

## **ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT TAX REBATE**

This Economic Development Incentive Agreement (“Agreement”) is made by and between the City of Plano, Texas, a home-rule municipal corporation (the “City”) and Kintetsu Enterprises Company of America dba Miyako Hotel, a California corporation (“Company”), acting by and through their respective authorized officers and representatives.

### **WITNESSETH:**

**WHEREAS**, Company is engaged in the hospitality industry and agrees to construct and Occupy a minimum 215,000 square-foot hotel on the Real Property; and

**WHEREAS**, Company agrees to construct or cause to be constructed Real Property Improvements that have a minimum Fair Market Value of \$75,000,000.00 on the Real Property; and

**WHEREAS**, the City Council finds that the construction and Occupancy of a 215,000 square-foot hotel and investment of at least \$75,000,000.00 of Real Property Improvements on the Real Property will promote economic development, stimulate commercial activity and enhance the tax base and economic vitality of the City; and

**WHEREAS**, the City has adopted programs for promoting economic development; and

**WHEREAS**, the City is authorized by TEX. LOC. GOV’T CODE §380.001 *et seq.* to provide economic development grants to promote local economic development and to stimulate business and commercial activity in the City; and

**WHEREAS**, the City has determined that granting a tax rebate to the Company in accordance with the terms and conditions set forth in this Agreement will further the objectives of the City, will benefit the City and its citizens and will promote local economic development and stimulate business and commercial activity in the City; and

**NOW THEREFORE**, in consideration of the foregoing and the premises, mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, hereby covenant and agree as follows:

### **Article I Definitions**

For purposes of this Agreement, each of the following terms shall have the meaning set forth herein unless the context clearly indicates otherwise:

“Ad Valorem Property Taxes” means those taxes paid each year to City of Plano for the Real Property and business personal property. Ad Valorem Property Taxes excludes taxes paid to any taxing entities other than the City of Plano.

“Company” shall mean Kintetsu Enterprises Company of America dba Miyako Hotel, a California corporation.

“Commencement Date” shall mean December 31, 2027.

“Fair Market Value” shall mean the actual hard costs related to the construction of the Real Property Improvement as paid or acquired by or on behalf of the Company.

“Hotel Amenities” shall mean a Japanese-themed hotel with a minimum: (i) 217 hotel guest rooms, (ii) 5,000 square-feet of meeting space, (iii) a rooftop event space, and (iv) a full-service restaurant.

“Occupancy” or “Occupy” shall mean the Company has received a certificate of occupancy for the occupancy of the Real Property and the Company is regularly open and operating their business at the Real Property.

“Real Property” or “Property” shall mean Lot 8R, Block E Legacy West Addition located at the northwest corner of Legacy Drive and Corporate Drive, Plano, Texas, 75024 as more fully described in Exhibit “A” attached hereto and made a part hereof.

“Real Property Improvements” shall mean improvements to the real property made by Company, consisting of new building(s) and/or building improvements, with a Fair Market Value of at least \$75,000,000.00.

“Real Property Taxes” shall mean those taxes paid each year to the City for the Real Property. Real Property Taxes excludes taxes paid to any taxing entities other than the City.

## **Article II**

### **Term**

The term of this Agreement shall begin on the Commencement Date and continue for ten (10) years thereafter, unless sooner terminated as provided herein (“Term”). The tax rebate as described in Article IV shall be for a period of ten (10) years, from January 1, 2028, until December 31, 2037.

## **Article III**

### **Obligations of Company**

In consideration for the tax rebate described in Article IV below, the Company shall:

(a) By the Commencement Date, construct or cause to be constructed a minimum 215,000 square-foot hotel with Hotel Amenities and maintain Occupancy throughout the Term of the Agreement; and

(b) By the Commencement Date, construct or cause to be constructed real property improvements that have a minimum Fair Market Value of \$75,000,000.00 on the Real Property; and

(c) For the duration of the Agreement, Company must annually pay Ad Valorem Property Taxes owed to the City and not become delinquent in such payment. No tax rebate shall be issued by the City if Company is delinquent in its Ad Valorem Property Taxes payment to the City.

