaces to Grantee's employees, guests or invitees ("Permitted Users"), prohibit Grantor from charging anyone other than Permitted Users a fee for parking, and reasonably require Grantee to coordinate with Grantor for public use of the Dedicated Spaces during City special events to efficiently utilize the Parking Project without impairing the Grantee's use of the Dedicated Spaces.

2). It is acknowledged that the City's repurchase pursuant to the foregoing right of reverter may be paid through a lump sum and/or continuing payments derived from City CRA funds, which are anticipated to be available due to the extension of the term of the Downtown Community Redevelopment Area. The terms of such payment shall be incorporated in the written agreement referenced in the foregoing paragraph 4.2.5.e).1).

f). City shall execute an owner's affidavit reasonably acceptable to City as may be required by Title Company to remove the so-called "standard exceptions" from any title insurance policy to be issued to Developer following Closing.

g). As the Property is currently owned by City, it is not subject to ad valorem taxes or assessments. Therefore, taxes and assessments will not be prorated as of the Closing. Developer shall be responsible for any ad valorem taxes and assessments that are due and payable on the Property after Closing.

4.3. City Grant.

4.3.1. The City hereby acknowledges the significant benefit by virtue of redevelopment of the Project. Accordingly, subject to the limitations set forth herein, City shall

provide a grant to Developer in the amount of the City Grant shall be Six Hundred Fifty Thousand Dollars ($650,000.00) (the "City Grant").

4.3.2. City's obligation to pay Developer, the City Grant is conditioned upon the conditions set forth in paragraph 4.3.3.b); if such conditions do not occur or cease to exist, City's obligation to pay the City Grant shall be deemed terminated, and therefore, City shall be relieved from its obligation to pay Developer, any unpaid City Grant.

4.3.3. The City Grant shall be paid as follows:

a). The City Grant shall be payable in five equal payments, each in the amount of One Hundred Thirty Thousand Dollars ($130,000.00) (each an "Incremental Grant Payment").

1). City shall cause the first Incremental Grant Payment to be made within thirty (30) days of satisfaction after the City Grant Payment Conditions.

2). City shall cause the second Incremental Grant Payment to be made within twelve (12) months of satisfaction after the City Grant Payment Conditions.

3). City shall cause the third Incremental Grant Payment to be made within twenty-four (24) months after the anniversary of the City Grant Payment Conditions.

4). City shall cause for the fourth Incremental Grant Payment to be made within thirty-six (36) months after the anniversary of the City Grant Payment Conditions.

5). City shall cause for the fifth Incremental Grant Payment to be made within forty-eight (48) months after the anniversary of the City Grant Payment Conditions.

b). The first Incremental Grant Payment shall be made upon satisfaction of the following conditions (the "City Grant Payment Conditions"):

1). Upon Developer's Completion of the Project, City shall be provided with a certification from the Contractor that the Project has been Completed in substantial accordance with the Approved Plans. If someone other than Developer (i.e., mortgage lender) causes Completion of the Project to occur, this condition shall be deemed not to have occurred; City shall not be required to provide Developer with notice or an opportunity to cure in such situation.

2). Developer shall provide to City documentation (consisting of copies of applicable invoices and corresponding copies of cancelled checks relating to development and construction of the Project) of its Development Costs, and such other reasonable information as City may request to provide proof of payment of such sums.

c). Developer's right to receive the City Grant shall be appurtenant to, and run with title to, the portion of the Property upon which the Project is constructed.

4.4. City Improvements.

4.4.1. *Access and Traffic Improvements; Valet Lane*. City shall repurpose existing metered parking area lying within the western portion of North Magnolia Avenue to serve as a valet and service lane for the use of Hotel guests or vendors. The valet lane shall extend from Northeast 2nd Street to Northeast 1st Street. The Developer shall cause the Hotel Operator to provide a valet parking plan in compliance with Article VII – Valet Parking of the Code of Ordinances within 30 days of the effective date of this agreement. The initial valet parking license shall become effective upon final certificate of occupancy for the Hotel and submission of a valet parking plan with the subsequent renewals meeting all requirements of Sec.22-425.

4.4.2. *Plans*. City and Developer will work together to coordinate approval of the plans for the City Improvements.

