

**PARTICIPATING PARTY AGREEMENT
CITY OF ALACHUA, FLORIDA / ALACHUA HIGHPOINT LLC, A FLORIDA LIMITED LIABILITY COMPANY
UNDER THE COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM (the "Agreement")**

THE CITY OF ALACHUA, FLORIDA (hereinafter referred to as "the Recipient") along with **ALACHUA HIGHPOINT LLC, A FLORIDA LIMITED LIABILITY COMPANY** (hereinafter referred to as "the Participating Party"), enter into this Agreement effective as of this ____ day of May, 2018, to implement the requirements of the Community Development Block Grant ("CDBG") Program, and hereby mutually agree as follows:

1. The application to the Florida Department of Economic Opportunity for CDBG grant assistance and the CDBG Sub Grant Agreement between the Recipient and the Florida Department of Economic Opportunity (hereinafter referred to as the "Department"), Contract Number: 18DB-OK-03-11-02-E 02 is hereby incorporated by reference into this Agreement. The Participating Party shall comply with all provisions of the application and CDBG Sub Grant Agreement to the extent such provisions are applicable to the Participating Party.
2. The Participating Party shall develop a schedule for construction activities and hiring of employees. This schedule shall identify, at a minimum, the start date for construction of its facility or facilities; the dates by which such construction will be 25%, 50%, 75% and 100% complete; the date that hiring of employees will begin, and the date by which all employees will be hired. These same Participating Party milestones shall be made an attachment to this Participating Party Agreement, and shall be made a part of Attachment I ("Activity Work Plan") of the CDBG Sub Grant Agreement. Timely satisfaction of these milestones shall be used in determining whether the Recipient is "on schedule" under this Agreement and the CDBG Sub Grant Agreement, as that term is defined in Rule 73C-23.
3. The Participating Party shall execute and be bound by all documents in such form and substance as the Recipient or the Department may reasonably require for the Recipient and the Participating Party to comply with the terms and conditions of the CDBG Sub Grant Agreement. Such documents may impose reasonable material covenants, terms, conditions, obligations, or other requirements on the Participating Party and the Guarantors in addition to, but not inconsistent with, those set forth herein.
4. The Participating Party shall construct or cause to be constructed one or more buildings which shall accommodate at a minimum the facility described in the City of Alachua's FFY 2016 CDBG Application. The Land, Building and Developed Site shall remain titled in the name of the Participating Party and shall be utilized as a hotel to house a Hampton Inn Hotel, until such time as all of the requirements in this agreement have been satisfied.
5. The Participating Party shall commence construction and furnish to the Recipient evidence of their commencement of construction of the Alachua Highpoint LLC, facility within the time frame specified in the Participating Party Schedule (milestones).
6. The Participating Party shall create and satisfactorily document the creation of at least thirty-six (36) full-time equivalent permanent net new jobs, of which at least nineteen (19)

full-time equivalent permanent net new jobs are to be for members of low or moderate income households, as specified in the Application. If more than thirty-six (36) full-time equivalent permanent net new jobs are created, at least fifty-one percent (51%) of those jobs shall be held by a person for a low and moderate income household. These jobs shall be created no later than the termination date of the CDBG Sub Grant Agreement, as it may be amended. Documentation shall be the Florida Small Cities CDBG Program Household Income Verification Form (Form I-2) or its equivalent for each created job as well as documentation, in a form acceptable to the Department that verifies all of the individuals for which Household Income Verification Forms are being provided were employed simultaneously at a specified specific moment in time. The documentation of the creation of these jobs shall be retained by the Participating Party for a period of six (6) years following the expiration of this Agreement.

7. The Participating Party shall satisfactorily document the creation of any additional created new jobs that were created as a result of the CDBG funded improvements as well as the retention of those jobs originally committed to by submitting to the Recipient a Florida Small Cities CDBG Household Income Verification Form and payroll verification documentation for each newly created job. The Participating Party shall continue tracking jobs until either a cost per job of under \$10,000 is achieved or until one year following the completion of the CDBG funded infrastructure, whichever comes first. These requirements shall be in place until the Administrative Closeout of the CDBG Sub Grant Agreement.
8. The Participating Party shall provide or cause to be provided such training to persons who are members of low and moderate-income households, as may be necessary to equip them with the skills required for them to obtain and retain the jobs to be created.
9. The Participating Party shall notify the Recipient in writing when it begins hiring the required jobs and when it has completed hiring the required jobs.
10. The Participating Party shall utilize the service of the local workforce board and/or advertise the newly created employment positions in one or more of the local newspapers that serve the Recipient.
11. The Participating Party attests that the assisted activity will not result in the relocation of any industrial or commercial plant, facility, or operation from one Labor Market Area (LMA) to another, and, if so, the number of jobs that will be relocated from each LMA;
12. The Participating Party certifies from that neither it, nor any of its subsidiaries, have plans to relocate jobs at the time this agreement is signed that would result in a significant job loss as defined in 24 CFR 570.210; and
13. The Participating Party agrees to reimburse the City of Alachua any CDBG assistance provided to, or expended on behalf of, the Participating Party, in the event that such assistance results in the relocation of jobs as prohibited under 24 CFR 570.210.
14. The failure of the Participating Party to create or to cause to be created or to satisfactorily document the creation of the agreed upon total number of jobs or the number of jobs to be made available to members of low or moderate income families shall be an act of default

