



Civil Engineers  
Structural Engineers  
Traffic Engineers  
Land Surveyors  
Landscape Architects  
Scientists

March 20, 2019

Heather R. Shank, PLA, AICP - City Planner  
Concord City Hall  
41 Green Street  
Concord, NH 03301

**RE: Major Site Plan Application  
Days Inn Redevelopment  
406 South Main Street  
Concord, NH 03301  
Tax Map 1, Block 2, Lot 3**

Dear Heather,

On behalf of our Client, Capital Hotel Company VI, LLC, please find attached materials associated with a major site plan application for the redevelopment of the Days Inn Site at the above noted address.

**Project Narrative:**

The proposed redevelopment project involves razing the existing site structures and construction of a 4-story 85-room hotel and 9,900 sf sit-down restaurant and patio with associated access, parking, drainage improvements, and utility infrastructure.

The existing site consists of a 40-room hotel, office building and outdoor swimming pool area. Site signage is located along I-93 and South Main Street (NH3A). These signs are proposed to remain and be refaced. A formal submittal from the signage vendor is pending. Municipal water and sewer, gas, electric service and telecom are currently available onsite or along South Main street and will be extended to the proposed uses.

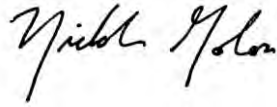
The project area contains varying degrees of elevation change with the majority of the developed site situated on a plateau approximately 10-feet above South Main Street (NH 3A) to the east. The site grade is fairly consistent with the abutting I-93 ROW to the north and west, and approximately 5-feet above the commercial developments on Lots 1-2-1 and 1-2-2 to the south. The developed portion of Lot 1-2-3 consists of a 2-story hotel, a 2-story office building, swimming pool, paved parking and access and landscape areas. Existing access is provided by a paved driveway off South Main Street (NH 3A). The redevelopment of the site currently proposes maintaining the majority of the site grades, with fill expected at the southwest corner of the site to accommodate a planned driveway interconnection with the abutting property to provide an alternate means of exiting the site. The existing driveway will substantially remain in the same location but will be expanded and striped to permit one entering lane and two exit lanes; a right turn lane and left turn lane. Parking is

provided on-site as well as in the form of leased parking within the NHDOT ROW, and on lots 1-2-1 and 1-2-2.

The proposed uses (hotel and restaurant with no drive-thru) are both allowable uses in the General Commercial District (CG). An NHDES alteration of terrain permit, NHDES sewer connection permit and City driveway permit be required.

Should there be any questions or concerns regarding this submittal or the project in general please do not hesitate to contact the undersigned at 472-4488 or [ngolon@tfmoran.com](mailto:ngolon@tfmoran.com).

Sincerely,  
TFMoran, Inc.

A handwritten signature in black ink, appearing to read "Nicholas Golon".

Nicholas Golon, P.E.  
Senior Project Manager



Civil Engineers  
Structural Engineers  
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Scientists

March 20, 2019

Heather R. Shank, PLA, AICP - City Planner  
Concord City Hall  
41 Green Street  
Concord, NH 03301

**Re: Waiver Request - Section 6.03(2)(c) Application Stages  
Days Inn Redevelopment  
406 South Main Street, Concord, NH 03301  
Tax Map 1, Block 2, Lot 3**

Dear Heather,

On behalf of our Client, Capital Hotel Company VI, LLC, we respectfully request a waiver from the above noted section – to notice the proposed project for determination of completeness and public hearing for the same night (April 17<sup>th</sup>), such that the project would have the opportunity to be approved in a one-step process if determined appropriate by City Staff and the Planning Board.

We understand the primary reasoning for the two-step process for major site plan review is to provide;

- 1) Additional time for City offices to review and comment as Major Site plans typically have a higher level of complexity to design the level of infrastructure required to support such a project, including potential off-site improvements associated with traffic
- 2) Adequate time to notify and educate abutters and the public about the proposed project

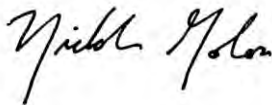
Although the project is classified as a Major Site Plan, it is important to note the hotel portion of the project has been before the Planning Board twice and during those proceedings there was discussion that a future component consisting of a restaurant would be coming before the Board at a date to be determined. As part of the hotel site plan submittal, a full Traffic Impact and Access Study (TIAS) was included that forecasted traffic impacts associated with the restaurant, such that no additional traffic study or associated review is required under this submittal. Utilities associated with the redevelopment of the hotel (municipal water, sewer, electric/telecommunications and gas) will similarly be extended from existing facilities, which area are all readily available on site. Design of the stormwater management system to attenuate and treat post-development stormwater flows is consistent with the same methodology as used on the hotel design.

The applicant has been diligent in their efforts to coordinate with abutters (as noted in correspondence provided with the original submittal in September) and City Staff. As the request is to allow the Planning Board the opportunity to open the public hearing at the

concurrence of City Staff and is not a request for formal action on the application, we see no harm in the request. The gain to the public in enforcing the two-step application process does not outweigh the harm to the applicant as the public is protected equally in either case. Should City Staff or the Planning Board find the level of information provided is not suitable to act on the application in one meeting, the Board can simply continue the project to the next available hearing date.

We feel this request is appropriate and consistent with the expectations of the Planning Board and that this Site Plan upholds the spirit of the Site Plan Regulations and public convenience and welfare will not be adversely affected. As such, we respectfully request a waiver from the sections identified.

Sincerely,  
**TFMoran Inc.**

A handwritten signature in black ink, appearing to read "Nicholas Golon". The signature is fluid and cursive, with the first name "Nicholas" and last name "Golon" clearly distinguishable.

Nicholas Golon, PE  
Senior Project Manager



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March 20, 2019

Heather Shank, PLA, AICP – City Planner  
City of Concord Planning Department  
41 Green Street  
Concord, NH 03301

**Re: Section 16.03(11) Signs - Waiver Request  
Days Inn Redevelopment  
406 South Main Street  
Concord, NH 03301  
Tax Map 1, Block 2, Lot 3**

Dear Heather,

On behalf of our Client, Capital Hotel Company VI, LLC, we respectfully request a waiver from Section 16.03(11) Signs of the Site Plan Regulations – to allow the applicant to provide site signage as a separate submittal at a later date.

Existing ground mounted signs are shown to remain in their current locations and be refaced. A separate signage vendor has been retained to provide the services of the sign design and this work is ongoing. We would propose that an acceptable signage submittal package be provided to the Planning Board for review and approval prior to a building permit being issued.

We feel this request is appropriate and consistent with the expectations of the Planning Board and that this Site Plan upholds the spirit of the Site Plan Regulations and public convenience and welfare will not be adversely affected. As such, we respectfully request a waiver from Section 16.03(11).

Sincerely,  
**TFMoran Inc.**

Nicholas Golon, PE  
Senior Project Manager



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March 20, 2019

Heather Shank, PLA, AICP – City Planner  
City of Concord Planning Department  
41 Green Street  
Concord, NH 03301

**Re: Waiver - Section 22.07(2) Stormwater Recharge  
Days Inn Redevelopment  
406 South Main Street  
Concord, NH 03301  
Tax Map 1, Block 2, Lot 3**

Dear Heather,

On behalf of our Client, Capital Hotel Company VI, LLC, we respectfully request a waiver from Section 22.07(2) Stormwater Recharge – to maintain 3-feet of separation where 4-feet is required between the bottom of an infiltrative system and groundwater, where a stormwater management system designed in accordance with NHDES Alteration of Terrain regulations is proposed.

