

CALL FOR SPECIAL BOARD OF DIRECTORS MEETING
COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION, INC.

TO: DIRECTOR VIRGIL O. HORN, JR., DIRECTOR DON EDWARDS, DIRECTOR PAM JONES,
AND DIRECTOR JIM FALKNER, COFFEYVILLE COMMUNITY ENHANCEMENT
FOUNDATION, INC., CITY OF COFFEYVILLE, KANSAS.

YOU ARE HEREBY NOTIFIED AND WILL TAKE NOTICE THAT I, CHAIRMAN DAVID
GEORGE OF THE COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION, INC.,
COFFEYVILLE, KANSAS, DO HEREBY CALL A SPECIAL MEETING OF SAID BOARD OF
DIRECTORS AT **6:30 P.M. ON TUESDAY, OCTOBER 9, 2012 OR AT THE CONCLUSION OF
THE OCTOBER 9, 2012 COFFEYVILLE CITY COMMISSION MEETING,** IN THE CITY
COMMISSION ROOM #205, CITY HALL, 7TH & WALNUT, COFFEYVILLE, KANSAS, FOR THE
PURPOSE OF:

A. Foundation Resolution No. R-12-01: To authorize the execution of a "Purchase and Sale
Agreement" by and between the Coffeyville Community Enhancement Foundation and Niel
Hotel, LLC, a Kansas limited liability company.

B. Adjournment.

THE SECRETARY WILL ISSUE NOTICE THEREOF AS PROVIDED BY THE BYLAWS OF THE
COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION, INC. IN TESTIMONY
WHEREOF, I HAVE HERETO SET MY HAND THIS 9TH DAY OF OCTOBER 2012.

David George
Chairman of the Board

ATTEST:

Cindy Price, Secretary

WE, THE UNDERSIGNED, DO ACCEPT DUE AND LEGAL SERVICE OF THE ABOVE AND
FOREGOING NOTICE ON OCTOBER 9, 2012, HEREBY WAIVING FURTHER NOTICE OF SAID
MEETING PURSUANT TO ARTICLE II, SECTION 4 OF THE BYLAWS:

David George, Chairman

Virgil O. Horn, Jr.

Don Edwards

Pam Jones

Jim Falkner

**COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION
FOUNDATION RESOLUTION NO. R-12-01**

A RESOLUTION TO AUTHORIZE THE EXECUTION OF A “PURCHASE AND SALE AGREEMENT” BY AND BETWEEN THE COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION AND NIEL HOTEL, LLC, A KANSAS LIMITED LIABILITY COMPANY.

BE IT RESOLVED, by the Board of Directors of the Coffeyville Community Enhancement Foundation that the Chairman and Secretary be and are hereby authorized and directed to execute the “Purchase and Sale Agreement” by and between the Coffeyville Community Enhancement Foundation and Niel Hotel, LLC, a Kansas limited liability company, for the sale of the property on the northeast quadrant of the intersection of 8th Street and Northeast Street, in the City of Coffeyville, Kansas as more particularly described in said Agreement.

BE IT FURTHER RESOLVED that the Chairman and/or Secretary be and are hereby authorized and directed to execute any other documents required to close the sale of said property.

Adopted this 9th day of October 2012.

David George, Chairman

ATTEST:

Cindy Price, Secretary

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made between COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION, a Kansas not-for-profit corporation ("Seller"), and NIEL HOTEL, LLC, a Kansas limited liability company ("Purchaser").

In consideration of the mutual covenants and representations herein contained, Seller and Purchaser agree as follows:

1.

PURCHASE AND SALE

1.1 Purchase and Sale. Subject to the terms and conditions of this Agreement, Seller hereby agrees to sell and convey to Purchaser, and Purchaser hereby agrees to purchase from Seller, that certain tract of land located on the northeast quadrant of the intersection of 8th & Northeast Streets, in the City of Coffeyville, Kansas, being more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property").

2.