4.4.3. *Developer Election to Perform Improvements*. Developer may, but shall not be required to, elect to relieve City from the obligation to construct such improvements, design and/or construct such improvements at its own cost and expense, and be reimbursed such costs incurred in connection therewith. Upon completion, such improvements shall be maintained by the City. However, subject to approval by the City, Developer may alter the City Improvements to enhance the design, appearance and pedestrian features of the Hotel and may, from time to time, upgrade landscaping or improvements or provide additional maintenance of such improvements to ensure the appearance meets or exceeds brand standards. Concerning the City's obligation to reimburse Developer, reimbursement shall be limited to the actual costs incurred by Developer in connection with the City Improvements originally intended by City and shall not include additional features such as upgrades constructed by Developer without prior, written consent from City pursuant to subparagraph 4.4.3.b). Concerning procedure applied to the Developer's election to perform City Improvements:

a). Developer and City shall meet and confer in good faith to plan for efficient oversight of the work.

b). The precise design and construction of the City Improvements may be altered, modified or revised upon the mutual agreement of the Developer and City Manager or designee, which agreement shall not be unreasonably conditioned, withheld or delayed. At the time of such modification, the Developer and City Manager or designee shall also determine whether any additional costs incurred shall be borne by the Developer or City, which shall be memorialized in writing but shall not require amendment to this Agreement unless the effect of the modification exceeds the City Manager's purchasing authority then in effect.

c). Developer shall be responsible for obtaining all applicable permitting and governmental approvals relating to the City Improvements (the "City Improvements Permits"). The Parties shall cooperate in good faith to

diligently obtain or issue all applicable City Improvements Permits. To the extent that any permits or approvals for the City Improvements must be obtained by City, City shall cooperate in doing so and agrees to be listed as the permittee if applicable. City shall inspect the City Improvements during construction and be provided access to all work and testing reports. Construction shall adhere to the requirements of the City Improvements Permits and the City Code in effect at the time such construction occurs.

d). Developer shall commence construction of the City Improvements, and shall thereafter, diligently and without interruption or delay, subject to force majeure, pursue completion of the construction of the City Improvements in accordance with the City's plans and specifications (as modified pursuant to this Agreement, if applicable).

e). Upon completion of construction of the City Improvements, including CIP inspection and oversight of improvements within the right of way, Developer shall provide to City a notice of completion (the "Completion Notice"), which Completion Notice shall be accompanied by the following items (the "Completion Materials"):

1). As Built Survey(s) of the City Improvements.

2). Certification from a licensed civil engineer that the City Improvements have been completed in substantial accordance with the plans and specifications.

3). Detailed City Improvement Costs, together with copies of invoices, payments to all contractors, subcontractors, vendors and materialmen and copies of lien releases from each contractor, subcontractor, vendor and materialman providing services in connection with the City Improvements.

f). City shall within thirty (30) days from receipt of the Completion Notice and Completion Materials inspect the City Improvements and City Improvement Costs to confirm that they have been constructed in accordance with the requirements of this Agreement and the City Improvements Permits, and provide notice of their determination to Developer. If such notice sets forth deficiencies in the City Improvements or unreasonable City Improvement Costs (each as "Deficiency Notice"), City and Developer shall work in good faith to agree upon the nature of the deficiencies in the City Improvements or unreasonable City Improvement Costs (each a "Deficiency" and, if more than one, collectively the "Deficiencies"), the appropriate remedy for Deficiencies, and thereafter Developer shall work diligently to cure said Deficiencies until completion. Upon completion of remedying the Deficiencies, Developer shall provide to City written notice of Completion (a "Subsequent Completion Notice") with updated Completion Materials and City shall have 15 days from receipt thereof to inspect and make a determination as to completion. At such time as City has determined that all City Improvements have been fully completed in substantial accordance with the requirements of this Agreement and the City Improvements Permits, City shall provide written notice of such final completion (the "Final Completion Acknowledgment") within 10 days

of such determination by City. City's failure to respond within 25 days from receipt of a Subsequent Completion Notice shall be deemed to constitute City's approval thereof, and a Final Completion Acknowledgement shall be deemed delivered on such 25th day.

g). Upon issuance (or deemed issuance) of the Final Completion Acknowledgment, City shall reimburse Developer for based upon the following calculation ("Improvement Reimbursement"): City Improvement Costs incurred in completing the City Improvements LESS costs associated with remedying Deficiencies. City shall make such Improvement Reimbursement within 30 days after the Final Completion Acknowledgment.

4.5. City Review Contributions.

4.5.1. City shall reimburse Developer (or waive, to the extent permitted by applicable law) all charges or fees for plan review, permits and inspections for the Project including, without limitation: building permit, building plan review fee, new construction plan review, fire plan review fee, radon fee, plan retention fee, electrical permit fees, plumbing permit fees, mechanical permit fees, fire sprinkler fire line underground permit, tree removal application fee, fire impact fees, storm water impact fees, water and sewer impact fees, electric review charges, and water meter charges (all of the foregoing being collectively referred to as the "City Review Contributions"). City currently estimates that the City Review Contributions will not exceed Seventy-nine Thousand Four Hundred Sixty and no/100 Dollars ($79,460); such amount may be exceeded upon approval by the City Manager. The foregoing represents one-time payments for the foregoing; nothing set forth in this Agreement shall relieve Developer from its obligation to pay periodic (including monthly) charges for utilities and other services provided by City.