The stormwater management system proposed has been designed in accordance with NHDES Alteration of Terrain regulations Env-Wq. 1500, which by their standard requires 3-feet of separation between the bottom of the practice and groundwater. In that the system has been designed to an appropriate specification in accordance with State standards we believe an appropriate standard of care has been provided.

We feel this request is appropriate and consistent with the expectations of the Planning Board and that this Site Plan upholds the spirit of the Site Plan Regulations and public convenience and welfare will not be adversely affected. As such, we respectfully request a waiver from Section 2.07(2).

Sincerely,  
**TFMoran Inc.**

Nicholas Golon, PE  
Senior Project Manager

# Orr&Reno

March 20, 2019

William L. Chapman  
George W. Roussos  
James E. Morris  
John A. Malmberg  
Douglas L. Patch  
Steven L. Winer  
Peter F. Burger  
Lisa Snow Wade  
Susan S. Geiger  
Jennifer A. Eber  
Jeffrey C. Spear  
Connie Boyles Lane  
Judith A. Fairclough  
Maureen D. Smith  
James F. Laboe  
Robert S. Carey  
Margaret R. Kerouac  
Jeremy D. Eggleton  
Julie R. Morse  
Antony K. Sayess  
Erin Vanden Borre  
Nicole M. T. Paul  
John M. Zarembo  
Heidi S. Cole  
Christine C. List  
Bradford W. Melson  
Lindsay E. Nadeau  
Nathaniel B. Morse  
Laura Jean Hartz  
Kelley L. Stonebraker

Heather Shank, City Planner  
41 Green Street  
3rd Floor  
Concord, NH 03301

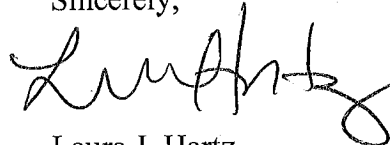
**Re: 406 South Main Street, Concord**

Dear Ms. Shank:

Enclosed please find the Application for Conditional Use Permit to accompany the Site Plan Application and application fee for 406 South Main Street, Concord, NH, submitted by T.F. Moran.

Please feel free to contact me should you have any questions.

Sincerely,



Laura J. Hartz

LJH/sch

Enclosures

-----  
Neil F. Castaldo  
(Of Counsel)

Capital Hotel Company VI, LLC

**Project Narrative**

Capital Hotel Company VI, LLC (“Capital Hotel”) seeks a conditional use permit to allow off-site parking as an alternative parking arrangement for 404-406 South Main Street (“Property”). The Property is in the General Commercial (CG) District, wedged between State Route 3A to the east and I-93 to the west and north. The Property is the former site of the Days Inn. Capital Hotel plans to build an 85-room hotel and 9,900 square foot restaurant.

The Property is well-suited for redevelopment. It has excellent visibility from I-93 and State Route 3A, and is easily accessible from Exit 12. The old Days Inn was functionally obsolete and required an update. The update includes a hotel and a restaurant. Capital Hotel plans to condominiumize the lot so that the hotel and restaurant are each their own units, with parking area as the limited common area. This redevelopment plan is an appropriate and best use of the Property. It increases the tax base for Concord by replacing one business with two, and promotes sustainable economic development by redeveloping previously developed land.

The Property has “hard” boundaries to the north, east, and west. The size and arrangement of the old Days Inn was not economically viable because it lacked modern amenities. Almost every hotel franchise requires a restaurant within walking distance. This is because co-location improves the viability of each business and the safety of the hotel’s staff and clientele, reducing the number of vehicle entries and exits from the Property as they seek meals during their stay in the area. This fact is especially important when, as here, there are few other neighboring places to eat. If the Property was to retain a hotel, it required a restaurant on the same lot.

The redevelopment of the Property requires a conditional use permit for an alternative parking arrangement for off-site parking. Capital Hotel plans to have 199 parking spaces for both uses, which includes the following 76 leased parking spaces:

- 37 spaces located on the northern, adjacent property owned by the state of New Hampshire;
- 16 spaces located on the southern, adjacent property, owned by 410 South Main Street LLC (lot 1-2-2); and
- 23 spaces on the south-western, adjacent property, owned by Irving Oil Properties NH Corp (lot 1-2-1).

Capital Hotel or its assigns have reached agreement with the property owners above as to each parking area. Capital Hotel has signed the lease for the 37 spaces on state land. The New Hampshire Department of Transportation and Long Range Capital Planning and Utilization Committee have also approved the lease. The Governor and Executive Council are expected to sign it in the near future. Capital Hotel and 410 Main Street LLC have each signed the lease for the 16 spaces on the 410 Main Street LLC property, and Capital Hotel and Irving have reached a deal in principle on as to the 23 spaces on Irving’s property.



**Consideration of Application under Art. 28-9-4(b):**

a. Specific Authorization for Conditional Use Permit. This conditional use permit is authorized by Article 28-7-11(a), which is intended to provide a “flexible alternative” to the parking requirements listed in the Ordinance.

b. Compliance with Requirements of Article and Specific Conditions and Standards in Ordinance. The Ordinance authorizes the Planning Board to issue a conditional use permit for off-site parking if the off-site parking is no more than 500 feet from the principal use and is appropriate for the characteristic and location of the use, and if the off-site parking can be provided without detriment to pedestrian and public safety. These requirements are met here:

- Each off-site parking location is located as close as possible to the principal use, far less than 500 feet;
- The off-site parking is allocated as limited common area for the use to which it is closest;
- The parking area design is standard for a hotel and restaurant parking area and will contain adequate lighting and ease of access from the spaces to the principal use.

Article 28-7-11(a) also requires that the off-site parking be located in the same district as the principal use or in another district where parking is permitted by right, special exception, or conditional use. On November 7, 2018, the Concord Zoning Board granted two variances to address this aspect of the conditional use permit. The ZBA granted a variance to Article 28-7-3, to permit dedicated off-site parking on adjacent land in the RO district and a variance to Article 28-2-4(j) to permit parking in the RO district where non-residential parking lots are not permitted as a principal use. These variances empowered the Planning Board to grant a conditional use permit for an alternative parking arrangement for the 37 spaces on the northern, adjacent lot owned by the State of New Hampshire.

c. No Endangerment to Public Health or Safety. The proposed off-site parking arrangements are a short walk to the restaurant and hotel, far less than 500’ from the principal uses which they serve. There is no risk to public health or safety.

d. Compatibility with Neighborhood and Adjoining and Abutting Uses in Area. The off-site parking arrangement will be compatible with adjoining and abutting uses in the area because many of these neighboring uses already feature parking lots or display of motor vehicle inventory (Grappone is right down the road). Both the hotel and restaurant are permitted uses in the CG district. Parking to support these uses is compatible with the surrounding uses. There are no residences in state land that is north of the Property and zoned RO, so there is no issue with compatibility with the neighborhood.

e. No Adverse Effect on Highway or Pedestrian Safety. There will be no adverse effect on highway or pedestrian safety. Safety for either Route 3A or I-93 is not implicated by this conditional use permit request. The site plan allocates parking to both uses and locates the parking for each use close as close to that use as possible, so as to minimize pedestrian travel in the parking lot. The site plan also provides a crosswalk and will be well-lit for pedestrian safety.

