

MEMORANDUM OF UNDERSTANDING

Evansville Convention Headquarters Hotel Development

This Memorandum of Understanding (“MOU” or “Agreement”) is made and entered into effective the 16th day of December, 2011 by and between the Evansville Redevelopment Commission (“ERC”), the governing body of the Evansville Redevelopment District, and The Kunkel Hotel Group, LLC (“Developer” or “Kunkel”), an Indiana limited liability corporation having an address at 510 Main Street, Evansville, Indiana (together known as “the Parties”).

Recitals:

Whereas, the ERC on behalf of the City of Evansville (“City”) desires the development of a full-service hotel of a minimum of 220 rooms (“Project”) to be built on a site adjacent to the Ford Center Arena (“Arena”); and

Whereas, the ERC issued a request for proposals (“RFP”) for development of the Project; and

Whereas, Developer is in the business of financing and constructing real estate developments; and

Whereas, Developer responded to the RFP with a proposal generally meeting the desires of the ERC; and

Whereas, the Parties desire to enter into this MOU for purposes of creating an understanding between the Parties with respect to future development of the Project; and

Whereas, the MOU will generally lay out the terms of future agreement(s) to be executed that will include specifics of the terms between the Parties prior to funding and construction of the Project.

Now, therefore, the Parties hereby agree that the following represent an expression of the Parties’ mutual understandings concerning the basic terms upon which the transaction contemplated by this MOU would be pursued and definitive agreements would be negotiated, with the understanding that this MOU does not constitute a legally binding or enforceable agreement and does not create any legally binding obligations whatsoever, express or implied:

1. **The Property.** The Project is to be constructed on the block bounded by Walnut, Chestnut and Sixth streets and Martin Luther King, Jr. Blvd. in downtown Evansville, Indiana. The land is currently owned by the ERC.
2. **The Project.** The Project is to be a Sheraton or Hyatt branded hotel of a minimum of 220 guest rooms, including a minimum of ten suites, a full-service three-meal restaurant seating a minimum of 60, including standard room service, a divisible ballroom of a minimum of 7,500 square feet, a minimum of five meeting rooms beyond the ballroom, a boardroom and a pool and fitness center. The Project will also include a minimum of 250 structured parking spaces.
3. **Developer.** Developer will be responsible for financing, designing and constructing the Project, subject to the terms herein.
4. **Management.** Developer shall enter into a long-term (ten-year minimum) contract with a qualified third-party management company (Management Company) mutually acceptable to the ERC and the Developer and experienced in the management of full-service hotels and the Sheraton or Hyatt brand.
5. **Purchase Price.** The Developer will pay to the ERC a sum of one million dollars (\$1,000,000) for the site, subject to legal requirements for disposition.
6. **ERC Incentives.** There are three specific incentives and one possible incentive contemplated for this Project.
 - a. The ERC shall extend to Developer two loans. The first loan (“Developer Limited Recourse Loan #1”) will be in the amount of \$3,500,000 repaid over a time period and under defined conditions at an interest rate to be negotiated as part of the Development Agreement.
 - b. The second loan (“Developer Limited Recourse Loan #2”) will be in the amount of \$4,500,000 and will be forgivable.
 - c. The City will grant a ten-year property tax deduction in accordance with IC 6-1.1-12.1-4(d)(10) to Developer.
 - d. The City or ERC may provide the value of any real estate taxes paid over ten years to Developer, in a form and timing to be negotiated as part of the Development Agreement.
7. **ERC Cooperation.** ERC agrees to cooperate with Developer to obtain all approvals necessary to effectuate all ERC-approved incentives.

8. Private Financing. Developer will provide private financing for the difference between the proposed Project cost (\$33.0 million +/-) and the value of the ERC loans (\$8.0 million), or approximately \$25.0 million. The private financing shall include at least \$2.0 million in equity provided by Developer. Should the cost of the Project be greater than the \$33.0 million proposed, Developer shall fund the overage and ERC agrees to assist and cooperate with Developer to secure such funding, by providing such assurances as may be required by Developer's Senior Lender to accomplish such increase in funding, but ERC shall in no event be responsible to provide any such additional funding. Developer shall provide evidence of construction financing for the Project to the ERC prior to provision of ERC's loans.

