

CHAPTER 380
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT
BETWEEN
THE CITY OF CORPUS CHRISTI, TEXAS
AND
NET ZERO CARBON ONE, LLC

CHAPTER 380

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Chapter 380 Economic Development Incentive Agreement ("Agreement") is entered into as of _____, 20__ by and among the CITY OF CORPUS CHRISTI, TEXAS, a home rule city ("City") and Net Zero Carbon One, LLC, a Delaware Limited Liability Company ("Company").

RECITALS

WHEREAS, the Company desires to develop an electrofuel plant as more particularly described in the conceptual plan for the project attached hereto as Exhibit "A" (the "Project"), in Corpus Christi, Texas; and

WHEREAS, the City has established a program in accordance with Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code ("Chapter 380") under which the City has the authority to make loans or grants of public funds for the purposes of promoting local economic development and stimulating business and commercial activity within the City; and

WHEREAS, the Corpus Christi City Council has adopted Resolution No. _____, authorizing City to make certain economic development grants up to \$500,000 to Company in recognition of, conditioned upon and derived from the positive economic benefits that will accrue to City through Company's development of a Project together with certain public improvements for the benefit of City, with a minimum Capital Investment by Company of \$25,000,000, all as more particularly described herein on EXHIBIT "A," and

WHEREAS, the payments to Company under this Agreement are exclusively performance-based so that no payments will be made to Company until and unless the Project is constructed and operated, resulting in tax revenues from the Project which then will provide income to the City and the payments to Company, described herein; and

WHEREAS, the City has concluded and hereby finds that this Agreement promotes economic development in the City of Corpus Christi and, as such, meets the requirements under Chapter 380 and the City's established economic development program, and, further, is in the best interests of the City and Company; and

WHEREAS, the City recognizes the positive economic impact that the Project will bring to the City through development and diversification of the economy, reduction of unemployment and underemployment through the production of new jobs, the attraction of new businesses, and the additional tax revenue generated by the Project for the City; and

WHEREAS, in consideration of the development, construction and building of the Project, which will assist in stabilizing the existing Property Tax Revenues to the City and create at least 25 full time jobs located at the Project location, the City agrees to use such funds in order to provide the Reimbursement Amount (as defined herein) to the Company directly in the amount described in Article V of this Agreement; and

WHEREAS, to ensure that the benefits the City provides under this Agreement are utilized in a manner consistent with Article III, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local

Government Code and other law, the Company has agreed to comply with certain conditions to the payment of those benefits;

NOW, THEREFORE, in consideration of the mutual benefits described in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Company agree as follows:

ARTICLE I **REPRESENTATIONS**

1.1 Representations of the City. The City hereby represents to the Company that as of the date hereof

(A) The City is a duly created and existing municipal corporation and home rule municipality of the State of Texas under the laws of the State of Texas and is duly qualified and authorized to carry on the governmental functions and operations as contemplated by this Agreement.

(B) The City has the power, authority and legal right under the laws of the State of Texas and the City Charter to enter into and perform this Agreement and the execution, delivery and performance hereof (i) will not, to the best of its knowledge, violate any applicable judgment, order, law or regulation, and (ii) do not constitute a default, or result in the creation of any lien, charge, encumbrance or security interest upon any assets of the City, under any agreement or instrument to which the City is a party or by which the City or its assets may be bound or affected.

(C) This Agreement has been duly authorized, executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms except to the extent that (i) the enforceability of such instruments may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws of general application in effect from time to time relating to or affecting the enforcement of creditors' rights and (ii) certain equitable remedies including specific performance may be unavailable.

(D) The execution, delivery and performance of this Agreement by the City do not require the consent or approval of any person which has not been obtained.

1.2 Representations of the Company. The Company hereby represents to the City that as of the date hereof;

(A) The Company is duly authorized and existing and in good standing as limited liability company registered in accordance with the laws of the State of Texas, and shall remain in good standing in the State of Texas during the Term of this Agreement.

(B) The Company has the power, authority and legal right to enter into and perform its obligations set forth in this Agreement, and the execution, delivery and performance hereof, (i) have been duly authorized, and will not, to the best of its knowledge, violate any judgment, order, law or regulation applicable to the Company or of the provisions of any agreement or instrument to which Company is a party or by which it may be bound, and (ii) do not constitute a default or result in the creation of, any lien, charge, encumbrance or security interest upon any assets of the Company under any agreement or instrument to which the Company is a party or by which the Company or its assets may be bound or affected.