Conditional Use Permit Application  
March 20, 2019

The design focuses parking on the perimeter of the site, which is a short distance to the principal uses, because of the small size of the site.

f. No Adverse Effect on Natural, Environmental, and Historic Resources of City. Permitting off-site parking will not adversely affect the City's resources because the parking area will be adequately drained and landscaped. Some portion of the parking area off-site to the south is already built, no new lot coverage will be required.

g. Adequate Service by Public Utilities, Community Facilities and Services; No Excessive Public Expenditures. The extra parking spaces will not require additional public utilities, services, or expenditures. If anything, the approval of this arrangement will lessen public expenditure because of the lease payment from Capital Hotel to NH DOT for the parking area.

### **Conclusion**

Approving the conditional use permit for alternative parking off-site will be consistent with the Concord's Master Plan and economic development goals, which include:

- 1. Enhance the property tax base, either through strategic new development where appropriate, redevelopment, or a combination of the two.*
- 3. Retain, and encourage the expansion of, existing local businesses.*
- 5. Focus the City's economic development efforts primarily on redevelopment of previously developed areas. See Master Plan V-1 (2008).*

By approving the conditional use permit requested here, the Planning Board will be furthering the economic development goals articulated in the City's most recent Master Plan.

### **Professional Support (Continued)**

Hans Mertsch, T.F. Moran  
Licensed Land Surveyor  
48 Constitution Drive  
Bedford, NH 03110  
(603) 472-4488  
[hmertsch@tfmoran.com](mailto:hmertsch@tfmoran.com)



Victoria F. Sheehan  
Commissioner

**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF TRANSPORTATION**



William Cass, P.E.  
Assistant Commissioner

April 8, 2019

Stephen M. Duprey  
Duprey Hospitality  
49 South Main St.  
Concord NH 03301

Re: **Leasing of State Owned Land in Concord**  
**Bow-Concord LS1870 (1), P-3050-N**

Dear Mr. Duprey:

Enclosed is a copy of a fully executed lease between the Department of Transportation and Capital Hotel Company VI, LLC for the leasing of a 9,782 square foot portion of the Interstate 93, Exit 12 right of way located in the City of Concord

The payment for the first year of this lease for the period of April 1, 2019 to March 31, 2019 is \$8,600.00 dollars which is the yearly lease amount of \$7,500 plus the Administrative Fee of \$1,100.00

I would appreciate you forwarding a check for the amount of \$8,600.00 made payable to "Treasurer, State of New Hampshire." to the address specified in Section 3.1 of the lease

I appreciate your attention on this matter.

Sincerely,

Phillip J. Miles  
Chief of Property Management

PJM/sjn  
Enclosure

Bureau of Right-of-Way  
JO Morton Building - Room 100  
7 Hazen Drive  
PO Box 483  
Concord, NH 03302-0483  
Tel: (603) 271-3222  
Fax: (603) 271-6915

Land Lease  
Concord, NH

- COMMERCIAL LEASE -

between

STATE OF NEW HAMPSHIRE  
"LANDLORD"

AND

Capital Hotel Company VI, LLC  
"LESSEE"

for property located at  
I-93-Exit 12, Concord

April 1, 2019 – March 31, 2024

Supplemental document checklist

  J  

Certificate of Insurance w/ additional insured clause

  J  

Signatory Authorization / Certificate of Authority

  J  

Certificate of good standing

Renewal

Amendment(s)

  PSM  

Property Management Initials

  PSM  

DOT Initials



## COMMERCIAL LEASE

THIS LEASE AGREEMENT, made between The State of New Hampshire, Department of Transportation, hereinafter called the "Landlord," and Capital Hotel Company VI, LLC, hereinafter called the "Lessee."

WHEREAS, the Landlord is the owner of the hereinafter described property, which is not immediately required by the Landlord in connection with construction of a proposed highway project which abuts or may affect the property, and has been requested by the Lessee to lease the property, on an "as is" basis.

WHEREAS, the Landlord is willing to comply with said request, provided that the Lessee, as a condition to the occupancy of said Premises, joins in the execution of this Lease Agreement for the purpose of accepting each and every condition herein set forth during the occupancy of said Premises by the Lessee.

### 1. DEMISE OF THE PREMISES

- 1.1. For and in consideration of the rent and the mutual covenants hereinafter stated, and the acceptance by the Lessee of each and every term and condition herein set forth, the Landlord hereby leases and demises to the Lessee the Premises located at:

I-93-Exit 12, Concord as depicted on Attachment A incorporated herein

### 2. TERM

- 2.1. The term of this Lease shall begin on April 1, 2019 and shall end on March 31, 2024, unless terminated sooner in accordance with the provisions of this Lease.

### 3. RENT

- 3.1. Rent shall be \$7,500.00 per year plus an one time Administrative Fee of \$1,100.00 with the option for an additional five years at the established fair market value, subject to the conditions specified in this request. Rent is due upon or before the first day of each calendar month, payable to the "TREASURER, STATE OF NH" and mailed to: **New Hampshire Department of Transportation, Bureau of Finance and Contracts, P.O. Box 483, Concord, NH 03302.**
- 3.2. Per RSA 72:23, I(b)(1), the Lessee is solely responsible for any and all current and potential properly assessed real and personal property taxes no later than the due date as established by the taxing authority, including any real or personal property taxes on improvements added by the Lessee.
- Per RSA 72:23, I(b)(4), "Failure of the Lessee to pay the duly assessed personal and real estate taxes when due shall be cause to terminate said lease or agreement by the Lessor."
- 3.3. The Lessee is required to forward to the Lessor any information or communications from the taxing authority within 5 days of the Lessee's receipt of such information or communications.

3.4. The Lessee shall pay as additional rent any and all costs not otherwise included herein that may result from the operation of **a restaurant and hotel parking lot**.

3.5. The Landlord reserves the right to reevaluate the rent after the five (5) year term if subsequent lease terms are granted.

#### 4. QUIET ENJOYMENT

4.1. Landlord covenants and agrees that so long as the Lessee is not in default of any of the covenants and agreements of this Lease, the Lessee's quiet and peaceful enjoyment of the Premises shall not be disturbed or interfered with by the Landlord or any person claiming by or through the Landlord.

#### 5. USE OF PREMISES

5.1. The Lessee shall use the leased premises only for the business purpose of **a restaurant and hotel parking lot**. Neither the Premises nor any part thereof shall be used at any time during the term of this Lease by the Lessee for the purpose of habitation or carrying on any other business, profession or trade of any kind.

5.2. Prohibitions:

5.2.1. No Lessee, visitor, customer, client, supplier, family member or other invitee of Lessee may park any motorized vehicle on the lawn area or any other area, which is not designated specifically for parking.

5.2.2. The Lessee shall not use the Premises in any manner that will disturb a neighbor's peaceful enjoyment of other property.

5.2.3. No open fires of any kind are allowed on the premises in any manner. No fire permits will be issued to tenants.

5.2.4. No pools, hot tubs, or trampolines of any kind are allowed on the premises.

5.2.5. No unregistered motorized vehicles shall be stored upon the Premises.

5.2.6. There will be no access to either Interstate 93 or NH Route 3A from this parcel. Access will be from the abutting parcel.

5.3. Violations of this section shall be grounds for eviction.

#### 6. COMPLIANCE WITH LAWS

6.1. The Lessee shall comply with all the laws, ordinances, rules and order of appropriate governmental authorities during the term of this Lease.



