

AGREEMENT TO PROVIDE ECONOMIC BENEFITS
160 S. Avenida Del Convento, Suite 164

This Economic Benefit Agreement (this “**Agreement**”) is effective as of April 4, 2023 (“**Effective Date**”) by and among ZZA REV LLC dba Whole Slvce Pizza, an Arizona limited liability company (“**ZZA**”), Rio Nuevo Multipurpose Facilities District, a special taxing district of the State of Arizona (the “**District**”), and Monier Investors, LLC (“**Landlord**”). ZZA and the District are sometimes referred to in this Agreement, collectively, as the “**Parties**” or individually as a “**Party**.”

RECITALS

- A. ZZA has a standard Commercial Lease (the “**Lease**”) with Landlord, who owns the real property and building with a street address located at 160 South Avenida Del Convento, Suite 164, Tucson, Arizona 85745 (the “**Monier Building**”), Pima County Assessor parcel number Parcel 116-20-6300, which is legally described and depicted at Exhibit A, attached hereto. The Monier Building is comprised of land and improvements including, without limit, the approximately 487 square feet of rental space leased by ZZA pursuant to the Lease (among other improvements), described in the Lease as the Premises.
- B. ZZA will make \$301,800.00 (the “**Tenant Improvement Budget**” attached as Exhibit B) of tenant Improvements to develop, remodel, renovate, and repurpose the Premises into a pizza restaurant as described and depicted in Exhibit C (the construction proposal, architectural drawings, and renderings all of which will be produced and will be consistent with the presentation made by ZZA at the District’s February 28, 2023 board meeting (collectively, the “**Construction Proposal**”)) to create the restaurant for ZZA (collectively, the “**ZZA Project**”).
- C. After completion of the Improvements, ZZA anticipates that the Premises will immediately generate substantial revenue that will produce transaction privilege tax revenues for the District.
- D. At the District’s public meeting on February 28, 2023, ZZA requested the District’s financial assistance to complete construction, remodeling, and repurposing of the Premises in the Monier Building. ZZA’s goal is to complete its Improvements and commence its retail operations before March 1, 2024.
- E. The District’s Board has determined that the remodeling, repurposing, and development of the Premises in the Monier Building and the District’s support of the ZZA Project in the Monier Building will generate substantial taxable revenue, appreciably increase employment opportunities, and will therefore benefit the downtown Tucson area and the Rio Nuevo District in general.
- F. During the public meeting on February 28, 2023, the District approved a cost-reimbursement grant equal of up to, **but not to exceed**, \$150,900.00 (the “**Economic Incentive**”) (but subject to other language and restrictions herein) to ZZA for the purpose

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of reimbursing ZZA for as-completed hard construction draw costs and/or other Improvements to the ZZA Project in compliance with the Construction Proposal.

- G. The Parties and Landlord agree that this Agreement is to detail the terms and conditions of the Economic Incentive the District has agreed to provide ZZA to assist it in completing the ZZA Project in the Monier Building and to generally describe the terms and conditions that the Parties will incorporate into their relationship thereafter with respect to the ZZA Project.

AGREEMENT

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, and in consideration of the mutual covenants, promises, and agreements herein, the Parties agree as follows:

1. **Recitals.** The Parties hereto and Landlord acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.
2. **Definitions.** Each term defined in the recitals and preamble of this Agreement has its assigned meanings and each of the following terms, unless a different meaning clearly appears from the context, has the meaning assigned to it below:

“Affiliate” as applied to any person, means any person directly or indirectly controlling, controlled by or under common control with, that person or a blood relative or spouse of such person, if such person is a natural person. For the purposes of this definition, (i) “control” (including, with correlative meaning, the terms “controlling,” “controlled by,” and “under common control”), as applied to any person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that person, whether through the ownership of voting securities, by contract, or otherwise, and (ii) “person” means and includes natural persons, corporations, limited partnerships, general partnerships, joint stock companies, joint venture associations, limited liability companies, limited liability partnerships, trusts, land trusts, business trusts, or other organizations, whether or not legal entities.