#### **Article IV Economic Development Grant**

4.01 Subject to Company complying with the obligations set out in Article III and this Article, the City agrees to provide Company a tax rebate as described below:

(a) Beginning January 1, 2028, and annually thereafter for the Term of the Agreement and after receipt and acceptance of the certifications required by Section 4.02, the City shall pay to Company a tax rebate equal to fifty percent (50%) of the Real Property Taxes on the Real Property Improvements paid by Company to the City. The assessed taxes shall be determined by the Collin Central Appraisal District (“Collin CAD”). The tax rebate amount shall not include any interest or penalties that may be assessed for late payments against the Company.

4.02 Beginning January 1, 2028, Company must submit an annual certification on the form attached hereto as Exhibit “B” not later than May 1 of each year for the duration of this Agreement certifying compliance with all of the obligations set out in Article III above. A failure to file the annual certification by the May 1 deadline during the remaining years of the Agreement shall be an event of default and, if not cured, results in Company’s forfeiture of the tax rebate for that calendar year or repayment of the already paid tax rebate by the City. City will make the payment within thirty (30) days of receipt of each annual certification if it reflects compliance with the terms of the Agreement. All certifications must be executed by the Company’s chief executive or financial officer.

(a) With its first annual certification submission to the City, Company shall submit documentation, including receipts and invoices, showing proof of payment and/or purchase of the hard costs related to the construction of the Real Property Improvement.

#### **Article V Default and Termination**

5.01 Any of the following events shall be deemed a breach of this Agreement resulting in default:

(a) Company allows its Ad Valorem Property Taxes to become delinquent, and fails to either:

(i) Timely and properly follow the legal procedures for protest and/or contest of any such taxes, or

(ii) Cure such delinquency within thirty (30) days of receipt of notice of such delinquency; or

(b) Company fails to comply with any of the terms and obligations in this Agreement, including those detailed in Article III; or

(c) Company fails to provide the certifications as required in Section 4.02; or

(d) Company fails to comply with the Assignment provision in Article VI below; or

(e) Company has been convicted of a violation under 8 U.S.C. Section 1324a(f) regarding the unlawful employment of aliens.

5.02 In the event of a default of this Agreement, the City shall give Company written notice of such default and if the default is not cured or a waiver by the City has not been obtained by the Company within thirty (30) days of said written notice, this Agreement shall automatically terminate except any damages as specified below shall survive the termination of this Agreement. Notice shall be in writing as provided below. The City Manager is authorized on behalf of the City to send notice of default and to terminate the Agreement for any default that is not cured.

5.03 Upon the occurrence of an event of default under Section(s) 5.01 (a), (b), (c), or (d) and that remains uncured, at the City's sole discretion, it may require repayment of all or a portion of the tax rebates paid by the City to the Company. Any repayment due and owing to the City shall be paid by the Company within thirty (30) days of written demand from the City for repayment. City may use any efforts to collect such sums owed and the Company agrees to pay any and all interest and expenses, including attorney's fees and court cost incurred by the City. This obligation shall survive termination of this Agreement.

5.04 Upon the occurrence of an event of default under Section 5.01(e) and that remains uncured, all the tax rebate paid to the Company by the City shall become due and owing to the City from the Company, together with interest charged from the date of this Agreement at the statutory rate for delinquent taxes as determined by V.T.C.A., Tax Code § 33.01, but without the addition of penalty other than that mandated by V.T.C.A., § 33.01 or 33.07 and Texas Government Code Chapter 2264. Repayment of grant funds and interest shall be due not later than 120 days after the date the City notifies the Company of the conviction.

5.05 The rights, responsibilities and liabilities of the parties under this Agreement shall be extinguished upon the applicable effective date of termination of this Agreement, except for any obligations or default(s) that existed prior to such termination or as otherwise provided herein and those liabilities and obligations shall survive the termination of this Agreement, including the refund provision, maintenance of records, and access thereto.

## **Article VI Assignment**

This Agreement may not be assigned without the express written consent of the non-assigning party, except that the Company may assign this Agreement without obtaining the City's consent to (a) one of its wholly owned affiliates, or (b) any person or entity that directly or indirectly acquires, through merger, sale of stock, purchase or otherwise, all or more than ninety (90) percent of the assets of the Company as long as the Company gives sixty (60) days prior written notice to the City and the assignee executes an agreement with the City to be bound to all the terms and conditions of this Agreement and be responsible for any default(s) that occurred prior to or after the assignment.

