

CITY OF CORPUS CHRISTI / CINERGY 112, LLC

CHAPTER 380

ECONOMIC DEVELOPMENT AGREEMENT

This Chapter 380 Economic Development Agreement ("Agreement") is made and entered into by and between CINERGY 112, LLC, a Texas limited liability company ("Company" or "Owner") and the CITY OF CORPUS CHRISTI, TEXAS, a home-rule municipal corporation of Nueces County, Texas ("City").

RECITALS

WHEREAS, the City has adopted Ordinance establishing and authorizing the City Manager to make economic development grants to Owner in recognition of the positive economic benefits to the City through Owner's proposed Cinergy Family Entertainment Center project to be located on the southeast side of greenfield land near Rodd Field Road and SPID (the "Project"), as more generally shown on the depiction attached hereto as Exhibit "A." Cinergy 112, LLC will invest over \$40,000,000 and will develop 10 acres into a 90,000 square foot family entertainment center. The City will reimburse Company up to \$4,150,000 over a fifteen (15) year period through City ad valorem tax and sales tax generated from the Project; and

WHEREAS, the CITY has established a program in accordance with 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 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 COMPANY's investment in COMPANY's development will bring to the CITY through economic stimulation, growth and diversification of the economy, reduction of unemployment and underemployment through the retention of existing jobs and the production of new jobs, and the attraction of new businesses, and as described in this Agreement; and

WHEREAS, consistent with Chapter 380, the CITY and the COMPANY, as contemplated in this Agreement, agree to work together to cause the public purposes of developing and diversifying the economy of the state, reducing unemployment or underemployment in the state, and developing or expanding transportation or commerce in the state; and

WHEREAS, to ensure that the benefits the CITY provides under this Agreement are utilized in a manner consistent with Chapter 380 and other law, the COMPANY has agreed to comply with certain conditions for receiving those benefits, and

WHEREAS, the CITY and the COMPANY desire to enter into this Agreement for their mutual benefit; and

NOW, THEREFORE, for and in consideration of the foregoing recitals and of the mutual promises, obligations, covenants and benefits herein contained, CITY and the COMPANY contract and agree as follows:

Article 1. General Terms

Section 1.01 Definitions. The following terms have the following meanings:

- a. Ad Valorem Tax Effective Date. The first day of the first full calendar year after the receipt of the Certificate of Occupancy for the Project.
- b. Ad Valorem Tax Revenues. Means the amount of property taxes collected by the City on real property owned or leased by Owner and/or its Affiliates from the Project, a portion of which will be repaid to Owner in the form of Chapter 380 Payments.
- c. Affiliates. As used herein shall mean: (1) all companies with respect to which the COMPANY directly or indirectly, through one or more intermediaries at the time in question, owns or has the power to exercise control over 50% or more of the stock having the right to vote for the election of directors; or (2) all corporations (or other entities) controlled by or under common control with the Company as contemplated by Section 1239(c) of the Internal Revenue Code of 1986, as amended.
- d. CAD. The county appraisal district (the Nueces County Appraisal District [NCAD]) responsible for appraising the Land and Improvements located within the boundaries of such appraisal district.
- e. Calendar Year. A period of time beginning January 1 and ending December 31 in a numbered year.
- f. Chapter 380 Payment(s). Means the amount paid by the City to Owner under this Agreement.
- g. Effective Date. The date this Agreement is signed by the City and the Company.
- h. Improvements. Facilities, buildings, structures erected on or affixed to the Land or real property.

- i. Land. "Land" shall mean the land owned or to be acquired by the COMPANY or its Affiliate depicted on **Exhibit A** attached to this Agreement.
- j. Market Value. As determined and defined by the applicable CAD.
- k. Maximum Payment Amount. Shall mean ad valorem tax reimbursement and sales tax reimbursement of up to \$4,150,000.
- l. Minimum Appraised Value. Shall be \$12,000,000, and shall be agreed to by City and Owner as per this Agreement.
- m. Net Sales Tax. Shall be the total revenue generated from sales after deducting any administrative fees to the State Comptroller's Office.
- n. New Improvements. Shall be new real property additions or upgrades that increase value, functionality, or overall quality of the project.
- o. Sales Tax Effective Date. The first day of the first full calendar year after Owner's receipt of the first certificate of occupancy for the Project.
- p. Sales Tax Revenues. Means the amount of net sales tax collected by City arising from the Project, a portion of which will be paid to Company in the form of Chapter 380 Payments.

