

CHAPTER 380
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT
BETWEEN
CITY OF CORPUS CHRISTI, TEXAS
AND
KINNEY HOTEL PARTNERS LTD

CHAPTER 380
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

This Chapter 380 Economic Development Incentive Agreement ("Agreement") is entered into as of _____, 2013 between THE CITY OF CORPUS CHRISTI, TEXAS ("City"), a home rule city and KINNEY HOTEL PARTNERS LTD, a Texas limited partnership ("Company").

RECITALS

WHEREAS, the Company desires to construct a high-end boutique hotel catering to business travelers and vacationers within the city limits, as more particularly described in the Project Plan attached hereto as **Exhibit "A"** (the "Project," as more particularly defined below); 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 Project will be located in downtown Corpus Christi within an area which was designated the Downtown Catalyst Area by Ordinance No. 029781, approved March 26, 2013 by the Corpus Christi City Council; and

WHEREAS, the Corpus Christi City Council has adopted Resolution No. _____, authorizing the City to waive Development Fees, as defined herein, for the Project in recognition of the positive economic benefits that will accrue to the City through their Project, with a capital investment by the Company of approximately \$4,500,000, all as more particularly described in **Exhibit "A"** attached hereto; and

WHEREAS, the City has concluded and hereby finds that this Agreement promotes economic development in the City's Downtown Catalyst Area and, as such, meets the requirements under the Chapter 380 and the City's established economic development program, and, further, is in the best interests of the City and the 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, the attraction of new businesses, and the additional revenue generated by the Project for the City; and

WHEREAS, in consideration of the capital investment in the development and construction of the Project, which contributes to the City's economic development, the City agrees to waive the Development Fees for the project; 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 and other law, the Company has agreed to comply with certain conditions to the receipt 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, the City and the 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 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) does not constitute a default under, 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 that 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 a limited partnership under the laws of Texas, and shall remain in good standing in 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, and (ii) does not constitute a default under 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) The Company agrees to evidence, no later than the date it Commences Construction of the Project, which evidence is subject to the administrative approval of the City or its designee(s), whose approval shall not unreasonably be withheld, sufficient available funds to Complete the Project.

(D) 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," "the 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 of this Agreement.

2.2 "Commence Construction" means (i) to commence the work of constructing the improvements or features with all approvals thereof and permits required by applicable

governmental authorities obtained as necessary to begin construction; and (ii) onsite construction of the site development components (such as drainage, extensive grading or utilities) is underway and being pursued for the Project.

2.3 “Completion” or “Complete” means the date no later than two years from the effective date of this agreement, subject to extension upon approval by the City or for Force Majeure and delay due to obtaining required permits, that the Company has made and evidenced the fulfillment of the Investment Requirement for the Project.

2.4 “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.

2.5 “Development Fees” means any and all fees imposed by City upon Developer (including but not limited to Developer’s affiliates, assigns, successors, related parties, contractors and subcontractors) in any way related to Developer's platting, zoning, permitting, designing, building, constructing or developing the Project. Development Fees shall include but not be limited to permitting/approval fees, inspection fees and supervision fees.

2.6 “Effective Date” means the first date by which this Agreement has been signed by all of the parties hereto.

2.7 “Federal Bankruptcy Code” means Title 11, United States Code, as amended, and any successor statute.

2.8 “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 August 1st and ends on the next succeeding July 31st.

2.9 “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, hurricanes, 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; (vii) a breach by the City of this Agreement or any other 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; and (viii) failure of the other Party to perform any of its obligations under this Agreement within the time or by the date required pursuant to the terms of this Agreement for the performance thereof; 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.

2.10 “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.

2.11 “Investment Requirement” means an investment of capital in the Project of no less than Four Million Five Hundred Thousand dollars (\$4,500,000) as described in **Exhibit “A”** and **Exhibit “B”** attached hereto. The Company must provide documents evidencing the investment provided in the course of the Project pursuant to Article 8 herein.

2.12 “Property” means the real property on which the Project will be built, including all improvements and equipment thereon, as may change from time to time, as described in **Exhibit “B”** attached hereto.

2.13 “Resident of the City” or “City Resident” means a person that resided in the Corpus Christi Metropolitan Statistical Area (San Patricio County, Nueces County, and Aransas County) (“MSA”), as stated on that person’s application to the Company for employment, prior to January 1st of the year that production for the Project begins, which is when commercial production of a product or provision of a service is achieved at the facility.