4.5.2. If Developer causes Completion of the Project to occur as and when required by the Schedule, City shall make final payment of the City Review Contributions to City's Building Department, and shall reimburse Developer for any charges or fees included in the City Review Contributions that were paid by Developer before the Effective Date of this Agreement. If Developer does not cause Completion of the Project to occur as and when required by the Schedule, Developer shall pay to City the amounts deferred or temporarily paid by City within thirty (30) days of City's demand therefor. If City so elects, City shall provide notice to Developer that City shall retain, from any other amounts to be paid by City to Developer under the City Incentives, the amounts deferred and unpaid by Developer; the amount retained by City shall be deducted from the amount owed by Developer to City, and Developer shall pay the balance to City.

4.6. City Incentives Target.

4.6.1. City is providing the City Incentives in amounts such that the "City Incentives Total" (as defined in paragraph 4.6.3) equals the "City Incentives Target" (as defined in paragraph 4.6.2).

4.6.2. The City Incentives Target shall be: (a) Ten Percent (10%) of the lesser of: (i) Developer's total Development Costs; or (ii) the amount set forth in paragraph 3.3.3; (b) rounded to the nearest dollar.

4.6.3. The City Incentives Total shall be the total of the following amounts, rounded to the nearest dollar:

a). The amount of City CRA payments made by City.

b). The donation of Lot 6 for the use of parking for the hotel by the City pursuant to paragraph 4.2.5.b).

c). The amount of City Grant payments made by City.

d). The amount paid by City for the City Improvements

e). The amount of the City Review Contributions as paid or waived by City.

4.6.4. Upon completion of the Project, City shall determine the amount of Developer's Total Project Costs, the amount of the City Review Contributions, and the value of the City Improvements.

a). The parties shall utilize the Total Project Costs to determine the City Incentives Target pursuant to paragraph 4.6.2.

b). The parties shall utilize the Lot 6 Property Value, City Review Contributions and City Improvements to determine the then-amount of the City Incentives Total.

c). The parties shall document the determination of the above without the necessity of amending this Agreement.

4.6.5. Thereafter, the parties will monitor the amount of the City Grant payments and City CRA Payments received by Developer..

a). On each anniversary of the date of Completion of the Project, City shall submit to Developer a written report of the total of the foregoing, together with a calculation of the then-current amount of the City Incentives Total. Developer shall review such report and advise City if it agrees with the City Incentives Total calculations; if it does not, Developer and City shall work together to determine the amount and shall document their determination in writing.

b). The duration of the City CRA Payments shall be shortened, if necessary, so that the City Incentives Total does not exceed the City Incentives Target. (The City CRA Payments may not be extended because of the current duration of the City Downtown CRA; if City extends the duration, Developer and City shall negotiate in good faith to permit the extension of the duration of the City CRA Payments under this Agreement.)

c). As the amount of the City Incentives Total nears the City Incentives Target, Developer and City shall confer and documents an agreement concerning the modification of the duration.

5. **Development**.

5.1. Generally. Pursuant to the City's Capital Improvement Program and Developer's Plans concerning development of the Hotel, Developer and City will cooperate in good faith to achieve the goals set forth herein while reducing impacts of construction on downtown Ocala as specifically set forth in this paragraph 5.1.

5.2. Party Designees. To provide for efficient coordination, each party shall identify a designee to oversee communication with the other party. Initially, Tom Files shall be the Developer Designee and City Designee shall be assigned by the City Manager. Communication by and between each party's representatives, employees, or agents need not be limited to their respective Designees, but the Designees will work with one another to ensure effective communication and collaboration.

5.3. Periodic Construction Meetings.

5.3.1. During construction of the Project, Developer shall use good faith efforts to advise City of the time, date and place of all scheduled construction meetings with Developer's contractors, and City shall be permitted to attend such meetings.

5.3.2. During construction of the City Improvements, City shall use good faith efforts to advise Developer of the time, date and place of all scheduled construction meetings with City's contractors, and Developer shall be permitted to attend such meetings.

5.3.3. During construction of the Project, either party shall, at the other party's request, schedule a construction meeting with such other party's contractor to ensure efficiency and proper coordination.

5.4. Report to City Council. During the term of this Agreement, Developer shall appear before City Council upon the request of City Council or the City Manager to provide a report on the progress of the Project and the parties' performance of their obligations under this Agreement. Developer shall not be required, however, to appear more than four (4) times per calendar year.

5.5. City Cooperation. City shall exercise its best efforts and cooperate with Developer in submitting and obtaining any state and federal licenses, permits and governmental authorizations necessary, for the Completion of the Project; provided, however, all costs associated therewith shall be the sole responsibility of Developer. City's obligations shall not affect City's right and authority to act in regulatory matters in accordance with applicable laws or ordinances.