1. Term

Section 1.01 Term. This Agreement shall become enforceable upon execution by the City and Company, and shall be effective on the "Effective Date," being the date this Agreement is signed by the City and the Company. This Agreement shall terminate upon the earlier to occur of December 31, 2045, or (ii) Owner's receipt of the total Chapter 380 Payments equal to the Maximum Payment Amount of up to \$4,150,000, or (iii) earlier termination in accordance with the terms hereof. In recognition of the fact that Chapter 380 Payments by necessity are calculated and paid after taxes have been assessed and paid to the City, and therefore always run in arrears, the term of this Agreement shall be deemed to include any payments otherwise due and payable to Owner which extend beyond the original term of this Agreement.

2. Chapter 380 Rebates of City Ad Valorem Taxes Paid by Company

Section 2.01 Rebate of Ad Valorem Taxes. Each year during the term hereof, the CITY shall rebate a portion of ad valorem taxes paid by COMPANY and/or its Affiliates to the CITY that are attributable to the Improvements and New Improvements to the Land. The payment obligation is more specifically described as follows:

- a. Beginning on the Ad Valorem Tax Effective Date, which is the first day of the first full calendar year after the receipt of the Certificate of Occupancy, the "Reimbursable Ad Valorem Tax Amount" shall be the ad valorem taxes paid by the COMPANY

and/or its Affiliates to the CITY in the following amounts:

Years 1-15 shall be 100% (subject, however, to a Maximum Reimbursement of \$375,000.00 per year, totaling and inclusive of both ad valorem tax rebates and sales tax rebates pursuant to this Agreement.)

As stated above, years 1 through 15 shall have a maximum reimbursement not to exceed \$375,000.00 per year, totaling and inclusive of both ad valorem tax rebates and sales tax rebates. Year 1 shall constitute the period of time prior to the Ad Valorem Tax Effective Date and Year 2 shall commence on the Ad Valorem Tax Effective Date. Beginning year 6, and only year 6, the Maximum Reimbursement can be increased if the combination of the annual property and sales tax collections exceed ten percent over the cap; and the new Maximum Reimbursement amount shall be approved by the City Manager or designee.

b. The COMPANY shall provide evidence, satisfactory to the CITY, of payment of the ad valorem taxes on Improvements and New Improvements located on the Land by April 1st annually starting with the first April after the Ad Valorem Tax Effective Date.

c. Any New Improvements of added real estate for the project will be included in the ad valorem rebate.

d. Exclusion: Business personal property is excluded from rebates.

Section 2.02 Company Schedule of Value. On or before April 1st of each year of this Agreement after the Ad Valorem Tax Effective Date, the COMPANY shall provide to the CITY an itemized Schedule of Value, showing all CAD Geographic ID numbers and the values related thereto, and showing all Land Improvements owned or controlled by the COMPANY or its Affiliates, including and identifying the property to be valued as part of this Agreement (the “Ad Valorem Schedule of Value”). COMPANY must include in its Ad Valorem Schedule of Value the Geographic ID numbers for all Business property accounts on the Land, whether owned by COMPANY or an Affiliate. The Ad Valorem Schedule of Value shall also list the year any Improvements were placed in use. The COMPANY has no objection to the CITY’S review of all forms, informational documents provided by the COMPANY to the applicable CAD and, in the event of appeal, the Appraisal Review Board. Failure to provide the Ad Valorem Schedule of Value to the CITY shall constitute a waiver of the right to receive reimbursement pursuant to this Agreement.