(C) This Agreement has been duly authorized, executed and delivered and constitutes a legal, valid and binding obligation of the Company, enforceable in accordance with its terms except to the extent that (i) the enforceability of such instruments may be limited by bankruptcy, reorganization, insolvency, moratorium or other similar laws of general application in effect from time to time relating to or affecting

the enforcement of creditors' rights and (ii) certain equitable remedies including specific performance may be unavailable.

ARTICLE II **DEFINITIONS**

The recitals to this Agreement are hereby incorporated for all purposes. The terms, "Agreement," "Chapter 380," "City," "Company," and "Project" shall have the above meanings, and the following words or phrases shall have the following meanings:

2.1 "Act of Default" or "Default" means failure to timely, fully, and completely comply with one or more requirements, obligations, performance criteria, duties, terms, conditions or warranties, as stated in this Agreement.

2.2 "Assessed Taxable Value" means the taxable assessed ad valorem tax values set annually by the Nueces County Appraisal District with respect to the Property, improvements, and tangible personal property (with a depreciation schedule of seven years or greater) included in Project, including all improvements now or hereafter included therein, but excluding any assessed value attributable to the Property as of January 1, 2022 and excluding any assessed value attributable to inventory and to land.

2.3 "Certificate of Occupancy" shall mean that document entitled "Certificate of Occupancy" (or other similar title) issued by City upon substantial completion of certain portions of the Project in accordance with all applicable codes, regulations, and ordinances of City. A Certificate of Occupancy shall not include a certificate issued in error, mistake or misrepresentation of facts or any temporary Certificate of Occupancy.

2.4 "Chapter 380 Payment(s)" means the amount(s) payable by City to Company under Article V of this Agreement, to be paid from Property Tax Revenue.

2.5 "Commence Construction" means (i) to commence the work of constructing the improvements or features at the Property with all approvals thereof required by applicable governmental authorities obtained as necessary; (ii) a notice to proceed has been issued to the contractor; and (iii) onsite construction of the site development components (such as drainage, extensive grading or utilities) is underway and being pursued.

2.6 "Completion" means to any improvement or feature as to which Commence Construction has occurred, (i) substantial completion of said particular structure in accordance with the terms of this Agreement and the plans and specifications therefor, (ii) issuance of Certificates of Occupancy for the improvements or features for which Certificates of Occupancy may be issued, and (iii) the improvement or feature is Open for Business.

2.7 "Compliance" means timely, fully and completely performing or meeting each and every term, requirement, obligation, performance criteria, duty, condition or warranty as stated in this Agreement.

2.8 "Continuously Operate" means compliance with the Jobs Requirement, operation of the Project in accordance with the standard of operation for comparable facilities, and possession of all personal property and inventory necessary for the operation in accordance with the standard of operation for comparable facilities.

2.9 "Effective Date" means the first date by which this Agreement has been signed by all of the parties hereto.

2.10 "Federal Bankruptcy Code" means Title 11, United States Code, as amended, and any successor statute.

2.11 "Fiscal Year" shall mean the twelve consecutive month period designated by the City as its fiscal year. As of the date of this Agreement, the City's fiscal year commences on October 1 and ends on the next succeeding September 30.

2.12 "Force Majeure" means any act that (a) materially and adversely affects the affected Party's ability to perform the relevant obligations under this Agreement or delays such affected Party's ability to do so, (b) is beyond the reasonable control of the affected Party, (c) is not due to the affected Party's negligence or willful misconduct and (d) could not be avoided by the Party who suffers it by the exercise of commercially reasonable efforts (provided that such commercially reasonable efforts shall not require such Party to expend a material amount of money to avoid the act giving rise to a Force Majeure). Subject to the satisfaction of the conditions set forth in (a) through (d) above, Force Majeure shall include but not be limited to: (i) natural phenomena, such as storms, floods, lightning and earthquakes; (ii) wars, civil disturbances, revolts, insurrections, terrorism, sabotage and threats of sabotage or terrorism; (iii) transportation disruption, whether by ocean, rail, land or air; (iv) strikes or other labor disputes that are not due to the breach of any labor agreement by the affected Party; (v) fires; (vi) the unavailability of necessary and essential equipment and supplies; and (vii) actions, omissions of or delays by a Governmental Authority (including the actions of City in its capacity as a Governmental Authority) that were not voluntarily induced or promoted by the affected Party, or brought about by the breach or noncompliance by the affected Party of its obligations under this Agreement or any applicable law; provided, however, that under no circumstances shall Force Majeure include any of the following events: (A) economic hardship; (B) changes in market condition; or (C) weather conditions which could be anticipated by experienced contractors operating at the relevant location and exercising commercially reasonable business judgment.