5.6. Easements. City and Developer shall, pursuant to standard practices and procedures, reasonably consider requests for and, if appropriate, grant easements or similar approvals for landscaping, sidewalk cafes, and pedestrian access where appropriate to allow for the Project to be pedestrian-friendly and connected to the downtown area.

6. **Representations and Warranties of City**. City hereby represents and warrants the following:

6.1. This Agreement and each document contemplated hereby to which City will be a party has been authorized and will be executed and delivered by City and neither their execution and delivery, nor compliance with the terms and provisions: (a) requires the approval and consent of any other party, except as have been obtained or as are specifically noted herein, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on City, or (c) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance on City.

6.2. This Agreement and each document contemplated to which City will be a party, will constitute a legal, valid and binding obligation of City enforceable against City in accordance with the terms thereof, except as such enforceability may be limited by public policy or applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights and subject to usual equitable principles if equitable remedies are involved.

6.3. To the knowledge of City, there is no suit, litigation or action pending or threatened against City, which questions the validity of this Agreement, or any document contemplated hereunder or challenges the power or any approvals of the Council to authorize the execution and delivery of same.

6.4. City shall use its best efforts to timely fulfill all of the conditions and obligations expressed in this Agreement which are within the control of City and shall act so as not to unreasonably delay the Completion of the Project.

6.5. City shall cause to continue to be in effect those instruments, documents, certificates and events contemplated by this Agreement that are applicable to and the responsibility of the City.

6.6. City shall use reasonable efforts to assist the Developer in accomplishing the development of the Project in accordance with this Agreement and the Project Plans; and will not violate any applicable laws, ordinances, rules, regulations, orders, contracts, or agreements, or, to the extent permitted by law, adopt any ordinance, regulations or order or approve or enter into any agreement, that will result in this Agreement or any part hereof, or any other instrument contemplated, to be in violation thereof.

6.7. City has adequate retention capacity in its stormwater drainage system for all drainage from the Project and has or will have a sufficient conveyance system to convey the stormwater from the Project to the City's retention systems.

7. **Representations and Warranties of Developer**. Developer hereby represents and warrants the following:

7.1. Developer is a validly existing limited liability company under the laws of the State of Florida, has all requisite power and authority to carry on its business, to own and hold property, to enter into and perform its obligations under this Agreement and consents to service of process on its registered agent in Florida.

7.2. This Agreement and each document to which Developer is or will be a party has been authorized and will be executed and delivered by Developer and neither their execution and delivery, nor compliance with the terms and provisions: (a) requires the approval and consent of any other party, except as have been obtained or as are specifically noted herein,

(b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on Developer, or (c) results in any default or result in the creation of any lien on the property or assets of Developer which will have a material adverse effect on its ability to perform its obligations hereunder.

7.3. This Agreement and each document contemplated to which Developer will be a party, will constitute a legal, valid and binding obligation of Developer enforceable against Developer in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights and subject to usual equitable principles if equitable remedies are involved.

7.4. To the knowledge of Developer, there is no suit, litigation or action pending or threatened against Developer, which questions the validity of this Agreement, or which will have a material adverse effect on its ability to perform its obligations hereunder.

7.5. Developer shall use its best efforts to timely fulfill all of the conditions and obligations expressed in this Agreement which are within the control or are the responsibility of Developer.

7.6. During the period the obligations of Developer are in effect, Developer shall cause to continue to be in effect those instruments, documents, certificates and events contemplated by this Agreement that are applicable to and the responsibility of Developer.

7.7. Developer shall use its best efforts to accomplish the development of the Project in accordance with this Agreement, the Proposal and the Project Plans, and will not violate any applicable laws, ordinances, rules, regulations or orders in its efforts to do so.

7.8. Developer shall use its best efforts to obtain all state and local permits or other governmental authorizations and approvals required by law in order to proceed with the development of the Project.

7.9. Developer shall promptly notify City Manager in writing of any actual or reasonably anticipated delays in the construction of the Project that are likely to jeopardize timely completion.

7.10. This Agreement, and any amendments hereto, shall be binding and inure to the benefit of, and be enforceable by, City and Developer, and the heirs, successors and permitted assigns of the foregoing.

7.11. In the event of a conveyance of any portion of, or of any interest in, the Property, this Agreement may be amended by the new owner without the necessity of joinder or consent of any prior owner provided that the amendment does not amend the obligations of the prior owner.

8. **Schedule and Deadlines**.

8.1. City and Developer shall perform the following obligations pursuant to the following schedule (the "Schedule"); the date by which an obligation is required to be performed is referred to as the "Deadline" for such obligation:[2]

8.1.1. Within eighteen (18) months after the Effective Date, Developer shall cause Completion of the Project.

8.2. The schedule in this paragraph 8 is subject to the following:

8.2.1. One extension of up to six (6) months in duration, of any Deadline contained in paragraph 8.1 may be provided by the City Manager. Developer shall request such extension in writing not less than one (1) month prior to the expiration of the Deadline, which request shall state the good cause for the extension. The City Manager shall not unreasonably withhold approval of a request for an extension.