Section 2.03 Company Protest of Value or Billing. If the COMPANY elects to protest the valuation set on any of its properties by the applicable CAD for any year or years during the term hereof, it is agreed that nothing in this Agreement shall preclude the protest, and the COMPANY shall have the right to take all legal steps desired to reduce the same. A reduction of the taxable value will reduce the reimbursable amounts pursuant this Agreement. The COMPANY must notify the City of any and all tax protests, and cooperate with the CITY in determining what taxes and accounts are subject to protests.

Section 2.04 Calculation of Amount Due. Within 60 days after request by the COMPANY, following COMPANY's submission of taxes paid and lists of accounts determined reimbursable by this Agreement, the CITY shall provide a report to the COMPANY specifying the accounts and amounts subject which sets forth the amount of the Reimbursable Ad Valorem Tax Amount.

Section 2.05 Payment. The COMPANY agrees to pay its ad valorem taxes so as not to be delinquent under the Texas Property Tax Code. The COMPANY further agrees to provide an accurate report of all amounts paid for ad valorem taxes on the Land, Existing Improvements, New Improvements thereon; and properly pay CITY ad valorem taxes due on or before January 31st of each year. Penalties and/or interest that are paid by the COMPANY will not be subject to rebate to the COMPANY.

Article 3. Chapter 380 Rebates of City Sales Tax Paid by Company

Section 3.01 Rebate of City Net Sales Tax. Each year during the term hereof following the Sales Tax Effective Date, the CITY shall rebate a portion of city net sales tax (being the Net Sales Tax Revenues) paid by COMPANY and/or its Affiliates to the State that are attributable to taxable transactions on the LAND or in connection with the Project and remitted to the CITY pursuant to Texas Tax Code 321.101 for any lawful purpose. The payment obligation is more specifically described as follows, but may be reduced as provided in this Agreement, notably Sections 4.01:

- a. Beginning on the Sales Tax Effective Date, the CITY will proportionally rebate (as indicated below) 0.01 cent sales tax of "City Operations Sales Tax" paid by the Company and/or its Affiliates that are net sales tax and attributable to the Project. The net sales tax rebate to the COMPANY shall be paid as follows:

Years 1-15 shall be 100% net sales tax (subject, however to a Maximum Reimbursement of \$375,000.00 per year, totaling and inclusive of both ad valorem tax rebates and sales tax rebates pursuant to this Agreement.)

As stated above, years 1 through 15 shall have a maximum reimbursement not to exceed \$375,000.00 per year, totaling and inclusive of both ad valorem tax rebates and sales tax rebates. Year 1 shall constitute the period of time prior to the Sales Tax Effective Date and Year 2 shall commence on the Sales Tax Effective Date. Beginning year 6, and only year 6, the Maximum Reimbursement can be increased if the combination of the annual property and sales tax collections exceed ten percent over the cap; and the new Maximum Reimbursement amount shall be approved by the City Manager or designee.

Section 3.02 Terms of Rebate of City Net Sales Tax.

- a. There shall be no reimbursement to COMPANY from the sales tax allocated (now or in the future) to a Type A or Type B corporation, a crime control district, a municipal development district, a municipal development corporation, a district for fire control, prevention or emergency medical services or to any district, corporation or entity other than the City. There will also be no reimbursement to COMPANY from a sales tax for property tax relief, for a sports or community venue project, for a metropolitan or rapid transit authority, for street maintenance, or for any other use that is limited by state law.
- b. Any New Improvements of added real estate for the project will be included in the net sales tax rebate.
- c. On or before April 1st of each year, the COMPANY will notify the CITY of the amount of sales taxes it has paid to the State or paid to vendors and provide documentation confirming the amount and the payment as described in Section 3.03 of this Agreement.
- d. Net Sales Tax funds owed to the Company pursuant to this Agreement shall be paid by the CITY to the COMPANY on or before June 1st of each calendar year following each taxable year under this Agreement, provided the COMPANY has complied with its obligations under Sections 3 above.
- e. The CITY's Director of Financial Services shall maintain and oversee the Net Sales Tax rebate, and may disburse payments to the COMPANY due under this Agreement without further authorization of City Council.
- f. The COMPANY shall provide evidence, satisfactory to the CITY, of payment of sales taxes on taxable transactions on the Land, including New Improvements.
- g. The sole source of payments by the CITY to COMPANY pursuant to this Agreement shall be net sales tax paid by the COMPANY remitted to the CITY pursuant to Texas Tax Code 321.101 that are subject to rebate under this Agreement.
- h. Net Sales Tax Rebates under this agreement **excludes sales taxes paid by Company to any 3rd party vendor or contractor.**