For any assignment not covered by (a) or (b) in the preceding paragraph, the Company must obtain the prior approval of the City through its City Manager, which will not be unreasonably withheld or delayed, and the assignee must agree to be bound to all the terms and conditions of this Agreement and to accept all liability for any default that occurred prior to and/or after the assignment.

Any assignment agreement must be furnished in a form acceptable to the City and be provided at least thirty (30) days prior to the effective assignment date. City agrees to notify the potential assignee of any known default, but such notification shall not excuse defaults that are not yet known to the City.

## **Article VII Right to Inspect**

Company agrees that the City, its representatives, agents, and employees, shall have reasonable right (upon reasonable prior notice to Company) to access and inspect the Real Property Improvements at the Real Property. The right of inspection shall continue during the Term of this Agreement.

## **Article VIII Miscellaneous**

8.01 **No Joint Venture.** It is acknowledged and agreed by the parties that the terms of this Agreement are not intended to and shall not be deemed to create a partnership or joint venture among the parties. Neither party shall have any authority to act on behalf of the other party under any circumstances by virtue of this Agreement.

8.02 **Notice of Bankruptcy.** In the event Company files for bankruptcy, whether involuntarily or voluntary, Company shall provide written notice to the City within three (3) business days of such event.

8.03 **Authorization.** Each party represents that it has full capacity and authority to grant all rights and assume all obligations that are granted and assumed under this Agreement.

8.04 **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the party at the address set forth below (or such other address as such party may subsequently designate in writing) or on the day actually received if sent by courier or otherwise hand delivered.

If intended for the City:  
City of Plano, Texas  
Attention: Mr. Mark D. Israelson, City Manager  
P.O. Box 860358  
Plano, TX 75086-0358

With a copy to:  
City of Plano, Texas  
Attention: Ms. Paige Mims, City Attorney  
P.O. Box 860358  
Plano, TX 75086-0358

If intended for the Company:  
Kintetsu Enterprises Company of America  
Attention: Mr. Ryo Yamada, Vice President  
2141 S. Western Avenue #100  
Torrance, CA 90501

8.05 **Compliance with Equal Rights Ordinance.** Company agrees to comply with Section 2-11(F) of the City Code of Ordinances, which reads as follows:

“It shall be unlawful for an employer to discriminate against any person on the basis of race, color, sex, religion, age, national origin, genetic information, sexual orientation, gender identity, disability status or United States military/veteran status by the following actions or inactions:

- (a) for an employer to fail or refuse to hire, or to discharge, any person;
- (b) for an employer to discriminate against any person with respect to compensation, terms, conditions or privileges, of employment;
- (c) for an employer to limit, segregate or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or

employment opportunities, or that would otherwise adversely affect a person's status as an employee;

(d) for an employment agency to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of a protected employment characteristic;

(e) for an employment agency to classify or refer for employment any person, on the basis of a protected employment characteristic;

(f) for a labor organization to exclude or expel from its membership, or to otherwise discriminate against, any person because of a protected employment characteristic;

(g) for a labor organization to fail or refuse to refer for employment any person because of a protected employment characteristic;

(h) for a labor organization to limit, segregate or classify its members or applicants for membership, in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment;

(i) for a labor organization to cause or attempt to cause an employer to discriminate against a person in violation of this subsection;

(j) for an employer, a labor organization or a joint labor-management committee, to discriminate against any person because of a protected employment characteristic in the admission to, or employment in, any program established to provide apprenticeship or other training;

(k) for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic;

(l) for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic; or

(m) for a joint labor-management committee to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification or discrimination, based on a protected employment characteristic.”

Company also understands that it is entitled to apply to the City Manager for a waiver from the Equal Rights Ordinance’s application to its business if applying it would conflict with state or federal law. During the review of the waiver request, the contract will be placed on hold.

8.06 **Entire Agreement.** This Agreement is the entire Agreement between the parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the parties that in any manner relates to the subject matter of this Agreement.

8.07 **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without giving effect to any conflicts of law rule or principle that might result in the application of the laws of another jurisdiction. Venue for any action concerning this Agreement, the transactions contemplated hereby or the liabilities or obligations imposed hereunder shall be in the State District Court of Collin County, Texas.

8.08 **Amendment.** This Agreement may only be amended by the mutual written agreement of the parties.