8.2.2. Except as provided in paragraph 8.2.1 or pursuant to other express provisions of this Agreement (e.g., in paragraph 12), there shall be no other extension of any performance obligation except through formal amendment of this Agreement.

9. **Default**.

9.1. Force Majeure. Neither party shall be held in default of this Agreement for any delay or failure of such party in performing its obligations pursuant to this Agreement if such delay or failure is caused by Force Majeure as set forth below.

9.2. Notice and Opportunity to Cure. Prior to declaring a default hereunder, the non-defaulting party must provide the defaulting party with written notice and at least thirty (30) days to cure such default.

9.2.1. Provided, however, if the default is of a nature that cannot be reasonably cured within such 30-day period, then the defaulting party shall be allowed a reasonable period of time to cure such default provided that it diligently commences the cure within the 30-day period and thereafter undertakes and pursues such cure.

9.2.2. Further provided, however, that no prior notice or opportunity to cure need to be provided in the event the defaulting party has previously breached a provision of this Agreement and thereafter breaches the same provision.

9.3. Remedies. If a default occurs, the non-defaulting party may terminate this Agreement, institute an action to compel specific performance or to recover damages as applicable, suspend its own performance hereunder, or pursue any other remedy available at law or equity.

9.4. Remedies Not Exclusive. The specified rights and remedies to which City and Developer are entitled under this Agreement are not exclusive and are intended to be in addition to any other means of redress which City or Developer may have under this Agreement.

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[2] The definitions of "Complete," and "Completion" contained in this paragraph 8.1 apply concerning the deadline for Completion of the Project pursuant to this paragraph 8.1 and paragraphs that refer to this paragraph 8.1, and do not determine when the Project is "substantially complete" for purposes of ad valorem taxation.

9.5. No Consequential Damages. Notwithstanding paragraph 9.3, under no circumstances will City or Developer be liable for consequential damages, including lost profits, the right to such damages being expressly waived.

9.6. No Waiver. The failure by City or Developer to promptly insist on strict performance of any provision of this Agreement shall not be deemed a waiver of any right or remedy that City or Developer may have and shall not be deemed a waiver of a subsequent default or nonperformance of such provision.

9.7. Effect of Termination. In the event that a party terminates this Agreement under this paragraph 9 or any other provision of this Agreement, this Agreement shall be deemed terminated in its entirety.

10. **Agreement to Run with Property**. This Agreement shall run with the Property and any portion thereof, and shall be binding and inure to the benefit of, and be enforceable by, City and Developer, and the heirs, successors and permitted assigns of the foregoing, as long as the Property is utilized as a hotel and as contemplated by this Agreement.

11. **Survival**. Notwithstanding the termination of this Agreement, except a termination of the entire Agreement under paragraph 9 or the prior performance by the parties hereunder, the following paragraphs of this Agreement shall survive and remain effective: 14 through 34.

12. **Force Majeure**. Delays in performance due to: fire; flood; hurricane; tornado; earthquake; windstorm; sinkhole; unavailability of materials, equipment or fuel; war; declaration of hostilities; terrorist act; civil strife; strike; labor dispute; epidemic; pandemic; archaeological excavation; act of God; or any other matter beyond the control of the party obligated to perform that constitutes an excuse under Florida law based upon the doctrine of "impossibility of performance," shall be deemed events of Force Majeure and such delays shall be excused in the manner herein provided. If a party is delayed in any performance required by this Agreement because of an event of Force Majeure, the date for action required or contemplated by this Agreement shall be extended by the number of days equal to the number of days such party is delayed. The party seeking to be excused based on an event of Force Majeure shall give written notice of the delay indicating its anticipated duration. Each party shall use its best efforts to rectify any conditions causing the delay and will cooperate with the other party, except for the occurrence of unreasonable additional costs and expenses to overcome any loss of time that has resulted. Specific references in this Agreement to deadlines as to which Force Majeure shall apply shall not be interpreted as intending to exclude the application of Force Majeure from other performance.

13. **Assignment; Interest Transfer**.

13.1. Developer may not, without the written consent of City which may be withheld or conditioned by City in its sole discretion, assign its rights or obligations under this Agreement, in whole or in part, until the Completion of the Project.