“Applicable Laws” means the federal, state, county, and local laws (statutory and common law), ordinances, rules, regulations, permit requirements and other requirements and official policies of the City which apply to the development of the Monier Building from time to time.

“City” means the City of Tucson, Arizona.

“Contractor” means ZZA’s general contractor engaged for completion of the ZZA Project, at all times in accordance with the accepted Construction Proposal.

“Cure Period” has the meaning assigned in Section 6 hereof.

“Default” means a default by a Party of a term, condition, or covenant of this Agreement that (i) is not reasonable capable of being cured or (ii) otherwise remains uncured after the applicable Cure Period.

“**Economic Incentive**” has the meaning assigned in the recitals of this Agreement but subject to other language and restrictions herein.

“**Enforced Delay**” has the meaning assigned in Section 8(a) hereof.

“**Improvements**” means tenant improvements made by ZZA to the Premises pursuant to the Lease and, without limiting the foregoing, will be deemed to include the Pizza Equipment.

“**Minimum Requirements**” means certain continuing obligations and requirements of ZZA, applicable at all times during the duration of this Agreement and as specifically set forth in Section 3(a) and Section 3(b) of this Agreement.

“**Notice**” has the meaning assigned in Section 9(l) hereof.

“**Order**” has the meaning assigned in Section 8(a) hereof.

“**Pizza Equipment**” has the meaning assigned to such term in Section 5(a)(v) hereof.

“**Premises**” has the meaning assigned to such term under Section 2 of the Lease.

“**Term**” has the meaning assigned in Section 9(n) hereof.

“**Third Party**” means any person other than a Party or an Affiliate of a Party.

“**TI Allowance**” has the meaning assigned to such term in Exhibit B of the Lease

3. ZZA’s Minimum Requirements. To be entitled to the economic benefits provided by the District herein, ZZA shall at all times satisfy the following Minimum Requirements:

(a) Timing of Improvements. The Improvements in the Monier Building contemplated by this Agreement must be completed, and a Certificate of Occupancy issued for the Premises, no later than March 1, 2024.

(b) Insurance. In addition to insurance required under the Lease, ZZA shall maintain at its own cost and expense the following: (i) Causes of Loss-Special Form (formerly “all-risk”) Property Insurance against loss or damage to Tenant’s Improvements and betterments in the Monier Building, written at replacement cost value and with a replacement cost endorsement, covering the Premises for the Lease Term (as defined in the Lease) and (ii) builder’s risk insurance to be maintained during the construction by Contractor as contemplated by this Agreement in the full amount of the cost of the Improvements, and ZZA shall further cause all its contractors and subcontractors to maintain insurance reasonably required by the District. The above-referenced insurance policies shall include an endorsement to provide a waiver of subrogation in favor of the District and shall be endorsed to include the District and Landlord as “an additional insured,” and ZZA and Contractor shall maintain such policies with responsible insurance companies with an A.M. Best’s rating of A-VIII or better, authorized to do business in the State of Arizona.

(c) Conditions Precedent. For the duration of the longer of this Agreement or the Lease Term, the foregoing Minimum Requirements are, and shall at all times remain, express

conditions precedent to the District's obligation to provide (or continue to provide) any amount of the Economic Incentive funding for the construction, renovation, and remodeling of the Premises.

4. **District's Findings.** The District has determined that ZZA's satisfaction of the Minimum Requirements: (i) will benefit the District and the City in numerous ways including, without limitation, (A) increasing transaction privilege tax revenues and other revenues, (B) increasing the District's and City's employment base, (C) stimulating further economic development, and (D) otherwise improving or enhancing the economic welfare of the downtown Tucson area and the Rio Nuevo District in general; (ii) is not likely to occur (or to occur at this time and/or in this manner and/or in the Monier Building) without the benefits provided in this Agreement; and (iii) demonstrates the potential to generate revenues and other benefits (both tangible and intangible) to the District that outweigh, or are not disproportionate to, the costs associated with those benefits.