8.09 **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

8.10 **Recitals.** The recitals to this Agreement are incorporated herein.

8.11 **Authorized to Bind.** The persons who execute their signatures to this Agreement represent and agree that they are authorized to sign and bind their respective parties to all of the terms and conditions contained herein.

8.12 **Counterparts.** This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

**[INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW]**



This Agreement shall be effective upon the last date on which all parties have executed this Agreement.

ATTEST:

CITY OF PLANO, TEXAS, a home-rule  
municipal corporation

\_\_\_\_\_  
Lisa C. Henderson, CITY SECRETARY

\_\_\_\_\_  
Mark D. Israelson, CITY MANAGER  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
for Paige Mims, CITY ATTORNEY

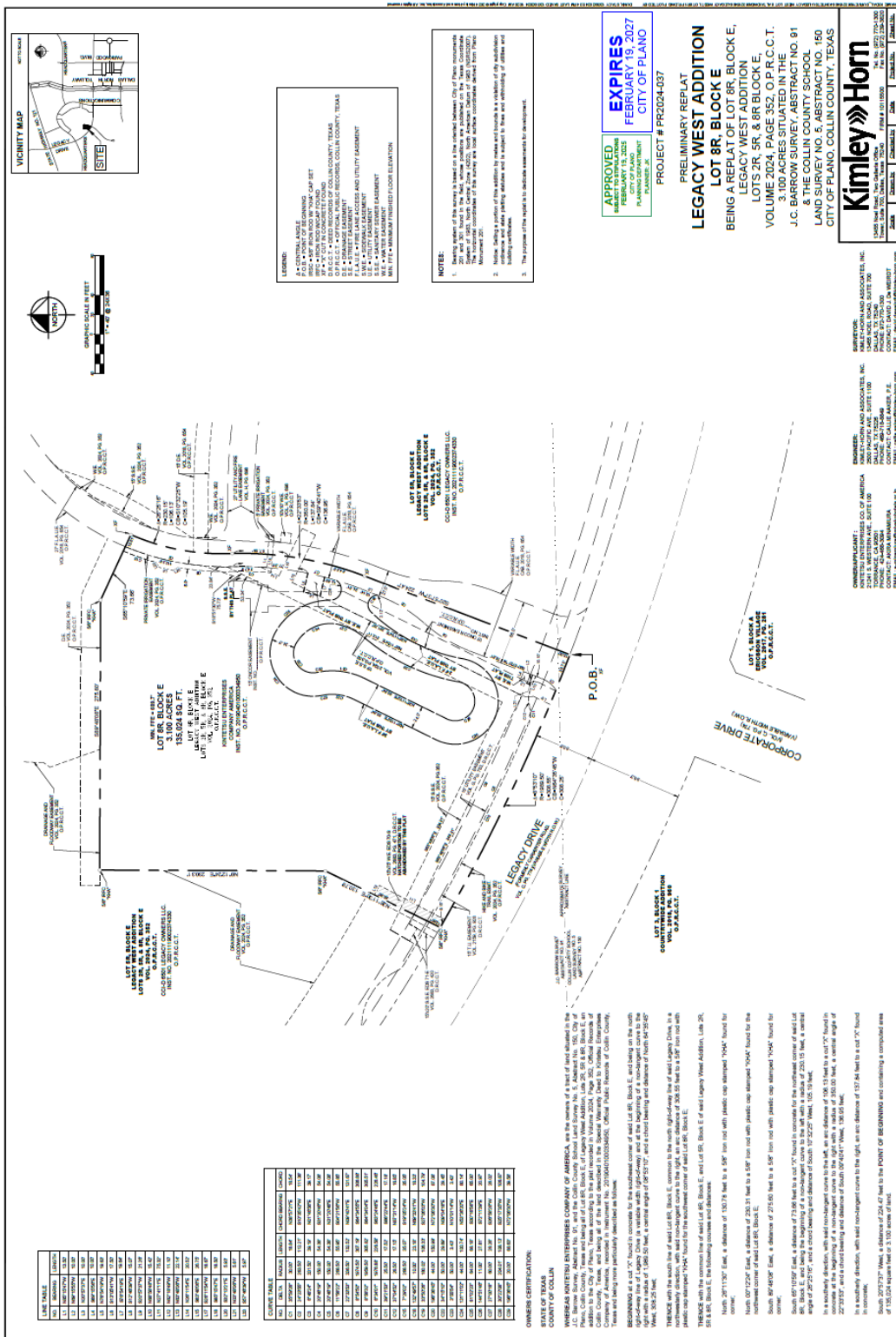
ATTEST:

KINTETSU ENTERPRISES COMPANY  
OF AMERICA dba MIYAKO HOTEL, a  
California corporation

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# EXHIBIT "A" LEGAL DESCRIPTION



**OWNERS CERTIFICATION:**

**STATE OF TEXAS  
COUNTY OF COLLIN**

**WHEREAS KINTETSU ENTERPRISES COMPANY OF AMERICA**, are the owners of a tract of land situated in the J.C. Barrow Survey, Abstract No. 91, and the Collin County School Land Survey No. 5, Abstract No. 150, City of Plano, Collin County, Texas and being all of Lot 8R, Block E, of Legacy West Addition, Lots 2R, 5R & 8R, Block E, an addition to the City of Plano, Texas according to the plat recorded in Volume 2024, Page 352, Official Records of Collin County, Texas, and being all of the land described in the Special Warranty Deed to Kintetsu Enterprises Company of America, recorded in Instrument No. 20190401000334950, Official Public Records of Collin County, Texas and being more particularly described as follows:

**BEGINNING** at a cut "X" found in concrete for the southeast corner of said Lot 8R, Block E, and being on the north right-of-way line of Legacy Drive (a variable width right-of-way) and at the beginning of a non-tangent curve to the right with a radius of 1,989.50 feet, a central angle of 08°53'10", and a chord bearing and distance of North 64°35'45" West, 308.25 feet;

**THENCE** with the south line of said Lot 8R, Block E, common to the north right-of-way line of said Legacy Drive, in a northwesterly direction, with said non-tangent curve to the right, an arc distance of 308.55 feet to a 5/8" iron rod with plastic cap stamped "KHA" found for the southwest corner of said Lot 8R, Block E;

**THENCE** with the common line of said Lot 8R, Block E, and Lot 5R, Block E of said Legacy West Addition, Lots 2R, 5R & 8R, Block E, the following courses and distances:

North 26°11'30" East, a distance of 130.78 feet to a 5/8" iron rod with plastic cap stamped "KHA" found for corner;

North 00°12'24" East, a distance of 230.31 feet to a 5/8" iron rod with plastic cap stamped "KHA" found for the northwest corner of said Lot 8R, Block E;

South 89°48'08" East, a distance of 275.60 feet to a 5/8" iron rod with plastic cap stamped "KHA" found for corner;

South 65°10'59" East, a distance of 73.66 feet to a cut "X" found in concrete for the northeast corner of said Lot 8R, Block E, and being the beginning of a non-tangent curve to the left with a radius of 230.15 feet, a central angle of 26°25'16", and a chord bearing and distance of South 10°32'25" West, 105.19 feet;

In a southerly direction, with said non-tangent curve to the left, an arc distance of 106.13 feet to a cut "X" found in concrete at the beginning of a non-tangent curve to the right with a radius of 350.00 feet, a central angle of 22°33'53", and a chord bearing and distance of South 09°40'41" West, 136.95 feet;

In a southerly direction, with said non-tangent curve to the right, an arc distance of 137.84 feet to a cut "X" found in concrete;

South 20°57'37" West, a distance of 224.47 feet to the **POINT OF BEGINNING** and containing a computed area of 135,024 square feet or 3.100 acres of land.

**EXHIBIT “B”  
CERTIFICATION FORM**

[DATE]

City of Plano, Texas  
Finance Department  
P.O. Box 860358  
Plano, Texas 75086-0358

RE: Certification Form – Tax Rebate Economic Development Agreement (the “Agreement”) between Kintetsu Enterprises Company of America (“Owner”) and the City of Plano.

This letter certifies that Owner is in compliance with each applicable term as set forth in the Agreement and is entitled to a tax rebate equal to an amount of fifty percent (50%) of Real Property Taxes on the Real Property Improvements. The term of the tax rebate pursuant to the Agreement is January 1, 2028, through December 31, 2037. **This form is due no later than May 1, 2028, and on or before May 1st of each year thereafter that the Agreement is in effect.**

KINTETSU ENTERPRISES COMPANY  
OF AMERICA, a California corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_