Section 3.03 Company Schedule of Value. On or before April 1st following each calendar year of this Agreement following the Sales Tax Effective Date, the COMPANY shall provide to the CITY a Schedule of Sales Tax Paid by COMPANY and/or its Affiliates for the preceding calendar year. This Schedule of Sales Tax Paid shall document the sales tax paid by COMPANY and/or its Affiliates on all taxable transactions on the Land or in connection with the Project during the preceding calendar year. COMPANY must include in its schedule the sales tax for all COMPANY accounts subject to this Agreement, whether paid by COMPANY or an Affiliate. The COMPANY here consents to the CITY'S review of the pertinent sales tax forms, information, and documents provided by the COMPANY to the Comptroller.

Failure on the part of COMPANY to provide the Schedule of Sales Tax Paid to the CITY shall constitute a waiver of COMPANY'S right to receive reimbursement pursuant to this Agreement for the calendar year.

Section 3.04 Audits. Sales tax is audited periodically by the Comptroller. The audit period is often multiple years and may result, when final, in additional sales tax liability or in a refund of previously paid sales tax.

- a. If COMPANY and/or any of its Affiliates incurs additional sales tax liability as a result of an audit, upon the final determination of liability the reimbursement from CITY to COMPANY under this Agreement will be handled in the same manner as a normal net sales tax payment. CITY will not be responsible for reimbursing any penalties and/or interest paid by the COMPANY.
- b. If COMPANY receives a refund from the State as a result of an audit, the COMPANY will reimburse the CITY for any portion of refunded city sales tax that had been previously rebated to COMPANY from CITY. Within 90 days of receipt of a sales tax refund, the COMPANY must provide to CITY a schedule similar to the sales tax refund request detailing the refund transactions and amount COMPANY owes to the CITY and, upon confirmation of that amount by CITY, shall promptly repay it to CITY.

Section 3.05 Compliance with Texas Tax Code. The COMPANY agrees to pay sales taxes due to the State so as not to be delinquent under the Texas Tax Code. Any Penalties and/or interest paid by the COMPANY to the State with respect to city sales Tax will not be subject to rebate to the COMPANY.

Article 4. Development and Payment Terms

Section 4.01 Payment Terms. The total Chapter 380 Payments arising during the term of this Agreement to be paid to Company shall not exceed the equivalent of Four Million One Hundred Fifty Thousand Dollars (\$4,150,000) calculated annually ("Maximum Payment Amount") or until December 31, 2045, expiration date, whichever occurs first.

Section 4.02 Development Terms. The following are the development requirements that Company shall comply with as part of this Agreement:

1. Company shall begin construction on or before October 1, 2026, subject to extension for delays due to Force Majeure, and shall complete construction of the Project by **September 30, 2028**, subject to extension for delays due to Force Majeure. This Economic Development Incentive Agreement shall automatically terminate if construction has not commenced by January 1, 2027, subject to extension for delays due to Force Majeure. Additionally, CITY agrees that the Company shall have the right to extend the construction commencement date and the construction completion date by up to sixty (60) days each in the event the Company is experiencing planning or contracting delays.

2. Company shall construct an approximate 90,000 square feet family entertainment center. This will consist of up to 6 movie screens, 10 bowling lanes; and will also have games that may include arcade games and interactive family attractions such as virtual reality and sports simulators. Additionally, the facility shall have a commercial kitchen and offer food and beverage service.