2.13 "Insolvent" means failure to timely pay debts in the ordinary course of business or failure to pay all debts when and as they become due, or insolvent within the meaning of the Federal Bankruptcy Code.

2.14 "Jobs Requirement" means the creation of new full-time equivalent positions in accordance with Section 4.3 below, which, once created, must be retained for the full term of the Agreement.

2.15 "Maximum City Commitment" shall mean the largest commitment due by the City to the Company as determined in Article V.

2.16 "Open for Business" means open for full-time business operations with products and/or services that are necessary for Continuous Operation of the Project.

2.17 "Property" means the boundaries of the Project as more fully described in **Exhibit B**.

2.18 "Property Tax Revenues" means the M&O portion only of the City ad valorem taxes attributable to the Project for the Term of the Agreement and collected by the City in each Fiscal Year. This definition is limited to ad valorem taxes on property related to the Project and owned by Company and does not include reimbursement of any ad valorem taxes attributable to the value of the land on which the Project is constructed.

2.19 "Reimbursement Amount" shall mean the portion of the Property Tax Revenues, that the City agrees to pay to the Company during the Term of the Agreement, but limited to the maximum City Commitment as stated herein, if the Company satisfies the conditions thereto stated in this Agreement.

2.20 "Term" means the period defined in Article III of this Agreement.

ARTICLE III TERM

The term of this Agreement (the "Term") will begin on the Effective Date and will terminate upon the first to occur of (a) seven full calendar years after the Effective Date or (b) termination as provided for herein.

ARTICLE IV COMPANY REQUIREMENTS

4.1 Development. If the Company performs the following requirements, City agrees to pay the Chapter 380 Payments as stated in this Agreement. Should Company fail to meet any of the requirements listed in this Section, Company shall forfeit all 380 Payments and this Agreement will terminate. A summary of the obligations of each Party (as listed in this Article IV and in Article V below) is attached to this Agreement as **Exhibit C**. If there is any conflict between Exhibit C and this Agreement, this Agreement will control.

(A) Company must achieve Completion of the Project within the time frame described below subject to extension for Force Majeure, and expend at least \$25,000,000 on the Project, including design and construction costs.

(B) Company must Commence Construction of the Project no later than six months after the Effective Date of this Agreement, subject to extension upon approval by the City Manager or designee, and must reach Completion of the Project no later than twelve months after it Commences Construction, subject to extension upon approval by the City Manager or designee.

(C) The Company shall pay, or cause third parties to pay, its engineering, planning, accounting, architectural, legal fees and expenses, survey, testing, laboratory costs, license fees, land clearing and grading costs, advertising and other bidding costs, amounts due under construction contracts, costs of labor and material, insurance premiums, interest, carry cost, financing fees and other costs and expenses incurred in connection with the construction of Company improvements and features.

(D) If requested by the City, the Company must reasonably assist the City in the preparation of any documentation necessary to enable the City to prepare and obtain approval of any of the documents or actions required of the City to perform any of its obligations under this Agreement. The City shall not be responsible for any of such costs out of its current revenues or other sources, except in accordance with payment of Chapter 380 Payments to the Company as provided in this Agreement.

(E) Upon Completion of the Project and during the term of this Agreement, the Company shall maintain the Property, improvements and premises in a commercially reasonable manner, comparable to the maintenance of similar establishments and must comply with the Jobs Requirement.

4.2 Operational Requirement. During the Term following Completion of construction, Project must be Continuously Operated, subject to Force Majeure. If Project, once in operation, is not Continuously Operated during any calendar year, subject to Force Majeure, then upon written notice thereof being given to Company by the City and the failure of Company, within 60 days after the city gives said notice, to commence Continuous Operation, City may terminate the Agreement.

4.3 Jobs Requirement. No later than two years after Commencing Construction, Company must create 25 new, permanent full-time equivalent jobs for the Project with an average annual salary, including all wages and bonuses, of at least \$97,000. Once created, the Company must retain such jobs for each year that benefits are received under this Agreement. Should Company fail to meet the Jobs Requirement in any one year after first creating the full 25 jobs, Company shall receive a reduced percentage of the Chapter 380 Payments for that year. Such reduction will be in that percentage equal to the percentage by which Company fails to retain all required jobs under the Jobs Requirement. For example, if Company retains only 20 jobs for any given year, then the Chapter 380 Payments for that year will be reduced by 20% (5/25 jobs not retained). However, if Company fails to meet at least 70% of any of the Jobs Requirements in any one year by retaining fewer than 18 jobs, then Company is not entitled to any payment for that year.