- 6.2. The Lessee acknowledges that no trade or occupations shall be conducted in the leased Premises or use made thereof which will be unlawful, improper, noisy, or offensive or contrary to any law or municipal By-law or Ordinance in force in the city or town in which the Premises is situated.
- 6.3. The Lessee shall obtain and maintain any and all permits necessary for the operation of a **restaurant and hotel parking lot** as described in section 5.1.

## 7. MAINTENANCE OF PREMISES

- 7.1. The Lessee acknowledges that the Premises are in good order and repair at the beginning of the Lease term.
- 7.2. The Lessee will, at the Lessee's sole expense, keep and maintain the Premises in a clean, sanitary and safe condition and repair during the term of this Lease and any renewal thereof.
- 7.3. The Lessee Shall be responsible for ice and snow removal from, parking lots, walks and driveways and any other needed areas.
- 7.4. The Lessee shall be responsible for any damage caused during this tenancy. The Lessee shall be responsible to pay for all repairs to the Premises and fixtures or appurtenances that may have been damaged by the Lessee's misuse, waste or neglect, or that of the Lessee's visitor, customer, client, supplier, family member or other invitee.
- 7.5. No compensation shall be payable to the Lessee nor shall the Lessee have any right to claim compensation for loss, damage, inconvenience, or annoyance arising from the necessity of repairing any portion of the building or unit, its fixtures or appurtenances however the necessity may occur.
- 7.6. The Lessee shall return the Premises to the Landlord in as good order condition and repair as when received, excluding reasonable wear and tear.
- 7.7. The Lessee agrees to be responsible for all repair costs resulting from the operation of a **restaurant and hotel parking lot**. The Landlord reserves the right to select the persons or company to perform any such repairs. The Landlord shall not incur any repair costs as a result of this lease.

## 8. DAMAGE TO PREMISES

- 8.1. The Lessee is liable for all actions, neglect, damages, and behaviors of their visitors, customers, clients, suppliers, family members or other invitees.
- 8.2. If the Premises are damaged so as to render them untenable, then either party shall have the right to terminate this Lease as of the date on which the damage occurs, through written notice to the other party, to be delivered within ten (10) days after the occurrence of such damage. However, should the damage or destruction occur as a result of any act or omission

on the part of the Lessee or its invitees, then only the Landlord shall have the right to terminate the Lease.

- 8.3. Should the right to terminate be exercised, the rent for the current month shall be prorated between the parties as of the date the damage occurred.

## 9. ALTERATIONS AND IMPROVEMENTS

- 9.1. The Lessee shall make no alterations to the Premises or construct any buildings or make other improvements on the Premises without the prior written consent of the Landlord.
- 9.2. Improvements and / or repairs should be coordinated with the Bureau of Turnpikes, PO Box 16476, Hooksett NH 03106, 603-485-3806
- 9.3. The Lessee is responsible for removing all improvements upon the expiration or termination of this lease.

## 10. ENTRY AND INSPECTION

- 10.1. Whenever practical the Landlord shall provide the Lessee with 24 hours notice prior to entry. The Landlord or its agent shall inspect the Premises a minimum of two (2) times in each calendar year. Any indication of Lease violations shall be grounds for eviction.
- 10.2. The Landlord retains the right to enter the Premises in the case of an emergency, or to make necessary repair, alterations, improvements, or to supply necessary or agreed services, or to exhibit the Premises to prospective purchasers or Lessees, workers, contractors, or others, or when the Lessee has abandoned or surrendered the Premises, or whenever necessary to determine the condition of the Premises.

## 11. ASSIGNMENT AND SUBLETTING

- 11.1. The Lessee shall not assign this Lease, or sublet or grant any concession or license to use the Premises or any part thereof.
- 11.2. The Lessee shall be permitted to continue operating a **restaurant and hotel parking lot**, until the termination of this Lease.

## 12. UTILITIES

- 12.1. The Lessee shall be responsible for arranging for and paying for all utility services required on the Premises except for those identified as "included with rent" in the following section.
- 12.2. Utilities included with rent: None . Landlord/Agent initials: JEA



### **13. DANGEROUS MATERIALS**

- 13.1. The Lessee shall not keep or store any article or thing of a dangerous, inflammable, or explosive character that might unreasonably increase the danger of fire on the Premises or that might be considered hazardous or extra hazardous unless properly stored and previously approved by NHDOT.

### **14. INSURANCE**

- 14.1. The Lessee shall provide to the Landlord proof of insurance demonstrating that the required coverage has been obtained before taking possession of the Premises and thereafter upon renewal of the policy.
- 14.2. The Lessee shall provide a minimum Comprehensive General Liability coverage: \$1,000,000.00 per incident, unless insurance of a different type and in higher amounts is customary. Lessee shall keep same in force, at Lessee's expense, throughout Lessee's tenancy.
- 14.3. The State of New Hampshire Department of Transportation **shall be named as additional insured** on all insurance purchased pursuant to this Lease.

### **15. HOLDOVER BY LESSEE**

- 15.1. No holdover by Lessee will be permitted. The Landlord and the Lessee must execute a new lease on or before expiration of an existing lease in order for a Lessee to remain in possession of the Premises.

### **16. DEFAULT**

- 16.1. The Landlord shall be the sole judge of what shall constitute a violation of the provisions of the Lease, or the failure of the Lessee to otherwise abide by any of the covenants herein contained, and may order a discontinuance of the practices, or the performance of any work related to such default by giving the Lessee 10 days notice in writing. Failure of the Lessee to comply with the notice shall automatically give the Lessor the right to terminate this Lease Agreement, evict the Lessee and take full and complete possession of the Premises.

### **17. TERMINATION OF LEASE FOR CAUSE**

- 17.1. In the event that the Lessee shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for 7 days after written notice, thereof, or if the Lessee shall default in the observance or performance of any other of the Lessee's covenants, agreements, or obligations hereunder and such default shall not be corrected within 30 days of written notice by the Landlord to the Lessee specifying such default and requiring it to be remedied then, and in such an event, the Landlord may serve a written notice of termination of this Lease upon the Lessee and this Lease and the Term hereunder shall

terminate and upon such termination Landlord may immediately or at any time thereafter, without demand or notice enter into or upon the Premises and repossess the same.

- 17.2. The Landlord shall be entitled to recover incidental costs, attorney's fees, and court costs from the tenant if it becomes necessary for the Landlord to institute suit for eviction, damages, rental arrears or violations of the terms of this lease.

## 18. TERMINATION FOR CONVENIENCE

- 18.1. The Landlord may terminate the Lease at any time by giving at least a 90 day notice thereof in writing, and may take full and complete possession of the premises hereby leased, at the end of said 90 day period with no further liability of any nature whatsoever to the Lessee for doing so. Should the Landlord terminate this Lease Agreement by giving the 90 day notice during any period for which a full month's rent has already been paid, the Landlord will reimburse the Lessee for the pro-rata proportion of the remaining number of days for which rent has been paid in advance but during which the Lessee no longer occupy the Premises.
- 18.2. Notwithstanding the foregoing, and without limiting Landlord's rights pursuant to the Section 18.1, as of the execution of the Lease Agreement the Landlord does not anticipate terminating this Lease for convenience unless it shall determine that the Premises are necessary in order to complete the proposed Concord Interstate 93 expansion project or for other highway purposes.
- 18.3. The Lessee may terminate this Lease Agreement at any time by giving at least a 30 day notice in writing, specifying in said notice to day (and time of day) on which possession of the Premises will be surrendered. The Lessee shall not vacate or leave the Premises unattended on the day of surrender until the Landlord's representative shall have sufficient time to check the Premises prior to taking formal possession thereof. In the event that the Lessee shall terminate this Lease Agreement in accordance with the above provisions, payment of rent shall cease at the end of the said 30 day period, or at the end of the day on which possession shall be surrendered, whichever shall last occur.