Article 5. Default and Cessation of Operations

Section 5.01 Default by CITY. If the CITY does not perform its obligations hereunder in substantial compliance with this Agreement and, if such default remains uncured for a period of 60 days after notice thereof shall have been given, in addition to the other rights under the law or given the COMPANY under this Agreement, the COMPANY may enforce specific performance of this Agreement and seek an injunction or writ of mandamus to perform obligations under this Agreement.

Section 5.02 Default by COMPANY. If the COMPANY does not perform its obligations hereunder in substantial compliance with this Agreement, and, if such default remains uncured for a period of 60 days after notice thereof shall have been given or such longer period as is reasonably necessary to cure default if such default cannot be cured within 60 days notwithstanding COMPANY's reasonable efforts to effectuate a cure, the CITY may terminate this Agreement and CITY's obligation to pay funds to COMPANY with respect to future taxes under this Agreement will terminate, but the CITY shall pay all amounts due and owing from prior to such date of termination.

Section 5.03 Notice of Default. Notwithstanding anything to the contrary contained herein, in the event of any breach by either party of any of the terms or conditions of this Agreement, the non-defaulting party shall give the other party written notice specifying the nature of the alleged default, and manner in which the alleged default may be satisfactorily cured. Thereafter, the allegedly defaulting party will be afforded 60 days within which to cure the alleged default.

Section 5.04 Company Shall Not Protest, Appeal Minimum Appraisal Value. If the COMPANY appeals its valuation with the Nueces County Appraisal District, COMPANY still must submit the Request for Reimbursement form and provide notice to the City of the appeal. COMPANY shall not protest or appeal the Minimum Appraisal Value during the Term of this Agreement. Under no circumstances shall the Minimum Appraisal Value be interpreted to be equivalent or determinative for appraisal purposes or to be utilized in any way to determine market value. In addition, under no circumstances shall COMPANY protest or contest this Minimum Appraisal Value during the Term of the Agreement below that value. (For the purposes of this Agreement, the Minimum Appraisal Value is \$12,000,000.00, and at no point can the COMPANY, Cinergy, appeal the appraised value below \$12M. For example, if in a few years NCAD appraises this property at \$15M, Cinergy can appeal to \$13M and still be in compliance. Additionally, if NCAD appraises the property at \$10M and Cinergy never appealed it to \$10M, then Cinergy is still in compliance. If Cinergy appeals the property NCAD appraised at \$13M to \$10M, then Cinergy is not compliant.)

Section 5.05 Cumulative Remedies. The remedies provided herein are cumulative, none is in lieu of any other, and any one or more or combination of the same is available. Each party, in addition to remedies expressly provided herein is entitled to any and all other remedies available at law or in equity.

Section 5.06 Limitation of Liability. In no event will either party be liable to the other party hereunder for punitive, exemplary, or indirect damages, lost profits or business interruptions damages.

Section 5.07 Certificate of Compliance. At the time that Owner delivers to City the annual Ad Valorem Schedule of Value and Schedule of Sales Tax Paid, Owner shall also deliver to City a Certificate of Compliance, under which Owner warrants to the City that, to the best of its knowledge, it is in full compliance with each of its obligations under this Agreement, including stating that, to the best of its knowledge, the property is free and clear of any city code violations. City has the right to inspect the facilities on the property and pertinent records of property to verify compliance with City Codes. In the event there are code violations pending, Owner has sixty (60) days to cure such code violations or such longer period reasonably necessary so long as Owner commences to correct such violations within the aforesaid sixty (60) days. In the event Owner fails to cure or commence to cure such code violations with the sixty (60) day cure period, the City shall not abate taxes for that given year in which the code violations were not cured.

Section 5.08 Failure to Meet Obligations. In the event that Owner fails to fulfill any of its obligations under this Agreement, and City has made demand on Owner to fulfill those specific obligations, but more than sixty (60) days has elapsed since such demand and Owner has still failed to materially fulfill the specific obligations that were the subject of City's demand, then the Owner shall not be entitled to the annual Chapter 380 payments, rebates and Owner waives such rebate payments for that specific year.