4.4 Utilization of Local Contractors and Suppliers. Company agrees to exercise reasonable efforts in utilizing local contractors and suppliers in the construction of the Project at the Property, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency in the normal course of business, with a goal of 50% of the total dollar amount of all construction contracts and supply agreements being paid to local contractors and suppliers. For the purposes of this section, the term "local" as used to describe manufacturers, suppliers, contractors, and labor includes firms, businesses, and persons who reside in or maintain an office within a 50-mile radius of the intersection of Leopard Street and Staples Street in Corpus Christi, Texas. This goal shall apply to the total amount of all construction contracts and supply agreements made by the Company in connection with the construction of the Project at the Property. The Company agrees, during the construction of the Project and for four years after Completion, to maintain written records documenting the efforts of the Company to comply with the Local Requirement, and to provide an annual report to the City Manager or designee, from which the City Manager or designee shall determine if Company is in compliance with this requirement. Failure to substantially comply with this requirement, in the sole determination of the City Manager or designee, shall be a default hereunder.

4.5 Sales Tax Sourcing. Company shall, except where not reasonably possible to do so without significant added expense, substantial inconvenience, or sacrifice in operating efficiency in the normal course of business, utilize, or cause its contractors to utilize, Separated Building Materials and Labor Contracts for all taxable building material contracts related to the Project in the amount of \$100,000 or more, to site payment of the sales tax on building materials for the Project to the Project location. The Company agrees, during the construction of the Project and for four years after Completion, to maintain written records documenting the efforts of the Company to comply with this Sales Tax Sourcing Requirement, and to provide an annual report to the City Manager or designee, from which the City Manager or designee shall determine if Company is in compliance with this requirement. Failure to substantially comply with this requirement, in the sole determination of the City Manager or designee, shall be a default hereunder.

4.6 Utilization of Disadvantaged Business Enterprises (DBE).

(A) Company agrees to exercise reasonable efforts in utilizing contractors and suppliers for work at the Property that are determined to be disadvantaged business enterprises, including minority business enterprises, women-owned business enterprises, and historically-underutilized business enterprises. In order to qualify as a business enterprise under this provision, the firm must be certified by the City, the Regional Transportation Authority or another governmental entity in the jurisdiction of the home office of the business as complying with state or federal standards for qualification as such an enterprise. The Company agrees to a goal of 15% of the total dollar amount of all construction contracts and supply agreements for work at the Property being paid to disadvantaged business enterprises, with a priority made for disadvantaged business enterprises which are local. The Company agrees, during the construction of the Project at the Property and for four years after Completion, to maintain written records documenting the efforts of the Company to comply with the DBE Requirement, and to provide an annual report to the City Manager or designee, from which the City Manager or designee shall determine if Company is in

compliance with this requirement. Failure to substantially comply with this requirement, in the sole determination of the City Manager or designee, shall be a default hereunder.

(B) For the purposes of this section, the term “local” as used to describe contractors and suppliers that are determined to be disadvantaged business enterprises, including minority business enterprises women-owned business enterprises and historically-underutilized business enterprises includes firms, businesses, and persons who reside in or maintain an office within a 50-mile radius of the intersection of Leopard Street and Staples Street in Corpus Christi, Texas. This goal shall apply to the total amount of all construction contracts and supply agreements for elements that are not owner-provided or owner affiliate-provided made by the Company in connection with the construction of the Project.

4.7 Living Wage Requirement. In order to count as a permanent full-time job under this Agreement, the job should provide a “living wage” for the employee. The target living wage under this program is that annual amount equal or greater than poverty level for a family of three, established by the U.S. Department of Health and Human Services Poverty Guidelines, divided by 2,080 hours per year for that year.

4.8 Health Insurance. To qualify for this incentive, Company shall certify that it has offered a health insurance program for its employees during the term of the Agreement.

4.9 Compliance with City Standards. Company acknowledges that, unless specifically otherwise provided in this Agreement, development of the Project must comply with all applicable City codes and ordinances. For any development requirements not covered in this Section or in the remainder of the Agreement, the applicable City code and ordinance provisions shall control.