PURCHASE PRICE

2.1 Purchase Price. The purchase price (the "Purchase Price") for the Property shall be Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) cash and shall be paid by Purchaser to Seller at the Closing (as defined in Section 5.1).

3.

CONDITIONS TO CLOSING

3.1 Delivery of Title Commitment and Survey. Within fifteen (15) days of the date of this Agreement, Seller shall provide Purchaser with a Commitment issued by Stewart Title Company (the "Title Company") for an Owner's Policy of Title Insurance (the "Title Commitment"); such Policy to name Purchaser as insured, in the amount of the Purchase Price, insuring that Purchaser owns good and indefeasible fee simple title to the Property, subject only to the Permitted Exceptions, as hereinafter defined. Purchaser shall have fifteen (15) days after receiving the Title Commitment (the "Approval Period") within which to approve or disapprove the Title Commitment, including the information reflected therein. Disapproval shall be based on valid title objections. If Purchaser fails to disapprove any such item by written notice to Seller within the Approval Period, Purchaser shall be deemed to have approved such item. If Purchaser disapproves any such item by written notice to Seller during the Approval Period, Seller shall cure or attempt to cure Purchaser's objections to such item within ninety (90) days after Purchaser's notice of disapproval and the Closing Date (as hereinafter defined) shall be extended pending the cure. In the event Seller is unable to cure any one or more of Purchaser's objections pursuant to this Section 3.1, Seller may request that Purchaser waive Purchaser's right to terminate this Agreement due to such objection(s) (the "Election Notice"). Unless Seller receives a notice from Purchaser within ten (10) days after such Election Notice (the "Response Notice") waiving Purchaser's objections to the items specified in the Election Notice, either party shall have the option to terminate this Agreement by notice in writing to the other party. The term "Permitted Exceptions", as used herein, shall mean (i) the title exceptions listed in Schedule B of the Title Commitment which Purchaser approves or is deemed to approve pursuant to this Section 3.1, and (ii) the exceptions and other matters listed in or attached to the Special Warranty Deed attached hereto as Exhibit B.

4.
**NO REPRESENTATIONS OR WARRANTIES BY SELLER;
ACCEPTANCE OF PROPERTY**

4.1 Disclaimer. PURCHASER ACKNOWLEDGES AND AGREES THAT SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES (OTHER THAN THE WARRANTY OF TITLE AS SET OUT IN THE SPECIAL WARRANTY DEED, AS DEFINED BELOW), PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY; (B) THE INCOME TO BE DERIVED FROM THE PROPERTY; (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER OR ANYONE ELSE MAY CONDUCT THEREON; (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (E) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; OR (F) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY. PURCHASER FURTHER ACKNOWLEDGES AND AGREES THAT, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, PURCHASER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. SELLER IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY VERBAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY, OR THE OPERATION THEREOF, FURNISHED BY ANY AGENT, EMPLOYEE, SERVANT OR OTHER PERSON. ALL PROVISIONS OF THIS ARTICLE 4 SHALL SURVIVE CLOSING OR THE TERMINATION OF THIS AGREEMENT WITHOUT CLOSING, AS APPLICABLE.

4.2 Release. Purchaser, on behalf of itself and its legal representatives, heirs, successors and assigns hereby waives, releases, acquits and forever discharges Seller, its current and former officials, employees, agents, attorneys, representatives, and any other persons acting on behalf of Seller and the successors and assigns of any of the preceding, of and from any and all claims, actions, causes of action, demands, rights, damages, costs, expenses or compensation whatsoever, direct or indirect, known or unknown, foreseen or unforeseen, which Purchaser or any of its legal representatives, heirs, successors or assigns now has or which may arise in the future on account of or in any way related to or in connection with any past, present, or future physical characteristic or condition of the Property. Notwithstanding anything to the contrary set forth herein, this release shall survive the Closing of this Agreement.