2.14 “Term” means the period defined in Article III of this Agreement.

ARTICLE III **TERM**

3.1 The term of this Agreement (the “Term”) will begin on the Effective Date, as defined in Section 2.6 herein, and shall continue for two years.

ARTICLE IV
THE COMPANY REQUIREMENTS

4.1 Requirement to Complete Project: The Company shall provide reasonable evidence to the City that they have satisfied the Investment Requirement required for Completion of the Project. Should the Company Commence the Project but fail Completion within two years, the Project is considered abandoned and the company will be considered in Default.

4.2 Project General Requirements: With the exception of and subject to the waiver of Development Fees granted by the City in this Agreement, the Company shall pay, or cause third parties to pay, all 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 such improvements subject to a substantiated dispute of any such costs by the Company. The City shall not be responsible for any of such costs, subject to the waiver of Development Fees granted by the City in this Agreement. The Company agrees to assist the City, if so requested by the City, in the preparation of any documentation necessary for the preparation and approval of any of the documents or actions required by the City to perform any of the obligations under this Agreement. The Company further shall prepare or cause to be prepared any preliminary architectural or engineering plans and financial data and projections reasonably necessary to perform the obligations of the City under this Agreement. The Company agrees to proceed in good faith towards the development of the Project. 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 facilities; and shall timely pay all taxes assessed against the Property.

4.3 Commencement of the Project. Subject to obtaining financing for the construction of the Project and the compliance of the City with the terms of this Agreement, if the Company Commences Construction of the Project no later than nine (9) months after obtaining all required permits, the City agrees to waive the Development Fees as stated in this Agreement. The Company is required to inform the City in writing of the Construction Commencement date, as that term is defined in Section 2.2 herein. If the Company has not Commenced Construction pursuant to this Section, the City has the option to terminate this Agreement.

4.4 Use of Local Resources

(A) The Company shall make Reasonable Efforts to fill construction jobs with Residents of the Corpus Christi MSA. "Reasonable Efforts" shall be defined as: (i) the Company shall publish job fair schedules and, to the extent practicable, job postings in the Corpus Christi area

newspapers; and (ii) the Company shall establish an official web site which will be the official means of informing Corpus Christi MSA Residents of employment opportunities. The website will provide a link to the Texas Workforce Commission's website; and (iii) at least fourteen (14) days prior to the filling of such positions, the Company shall post on its official web site the availability of such positions to inform residents of the City of the employment opportunities. The Company is not required to post the availability of any position once that position has been filled by a Resident of the Corpus Christi MSA.

(B) To the extent practicable, the Company shall also give priority to the use of suppliers from the Corpus Christi MSA for construction materials and supplies. The Company shall, to the extent practicable, publish its requirements for goods and services of significant value on its official web site. The Company shall not, however, be required to use goods and services provided by resident suppliers from the Corpus Christi MSA that are not (i) of equivalent quality, functionality, and compatibility to those provided by nonresident suppliers or (ii) made available on terms, conditions and price comparable to those offered by nonresident suppliers.

(C) The Company and/or its construction contractor, if any, shall designate a coordinator of local services who will act as a liaison between any individuals, businesses and contractors residing or doing business in the Corpus Christi MSA who are interested in obtaining information about providing goods or services related to the construction of the project.

ARTICLE V

PROJECT FUNDING

5.1 City Commitment. City shall waive for the Company an amount equal to all Development Fees pertaining to the Project. The Director of Development Services for the City shall be responsible for tracking and supplying information related to Development Fees for the Project. The City Commitment will begin on the effective date and will continue through and until the end of two years.

ARTICLE VI

COVENANTS, WARRANTIES, OBLIGATIONS AND DUTIES

OF THE COMPANY

If the Company shall have made intentionally 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 the Company, subject to Section 9.1 herein. Failure to comply with any one covenant or warranty shall constitute an Act of Default by the Company, subject to Section 9.1 herein.

The 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 the Company or their officers, threatened against or affecting the Company or the Property that may result, in the sole judgment of the Company, in any material adverse change in the Company's business, properties or operation.

6.2 Untrue Statements. To the best of their knowledge, no certificate or statement delivered by the 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 the Company has not been informed of any potential involuntary bankruptcy proceedings.