5. **Economic Incentive for ZZA.**

Based upon the District's findings described in Section 4 and subject to ZZA's continuing satisfaction of the Minimum Requirements, the District will pay the Economic Incentive to ZZA as described in this Section 5.

(b) **Amount & Limitations.** The total Economic Incentive paid to ZZA will not exceed the lesser of: (X) 50% of the total construction costs paid by ZZA to complete the Improvements as described in the Construction Proposal; or (Y) \$138,400.00. Notwithstanding the foregoing, ZZA will apply any TI Allowance available under the Lease to the cost of the Improvements before requesting distribution of any Economic Incentive. The Economic Incentive will be used solely to defray ZZA's actual costs for the construction, renovation, and repurposing of the Premises in compliance with this Agreement and the Construction Proposal.

(c) **Distribution Procedure.** The Economic Incentive will be payable in pro rata installments, proportional to actual work and construction progress completed on the ZZA Project. Accordingly, District will release each installment of funds in an amount consistent with the latest construction draw submitted by ZZA's Contractor and only upon completion of the following required conditions:

i. ZZA and/or Contractor shall deliver to District a signed construction draw ("**Draw Notice**") proving Improvements have been made to the Premises in compliance with the Construction Proposal. ZZA shall, concurrently, deliver a copy of such Draw Notice to Landlord;

ii. For each Draw Notice submitted by ZZA or Contractor, ZZA or its Architect shall further provide to the District and Landlord written verification that (X) certain Improvements and work consistent with the applicable construction draw number have been made to the Premises in compliance with the Construction Proposal, and (Y) proof of payment to Contractor and each of the applicable subcontractors and/or suppliers for Economic Incentive draws previously paid by the District. ZZA shall provide Conditional Lien waivers from all contractors, subcontractors, and suppliers with each Draw Notice as a condition for release of any money by the District and Landlord, and

Unconditional Lien waivers evidencing such payments for each subsequent Draw Notice. All lien waivers shall be in the form prescribed in A.R.S. § 33-1008;

iii. Upon completion of the foregoing, the District shall have ten (10) business days from date of receipt of ZZA's applicable construction draw to inspect the construction work and confirm such work is in accordance with the Construction Proposal, if applicable, and the submitted construction draw. Within seven (7) business days of such inspection, the District shall notify ZZA in writing if the work (or any portion thereof) is not approved, and the District may withhold any Economic Incentive payment to ZZA until such time as the work has been corrected or performed in accordance with the District's notice and to its satisfaction. If the District fails to inspect the property or provide notice within the time periods specified in this Section, the District will conclusively be deemed to have approved the Draw Notice;

iv. As a further condition for release of any funds by the District, ZZA shall also provide the District (with a copy to Landlord) with a complete set of all applicable lien waivers from Contractor, all subcontractors, and all suppliers performing work on, or providing materials to, the Monier Building related to the ZZA Project for work applicable to any previously approved Draw Notice. Such lien waivers shall be in the forms set forth in A.R.S. § 33-1008. Upon completion of each of the foregoing requirements and procedures and following the applicable inspection and approval periods set forth above, the District will release and provide funds to ZZA in accordance with this Section and subject to the other terms and conditions of this Agreement; and

v. The District shall have perfected a first priority lien via a UCC-1 Financing Statement with the Arizona Secretary of State (collectively, the "**Security Interest**") to ensure ZZA's compliance and performance with its obligations under this Agreement. The collateral pledged for the Security Interest will be all equipment purchased in whole or in part with the District's Economic Incentive including, but not limited to, the pizza preparation refrigerator, the electric pizza bake oven, deck-type, the walk-in cooler, the back bar counter, the spiral dough mixer, refrigerated merchandiser, and the ventless exhaust system (collectively, the "**Pizza Equipment**"). The Security Interest pledged herein shall be deemed to be released by the District if the conditions in Section 7(a)(vii) below are met in their entirety. Upon such release, the District will take any action reasonably required by ZZA or Landlord to remove the District's Security Interest from the Pizza Equipment, including filing a release of any financing statement with the Arizona Secretary of State.