5.
CLOSING

5.1 Closing. The closing ("Closing") shall be held at the offices of the Title Company at 131 W. 8th Street, Coffeyville, Kansas, on _____, or on such other date or place as may be mutually agreed to in writing by Seller and Purchaser (the "Closing Date").

5.2 Seller's Obligations at Closing. At Closing, Seller shall deliver to Purchaser the following documents:

(a) Deed. Special Warranty Deed (the "Deed") executed by Seller conveying the Real Property to Purchaser, subject to no exceptions other than the Permitted Exceptions; and

(b) Owner's Affidavit. An executed affidavit acceptable to the Title Company in issuing the Owner's Policy without exception for possible lien claims of mechanics, laborers and materialmen and without exception for parties in possession.

5.3 Purchaser's Obligations at Closing. At Closing, Purchaser shall deliver to Seller the following:

(a) Purchase Price. The Purchase Price by cashier's check;

(b) Evidence of Authority. Such consents and authorizations as Seller or the Title Company may reasonably deem necessary to evidence authorization of Purchaser for the purchase of the Property, the execution and delivery of any documents required in connection with Closing and the taking of all action to be taken by the Purchaser in connection with Closing; and

(c) Other Documentation. Such other documents as may be reasonable and necessary in the opinion of the Title Company to consummate and close the purchase and sale contemplated herein pursuant to the terms and provisions of this Agreement.

5.4 Proration. All real estate taxes and other assessments (if any) with respect to the Property for the year in which the Closing occurs, shall be prorated to the Closing Date. If the Closing shall occur before the tax rate or the assessed valuation of the Property is fixed for the then current year, the apportionment of taxes for the year in which the Closing occurs shall be upon the basis of the most recent tax bills, and the tax rate for the preceding year applied to the latest assessed valuation.

5.5 Possession. Possession of the Property shall be delivered to Purchaser at Closing, subject to the Permitted Exceptions.

5.6 Closing Costs. Except as otherwise expressly provided herein, Seller shall pay, on the Closing Date, one-half (1/2) of the customary closing charges of the Title Company, and one-half (1/2) the cost of the title insurance premium for the Owner's Policy; and Purchaser shall pay, on the Closing Date, all recording costs, one-half (1/2) of the customary closing charges of the Title Company, one-half (1/2) the title insurance premium for the Owner's Policy, and any other closing costs. Each party shall pay its own attorneys' fees, separate from closing.

6. DEFAULT

6.1 Breach by Seller. If Seller breaches this Agreement, Purchaser may, at its election and as its sole and exclusive remedy and relief thereunder, either (a) terminate this Agreement or (b) seek specific performance of the obligation of Seller to sell the Property to Purchaser. In no event shall Seller be liable to Purchaser for any actual, punitive, speculative, consequential or other damages, all of which are hereby waived by Purchaser.

6.2 Breach by Purchaser. If Purchaser breaches this Agreement, Seller may, at its election and as its sole and exclusive remedy and relief thereunder, either (a) terminate this Agreement or (b) seek actual damages. In no event shall Purchaser be liable to Seller for any punitive, speculative, consequential or other damages, all of which are hereby waived by Seller.

7.
MISCELLANEOUS

7.1 Notice. Whenever this Agreement requires or permits any consent, approval, notice, request, or demand from one party to the other (collectively "Notice"), such Notice must be in writing to be effective and shall be effective three (3) business days after such Notice is mailed to the following address. The parties' respective addresses for delivery of any Notice are set forth below unless another address is designated in writing by any party to the other.

If to Seller: City of Coffeyville
 Attn: City Clerk
 P.O. Box 1629
 Coffeyville, KS 67337

If to Purchaser: Niel Hotel Group
 Attn: _____

7.2 Entire Agreement. This Agreement and the Development Agreement by and between the parties hereto embody the entire agreement between the parties relative to the subject matter hereof, and there are no oral or written agreements between the parties, nor any representations made by either party relative to the subject matter hereof, which are not expressly set forth herein.

7.3 Amendment. This Agreement may be amended only by a written instrument executed by the party or parties to be bound thereby.