ARTICLE V

PROJECT FINANCING AND FUNDING

5.1 Project Financing. The City shall fund the Reimbursement Amount through the Term of this Agreement from the following sources and in the following manner: the City shall budget the appropriation of Reimbursement Amount from the M&O portion only of the Property Tax Revenues collected from the Project in each fiscal year for the Term of this Agreement, subject to approval of City Council.

5.2 City Commitment.

(A) Pursuant to its authority under Chapter 380, the City hereby agrees to pay the Reimbursement Amount to the Company. It is intended by the parties that the Reimbursement Amount will be paid by the City solely out of the amounts appropriated and budgeted specifically to make Chapter 380 Payments to the Company as provided in this Agreement (the “City Commitment”) in each fiscal year following the tax year for which the taxes were paid. The City Commitment will commence upon Completion and will continue through and until the maximum City Commitment has been paid to the Company or the Agreement terminates in accordance with Article III, whichever occurs first. The City agrees that it will pay the Reimbursement Amount during the term of this Agreement, if the Project is Commenced and Completed as required herein and Company complies with all of the requirements of this Agreement, subject to appropriation by City Council.

(B) The Parties agree that the maximum City Commitment shall be \$500,000, and such obligation on behalf of the City will be limited solely to the funds annually appropriated by City Council pursuant to this Agreement. Upon such time as the City has paid the maximum City Commitment in full, the City shall have no further obligation under this Agreement.

(C) **Property Tax Revenues.** Beginning after the Completion of the Project and continuing for the Term of this Agreement, the City shall, for each tax year, determine the amount of the Property Tax Revenues received by the City and attributable to the Project in cooperation with the Company. The City hereby agrees to budget the appropriation of Reimbursement Amount from the M&O portion only of the Property Tax Revenues collected from the Project to be paid in each fiscal year for the Term of this Agreement, in the percentages stated in Section 5.3 herein, subject to approval of City Council.

5.3 **Reimbursement Amounts to be Paid by City to Company.** Company shall annually provide the City a completed request for reimbursement in the form attached hereto as **Exhibit D**, no later than March 1 of each year following the Completion of the Project, stating Company's figures attributable to the Project and the corresponding amount of Property Tax Revenue. Within 60 days of receiving written request from Company, accompanied by all reasonable supporting documentation from Company that it has fully complied with its performance requirements, subject to the satisfaction of Company's Commitments under Article IV herein and Company's timely and full compliance with all applicable terms and conditions contained in this Agreement, City shall pay to Company the applicable Chapter 380 Payments attributable to the Project based on the percentages stated below for the Property Tax Revenues collected by City on the Project, subject to the limitations set forth herein.

Payments:

Year 1 After Completion (for taxable value as determined on the first January 1 after Completion of the Project): 100% of applicable Property Tax Revenues up to City Commitment

Years 2-5: 50% of applicable Property Tax Revenues up to amount remaining amount of the City Commitment

After Year 5: 0% of applicable Property Tax Revenues

The City Commitment attributable to the Project to be paid to Company shall not, under any circumstances, exceed \$500,000.

ARTICLE VI
COVENANTS, WARRANTIES, OBLIGATIONS AND DUTIES
OF COMPANY

If the Company shall have made any false or substantially misleading statement herein or failed to timely and fully perform as required in this Agreement, such shall be an Act of Default by Company. Failure to comply with any one covenant or warranty shall constitute an Act of Default by Company. Company, as of the Effective Date, makes the following covenants and warranties to City, and agrees to timely and fully perform the following obligations and duties.

6.1 **Litigation.** No litigation or governmental proceeding is pending or, to the knowledge of Company, or its officers, threatened against or affecting Company or the Property that may result in any material adverse change in Company's business, properties or operation.

6.2 **Untrue Statements.** To the best of their knowledge, no certificate or statement delivered by Company to City in connection herewith, or in connection with any transaction contemplated hereby, contains any untrue statement or fails to state any fact necessary to keep the statements contained therein from being misleading except those which have been replaced by subsequent certificates or statements heretofore given to the City in substitution.

6.3 Bankruptcy. There are no bankruptcy proceedings or other proceedings currently pending or contemplated, and Company has not been informed of any potential involuntary bankruptcy proceedings.

6.4 Licenses and Authority. To the best of its knowledge, Company has acquired and maintained all necessary rights, licenses, permits and authority to carry on its business in Corpus Christi, Texas, and will continue to use commercially reasonable efforts to maintain all necessary rights, licenses, permits and authority.