Subject to the other terms and conditions in this Agreement, if ZZA satisfies each of the terms and conditions in this Section 5(a), the District shall release the applicable installment of funds. For any work approved by the District, each such installment shall be released no later than within fourteen (14) business days following the date on the District inspects and approves Improvement work in the Monier Building and work pursuant to Section 5(c)iii, above.

(d) Sole Use. ZZA hereby irrevocably covenants and agrees to use the Economic Incentive solely to defray ZZA's actual costs for the construction, renovation, and repurposing in the Monier Building in compliance with the ZZA Project and Construction Proposal documents.

ZZA also hereby irrevocably covenants and agrees that it will use the TI Allowance of \$25,000 for Improvements first, and the Economic Incentive under this Agreement shall be used second. For example, if the total construction costs to improve the ZZA project is \$301,800, and ZZA secures \$25,000 from the Landlord for construction Improvements, then the District shall provide an Economic Incentive for 50% of the remaining construction costs capped at \$276,800 (i.e., \$138,400).

ZZA shall promptly provide the District with any and all documentation and/or evidence the District reasonably requests (with a copy provided to Landlord) to establish that the Economic Incentive granted herein, and each installment of funds made to ZZA hereunder, is used consistently with the District's stated purpose and goals, this Agreement, and the Construction Proposal documents.

(f) No Material Change in Scope. ZZA agrees that it shall not materially change the scope of this ZZA Project without first notifying the District in writing and negotiating with the District before any material changes are made to the ZZA Project.

(g) Termination of Right to Economic Incentive. In addition to such other restrictions and conditions expressly contained in this Agreement, ZZA's right to Economic Incentive funds will terminate at the earlier of (i) the completion date of the Improvements and payment by the District to ZZA of the Economic Incentive as provided in this Section 5, or (ii) March 1, 2024. Notwithstanding the foregoing, if none of the work anticipated under this Agreement has commenced by September 1, 2023, then this Agreement, without further act or notice required, shall automatically expire and terminate, and the Parties shall have no rights or obligations hereunder.

6. Default, Cure & Remedies.

If either Party fails to perform its obligations under this Agreement and such failure continues for a period of thirty (30) days after written notice thereof from the other Party (the "**Cure Period**"), such failure shall constitute a Default under this Agreement; *provided*, however, that if the failure is such that more than thirty (30) days would reasonably be required to perform such action or comply with any term or provision hereof, then such Party shall have such additional time as may be necessary to perform its obligations so long as such Party commences performance or compliance within said Cure Period and diligently proceeds to complete such performance. Any notice of a Default shall specify the nature of said Default and the manner in which said Default may be satisfactorily cured, where possible. If said Default is not cured within the Cure Period, or by its nature cannot be cured, the non-defaulting Party shall have the remedies available to them in Section 6(b) or Section 6(c) of this Agreement, as applicable.

(b) District Remedies. Whenever a Default occurs and is not cured (or, if appropriate, cure undertaken) by ZZA in accordance with this Agreement, the District's remedies shall include, without limit, the following:

i. Upon any Default which continues for thirty (30) days or more after the Cure Period (unless additional time is required to cure such Default as provided elsewhere in this Section), the District shall—without incurring any penalty or liability whatsoever—

be entitled to (X) in all cases, recover from ZZA any and all Economic Incentive payments made during the period of any properly noticed and uncured Default, (Y) if such Default involves misuse or misappropriation by ZZA of any Economic Incentive funds received hereunder, claw back from ZZA all Economic Incentive payments previously received thereby, irrespective of when during the term such misuse or misappropriation occurred, and (Z) in all cases, immediately cease all future Economic Incentive payments to ZZA; and/or

ii. Upon any Default, the District shall be entitled to any other remedies as may be available at law or in equity. All remedies of the District shall be cumulative and not exclusive of one another, and the District's exercise of any remedy (or remedies) shall not constitute a waiver or election with respect to any other available remedy (or remedies).