under this Participating Party Agreement and shall subject the Participating Party and Guarantors to all remedies allowed by law, equity and this agreement. The Participating Party agrees to indemnify and hold the City harmless from lawsuit or judgment instituted against the City as a result of any default of the Participating Party under this Agreement. The Participating Party shall also pay for City's defense by the attorney of the City's choice in any action which may be instituted against the City as a result of any default of the Participating Party under this Agreement. Participating Party also agrees to execute a Guaranty for the benefit of the Recipient for, among other things, compliance with the terms of this Agreement.

15. That, if requested by the Recipient, the Participating Party shall provide to the Recipient or its agents such reasonable information concerning the project as the Recipient or the Department may reasonably require as it relates specifically to the conditions of the grant.
16. The Participating Party shall submit a detailed quarterly report to the Recipient that demonstrates its progress toward achieving the milestones set forth in this Participating Party Activity Work Plan. These reports shall be delivered to the Recipient no later than the end of each quarter of the program year and shall continue to be submitted each quarter until submission of the administrative close-out report. The ending dates for each quarter of the program year are March 30, June 30, September 30 and December 31.
17. The Participating Party shall comply with Chapter 119, Fla. Stat., for all documents, papers, letters or other materials subject to the provisions of Chapter 119, Fla. Stat., and made or received by the Participating Party in conjunction with the CDBG Subgrant Agreement and/or the Participating Party Agreement. The failure of the Participating Party to comply with Chapter 119, Fla. Stat. is an act of default and shall be cause for the unilateral cancellation of the Participating Party Agreement and this Agreement.
18. The Participating Party, notwithstanding any other provision hereof to the contrary, shall comply with all applicable local, state and federal statutes, laws, rules, regulations or other requirements of Alachua County or the City of Alachua, it's agencies and instrumentalities, and the State of Florida, it's agencies and instrumentalities, and the United States of America, and it's agencies and instrumentalities.
19. This Participating Party Agreement and any amendments thereto, must be approved by the Department as to form and content prior to execution. Upon the approval of the Department, the Participating Party Agreement shall be immediately executed, and a copy shall be mailed to the Department. The right of approval granted to the Department with respect to changes in the Participating Party Agreement shall survive the term of this Agreement. The Department does not assume any liability or responsibility for the accuracy or enforceability of the Participating Party Agreement through the exercise of this right of approval.
20. This Agreement shall terminate and no longer be binding on the Participating Party upon the occurrence of all of the following: (a) the Participating Party satisfies the Hiring Requirement; (b) the Participating Party satisfies the Expenditure Requirement; (c) the Participating Party documents compliance with the Hiring Requirement and the Expenditure Requirement as set forth herein; (d) Job tracking has rendered either a cost per

job of under \$10,000 or a one year period has past following the completion of the CDBG funded infrastructure (whichever comes first) and, (e) Recipient Administratively Closes the CDBG Sub Grant Agreement with the Department [items (a), (b) (c) and (d) are collectively referred to herein as the "PPA Requirements"]. Once the Participating Party satisfies the PPA Requirements and completes a final submission of the required job creation documentation, the Participating Party shall deliver written notice thereof to the Recipient ("the Participating Party's Termination Notice"). Upon receipt of the Participating Party's Termination Notice, the Recipient shall promptly attempt to verify that the Participating Party has satisfied the PPA Requirements and, in the event that the Recipient determines that the Participating Party has satisfied the PPA Requirements, the Recipient shall immediately provide the same documentation to the Department for their review. In the event, however, that the Recipient determines that the Participating Party has not satisfied the PPA Requirements, the Recipient shall notify the Participating Party in writing of its conclusion (including the specific grounds for such conclusion). In the event that the Department concludes that the Participating Party has not satisfied the PPA Requirements a notice will be made to the Recipient and the Recipient will then notice the Participating Party of the deficiencies. In the event that the Department determines that the documentation provided is sufficient to satisfy the PPA Requirement, the Department shall issue the Recipient a "Letter of Compliance." The Recipient will provide a copy of the Department's "Letter of Compliance" to the Participating Party, which shall terminate this Agreement.

21. Any extension of the CDBG Sub Grant Agreement pursuant to Fla. Admin. Code Rule 9B-43.0051 shall act as an extension of the Participating Party Agreement. Failure of the Recipient to notify the Participating Party of such extension shall not invalidate this provision.
22. For purposes of this Agreement, any notices, records, reports, or papers required to be furnished by the Participating Party to the Recipient shall be delivered to the Offices of the City of Alachua, Mailing Address: P.O. Box 9, Alachua, FL 32616.
23. All documentation submitted to the Department by the Participating Party or the Recipient in any form is hereby and will, if submitted after execution hereof, is made a part of this Participating Party Agreement by reference, and it is understood by all parties that the Department relies on this information as a basis for decision making. Should any submission be found to be inaccurate to the extent that it is reasonable to conclude that the Department's decision would have been substantially different had the true and accurate information been available, the Recipient may declare this Agreement to be terminated and require repayment by the Participating Party of any funds expended on the project by the Recipient.
24. The Participating Party's failure to: (a) satisfy the Hiring Requirement; (b) satisfy the Expenditure Requirement, or (c) document compliance with the Hiring Requirement and the Expenditure Requirement in accordance with this Agreement shall constitute a default hereunder and shall subject Party to all remedies allowed by law. The Participating Party agrees to indemnify and hold the City harmless from lawsuit or judgment instituted against the City as a result of any default of the Participating Party under this Agreement. The Participating Party shall also pay for City's defense by the attorney of the City's choice in