9. Funding Timing. The Parties shall provide the respective full amount of funds for the Project (ERC's loan proceeds, Developer debt and equity) at a date mutually agreed to by the Parties. Funds shall remain in a Project fund for purposes of constructing and operating the Project until such time as funds are expended or the Project has been operating for twelve months and adequately paying debt service. Funds from each entity (Developer and ERC) shall be expended pro rata for the project construction and initial operation.

10. Design. Project design shall be:

- e. Approved by the ERC prior to completion of design documents and construction budgeting. ERC design approval shall not be unreasonably withheld nor should ERC design requirements cause the project budget to increase materially without an offsetting provision of funds from the ERC.
- f. Designed to accept either an above-ground or below-ground pedestrian connection to the Ford Center Arena ("Arena) and Convention Center ("Centre"), subject to the mutual agreement of the ERC and the Developer.
- g. Designed by an experienced architect or at minimum reviewed and approved by an architect experienced in the design of full-service hotels.

11. Project Labor Agreement. The construction will be performed under the terms of a Project Labor Agreement ("PLA"), with local construction employee organizations, the terms of which require the use of local workforce to the extent available and to the extent that the obligation is reasonable.

12. MBE and WBE. The Project will be completed with a goal of 14 percent Minority Business Enterprise participation and 7 percent Women Business Enterprise participation.

13. Project Manager. ERC will engage an experienced independent project manager to ensure Project proceeds on schedule and within budget and authorize such manager to report on the progress of the project directly to the ERC. Developer will cooperate with the ERC's project manager and provide the project manager with complete access to the Project and to all records related to the Project.

14. Project Completion. Developer will provide evidence to the satisfaction of ERC of its ability to complete the Project as approved, including without limitation the following:

a. Detailed budget information that includes a construction contingency amount deemed adequate by the ERC.

b. Provision by Developer to the ERC of evidence satisfactory to the ERC of payment by the Developer in full of the outstanding costs of demolition work heretofore performed by the Klenck Company and/or related contractors on property formerly occupied by the Executive Inn and Parking Garage in the amount of \$315,000.00.

15. Room Block Agreement. Developer and designated Management Company agree to use their best efforts to negotiate a Room Block Agreement ("RBA") with the ERC that guarantees the availability of a minimum of 75 percent of Project guest rooms committed to events meeting certain requirements, such as certain city-wide sports and convention events that are schedule more than one year in advance, to be set forth in the RBA.

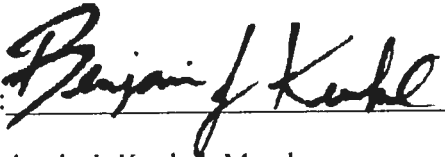
16. Permits, Ordinances. Developer will be responsible for complying with all laws, ordinances, etc. Unless otherwise agreed as part of the final agreements, the Developer is responsible for completing and paying for all required permits related to the Project.

17. Term. The term of this MOU shall end after 90 days from execution or upon the execution of superseding agreements, whichever is sooner. If an acceptable development or other critical agreements are not executed within 90 days from execution of this agreement, the ERC may cease discussions and open the development process to other developers without penalty to either party.

Although not intended to be legally binding on the parties, and the actions of the ERC described herein are subject to complying with necessary legal procedures and approvals, the above terms are agreeable and represent the intentions of the Parties. Specifics and modifications are expected to be included in a variety of agreements,

including a Development Agreement and Construction Agreement, to be negotiated over the next 90 days.

The Kunkel Hotel Group, LLC

By: 

Benjamin J. Kunkel, Member

“Kunkel”

Evansville Redevelopment Commission

By: _____