13.2. No membership interest in Developer may be transferred (an "Interest Transfer") until Completion of the Project except as follows:

13.2.1. An interest held by a member of Developer or a Developer Principal may be transferred to another member of Developer or Developer Principal;

13.2.2. An interest held by a member of Developer or a Developer Principal may be transferred to a thirty party in connection with financing or contribution of capital to Developer provided that Developer Principal retains "Control" over Developer; or

13.2.3. Upon the written consent of City which may be withheld or conditioned by City in its sole discretion.

13.3. Following Completion of the Project:

13.3.1. Developer may assign this Agreement in whole or in part if the assignee executes and delivers to City an instrument, in a commercially reasonable and customary form and acceptable to City in its reasonable discretion, accepting the assignment and assuming the obligations of Developer under this Agreement, to the extent of the assignment, as if such assignee executed this Agreement as an original party hereto; and

13.3.2. Any Interest Transfer may be made.

13.4. Promptly after any assignment or Interest Transfer, Developer shall provide notice thereof to City.

13.5. A notice under this paragraph concerning an Interest Transfer shall include sufficient information for City to determine whether the assignment or Interest Transfer was permissible under this Agreement; such information could include an affidavit from a Developer Principal with personal knowledge of the matters set forth therein and need not be copies of operating agreements, partnership agreements or other documents that Developer deems confidential.

13.6. In the event of an assignment hereunder, and to the extent of the assignment:

13.6.1. The assignee will have all rights and obligations of Developer.

13.6.2. The assignee shall be entitled to amend the provisions of this Agreement without the joinder or consent of Developer.

13.6.3. The assignee shall be permitted to terminate this Agreement as otherwise provided in this Agreement without the joinder or consent of Developer or any prior assignee.

13.6.4. In the event of an assignment in connection with a sale of all of Developer's rights in a Project, the assignor shall be released from all liability under this Agreement for actions or inactions after, but not before, such assignment.

13.7. By executing this Agreement, Developer agrees, and by accepting any assignment, each assignee agrees, to the foregoing provisions of this paragraph concerning the ability of an assignee to amend or terminate this Agreement.

14. **City's Police Powers**. Nothing in this Agreement shall serve to affect or limit City's police powers in the exercise of rezoning decisions or other governmental action associated with the proposed redevelopment of the Property or any Development Order associated therewith.

15. **Sovereign Immunity**. Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of City's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on City's potential liability under state or federal law. As such, City shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, City shall not be liable for any claim or judgment, or portion thereof, that exceeds the applicable limit of liability under applicable law (currently Section 768.28(5), Florida Statutes). This paragraph shall survive termination of this Agreement.

16. **Resolving any Invalidity**. City and Developer hereby agree that in the event this Agreement or the economic incentives described herein are ever challenged by any person and held to be invalid by a court of competent jurisdiction, each will cooperate with the other, in good faith, to resolve the invalidity or pursue a valid alternative means to secure a substantially similar and equitable financial arrangement which the parties acknowledge was the inducement for Developer undertaking the Project.

17. **Applicable Law**. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

18. **Relationship**. This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture among City and Developer. 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 the other party hereto is not acting as a fiduciary for nor as adviser to it in respect of this Agreement.

19. **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 City in an individual capacity, and nor shall any such individual be subject to personal liability by reason of any covenant or obligation of City hereunder.

20. **Exclusive Venue**. The parties agree that the exclusive venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall be in Marion County, Florida.

21. **Counterparts; Copies**. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all of which shall together constitute one and the same instrument. Additionally, signed facsimiles shall have the same force and effect as a signed original, and, in lieu of an original, any party hereto may use a photocopy of this Agreement in any action or proceeding brought to enforce or interpret any of the provisions contained herein.

22. **Notice**.

    22.1. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing (including emailed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, emailed or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested,

addressed as follows or to such other addresses as any party may designate by notice complying with the terms of this paragraph:

22.1.1. For City: City Manager, City of Ocala, 201 SE 3rd Street, 2nd Floor, Ocala, Florida 34471; email: plee@ocalafl.gov.

a). With copy to: Director of Planning, Growth Management Department, 201 SE 3rd Street, 2nd Floor, Ocala, Florida 34471; email: ahale@ocalafl.gov.

22.1.2. For Developer: David Midgett, 507 NE 8th Avenue, Ocala, Florida 34470; email: David@midgettelderlaw.com.

a). With a copy to: Robert W. Batsel, Jr., Gooding & Batsel, PLLC, 1531 SE 36th Avenue, Ocala, Florida 34471; email: rbatsel@lawyersocala.com.

22.2. Each such notice shall be deemed delivered:

22.2.1. On the date of delivered if by personal delivery;

22.2.2. On the date of email transmission if by email (subject to paragraph 22.2.7); and

22.2.3. If the notice is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; or (b) the date upon which delivery is refused.

22.2.4. Notwithstanding the foregoing, service by personal delivery delivered, or by email sent, after 5:00 p.m. shall be deemed to have been made on the next day, that is not a Saturday, Sunday, or legal holiday.

22.2.5. If a notice is delivered by multiple means, the notice shall be deemed delivered upon the earliest date determined in accordance with the preceding subparagraph.