## 19. SURRENDER OF THE PREMISES

- 19.1. In the event that the Term or any extension thereof shall have expired or terminated, the Lessee shall peacefully quit and surrender to Landlord the Premises together with all improvements, alteration, or additions made by the Lessee which cannot be removed without damaging the Premises.
- 19.2. The Lessee shall remove all personal property and shall repair any damage caused by such removal. The Lessee's obligations to observe or perform the covenants contained herein shall survive the expiration or termination of this Lease.
- 19.3. The Lessee shall return the Premises to the Landlord as in good order, condition and repair as when received, excluding reasonable wear and tear.



## 20. INDEMNIFICATION AND RELEASE FROM LIABILITY

- 20.1. The Lessee shall defend, indemnify, and hold harmless the State, its officers, agents and employees, from and against any and all losses suffered by the State, its officers, agents and employees, and any and all claims, liabilities or penalties asserted against the State, its officers, agents and employees, by or on behalf of any person on account of, based on or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Lessee or from the use or maintenance of the above described Premises.
- 20.2. The Lessee further releases the Landlord, its agents and employees, from any and all claims or demands for damages or injuries of any nature whatsoever attributable to the taking, use and occupancy of any portion of the Premises caused by the construction and maintenance by the State of New Hampshire of any proposed highway and/or bridge project which abuts (or will abut) or may affect in any way the property herein leased.

## 21. DISCRIMINATION PROHIBITED

- 21.1. The Lessee hereby covenants and agrees that no person on the grounds of race, color, creed, national origin, age, sex or sexual orientation, shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination of the use of the Premises and that in the construction of any improvements on, over or under such Premises and the furnishing of services thereon. The Lessee shall use the Premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulation, Department of Transportation – Effectuation of Title VI of the Civil Right Act of 1964, and as said Regulations may be amended.
- 21.2. The Lessee for herself/himself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event that facilities are constructed, maintained, or otherwise operated on the said property described in this Lease for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provisions of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of Federally-Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.
- 21.3. That in the event of breach of any of the above nondiscrimination covenants, the State of New Hampshire shall have the right to terminate the Lease and to re-enter and repossess said land and facilities thereon, and hold the same as if said Lease had never been issued.

## 22. MISCELLANEOUS

- 22.1. **Landlord's Agents.** All rights and obligations of the Landlord under this lease may be performed or exercised by such agents as the Landlord may select.

- 22.2. **Notice.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by registered or certified mail, postdate prepaid, in a United States Post Office.
- 22.3. **Extent of Instrument, Choice of Laws, Amendment, etc.** This Lease, which may be executed in a number of counterparts, each of which shall have been deemed an original, but which shall constitute one and the same instrument, is to be construed according to the Laws of the State of New Hampshire, is to take effect as a sealed instrument, is binding upon, inures to the benefit of, and shall be enforceable by the parties hereto and their respective successors and assigns, and may be canceled, modified, or amended only by a written instrument executed and approved by the Landlord and the Lessee.
- 22.4. **No Waiver of Breach.** No assent, by either party, whether express or implied, to a breach of covenant, condition or obligation by the other party, shall act as a waiver of a right of action for damages as a result of such breach, or shall be construed as a waiver of any subsequent breach of the covenant, condition or obligation.
- 22.5. **Unenforceable Terms.** If any terms of this Lease or any application thereof shall be invalid or unenforceable, the remainder of the Lease and any application of such term shall not be affected thereby.
- 22.6. **Entire Agreement.** This Lease embodied the entire Agreement and understanding between the parties hereto and supersedes all prior Agreements and understanding relating to the subject matter hereof.
- 22.7. **No Waiver of Sovereign Immunity.** No provision in this Lease is intended to be or shall it be interpreted by either party to be a waiver of the State's sovereign immunity.
- 22.8. **Lessee Liability.** All Lessees accept joint and several liability for all Lessee responsibilities of this lease.

### 23. Amendments

None



IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year first above written.

LANDLORD:

The State of New Hampshire  
Department of Transportation

By: [Signature] Date 3/13/19  
Victoria F. Sheehan, Commissioner

LESSEE:

Capital Hotel Company VI, LLC

By: [Signature] Date 3/9/19  
Name/Title: STEPHEN M. DUPREY, MANAGER

Principal Office Address

DUPREY HOSPITALITY  
49 SOUTH MAIN ST  
CONCORD NH 03301

Phone: 603-333-2131

Email: sduprey@foxfirenh.com

Approved by Attorney General this 19 day of March 2019, as to form and execution.

By: [Signature]  
Assistant Attorney General

# REFERENCE PLANS

1. CONCEPT SITE PLAN  
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## NOTES

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October 12, 2017

CONCEPTUAL DRAWING  
Not For Construction

## CONCEPTUAL SITE PLAN

405 S MAIN ST  
CONCORD, NH  
OWNED BY  
CAPITAL COMPANY, LLC  
PREPARED FOR  
CAPITAL COMPANY, LLC  
OCTOBER 12, 2017

SCALE: 1"=50'

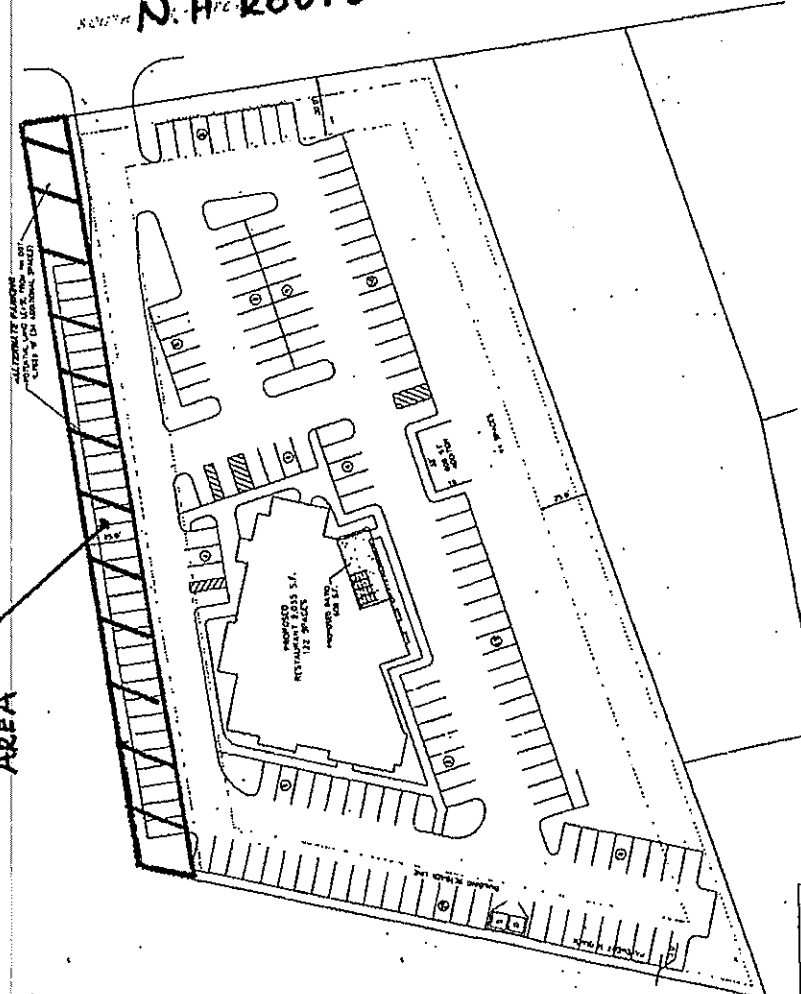


Site Engineer  
Traffic Engineer  
Surveyor  
Professional Seal  
T. F. M. Inc.  
1000 Main Street  
Concord, NH 03301  
(603) 457-4545  
www.tfm-inc.com

DATE	BY	REVISION
2017-10-12	TFM	CONCEPT

N. H. ROUTE 3A

LEASE AREA



INTERSTATE 93

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It is to be used only for the project and location for which it was prepared.  
It is not to be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or by any information storage and retrieval system, without the prior written permission of TFM, Inc.