6.5 Payment of Taxes. Company shall timely pay all taxes due and owing by them to all taxing authorities having jurisdiction. In addition, Company shall timely pay all employment, income, franchise, and all other taxes hereafter to become due and owing by them, respectively, to all local, state, and federal entities subject, however to their right to contest the same in a lawful manner.

6.6 Timely Commencement; Continuous Operations. Company acknowledges and agrees that if it fails to Commence Construction of the Project and pursue its Completion within the time periods herein provided, and acknowledges and agrees that if it fails to Continuously Operate the Project as herein provided, in either of said cases or events, the City has the right to terminate this Agreement as herein provided.

6.7 Management Changes. Company shall notify City in writing of any substantial changes in management of Company within seven days after Company's knowledge thereof. Substantial changes mean changes in Chairman of the Board, President, or Chief Executive Officer.

6.8 Ownership Changes. Company shall notify City in writing of any changes in ownership of any part of the Project or of Company within seven days after Company's knowledge thereof.

6.9 Succession of Ownership. No change of ownership or management of any part of the Project and/or a change of ownership or management of Company shall abate, waive, terminate or in any way relieve Company of its obligations herein.

6.10 Non-discrimination. Company agrees that, as to all of the programs and activities arising out of this Agreement, it will not discriminate against any person on the basis of race, color, national origin, sex, or by reason of being disabled.

6.11 Employment of Undocumented Workers. The Company does not and agrees that it will not knowingly employ an undocumented worker. If, after receiving Chapter 380 Payments, Company is convicted of a violation under 8 U.S.C. Section 1324a (f), Company shall repay the Chapter 380 Payments at the rate and according to the terms as specified by City Ordinance, as amended, not later than the 120th day after the date the Company has been notified of the violation.

ARTICLE VII **SUSPENSIONS/TERMINATION**

City, under the following circumstances, and at its sole discretion, may temporarily suspend making Chapter 380 Payments under this Agreement and/or terminate this Agreement, without liability to Company, and all future payment obligations shall automatically cease upon any one of the following events:

7.1 Receiver. The appointment of a receiver for Company, or of all or any substantial part of its property, and the failure of such receiver to be discharged within 60 days thereafter.

7.2 Bankruptcy. The adjudication of Company as a bankrupt.

7.3 Bankruptcy Petition. The filing by Company of a petition or an answer seeking bankruptcy, receivership, reorganization, or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

7.4 Failure to Comply with Audit Requirements. The failure of Company to reasonably cooperate with the City in the monitoring process described in Article VIII below.

ARTICLE VIII REPORTING AND AUDITING

8.1 Audit by the City. The City may audit Company's records to determine compliance with the terms of this Agreement. This audit may be done by the City on an annual basis. Company shall provide the City an annual report, no later than March 1 of each year, stating the amount of Property Tax paid to the City by Company.

8.2 Access to Records / Right to Audit. Company, during normal business hours shall allow City reasonable access to its records and books and all other relevant records related to each of the economic development considerations and incentives and performance requirements, as stated in this Agreement, but the confidentiality of such records and information shall be maintained by City unless disclosure of such records and information shall be required by a court order, a lawfully issued subpoena, the Texas Public Information Act, or other law.

ARTICLE IX DEFAULT

9.1 Default. Subject to Force Majeure and any Variance granted under Section 11.12, should Company fail to timely, fully and completely keep or perform any one or more of the covenants or warranties made by Company in this Agreement, such failure to perform shall be an Act of Default by Company. If such Act of Default is not cured and corrected within 60 days after written notice of such Act of Default, City may terminate this Agreement and cease making any further Chapter 380 Payments which have not been earned by performance by Company theretofore. Company shall be liable to City for any actual damages sustained by the City as a result of said Act of Default by Company under this Agreement.

9.2 City Delay. Any delay for any amount of time by City in providing notice of Default to Company hereunder, shall in no event be deemed or constitute a waiver of such Default by City or of any of its rights and remedies available in law or in equity.

9.3 City Waiver. Any waiver granted by City to Company of an Act of Default shall not be deemed or constitute a waiver of any other existing or future Act of Default by Company or of a subsequent Act of Default of the same act or event by Company.

ARTICLE X CITY'S LIABILITY LIMITATIONS

Should City fail to timely, fully and completely comply with any one or more of the requirements, obligations, duties, terms, conditions or warranties of this Agreement, such failure shall be an Act of Default by City and City shall have 60 days to cure and remove the Default after receipt of written notice to do so from Company.