any action which may be instituted against the City as a result of any default of the Participating Party under this Agreement.

25. The Participating Party shall comply with the provisions of Section 504 of the *Rehabilitation Act of 1973* (29 U.S.C. Section 794) as it relates to employment discrimination, facility accessibility and the Americans with Disabilities Act.
26. Under the CDBG Sub Grant Agreement between the Recipient and the Department, the Recipient may request amendments to the CDBG Sub Grant Agreement subject to the discretion of the Department. Further, the Recipient is obligated to provide certain reports and data to the Department, and to constantly monitor performance, including the provisions herein. For such purposes, the Participating Party shall cooperate with the Recipient, and its agents including providing access to its premises and operations, and providing any data, reports, inspections, or records as required by the Recipient, and attending any meetings required by the Recipient.
27. The Participating Party shall promptly notify the Recipient, in writing, of any judicial or administrative litigation pending as of closing against it and shall furnish the Recipient with a copy of all pleadings or papers filed with a court or administrative agency as such pleadings or papers are filed.
28. The Participating Party shall allow reasonable access to its records and facilities by the Department or its agents and by any other state or federal agency or their agents asserting jurisdiction to access compliance with any condition of the CDBG Sub Grant Agreement including compliance with any applicable state and federal law. The Participating Party shall promptly notify the Recipient as soon as it is informed that any such agency intends to seek access, or otherwise is preparing to access or monitor for compliance.
29. For a period of six (6) years from the final closeout of the CDBG Subgrant Agreement, the Participating Party shall retain all original records to the implementation of this CDBG Economic Development program and to its compliance with the CDBG application and this Agreement. This period of record retention shall be automatically extended by any period of time that the Department extends this CDBG Sub Grant Agreement. If any litigation, claim or audit is started before the expiration of the record retention period otherwise required by this paragraph and extends beyond that period, the records shall be maintained until all litigation, claims or audit findings have been resolved.
30. Should the Recipient fail to enforce the provisions of any obligation specified in this Agreement, the Department may, with thirty (30) days written notice to the Recipient and to the Participating Party, automatically substitute itself for the Recipient in said Agreement for the purpose of enforcing said Agreement and may, at its sole discretion, continue to administer said Agreement, but may exercise such control only in accordance with the terms of this Agreement and the Application.
31. Should the Participating Party exercise its rights under any chapter of the *Federal Bankruptcy Act* or any state insolvency laws or should an involuntary action be commenced against the Participating Party, which shall not be dismissed with sixty (60) days after notice thereof to the Participating Party, the Participating Party shall give notice thereof to the

- Recipient. The Recipient shall so advise the Department within ten (10) days of the Recipient's receipt of such notice or other information in that regard.
32. Should the Recipient have substantive knowledge of any civil suit against the Participating Party prior to the expiration of this Agreement as amended, the Recipient shall notify the Department within ten (10) days of receipt of such information.
33. Venue for any dispute involving this agreement shall be in the Circuit Court of Alachua County, Florida. In the event either party seeks to enforce any or all of the terms of this Agreement, the party which prevails by order, judgment, stipulation, decree, settlement, voluntary action or otherwise, shall receive all reasonable attorney's fees and any costs of paralegals, expert consultants and any other expenses of litigation, whether judicial or administrative, including any appeals, from the losing party.
34. The Participating Party shall provide sufficient information to the Recipient so that the Recipient can certify that none of the Recipient's Grant proceeds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of the Grant, any Federal contract, any Federal loan, any Federal grants, or any extension, renewal, modification or amendment thereto.
35. Recipient and Participating Party join in this Agreement to unconditionally guarantee the timely performance of the Participating Party's duties hereunder.
36. This Agreement is executed in multiple copies, each copy of which shall be deemed an original.
37. In the event the funding from the CDBG Program are not sufficient to pay for the roadway and infrastructure improvements and the construction of the Hotel, the Participating Party warrants that it shall be obligated to and will spend its own monies to complete this work.

ATTEST:

By: _____
Adam Boukari, City Manager

City of Alachua, a Florida Corporation

By: _____
Gib Coerper, Mayor

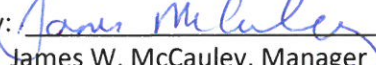
Date: _____

ATTEST/WITNESS:

Signature: 

Print Name: Sandra E. Howe

Alachua Highpoint LLC
A Florida Limited Liability Company

By: 
James W. McCauley, Manager

Date: April 26th, 2018