22.2.6. If the above provisions require notice to be delivered to more than one person (including a copy), the notice shall be deemed delivered to all such persons on the earliest date it is delivered to any of such persons.

22.2.7. Concerning Communications sent by email:

a). The Communication shall not be deemed to have been delivered if the sender receives a message from the sender's or the recipient's internet service provider or otherwise that the email was not delivered or received;

b). If the sender receives an automatic reply message indicating that the recipient is not present to receive the email (commonly referred to as an "out of the office message"), the email shall not be deemed delivered until the recipient returns;

c). Any email that the recipient replies to, or forwards to any person, shall be deemed delivered to the recipient.

d). The sender must print the email to establish that it was sent (though it need not do so at the time the email was sent); and

e). The sender shall maintain the digital copy of the email in its email system for a period of no less than one year after it was sent.

23. **Recording**. Developer shall, at its own expense, record this Agreement, or a certified copy thereof, in the Public Records of Marion County, Florida.

24. **Successors and Assigns**. All covenants, Agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.

25. **Attorney's Fees**. If any legal action or other proceeding is brought (including, without limitation, appeals or bankruptcy proceedings) whether at law or in equity, which arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby; or is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, and court costs incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

26. **Severability**. Any provision of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder to be invalid, illegal or unenforceable.

27. **Construction of Agreement**. Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's length. Accordingly, a court construing this Agreement shall not construe it more strongly against either party.

28. **Time**.

28.1. Time is of the essence of all of the provisions and terms of this Agreement.

28.2. If a time period is five (5) days or less, intervening Saturdays, Sundays or legal holidays will be excluded from the calculation.

28.3. When any time period specified herein falls or ends upon a date other than a Business Day, the time period shall automatically extend to 5:00 p.m. on the next ensuing Business Day.

28.4. For purposes of this Agreement, "legal holiday" means: (a) the day set aside by Section 110.117, Florida Statutes, for observing New Year's Day, Martin Luther King, Jr.'s Birthday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day or Christmas Day; (b) the Friday after Thanksgiving; (c) Christmas Eve; (d) if Christmas is on a weekend, the Monday after Christmas Day; and (e) any other day upon which the Clerk of Court of Marion County, Florida, is closed for ordinary business.

29. **Further Action**. Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.

30. **JURY WAIVER**. EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO A TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

31. **Waiver**. A failure to assert any rights or remedies available to a party under the terms of this Agreement shall not be deemed a waiver of such rights or remedies, and a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.

32. **Exhibits**. The following Exhibits are attached to this Agreement and shall, by this reference, be incorporated into this Agreement:

    32.1. **Exhibit A** – Property.

    32.2. **Exhibit B** – Schedule of Development Costs.

    32.3. **Exhibit C** – City CRA Payments Schedule.

33. **Amendments**. The provisions of this Agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this Agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought.

34. **Entire Understanding**. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations (if any) made by and between the parties.

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SIGNATURES BEGIN ON FOLLOWING PAGE

THEREFORE, each of the parties hereto set their hand and seal on this Agreement as of the day and year set forth immediately beneath their respective signatures.

ATTEST:

_____
Angel B. Jacobs
City Clerk

City of Ocala, a Florida municipal corporation

_____
Kristen Dreyer
President, Ocala City Council

Date_____

Approved as to form and legality

_____
William E. Sexton
City Attorney

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this _____ day of _____, 2025, by Kristen Dreyer, as City Council President of the City of Ocala, a Florida municipal corporation, on behalf of the City.

_____
Notary Public, State of Florida
Name: _____
(Please print or type)

Commission Number:
Commission Expires:

Notary: Check one of the following:
____ Personally known OR
____ Produced Identification (if this box is checked, fill in blank below).
Type of Identification Produced: _____

AS TO DEVELOPER

MARION OPPORTUNITY ZONE INVESTMENT I LLC, a Florida limited liability company

By:_____
David Midgett, Manager

Date: _____

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization this _____, 2025, by David Midgett, as Manager of Marion Opportunity Zone Investment I LLC, a Florida limited liability company, on behalf of the company.

_____
Notary Public State of Florida
Name: _____
(Please print or type)
Commission Number:
Commission Expires:

Notary: Check one of the following:
____ Personally known OR
____ Produced Identification (if this box is checked, fill in blank below).
Type of Identification Produced: _____

EXHIBIT A
PROPERTY

The land referred to herein below is situated in the County of MARION, State of Florida and identified by Parcel ID 2854-043-003 and described as follows:

Lots 3 and 4, Block 43, OLD SURVEY OF OCALA, according to the plat thereof as recorded in Plat Book E, Page 1, Public Records of Marion County, Florida.