ARTICLE XI
MISCELLANEOUS PROVISIONS

11.1 Permitting. Subject to Company's complying with all applicable laws, City agrees to cooperate with Company to expeditiously process permits, including plat applications, site plan applications, building permit applications, and building and construction inspections required for the Project to be in a state of Completion.

11.2 Binding Effect. This Agreement will be binding on and inure to the benefit of the parties and their respective successors and assigns.

11.3 Assignment. Except as provided below, Company may not assign all or part of its rights and obligations under this Agreement to a third party without prior written approval of City, which approval will not be unreasonably withheld or delayed.

11.4 Termination. If Company elects not to proceed with the development of the Project as contemplated by this Agreement, Company will notify City in writing, and this Agreement and the obligations of both parties will be deemed terminated and of no further force or effect as of the date of such notice.

11.5 Notice. Any notice or other communication ("Notice") given under this Agreement must be in writing, and may be given: (i) by depositing the Notice in the United States Mail, postage paid, certified, and addressed to the party to be notified with return receipt requested; (ii) by personal delivery of the Notice to the party, or an agent of the party. Notice deposited in the mail in the manner specified will be effective two days after deposit. Notice given in any other manner will be effective only if and when received by the party to be notified. For the purposes of Notice, the addresses of the parties will, until changed as provided below, be as follows:

Company: Net Zero Carbon One, LLC
c/o Infinium Operations, LLC
2020 L Street, Suite 260
Sacramento, CA, 95811
Attn: President

City: City of Corpus Christi
Attn.: City Manager
P.O. Box 9277
Corpus Christi, Texas 78469-9277

with a copy to: City Attorney
P.O. Box 9277
Corpus Christi, Texas 78469-9277

Any party may designate a different address at any time by giving Notice to the other party.

11.6 Interpretation. Each of the parties has been represented by counsel of their choosing in the negotiation and preparation of this Agreement. In the event of any dispute regarding the interpretation of this Agreement, this Agreement will be interpreted fairly and reasonably and neither more strongly for nor against any party based on draftsmanship.

11.7 Relationship of the Parties. This Agreement will not be construed as establishing a partnership or joint venture, joint enterprise, express or implied agency, or employer-employee relationship between the parties. Neither City, nor its past, present or future officers, elected officials, employees or agents, assume any responsibility or liability to any third party in connection with the development of the Project or the design, construction or operation of any portion of the Project.

11.8 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, it is the intention of the parties that the remainder of this Agreement not be affected and it is also the intention of the parties that, in lieu of each provision that is found to be illegal, invalid or unenforceable, a provision be added to this Agreement which is legal, valid or enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

11.9 Paragraph Headings, Etc. The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the paragraphs.

11.10 No Third Party Beneficiaries. This Agreement is not intended to confer any rights, privileges or causes of action upon any third party.

11.11 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same instrument. A facsimile or electronic signature will be deemed to be an original signature for all purposes.

11.12 Variances. The Corpus Christi City Council, in its sole discretion, may grant and approve variances to Company from the performance criteria and development standards described herein upon application in writing therefor by Company on behalf of itself.

11.13 Balance Owed under the Agreement. The total amount of money awarded in an adjudication brought against City for breach of this Agreement is limited to the following: (i) the balance then due and owed by City under the Agreement plus any balance which may become due by City during the remaining term of the Agreement, including any amendments thereto; (ii) interest as allowed by law; and (iii) attorney's fees as allowed by law.

11.14 Damages not included. Damages awarded in an adjudication brought against City or Company arising under the Agreement, including any amendments thereto, may not include: (i) consequential damages; (ii) exemplary damages; or (iii) damages for unabsorbed home office overhead.

ARTICLE XII **GENERAL TERMS**

12.1 Entire Agreement. This Agreement embodies the complete Agreement of the parties hereto, superseding all oral or written, previous and contemporary, agreements between the parties relating to matters in this agreement; and, except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the parties.

12.2 Law. This Agreement is subject to all legal requirements in City Charter and Code of Ordinances of City of Corpus Christi, Texas and all other applicable County, State and Federal laws, and Company agrees that it will promptly comply with all such applicable laws, regulations, orders and rules of the State, City and other applicable governmental agencies. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard, however, to the conflicts of laws provisions of Texas law.