7.4 Headings. The captions and headings used in this Agreement are for convenience only and do not in any way limit, amplify, or otherwise modify the provisions of this Agreement.

7.5 Time of Essence. Time is of the essence of this Agreement; however, if the final date of any period which is set out in any provision of this Agreement falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of Kansas, then, in such event, the time of such period shall be extended to the next day which is not a Saturday, Sunday or legal holiday.

7.6 Governing Law. This Agreement shall be governed by the laws of the State of Kansas and the laws of the United States pertaining to transactions in such State. All parties to this Agreement have participated freely in the negotiation and preparation hereof; accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto.

7.7 Successors and Assigns; Assignment. This Agreement shall bind and inure to the benefit of Seller and Purchaser and their respective legal representatives, successors and permitted assigns. Purchaser shall not assign Purchaser's rights under this Agreement without the prior written consent of Seller, which Seller may grant or withhold in its sole and absolute discretion. Any potential Assignee must expressly assume all of the terms, conditions and obligations of this Agreement in writing and in form and substance acceptable to Seller, and provided, further, upon such assumption, Purchaser shall not be released from the provisions hereof.

7.8 Invalid Provision. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in

full force and effect and shall not be affected by such illegal, invalid, or unenforceable provision or by its severance from this Agreement.

7.9 Attorneys' Fees. In the event it becomes necessary for either party hereto to file suit to enforce this Agreement or any provision contained herein, the party prevailing in such suit shall be entitled to recover, in addition to all other remedies or damages, as provided herein, reasonable attorneys' fees, paralegal fees and costs incurred in such suit at trial, on appeal, and in any bankruptcy.

7.10 Multiple Counterparts and Facsimile Execution. This Agreement may be executed in a number of identical counterparts which, taken together, shall constitute collectively one (1) agreement; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. A facsimile copy of this Agreement and any signatures thereon shall be considered for all purposes as originals.

7.11 Date of this Agreement. As used in this Agreement, the terms "date of this Agreement" or "date hereof" shall mean and refer to the date of execution of this Agreement by Seller.

7.12 Authority. Each party hereto represents and warrants to the other that the execution of this Agreement and any other documents required or necessary to be executed pursuant to the provisions hereof are valid, binding obligations and are enforceable in accordance with their terms.

7.13 Exhibits. The following exhibits are attached to this Agreement and are incorporated into this Agreement and made a part hereof:

- (a) Exhibit A - Legal Description of the Land
- (b) Exhibit B - Form of Special Warranty Deed

7.14 No Survival. Except as specifically stated to survive the Closing or the termination of this Agreement, all representations, warranties, obligations and covenants of this Agreement shall merge with the Deed and shall not survive the Closing or other termination of this Agreement. Without limiting in any manner the foregoing, the statements, disclaimers, releases, and provisions in Article 4 of this Agreement survive the Closing.

7.15 Recording: Equitable Interest. This Agreement shall not be recorded. Prior to Closing, this Agreement shall not be deemed or construed to give Purchaser any equitable ownership of, or title to, the Property.

7.16 Relocation of Existing Utilities. Seller shall cooperate in the relocation of utilities from their current location if relocation is necessitated by Purchaser's improvements to the Property. The utility lines are not in a recorded easement. The cost to relocate City of Coffeyville utilities shall be paid by Seller. The cost to relocate other public or private utilities shall be paid by Purchaser.

CITY please Reach out to ATT while moving City Utilities to possibly coordinate relocation at same time. Arrangements to move utilities need to be made pre-construction phase.

Thank you.

PURCHASER:

NIEL HOTEL, LLC
A Kansas limited liability company

By: Kyle A. Groves, CHA, CHRM
Name: Kyle A. Groves, CHA, CHRM
Title: Director of Operations - KS
Date: 10-5-12

SELLER:

COFFEYVILLE COMMUNITY
ENHANCEMENT FOUNDATION, INC.