*Certificate of Authority*

Resolution

I, Stephen M. Duprey, hereby certify that I am the sole Manager of Capital Hotel Company VI, LLC and that the following is a true copy of a vote taken at a meeting of the Manager by unanimous written consent with an intended effective date of 3/9, 2019.

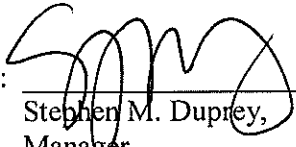
VOTED: That Stephen M. Duprey, Manager, is duly authorized to enter into a commercial lease on behalf of Capital Hotel Company VI, LLC, as Lessee, and the State of New Hampshire, as Landlord, pertaining to property located at I-93-Exit 12, Concord, New Hampshire, for the period May 1, 2019 through April 30, 2024, as such term may be extended as provided therein, and further is authorized to execute any documents which may in his judgment be desirable or necessary to effect the purpose of this vote.

I hereby certify that said vote has not been amended or repealed and remains in full force and effect as of the date hereof. I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person listed above currently occupies the position indicated and that he has full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein.

*[Signature on next page]*

IN WITNESS WHEREOF, the undersigned has executed this Resolution as of the date first above written.

DATED: 3/9, 2019

ATTEST:   
Stephen M. Duprey,  
Manager

2368495\_1



# State of New Hampshire

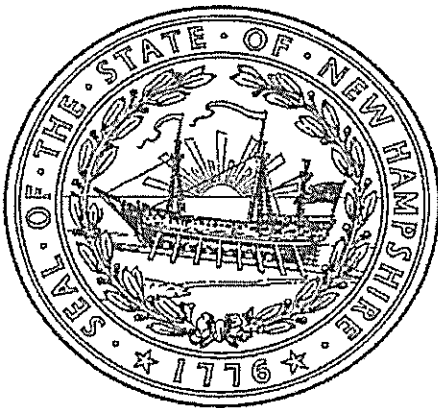
## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that CAPITAL HOTEL COMPANY VI, LLC is a New Hampshire Limited Liability Company registered to transact business in New Hampshire on November 13, 2015. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 734656

Certificate Number: 0004428337



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 5th day of March A.D. 2019.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State



## Additional Named Insureds

### Other Named Insureds

Capital Hotel Company I, LLC

Capital Hotel Company II, LLC

Capital Hotel Company III, LLC

Capital Hotel Company IV, LLC

Capital Hotel Company V, LLC

Capital Hotel Company VI, LLC

Duprey Hospitality LLC

Stephen Duprey

Steves Greens LLC

The Duprey Company, LLC

Duprey Service Company, LLC

## PARKING LEASE

This Parking Lease (the “Lease”) is made this \_\_\_\_ day of March, 2019 between IRVING OIL PROPERTIES NH CORP (f/k/a Cobalt Properties NH Corp), a Maine corporation with an address at P.O. Box 1421, Saint John, New Brunswick, Canada, Postal Code E2L 4K1 (the “Landlord”) and CAPITAL HOTEL COMPANY VI, LLC, a New Hampshire limited liability company with a mailing address of 2 Pillsbury Street, Suite 500, Concord, New Hampshire 03301 (the “Tenant”).

1. Description of Premises. Landlord hereby agrees to lease to Tenant, and Tenant hereby agrees to accept, subject to the terms and conditions hereinafter set forth, a portion of that certain real property owned by Landlord and situated at 414 South Main Street in Concord, New Hampshire (the “Landlord’s Property”), as more particularly shown on Exhibit A attached hereto and made a part hereof (the “Premises”). Notwithstanding anything to the contrary set forth herein, Landlord expressly reserves the right to enter upon the Premises for purposes of accessing its existing signage located on Landlord’s Property, and in the exercise of such rights, Landlord agrees to use reasonable efforts to minimize any interference with Tenant’s use of the Premises.
2. Term. The Term of this Lease shall commence on May 1, 2019 (the “Commencement Date”) and shall expire on April 30, 2029 (the “Expiration Date”). Tenant shall have the right to extend the Term of this Lease for three (3) successive periods of five (5) years each (each, a “Renewal Term”) provided (i) Tenant shall give written notice to the Landlord of the exercise thereof not later than ninety (90) days prior to the expiration of the then-current Term (initial or renewal), and (ii) the Tenant shall not be in default hereunder beyond any applicable notice and grace periods. If said option(s) are duly exercised as aforesaid, then the Term of this Lease shall be extended for the next ensuing Renewal Term without the requirement of any further instrument upon all of the same terms, provisions and conditions set forth in this Lease, except that the Rent payable with respect to each Renewal Term shall be increased by 5% over the Rent payable with respect to the immediately preceding Term (initial or renewal).
3. Rent. During the initial Term hereof, Tenant agrees to pay rent to Landlord (the “Rent”) in the total amount of \$10,000.00 per annum. Rent shall be due upon the Commencement Date and on each anniversary of the Commencement Date occurring during the Term thereafter.
4. Permitted Use. Tenant shall use the Premises solely as a vehicular parking area for its designees, including, but not limited to, guests and employees of the hotel and restaurant to be constructed on Tenant’s land located at 406 South Main Street (the “Permitted Use”). Tenant agrees to comply with any and all applicable federal, state and local laws, regulations, rules and ordinances governing the Permitted Use. In addition, Tenant agrees that in its use and occupancy of the Premises pursuant to this Lease, it shall not unreasonably interfere with Landlord’s business operations on Landlord’s Property.
5. Tenant’s Initial Work; Alterations. Tenant shall have the right, during the Term, to construct parking areas to be used for the Permitted Use on the Premises (“Tenant’s

Initial Work”). Tenant’s Initial Work shall be performed at Tenant’s sole cost and expense, shall comply with all applicable laws and regulations, and shall be performed in a good and workmanlike manner. Except for Tenant’s Initial Work, Tenant shall not build on or make any improvements or alterations to the Premises without the written consent of Landlord, and in no event shall any such improvements or alterations negatively impact drainage on Landlord’s Property. Tenant agrees promptly to discharge of record (either by payment or by filing of the necessary bond, or otherwise) any mechanics’, materialmen’s, or other lien or like filing including, without limitation, any notice of contract against the Premises and/or Landlord’s interest therein, which liens may arise out of any payment due for, or purported to be due for, any labor, services, materials, supplies, or equipment alleged to have been furnished to or for Tenant in, upon or about the Premises. For its part, Landlord shall not make any alterations or improvements to the Premises which would materially interfere with the Permitted Use.