(c) ZZA's Remedies. Whenever a Default occurs and is not cured (or, if appropriate, cure undertaken) by the District in accordance with the requisite notice and Cure Period provisions of this Agreement, the District expressly acknowledges and agrees that ZZA may seek specific performance, an injunction, special action, declaratory relief, or other similar relief requiring the District to undertake and fully and timely perform its obligations under this Agreement and/or ZZA may seek damages from the District limited to the amount of any undisbursed funds that a court determines should properly be disbursed to ZZA and not for any other damages of any kind or nature.

(d) Limitation on Damages. Claims for damages (when and if permitted) shall be limited to actual damages as of the time of entry of judgment. The Parties each hereby waive any and all rights to seek or receive punitive, multiple, exemplary, consequential, or other damages.

(e) Delays; Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any Default by the other Party shall not be considered as a waiver of rights with respect to any other Default by the performing Party or with respect to the particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by the doctrine of waiver.

(f) Breach of ZZA's Lease Obligations. In the event of a material breach by ZZA of its obligations under the Lease, Landlord may exercise any remedy available to it under law or contract. In the event Landlord locks ZZA out of the Premises or terminates ZZA's tenancy in accordance with the terms of the Lease, unless the conditions in Section 7(a)(vii) below have previously been met in their entirety (resulting in a release of the Security Interest) the District will continue to hold the Security Interest in the Pizza Equipment as a first priority creditor. Notwithstanding the foregoing, provided that, and for so long as, the Pizza Equipment is not removed from the Premises, the District covenants and agrees that it will not foreclose such Security Interest.

7. **Representations and Warranties.**

(a) **Of ZZA.** ZZA represents, warrants, and covenants to the District that:

i. **Organization.** ZZA is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Arizona, and ZZA has the power, right, and authority to enter into this Agreement, and to consummate the transaction contemplated hereby, without the consent or joinder of any other party or order or approval of any court, and this Agreement shall constitute a legal, valid, and binding obligation of ZZA, enforceable against it in accordance with the terms and conditions herein.

ii. **Performance.** ZZA shall execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement and evidence this Agreement and shall timely perform all of its obligations under the Lease and this Agreement.

iii. **Litigation.** As of the date of this Agreement, ZZA knows of no litigation, proceeding, or official investigation contesting the powers of ZZA or its officers with respect to this Agreement, including ZZA's execution, delivery, and performance hereof, that has not been disclosed in writing to the District.

iv. **Contracts.** Except as provided in this Agreement, neither this Agreement nor anything required to be done hereunder violates or shall violate any contract or agreement to which ZZA is a party.

v. **Indemnification.** Upon the filing by any Third Party of any action at law or in equity or the assertion of any claim, cause of action, or judicial or non-judicial proceeding relating or pertaining to ZZA's performance or failure to perform its obligations under this Agreement, whether or not ZZA is a party to such claim, action, or proceeding, and whether or not negligence or gross negligence by the District is alleged, ZZA shall cause such action or proceeding (including all claims against the District, its directors, officers, agents, or employees) to be timely defended by counsel selected by ZZA and acceptable to the District in its reasonable discretion. The District shall fully cooperate in the defense of such action or proceeding in coordination with ZZA's counsel, at ZZA's sole cost and expense. The District may, in its sole discretion, select its own counsel to defend the District, at the District's own cost and expense. In addition to the foregoing, ZZA shall indemnify, defend, and hold the District, its Board Members, representatives, agents, and employees, harmless for, from, and against any liability, loss, claim, action, or demand, including attorneys' fees and costs that may arise out of or is connected with ZZA's breach of any covenant, representation, warranty, or term in this Agreement. Notwithstanding anything in this Agreement to the contrary, ZZA's obligations in this Section 7(a)v. shall survive termination and/or the expiration of this Agreement.