EXHIBIT B
SCHEDULE OF DEVELOPMENT COSTS

Development Budget		59		51,450	
	Amount	Per Key	Per SF	Total
Land & Related				
Land & Existing Building / Pakring	$ 2,560,000	$ 43,390	$ 49.76	8.8%
Total Land & Related	$ 2,560,000	$ 43,390	$ 49.76	8.8%
Hard Construction				
Construction Cost				
Phase 1 Design, Precon, & Early Demo	$ 1,323,406	$ 22,431	$ 25.72	4.6%
Phase 2 Exterior Restoration	$ 4,368,710	$ 74,046	$ 84.91	15.1%
Phase 3 New Addition & Reno	$ 14,724,489	$ 249,568	$ 286.19	50.8%
Design Contigency	$ -	$ -	$ -	0.0%
Total Direct Construction Costs	$ 20,416,605	$ 346,044	$ 396.82	70.4%
Furniture, Fixtures, & Equipment				
FF&E - Common Areas (Lang & Schwander)	$ 323,334	$ 5,480	$ 6.28	1.1%
FF&E - Guest Rooms (Lang & Schwander)	$ 1,044,310	$ 17,700	$ 20.30	3.6%
Food Service Equipment Allowance	$ 414,675	$ 7,028	$ 8.06	1.4%
Fitness/Laundry (Inc in Owner provided)	$ -	$ -	$ -	0.0%
Art Budget	$ 75,000.00	$ 1,271	$ 1.46	0.3%
Int and Ext Signage (included in owner provided)	$ -	$ -	$ -	0.0%
Low Voltage (included in owner provided)	$ -	$ -	$ -	0.0%
Security and Access Control (Included in owner provided)	$ -	$ -	$ -	0.0%
2-way radio cell phone enhancement	$ -	$ -	$ -	0.0%
Owner Provided	$ 923,635	$ 15,655	$ 17.95	3.2%
Total Furniture, Fixtures & Equipment	$ 2,780,954	$ 47,135	$ 54.05	9.6%
Soft Costs				
Precon, design, site plan	$ -	$ -	$ -	0.0%
Arch, M, E, P, S, ID	$ -	$ -	$ -	0.0%
Inspections	$ 20,000	$ 339	$ 0.39	0.1%
Franchise Fee	$ 75,000	$ 1,271	$ 1.46	0.3%
Design & Construction Services Fee (Brand)	$ -	$ -	$ -	0.0%
Construction Mgr & ID Consultant	$ -	$ -	$ -	0.0%
Tax Credit App and Legal	$ 15,000	$ 254	$ 0.29	0.1%
Permit Fees	$ 58,196	$ 986	$ 1.13	0.2%
Impact Fees	$ -	$ -	$ -	0.0%
Utililty Connection Fees Allowance	$ 15,000	$ 254	$ 0.29	0.1%
Closing/Legal	$ 575,000	$ 9,746	$ 11.18	2.0%
Soft Cost Contingency	$ -	$ -	$ -	0.0%
P&P Bond	$ 165,000	$ 2,797	$ 3.21	0.6%
Development Fee	$ 665,000	$ 11,271	$ 12.93	2.3%
Property Taxes during Development	$ 41,000	$ 695	$ 0.80	0.1%
Pre-Opening Operating Expenses, Insurance	$ 122,000	$ 2,068	$ 2.37	0.4%
Working Capital	$ 200,000	$ 3,390	$ 3.89	0.7%
Change Orders	$ -	$ -	$ -	0.0%
Branding Company ($10,000 paid)	$ 53,500	$ 907	$ 1.04	0.2%
Builders Risk	$ 50,000			
Technical Services to Operator	$ 30,000	$ 508	$ 0.58	0.1%
Total Soft Costs	$ 2,084,696	$ 34,486	$ 39.55	7.0%
Financing Costs				
Construction Interest	$ 1,047,613	$ 17,756	$ 20.36	3.6%
Loan Reserves	$ -	$ -	$ -	0.0%
Loan Origination Fee	$ 106,827	$ 1,811	$ 2.08	0.4%
Total Financing Costs	$ 1,154,440	$ 19,567	$ 22.44	4.0%
Total Development Cost	**$ 28,996,695**	**$ 490,622**	**$ 562.62**	**99.8%**

EXHIBIT C
CITY CRA PAYMENT SCHEDULE

Year (After Completion)	Calendar Year (If Project Complete in 2026)	Percent of Increment
1	2027	100%
2	2028	100%
3	2029	100%
4	2030	100%
5	2031	100%
6	2032	100%
7	2033	100%
8	2034	100%
9	2035	100%
10	2036	100%
11	2037	100%
12	2038	100%
13	2039	100%

Note:
1. City Payment is paid in Calendar Year after Tax Year
2. Forecasted annual increment is $87,816.13, which would total $1,053,793.53. Of course, the actual increment will be subject to variance based on market conditions.
3. The actual City Payments will be subject to termination of payments based on City Payment Cap as set forth herein.