6.4 Licenses and Authority. To the best of their knowledge, the Company has acquired or is in the process of acquiring and maintained all necessary rights, licenses, permits and authority to develop the Project in the City and will continue to use commercially reasonable efforts to maintain all necessary rights, licenses, permits and authority.

6.5 Payment of Taxes. The Company shall timely pay all taxes due and owing by them to all taxing authorities having jurisdiction. In addition, the 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 Completion. The Company acknowledges and agrees that if it fails to Complete the Project within the time periods herein provided, the City has the right to terminate this Agreement as herein provided.

6.7 Ownership Changes. The Company shall notify City in writing of any changes in ownership of any part of the Project or of the Company within seven (7) days after the Company's knowledge thereof.

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

6.9 Non-discrimination. The 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.

6.10 Employment of Undocumented Workers. The Company does not and agrees that it will not knowingly employ an undocumented worker. If, after receiving Reimbursement Amount payments, the Company is convicted of a violation under 8 U.S.C. Section 1324a(f), the Company shall repay the Reimbursement Amount payments, with interest at the Wall Street Journal Prime Rate, not later than the 120th day after the date the Company has been notified of the violation.

ARTICLE VII

SUSPENSIONS/TERMINATION

Subject to the terms of Article V herein, the City, under the following circumstances, and at its sole discretion, may temporarily suspend waiver of Development Fees under this Agreement and/or terminate this Agreement, without liability to the Company, and all future Development Fee waiver obligations shall automatically cease:

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

7.2 Bankruptcy. The adjudication of the Company as a bankrupt.

7.3 Bankruptcy Petition. The filing by the Company of a petition or an answer seeking chapter 7 bankruptcy under the Federal Bankruptcy Code.

7.4 Failure to Comply with Audit Requirements. The failure of the 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 the Company's records relative to compliance with the Investment Requirement to determine their compliance with the terms of this Agreement. This audit will be done by the City or its designee on an annual basis. The Company shall provide the City an annual report, no later than March 1st of each year, stating the corresponding amount of annual capital investment (until the Investment Requirement has been fulfilled), and annual payroll.

8.2 Access to Records / Right to Audit. The Company, during normal business hours and after having after providing three working days prior written notice, shall allow City or its designee reasonable access to its records and books and all other relevant records relative to compliance with the Investment Requirement, 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, or at the direction of the Office of the Texas Attorney General.

ARTICLE IX

DEFAULT

9.1 Default. Subject to Force Majeure and any consent given under Section 9.2 or variance granted under Section 11.14, should the Company fail to timely, fully and completely keep or perform any one or more of the covenants or warranties made by the Company in this Agreement, such failure to perform shall be an Act of Default by the Company and, if not cured and corrected within ninety (90) days after written notice to do so or by express waiver by the City, the City has the option to (i) temporarily or permanently suspend waiver of Development Fees under this Agreement and/or (ii) terminate this Agreement, without liability to the Company, cease all future Development Fee waiver obligations, and require the Company to refund to the City any Development Fees waived by the City up to date of termination The Company shall be liable to City for any actual proven damages sustained by the City as a result of said Act of Default by the Company under this Agreement, subject to the provisions of Section 11.16.

9.2 Consent and Excuse. In the event of unforeseeable third party delays which are not Force Majeure and upon a reasonable showing by the Company that it has immediately and in good faith commenced and is diligently and continuously pursuing the correction, removal or abatement of such delays by using commercially reasonable efforts, the City may consent to and excuse any such delays, which consent and excuse shall not be unreasonably withheld.

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

9.4 City Waiver. Any waiver granted by City to the Company of an Act of Default shall not be deemed or constitute a waiver of any other existing or future Act of Default by the Company or of a subsequent Act of Default of the same act or event by the 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 sixty (60) days to cure and remove the Default after receipt of written notice to do so from the Company.

ARTICLE XI MISCELLANEOUS PROVISIONS

11.1 Permitting. Subject to the Company's complying with all applicable laws, City agrees to cooperate with the Company to expeditiously process permits required for the Project to be in a state of Completion.

11.2 Attorneys' Fees. If any legal action or proceeding is commenced between City and the Company based on this Agreement, the prevailing party in the legal action will be entitled to recover its reasonable attorneys' fees and expenses incurred by reason of such action, to the extent allowed by law.