vi. **No Consideration to Third Parties.** ZZA has not paid or given, and will not pay or give, any Third Party any money or other consideration for obtaining this Agreement other than normal costs of conducting business and costs of professional services such as the services of architects, engineers, and attorneys.

vii. No Sale of Pizza Equipment and Restricted Use of Pizza Equipment. ZZA agrees that neither it nor any of its principals, shareholders, officers, directors, agents, or employees will sell the Pizza Equipment to anyone for the later period of: (1) three years from the date of this Agreement, or (2) the Lease Term. In addition, and without limiting the foregoing, ZZA agrees that the Pizza Equipment will be used by ZZA to provide pizza to its patrons at that location only to generate sales taxes in the District, and ZZA shall not remove the Pizza Equipment from the Monier Building for the later period of: (1) three years from the date of this Agreement, or (2) the Lease Term. If ZZA breaches any term of this subsection, ZZA agrees to return the Economic Incentive in full to the District within ten (10) days of receipt of written demand from the District.

(b) The District.

i. Organization. The District is a special taxing district of the State of Arizona duly organized, validly existing, and in good standing under the laws of the State of Arizona and has the power, right, and authority to enter into this Agreement and to consummate the transaction contemplated hereby, without the consent or joinder of any other party, or order or approval of any court, and this Agreement shall constitute a legal, valid, and binding obligation of the District, enforceable against the District in accordance with the terms and conditions herein.

ii. Performance. The District will execute and acknowledge when appropriate all documents and instruments and take all actions necessary to implement and evidence this Agreement.

iii. Litigation. As of the date of this Agreement, the District knows of no litigation, proceeding, initiative, referendum, or official investigation contesting the powers of the District or its officials with respect to this Agreement, including the District's execution, delivery, and performance hereof, that has not been disclosed in writing to ZZA.

iv. Other Contracts. Except as provided in this Agreement, neither this Agreement nor anything required to be done hereunder violates or shall violate any contract or agreement to which the District is a party.

v. Indemnification. The District shall indemnify, defend, and hold ZZA, its managers, members, representatives, agents, and employees, harmless for, from, and against any liability, loss, claim, action, or demand, including attorneys' fees and costs, which may arise out of or is connected with the District's breach of any covenant, representation, warranty, or term in this Agreement. The District's above-referenced indemnification shall survive the termination or expiration of this Agreement for a period equal to the applicable statute of limitations period.

(c) Limitation on Representations. Except as expressly stated herein, no Party has made any representation regarding the validity, enforceability, tax effect, or any other aspect of this Agreement.

8. Enforced Delay.

(a) **Events Constituting Enforced Delay.** Whether stated or not, all periods of time in this Agreement are subject to this Section. Neither Party, as the case may be, shall be considered to have caused a Default, nor shall ZZA be deemed to have failed to satisfy ZZA Minimum Requirements with respect to its obligations under this Agreement, in the event of a delay (an “**Enforced Delay**”) due to causes beyond its control and without its fault, negligence or failure to comply with the Applicable Laws including, but not restricted to:

i. acts of God; acts of the Federal or State government; acts of a Third Party; litigation or other action authorized by law concerning the validity and enforceability of this Agreement or relating to transactions contemplated hereby; fires, floods, pandemics, epidemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather, or the delays of subcontractors or materialmen due to such causes; act of a public enemy; war, terrorism or act of terror (including, but not limited to, bio-terrorism or eco-terrorism); nuclear radiation; declaration of national emergency or national alert; blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence; any exercise of the power of eminent domain by any governmental body on behalf of any public, quasi-public, or private entity; or declaration of moratorium or similar hiatus directly affecting the Monier Building and property by any governmental entity; or