12.3 Venue. Venue for any legal action related to this Agreement is in Nueces County, Texas.

12.4 Confidential. City, its officers and employees, and its agents or contractors retained to perform economic development services for City, shall treat as confidential the financial statements and information together with any proprietary information delivered by Company or its representatives to City and its representatives and shall not release such information to the public, unless required by law or court order. City shall notify Company of requests or court orders to release such information as required by law. Any information that Company considers proprietary or confidential must be clearly marked s such when provided to the City. Notwithstanding the foregoing, the Parties acknowledge that the City is a Texas governmental entity subject to the Texas Public Information Act (the "Act"). Should City receive a request for disclosure of confidential or proprietary information pursuant to the Act, City will promptly provide Company notice of such request so that Company may avail itself of any opportunities to establish reasons why the information should be withheld prior to disclosing such information. The burden of establishing the applicability of exceptions to the disclosure of information under the Act resides with Company. Should Company be unable to establish a valid exception from disclosure or exclusion from the Act, then City may release the information, solely to the extent necessary to comply with the Act.

[Remainder of page intentionally left blank]

EXECUTED to be effective as of this _____ day of _____, 20__

Net Zero Carbon One, LLC, a Delaware Limited Liability Company

Signed on this 13th day of October, 2022

By: Paula Lausa

By: 
Paula Lausa, Governing Person

LLC, Business Type

CITY OF CORPUS CHRISTI, TEXAS, a home-rule municipal corporation

Signed on this _____ day of _____, 20__

ATTEST: CITY OF CORPUS CHRISTI

Rebecca Huerta, City Secretary

Peter Zanoni, City Manager

APPROVED AS TO LEGAL FORM:

Assistant City Attorney Date

EXECUTED to be effective as of this _____ day of _____, 20__

Net Zero Carbon One, LLC, a Delaware Limited Liability Company

Signed on this 13th day of October, 2022

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By: 
Paula Lausa, Governing Person

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ATTEST:

CITY OF CORPUS CHRISTI

Rebecca Huerta, City Secretary

Peter Zanoni, City Manager

APPROVED AS TO LEGAL FORM:

Assistant City Attorney Date

Exhibit A

Conceptual Plan for Project

Net Zero Carbon One, LLC is a technology-based electrofuels innovator with a mission to decarbonize the transportation sector and help mitigate the catastrophic effects of climate change. Our groundbreaking electrofuels are an ultra-low carbon fuel alternative to existing liquid jet and diesel fuels that may be used in planes, ships, and truck fleets with no costly infrastructure changes. The Corpus Christi Plant will reside at the Javelina Plant on Howard Energy Partner's land. It will be a commercial demonstration of newer technology driving de-carbonization of fuels and chemicals. The process involves two principal steps, the first of which is the conversion of waste CO₂ and green H₂ to synthesis gas. Step one is completed by processing feedstocks in the presence of a catalyst. The catalyst has been developed by our team over the past 10 years. The catalyst technology has been extensively tested. The second step involves the conversion of synthesis gas to liquid fuels, again through the use of a proprietary catalyst. They are installing 10MW of green hydrogen in connection with the project. The Project encompasses the refurbishment and upgrade of an existing Gas to Liquids Plant and its movement to and installation at the Property. Much of the system is made up of newer technology, specialty equipment and materials.

Exhibit B

Property Description

The site is located on Howard Energy Partners Javalina Plant property and within the area described as Parcel 2 on the **E. VILLAREAL SURVEY ABSTRACT 1, NUECES COUNTY, TEXAS (14.489 acres)**

Exhibit C

Summary of Responsibilities

Company Development Responsibilities (Summary of Article IV):

1. Commence Construction within six months of Effective Date
2. Expend at least \$25 million on the Project
3. Complete Construction within 12 months after starting construction
4. Create at least 25 jobs with average annual salary, including all wages and bonuses, of at least \$97,000
5. Continue to operate and maintain the Project for the full term of the Agreement
6. Meet requirements related to sales tax sourcing, local contractors, and DBE/HUB contractors
7. Submission of annual reimbursement request following Completion of Project.

City Payment Responsibilities (Summary of Article V):

1. Payment of Reimbursement Amount upon receipt and verification of annual reimbursement request form
2. Reimbursement Amount:
 - a. Year 1 after Completion – amount equal to 100% of the M&O portion only of the Property Tax Revenues attributable to the Project, not including any amount for value of inventory or land up to amount remaining on the City Commitment.
 - b. Years 2 – 5 after Completion - amount equal to 50% of the M&O portion only of the Property Tax Revenues attributable to the Project, not including any amount for value of inventory or land up to amount remaining on the City Commitment.
3. City Commitment - \$500,000. The maximum amount of reimbursement for the term of the Agreement.

Exhibit D

Reimbursement Request Form

[City Finance Department to add.]