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

11.4 Assignment. Except as provided below, the 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. The City agrees, however, that the Company may assign in whole or in part its rights and obligations under this Agreement or with respect to all or any part of the Project to any affiliate, subsidiary, related company, partnership or joint venture, as long as the assignee controls, is controlled by, or is under common control with the Company; or to a third party lender advancing funds for the acquisition of all or any part of the Property or for the construction or operation of the Project. The City expressly consents to any assignment described in the preceding sentence, and agrees that no further consent of City to such an assignment will be required. The Company agrees to provide City with written notice of any such assignment.

11.5 Termination. If the Company elects not to proceed with the Project as contemplated by this Agreement, the 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.

11.6 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; or (iii) by confirmed facsimile, provided that a copy of the Notice is also given in one of the manners specified in (i) or (ii). Notice deposited in the mail in the manner specified will be effective two (2) 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: Kinney Hotel Partners LTD
Attn.: General Partner
329 Peerman Place
Corpus Christi, Texas 78411

City: City of Corpus Christi
Attn.: City Manager
P.O. Box 9277
Corpus Christi, Texas 78469-9277
Ph: (361) 826-3220
Facsimile: (361) 826-3839

with a copy to: City Attorney
P.O. Box 9277
Corpus Christi, Texas 78469-9277
Ph. (361) 826-3360
Facsimile: (361) 826-3239

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

11.7 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.

11.8 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.

11.9 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.

11.10 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.

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

11.12 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 signature will be deemed to be an original signature for all purposes.

11.13 Exhibits. The following exhibits are attached to and incorporated into this Agreement for all purposes:

Exhibit "A:" Project Description
Exhibit "B:" Property Description

11.14 Variances. The City, in its sole discretion, may grant and approve variances to the Company from the performance criteria and development standards described herein upon application in writing therefore by the Company.

11.15 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 total sum of Development Fees incurred from the date of Commencement of Construction through the date that construction or development efforts cease due to conflict between the parties under this Agreement.

11.16 Damages not included. Damages awarded in an adjudication brought against City or the Company arising under the Agreement, including any amendments thereto, may not include: (i) consequential damages, except as expressly allowed under Section 11.15 above; (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 of Texas and all other applicable County, State and Federal laws, and the Company agrees that it will promptly comply with all such applicable laws, regulations, orders and rules of the State, County and other applicable governmental agencies. This Agreement shall be governed by and construed in accordance with the laws and court decisions 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 the Company or its respective representatives to City and its representatives and shall not release such information to the public, unless required by law or court order. City shall immediately notify the Company of requests or court orders to release such information.

[Remainder of this page is intentionally left blank]

EXECUTED to be effective as of this 31 day of May, 2013

KINNEY HOTEL PARTNERS LTD

Signed on this 31 day of May, 2013

By: 
Rod Martin, Manager of
Phase Two LLC, General Partner of Kinney Hotel Partners LTD

CITY OF CORPUS CHRISTI, TEXAS

Signed on this _____ day of _____, 2013

ATTEST:

CITY OF CORPUS CHRISTI

Armando Chapa,
City Secretary

Ronald L. Olson
City Manager

Exhibit A
Project Plan

The Kinney will be a high-end boutique hotel catering to business travelers as its primary target and vacationers as its secondary target. The property will consist of 54 rooms in three separate room classes and each will have a king-sized bed and luxury amenities. All rooms will face a lush courtyard surrounded on two sides by two three-story room wings, on the front end by a three-story guest services building, and on the back end by a single-story event space. The hotel will not operate a full-service restaurant or buffet operations but will instead opt for room-delivered meals from a limited, high-end menu of breakfast and appetizer options. It will also house a small bar area to serve guests and locals. The hotel will have a dedicated exercise area, several indoor and outdoor common areas, a conference room available for guests within the main guest services building, and a 4,300 square foot event space that may be utilized as one, two, or three separate spaces.

Exhibit B
Property Description

The Kinney will be located at SCHATZEL TRACT 1, an addition in the City of Corpus Christi, Nueces County, Texas, as shown by the map of the plat thereof recorded in Volume 34, Page 46, Map Records of Nueces County, Texas, to which reference is here made for all pertinent purposes.