Article 6. Description of Applicable Property and Transfer of Land or Property to another Entity, Adding or Removing Affiliates, and Remitting Taxes

Section 6.01 Description of Property. The COMPANY agrees to provide the CITY with an updated listing of Geographic ID numbers, as available from the applicable CAD, for property located on the Land, to be attached hereto as **Exhibit A**. The COMPANY must include all accounts containing property for which COMPANY proposed to receive rebates of ad valorem taxes paid to the CITY.

Section 6.02 Assignment. This Agreement may be assigned by the COMPANY to a new owner of Land only with the prior, written approval of the CITY. The CITY may choose to permit assignment and/or require the COMPANY to execute a new 380 agreement with the CITY. If the COMPANY and proposed Assignee are in compliance with all obligations to the CITY, then the CITY will not unreasonably withhold permission for assignment or execution of a new 380 agreement. The mere right to payment pursuant to this agreement may **not** be assigned.

Section 6.03 No Third-Party Beneficiaries, Setoff. Except as specifically assigned with permission of the CITY, no entity other than CITY or COMPANY shall have any right in this agreement or funds due pursuant to this Agreement. In the event that COMPANY ceases to do business on the Land, becomes insolvent or otherwise ceases to pay creditors as its debts becomes due, then this agreement and its rebate terms shall automatically terminate.

Article 7. Procurement

Section 7.01 Buy Local. COMPANY shall use commercially reasonable efforts to acquire all of its procurements, including, but not limited to, supplies, materials, equipment, service contracts, construction contracts, and professional services contracts from businesses located within Nueces County, unless such procurements are not reasonably and competitively available within said area. COMPANY shall not be required to maintain records regarding this requirement other than those normally kept in its usual course of business.

Article 8. Miscellaneous Provisions

Section 8.01 Severability. In the event any word, phrase, clause, sentence, paragraph, section, article or other part of this Agreement or the application thereof to any person, firm, corporation or circumstances shall ever be held by any court of competent jurisdiction to be illegal, invalid or unconstitutional for any reason, then the application, invalidity or unconstitutionality of the word, phrase, clause, sentence, paragraph, section, article or other part of this Agreement shall be deemed to be independent of and separable from the remainder of this Agreement and the validity of the remaining parts of this Agreement shall not be affected thereby.

Section 8.02 Warranties.

Company warrants and represents to City the following:

- (a) Company, is a corporation, partnership, or limited liability company, is duly organized, validly existing, and in good standing under the laws of the State of Texas, and further has all corporate power and authority to carry on its business as presently conducted in Corpus Christi, Texas.
- (b) Company has the authority to enter into and perform, and will perform, the terms of this Agreement.
- (c) Company has timely filed and will timely file all local, State, and Federal tax reports and returns required by law to be filed, and has timely paid and will timely pay all assessments, fees, and other governmental charges, including applicable ad valorem taxes, during the term of this Agreement.
- (d) If an audit determines that the request for funds was defective under the law or the terms of this agreement, Company agrees to either correct and resubmit the request for funds within 60 days of notice of defect or reimburse the City for the sums of money not authorized by law or this Agreement.

- (e) The parties executing this Agreement on behalf of Company are duly authorized to execute this Agreement on behalf of Company.
- (f) Company does not and agrees that it will not knowingly employ an undocumented worker. If, after receiving payments under this Agreement, Company is convicted of a violation under 8 U.S.C. Section 1324a(f) in any year during the Term of this Agreement, Company shall repay the payments received for that year not later than the 120th day after the date Company has been notified of the violation. This obligation will survive the termination of this Agreement.

