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First Modification to Hotel Management Agreement

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THIS FIRST MODIFICATION TO HOTEL MANAGEMENT AGREEMENT (this "Modification") is made as of June 1, 2017, by and between the AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO ("Owner") and HYATT CORPORATION ("Manager").

RECITALS

- A. Owner and Manager have entered into the Agreement (as defined below).
- B. On September 22, 2015, by Resolution No. 15-0178, Owner awarded this Agreement to Manager.
- C. On December 1, 2015, by Resolution No. 434-15, the Board of Supervisors of the City and County of San Francisco ("City") approved this Agreement under San Francisco Charter Section 9.118.
- D. Owner and Manager desire to modify the Agreement on the terms and conditions set forth herein to extend the date by which the Initial Series of Bonds is expected to be issued and to make other administrative changes requested by Owner.
- E. Owner and Manager have each obtained such approvals, if any, as are required for the execution of this Modification.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and in the Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and Manager agree as follows:

1. **Definitions.**

a. **Agreement.** The definition of "Agreement" in Section 1.01 is hereby replaced in its entirety as follows:

"Agreement" means the Hotel Management Agreement dated as of January 1, 2016 between Manager and Owner, as amended by the First Modification dated as of June 1, 2017.

b. **Other Terms.** Terms used and not defined in this Modification shall have the meanings assigned to such terms in the Agreement.

2. **Section 5.8. Termination upon Inability to Issue Bonds** is hereby amended by replacing the date "June 30, 2017" with the date "March 31, 2019."

3. A new **Section 3.24(e), Federal Fair Labor Standards Act** is hereby added to read as follows:

(e) **Federal Fair Labor Standards Act.** This Agreement incorporates by reference the provisions of 29 USC §201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full

text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Manager shall monitor its compliance to the referenced statute or regulation. Manager must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

4. A new **Section 3.24(f), Occupational Safety and Health Act of 1970** is hereby added to read as follows:

(f) ***Occupational Safety and Health Act of 1970.*** This Agreement incorporates by reference the requirements of 29 CFR §1910 with the same force and effect as if given in full text. Manager must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Manager shall monitor its compliance and its contractors' and subcontractors' compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR §1910). Manager must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor Occupational Safety and Health Administration.

5. The following paragraphs are hereby added to **Section 6, Federal Non-Discrimination Provisions** of Exhibit B as follows:

Manager agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds Manager and any contractors or subcontractors from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

During the performance of this Agreement, Manager, for itself, its assignees, and successors in interest (hereinafter referred to as "Manager") agrees as follows:

a. **Compliance with Regulations.** Manager (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

b. **Nondiscrimination.** Manager, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Manager will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR §21.

c. **Solicitations for Subcontracts.** Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Manager for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Manager of Manager's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

d. **Information and Reports.** Manager will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Owner or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to Owner or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance.** In the event of a contractor's noncompliance with the Non-discrimination provisions of this Agreement, Owner will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to: (1) withholding payments to the contractor under the contract until the contractor complies; and/or (2) cancelling, terminating, or suspending a contract, in whole or in part.

f. **Incorporation of Provisions.** Manager will include the provisions of paragraphs a. through e. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Manager will take action with respect to any subcontract or procurement as the Airport or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Manager becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Manager may request Owner to enter into any litigation to protect the interests of Owner. In addition, Manager may request the United States to enter into the litigation to protect the interests of the United States.

g. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Agreement, Manager, for itself, its assignees, and successors in interest (hereinafter referred to as the "Manager") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation— Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 USC. §794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR §27;
- The Age Discrimination Act of 1975, as amended, (42 USC §6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §12131 12189) as implemented by Department of Transportation regulations at 49 CFR §37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 USC §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 CFR at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681 et seq.).

6. No Claims or Disputes; No Defaults or Termination Events. Owner and Manager acknowledge and agree that, as of the date of this Modification, neither Party has a pending claim against or dispute with the other Party under the Agreement; no Manager Event of Default, Owner Event of Default or Performance Termination Event has occurred; and, to such Party’s knowledge, no facts exist

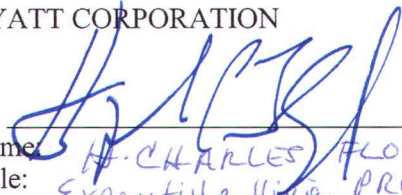
that constitute a potential claim, dispute, Manager Event of Default, Owner Event of Default or Performance Termination Event.

7. **Effective Date.** Each of the changes set forth in this Modification shall be effective on and after the date of this Modification.


8. **Legal Effect.** Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Modification on the day and year first above written.


HYATT CORPORATION

By 
Name: H. CHARLES FLOYD
Title: Executive Vice PRESIDENT and
Global PRESIDENT - OPERATIONS

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By 
Ivar C. Satero
Airport Director CF

Approved as to form:
DENNIS J. HERRERA,
City Attorney

By 
Brooke D. Abola
Deputy City Attorney