By: _____
Name: _____
Title: President
Date: _____

EXHIBIT A TO PURCHASE AND SALE AGREEMENT

A tract of land located in a portion of government Lot 10, of Fractional Section 31, Township 34 South, Range 17 East of the Sixth Principal Meridian, Montgomery County, Kansas, said tract of land being more particularly described;

Commencing at the Southwest corner of said Lot 10; Thence S.88°32'02"E. along the South line of said Lot 10, a distance of 632.72 feet to the East Right of Line of Highway 166-169; Thence N.28°16'47"E. along said East Right of Way line a distance of 44.82 feet to the Point of Beginning, said point being located on the North Right of Way line of East Eighth Street; Thence continuing N.28°16'47"E. along said East Right of Way line a distance of 393.51 feet to the Southwest corner of a tract of land conveyed by general warranty deed to the City of Coffeyville as recorded in Book 541, Page 566 in the Montgomery County Register of Deeds Office; Thence S.61°47'34"E. along the South line of said City of Coffeyville tract extended a distance of 387.05 feet; Thence S.01°27'58"W. a distance of 177.04 feet to the North Right of Way line of East Eighth Street; Thence N.88°32'02"W. along said North Right of Way line a distance of 523.16 feet to the Point of Beginning and containing 122,465 square feet or 2.811 acres, said tract of land to convey a 20 foot wide utility easement along the North and East lines of the above description.

**EXHIBIT B TO PURCHASE AND SALE AGREEMENT
SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED, made and entered into by and between COFFEYVILLE COMMUNITY ENHANCEMENT FOUNDATION, a Kansas not-for-profit municipal corporation, as GRANTOR, and NIEL HOTEL, LLC, a Kansas limited liability company, as GRANTEE.

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration paid by Grantee to Grantor, the receipt of which is hereby acknowledged, does by these presents BARGAIN AND SELL, CONVEY AND CONFIRM unto Grantee that certain real estate situated in the County of Montgomery, State of Kansas, and legally described as follows (the "Property"):

A tract of land located in a portion of government Lot 10, of Fractional Section 31, Township 34 South, Range 17 East of the Sixth Principal Meridian, Montgomery County, Kansas, said tract of land being more particularly described;

Commencing at the Southwest corner of said Lot 10; Thence S.88°32'02"E. along the South line of said Lot 10, a distance of 632.72 feet to the East Right of Line of Highway 166-169; Thence N.28°16'47"E. along said East Right of Way line a distance of 44.82 feet to the Point of Beginning, said point being located on the North Right of Way line of East Eighth Street; Thence continuing N.28°16'47"E. along said East Right of Way line a distance of 393.51 feet to the Southwest corner of a tract of land conveyed by general warranty deed to the City of Coffeyville as recorded in Book 541, Page 566 in the Montgomery County Register of Deeds Office; Thence S.61°47'34"E. along the South line of said City of Coffeyville tract extended a distance of 387.05 feet; Thence S.01°27'58"W. a distance of 177.04 feet to the North Right of Way line of East Eighth Street; Thence N.88°32'02"W. along said North Right of Way line a distance of 523.16 feet to the Point of Beginning and containing 122,465 square feet or 2.811 acres, said tract of land to convey a 20 foot wide utility easement along the North and East lines of the above description.

SUBJECT, HOWEVER, to the following title and survey exceptions, Grantee hereby accepting and agreeing to the same by Grantee's acceptance and recordation of this Special Warranty Deed:

1. Zoning and other ordinances.
2. Real estate taxes for the year of closing and thereafter.
3. Installments of special taxes and assessments not required to be paid prior to the effective date of this Deed.
4. Visible easements, existing utilities, and all other matters that would be disclosed by a current survey of the Property.
5. All valid and enforceable covenants, restrictions, reservations, easements and other matters as shown on the public record.

TO HAVE AND TO HOLD the same, together with all rights and appurtenances to the same belonging to the extent not encumbered, restricted or reserved as contemplated by this Special Warranty Deed unto the Grantee and its successors and assigns forever.