6. Maintenance. Tenant represents that it has inspected and examined the Premises and accepts them in their present condition. Tenant shall be responsible, at Tenant’s sole cost and expense, for maintaining the Premises in good order and condition, reasonable wear and tear excepted. Tenant’s maintenance obligation shall include repairing and maintaining (including replacing, if deemed necessary in Landlord’s reasonable judgment), any and all parking areas on the Premises, all at Tenant’s sole cost and expense. Tenant shall also be responsible, at its sole cost, for and removing snow and ice from any parking areas on the Premises.

7. Events of Default; Remedies.

- (A) *Events of Default Defined.* The following shall be “Events of Default” under this Lease and the terms “Events of Default” or “Default” shall mean, whenever they are used in this Lease, any one or more of the following events:
- (i) Failure of Tenant to pay Rent for a period of fifteen (15) days following receipt of written notice from Landlord that the same is past due; and
  - (ii) Failure by Tenant to observe and perform any covenant, condition, or agreement on its part in this Lease to be observed or performed (other than as referred to in subsection (a) above) for a period of thirty (30) days after written notice from Landlord specifying such failure and requesting that it be remedied unless Tenant has, within said thirty (30) days, commenced with all due diligence to cure said default, in which the time period allowed Tenant shall be extended for such time period as may reasonably be required to cure such default, but in any event not beyond an additional sixty (60) days.
- (B) *Remedies on Default.* Whenever any Event of Default shall have occurred and shall not have been cured prior to the expiration of any applicable grace or cure period set forth therein, Landlord, at its option, may re-enter and take possession of the Premises with such notice and demand as may be required by applicable law and take possession of the Premises, thereby terminating this Lease.

8. Indemnification. Tenant agrees to indemnify Landlord, its employees and officers from any and all liability, loss, or damages which Landlord becomes legally obligated to pay as a result of claims, demands, costs or judgments against Landlord arising out of Tenant's occupancy and use of the Premises and caused by or arising out of the negligence of Tenant, its agents, employees, guests and invitees. Landlord agrees to indemnify Tenant, its invitees, tenants, occupants, guests and invitees, successors, assigns, employees and officers from any and all liability, loss, or damages which Tenant becomes legally obligated to pay as a result of claims, demands, costs or judgments against Tenant arising out of the negligence of Landlord, its agents, employees and invitees in connection with Landlord's ownership of the Premises.
9. Insurance. Tenant shall maintain throughout the Term of this Lease a comprehensive general liability insurance policy naming Landlord as an additional insured against all claims and demands for any injury to person or property which may be claimed to have occurred on or about the Premises. The insurance shall have minimum limits of \$1,000,000 per occurrence / \$2,000,000 annual aggregate, and Tenant agrees to provide a copy of its insurance certificate to Landlord from time to time upon request.
10. Subletting and Assignment. Neither party shall assign or pledge this Lease or its leasehold interest hereunder in whole or part without the consent of the other party, not to be unreasonably withheld, conditioned or delayed.
11. Fees and Expenses. In the event that Landlord and Tenant are involved in any litigation regarding the performance of any of their obligations under this Lease, the unsuccessful party by final order, decree or judgment in such litigation by a court of competent jurisdiction shall reimburse the successful party for all reasonable legal fees and expenses incurred by such successful party in connection with obtaining such final order, decree or judgment. Within thirty (30) days following Landlord's invoice, Tenant shall reimburse Landlord for its legal fees incurred in connection with the negotiation of this Lease, not to exceed \$3,000.00. Each party hereto agrees, on request of the other, to execute a Notice of Lease in recordable form and complying with applicable laws of the State of New Hampshire, and reasonably satisfactory to Tenant's and Landlord's attorneys. The party requesting such Notice of Lease shall be responsible for the fees to record the same.
12. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, or sent by a nationally-recognized courier by overnight delivery, to the parties' addresses first set forth above.
13. Surrender of the Premises. Except as otherwise provided in this Lease, Tenant shall, upon the expiration or earlier termination of this Lease for any reason whatsoever, surrender the Premises to Landlord in good order, condition and repair, reasonable wear and tear and casualty excepted, and free of all tenants and personal property of Tenant.
14. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon Landlord, Tenant, and their legal representatives, successors, and assigns.

15. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction or by any future legislative action, such holding or such action shall not invalidate or render unenforceable any other provisions hereof.
16. Amendments, Changes and Modifications. This Lease may be amended, changed, modified, altered or terminated only with the written consent of the parties hereto.
17. Applicable Law. This Lease shall be governed exclusively by the applicable laws of the State of New Hampshire.
18. Execution of Counterparts. This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*[Remainder of page intentionally left blank]*

IN WITNESS WHEREOF, the parties have executed this Lease on the date above stated.

**LANDLORD:**

IRVING OIL PROPERTIES NH CORP

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name:  
Title:  
Hereunto duly authorized

**TENANT:**

CAPITAL HOTEL COMPANY VI, LLC

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name:  
Title:  
Hereunto duly authorized



EXHIBIT A

Plan of Premises

*[To be attached]*

## PARKING LEASE

This Parking Lease (the "Lease") is made this 6<sup>th</sup> day of November, 2018 between 410 SOUTH MAIN STREET LLC, a New Hampshire limited liability company with an address at 96 Bow Lake Estates Road, Strafford, New Hampshire 03884-6706 (the "Landlord") and CAPITAL HOTEL COMPANY VI, LLC, a New Hampshire limited liability company with a mailing address of 2 Pillsbury Street, Suite 500, Concord, New Hampshire 03301 (the "Tenant").

1. Description of Premises. Landlord hereby agrees to lease to Tenant, and Tenant hereby agrees to accept, subject to the terms and conditions hereinafter set forth, sixteen (16) parking spaces located on the westerly portion of that certain parking lot (the "Landlord's Parking Lot") owned by Landlord and situated at 410 South Main Street in Concord, New Hampshire (the "Landlord's Property"), as more particularly shown on Exhibit A attached hereto and made a part hereof (the "Premises").
2. Term. The Term of this Lease shall commence on November 1, 2018 (the "Commencement Date") and shall expire on October 31, 2023 (the "Expiration Date"). The Term of this Lease shall automatically renew for five (5) successive periods of five (5) years each (each, a "Renewal Term"), unless Tenant notifies Landlord prior to the end of the then-current term of its intention not to so extend the Term.
3. Rent. For and with respect to the first year of the Term, Tenant agrees to pay rent to Landlord (the "Rent") in the total amount of \$12,700.00. The Rent for each year during the Term thereafter (including the Renewal Term(s), as applicable), shall be subject to annual adjustment in accordance with the one-year change in the Consumer Price Index for the Northeast as of the preceding year; provided, however, that in no event shall the Rent payable for any year of the Term be less than the Rent payable for the immediately preceding year. Rent shall be due upon the Commencement Date and on each anniversary of the Commencement Date occurring during the Term thereafter.
4. Permitted Use. Tenant shall use the Premises solely as a vehicular parking area for its designees, including, but not limited to, guests and employees of the hotel on Tenant's adjacent land and the restaurant to be constructed on Tenant's adjacent land (the "Permitted Use"). In no event shall the Premises be used as a means of access to any property adjacent to the Premises. Tenant agrees to comply with any and all applicable federal, state and local laws, regulations, rules and ordinances governing the Permitted Use. Landlord shall not make any alterations or improvements to the Premises which would materially interfere with the Permitted Use. Tenant shall not build on or make any improvements or alterations to the Premises without the written consent of Landlord. The parties agree that Landlord, upon prior notice to Tenant, shall have the right to use the Premises with Tenant on a non-exclusive basis if the remainder of the Landlord's Parking Lot is at full capacity and the parking lot located on Tenant's adjacent land is not at full capacity.
5. Maintenance. Tenant represents that it has inspected and examined the Premises and accepts them in their present condition. Tenant agrees to make all repairs to the Premises, except those made necessary by the negligence of Landlord, at Tenant's sole