Section 8.03 Force Majeure. If the City or Company are prevented, wholly or in part, from fulfilling its obligations under this Agreement by reason of any act of God, unavoidable accident, acts of enemies, fires, floods, earthquakes, high winds, storms, epidemics, pandemics, quarantines, governmental actions or regulations, wars, civil disturbances, strikes, labor disputes, material or labor shortages ("Force Majeure Event"), then the obligations of the City or Company are suspended during continuation of the Force Majeure Event. The party affected by a Force Majeure Event shall promptly notify the other party in writing, giving full particulars of the Force Majeure Event and the anticipated duration of the delay. The affected party shall use commercially reasonable efforts to mitigate the impact of the Force Majeure Event.

Section 8.04 Sale or Lease. If the COMPANY sells or leases all or a portion of the Land or Improvements to any entity, the COMPANY shall within sixty (60) days give notice to the CITY of said sale or lease of property or any portion of property described in Exhibit A.

Section 8.05 Assignment. Company may not assign all or any part of its rights, privileges, or duties under this Agreement without the prior written approval of the City Council. Any attempted assignment without such approval is void, and constitutes a breach of this Agreement.

Section 8.06 Entire Agreement. This Agreement constitutes the entire agreement of the parties and supersedes any and all prior understandings, or oral or written agreements, between the parties respecting such subject matter, except as otherwise provided in the instruments referenced herein. This Agreement may be amended only by written instrument signed by all of the parties hereto.

Section 8.07 Notices. Any notice to the COMPANY or the CITY concerning the matters to which this Agreement relates may be given in writing by registered or certified mail addressed to the COMPANY or the CITY at the appropriate respective addresses set forth below. The COMPANY must notify the CITY of any change of address in writing. Notices by a party to the other party hereto, shall be mailed or delivered as follows:

If to CITY: City Manager, City of Corpus Christi
 1201 Leopard
 P.O. Box 9277
 Corpus Christi, Texas 78469- 9277
 Phone: 361-826-3220
 Fax: 361-826-3845

With copies to: City of Corpus Christi-City Attorney

1201 Leopard
P.O. Box 9277
Corpus Christi, Texas 78469-9277
Phone: 361-8

If to COMPANY: Cinergy 112, LLC
ATTN: Rich Schwarte, President and CFO
5005 Lyndon B. Johnson Freeway,
Suite 525
Dallas, Texas 75244

With copies to: _____

Section 8.08 Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and the sole legal venue for construction of this agreement will be in a court in Nueces County, Texas.

Section 8.09 Counterparts. This Agreement may be executed in multiple counterparts, each of which is deemed an original, and all of which taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

Section 8.10 Authority. By acceptance of this Agreement and/or benefits conferred hereunder, each party represents and warrants to the other that its undersigned agents have complete and unrestricted authority to enter into this Agreement and to obligate and bind such party to all of the terms, covenants and conditions contained herein. The CITY waives immunity from suit pursuant to this Agreement only for the purpose of administering payments due to COMPANY pursuant to Articles 3 or 4 of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly executed as of the ____ day of _____, 2025.

CITY OF CORPUS CHRISTI

ATTEST:

Arturo Marquez
Director of Economic Development

City Secretary

LEGAL FORM APPROVED:

Jacqueline S. Bazan, Assistant City Attorney
City of Corpus Christ

CITY OF CORPUS CHRISTI ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF NUECES §

This instrument was acknowledged before me
on _____, 2025, by ARTURO MARQUEZ,
Director of Economic Development of the City of Corpus Christi, a Texas home-rule municipal
corporation, on behalf of said corporation.

Given under my hand and seal of office this ____ day of _____, A.D., 2025

Notary Public (seal)

COMPANY:

RICH SCHWARTE, PRESIDENT
Cinergy 112, LLC

ATTEST:

COMPANY ACKNOWLEDGMENT

THE STATE OF _____ §
COUNTY OF _____ §

This instrument was acknowledged before me on ____ day of _____, 2025,
by RICH SCHWARTE, PRESIDENT OF CINERGY 112, LLC.

Given under my hand and seal of office this ____ day of _____, A.D., 2025

Notary Public (seal)

EXHIBIT A
PROPERTY MAP AND SURVEY