cost and expense, and to maintain the Premises and access to the Premises in as good order and condition as they were at the commencement of the Term of this Lease, reasonable wear and tear excepted. Such maintenance obligation shall include crack filling, sealing and restriping the entire area of the Landlord's Parking Lot prior to Tenant's first use of the Premises and thereafter as frequently as the parties reasonably deem necessary. All such work shall be completed by Tenant only on weekend days. Tenant shall perform its maintenance obligations hereunder in such a manner as to minimize any disruption to other tenants or occupants of the Landlord's Property. In addition, Tenant shall reimburse Landlord for one-half of the cost of repaving the Landlord's Parking Lot from time to time; provided, however, that Tenant's reimbursement obligation shall only apply to one such repaving in any seven (7) year period. Landlord shall be responsible, at its sole cost and expense, for removing accumulations of snow and ice from the Landlord's Parking Lot, including the Premises.

6. Events of Default; Remedies.

- (A) *Events of Default Defined.* The following shall be "Events of Default" under this Lease and the terms "Events of Default" or "Default" shall mean, whenever they are used in this Lease, any one or more of the following events:
- (i) Failure of Tenant to pay Rent for a period of fifteen (15) days following receipt of written notice from Landlord that the same is past due; and
  - (ii) Failure by Tenant to observe and perform any covenant, condition, or agreement on its part in this Lease to be observed or performed (other than as referred to in subsection (a) above) for a period of thirty (30) days after written notice from Landlord specifying such failure and requesting that it be remedied unless Tenant has, within said thirty (30) days, commenced with all due diligence to cure said default, in which the time period allowed Tenant shall be extended for such time period as may reasonably be required to cure such default, but in any event not beyond an additional sixty (60) days.
- (B) *Remedies on Default.* Whenever any Event of Default shall have occurred and shall not have been cured prior to the expiration of any applicable grace or cure period set forth therein, Landlord, at its option, may re-enter and take possession of the Premises with such notice and demand as may be required by applicable law and take possession of the Premises, thereby terminating this Lease.

7. Indemnification. Tenant agrees to indemnify Landlord, its employees and officers from any and all liability, loss, or damages which Landlord becomes legally obligated to pay as a result of claims, demands, costs or judgments against Landlord arising out of Tenant's occupancy and use of the Premises and caused by or arising out of the negligence of Tenant, its agents, employees, guests and invitees. In addition, Tenant shall hold Landlord, its employees and officers harmless from claims of personal injury arising from winter conditions on the Premises, except to the extent such claims arise from Landlord's negligence in performing its snow and ice removal obligations pursuant to

Section 5 hereof. Landlord agrees to indemnify Tenant, its invitees, tenants, occupants, guests and invitees, successors, assigns, employees and officers from any and all liability, loss, or damages which Tenant becomes legally obligated to pay as a result of claims, demands, costs or judgments against Tenant arising out of the negligence of Landlord, its agents, employees and invitees in connection with Landlord's ownership, maintenance, operation, repair and replacement of the Premises.

8. Insurance. Each party shall take out and maintain throughout the term of this Lease the comprehensive general liability insurance protecting the other party as an additional insured against all claims and demands for any injury to person or property which may be claimed to have occurred on or about the Premises. If carrying the coverage required hereunder will cause an increase in Landlord's insurance premium payable in connection with the Landlord's Property, then Tenant shall reimburse Landlord for such excess cost promptly following Landlord's invoice therefor. The insurance shall have minimum limits of \$1,000,000 per occurrence / \$2,000,000 annual aggregate, and each party agrees to provide copies of certificates for their respective policy(ies) to the other party from time to time upon request. Notwithstanding anything to the contrary set forth herein, Landlord and Tenant each agree that with respect to any loss which is covered by insurance then being carried by them, or which would be covered by such insurance as they are required to carry pursuant to the terms of this Lease, the one carrying (or required to carry) such insurance and suffering said loss releases the other of and from any and all claims with respect to such loss; and Landlord and Tenant further agree that their respective insurance companies shall have no right of subrogation against the other on account thereof.
9. Subletting and Assignment. Neither party shall assign or pledge this Lease or its leasehold interest hereunder in whole or part without the consent of the other party, not to be unreasonably withheld, conditioned or delayed.
10. Right of First Offer. Provided there shall be no continuing Event of Default hereunder, Tenant shall have the option to purchase the Landlord's Property at a price mutually agreed upon by the parties. The parties acknowledge that Tenant's option to purchase is subject to that certain option to purchase granted by Landlord to Gentle Dental (the "Prior Option"). If Landlord shall desire to sell the Landlord's Property, then Landlord shall so notify Tenant, and shall keep Tenant reasonably apprised of the status of the Prior Option. If Gentle Dental shall either waive or decline to exercise the Prior Option, Landlord shall promptly notify Tenant ("Landlord's Offer Notice"), and Tenant shall have a period of thirty (30) days following receipt of Landlord's Offer Notice to notify Landlord of its intent to purchase the Landlord's Property. If Tenant fails to respond to Landlord's Offer Notice within such 30-day period, then Tenant shall be deemed to have waived its option hereunder, and Landlord shall be free to sell the Landlord's Property to a third party.
11. Notices. All notices, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when mailed by registered or certified mail, postage prepaid, or sent by a nationally-recognized courier by overnight delivery, to the parties' addresses first set forth above.

12. Surrender of the Premises. Except as otherwise provided in this Lease, Tenant shall, upon the expiration or earlier termination of this Lease for any reason whatsoever, surrender the Premises to Landlord in good order, condition and repair, reasonable wear and tear and casualty excepted, and free of all tenants and personal property of Tenant.
13. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon Landlord, Tenant, and their legal representatives, successors, and assigns.
14. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction or by any future legislative action, such holding or such action shall not invalidate or render unenforceable any other provisions hereof.
15. Amendments, Changes and Modifications. This Lease may be amended, changed, modified, altered or terminated only with the written consent of the parties hereto.
16. Applicable Law. This Lease shall be governed exclusively by the applicable laws of the State of New Hampshire.
17. Execution of Counterparts. This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

*[Remainder of page intentionally left blank]*

### Plan of Premises



IN WITNESS WHEREOF, the parties have executed this Lease on the date above stated.

**LANDLORD:**

**410 SOUTH MAIN STREET LLC**

  
Witness

By:

  
Name:

Title:

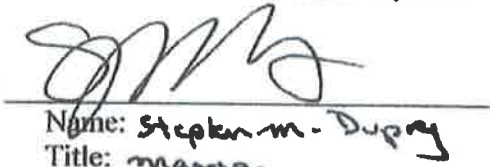
Hereunto duly authorized

**TENANT:**

**CAPITAL HOTEL COMPANY VI, LLC**

  
Witness

By:

  
Name: Stephen M. Dupuy

Title: manager

Hereunto duly authorized