ii. the order, judgment, action or determination of any court, administrative agency, governmental authority or other governmental body (collectively, an “**Order**”) which delays the completion of the work or other obligation of the Party claiming the delay, unless it is shown that such Order is the result of the failure to comply with Applicable Laws by the Party claiming the delay; *provided*, however, that the contesting in good faith of any such Order shall not constitute or be construed or deemed as a waiver by a Party of Enforced Delay. In no event will Enforced Delay include any delay resulting from general economic or market conditions, from the unavailability of financing or financing on terms acceptable to ZZA, from labor shortages, nor from the unavailability for any reason of particular materials or other supplies, contractors, subcontractors, vendors, investors, or lenders desired by ZZA. It is understood and agreed that ZZA will bear all risks of delay which is not Enforced Delay.

(b) **Notice of Enforced Delay.** In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period equal to the duration of the Enforced Delay. The Party seeking the benefit of this Section shall, within thirty (30) days after such Party knows or reasonably should know of any such Enforced Delay, first notify the other Party of the specific delay in writing and claim the right to an extension for the period of the Enforced Delay.

9. General Provisions.

(a) **Waivers.** No waiver of any of the provisions of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver be a continuing waiver. Unless expressly provided for in this Agreement, no waiver shall be binding unless executed in writing by the Party or Landlord making the waiver. Any Party or Landlord may waive any

provision of this Agreement intended for its sole benefit; however, unless otherwise provided for herein, such waiver shall in no way excuse the other Party from the performance of any of its other obligations under this Agreement.

(b) Construction, Governing Law, and Venue. This Agreement shall be interpreted according to Arizona law and shall be construed as a whole and in accordance with its fair meaning and without regard to, or taking into account, any presumption or other rule of law requiring construction against the Party preparing this Agreement or any part hereof. Any dispute or controversy relating to this Agreement, including the breach and enforcement thereof, shall take place in the Superior Court of Pima County, Arizona.

(c) Time. Time is strictly of the essence of each and every provision of this Agreement.

(d) No Commission. Both Parties represent that no unpaid commission is outstanding with respect to this Agreement, and each Party indemnifies the other against brokerage or commission claims arising out of the indemnifying Party's actions.

(e) Attorneys' Fees. If any action is brought by any Party or Landlord in respect to its rights under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and court costs as determined by the court, including reasonable attorneys' fees incurred before any court or enforcement action that relate to the enforcement hereof.

(f) Binding Effect. This Agreement and all instruments or documents entered into pursuant hereto are binding upon and shall inure to the benefit of the Parties and Landlord (as applicable) and their respective successors and assigns.

(g) Further Assurances and Documentation. Each Party and Landlord agrees in good faith to take such further actions and execute such further documents as may be necessary or appropriate to fully carry out the intent and purpose of this Agreement.

(h) Time Periods. If the time for the performance of any obligation under this Agreement expires on a Saturday, Sunday, or legal holiday, the time for performance shall be extended to the next succeeding day which is not a Saturday, Sunday, or legal holiday.

(i) Headings. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of any provision of this Agreement.

(j) Entire Agreement. This Agreement, together with all exhibits referred to herein, which are incorporated herein and made a part hereof by this reference, constitutes the entire agreement between the Parties (and Landlord as applicable) pertaining to the subject matter in this Agreement. No supplement, modification, or amendment of this Agreement shall be binding unless in writing and executed by the Parties and Landlord.

(k) Counterparts. This Agreement may be executed by the exchange of faxed or electronic signatures and in any number of counterparts, each of which shall be deemed an original, but all of which together constitute one and the same instrument.

(l) Approvals and Notices. Any objection, approval, disapproval, demand, document, or other notice (collectively, a “**Notice**”) that any Party or Landlord may desire or may be obligated to give to any other Party or Landlord shall be in writing and may be given by personal delivery; registered or certified mail (return receipt requested); email transmission (with delivery receipt); or by commercial courier to the Party (or Landlord), or its successors or assigns, to whom the Notice is intended at the address of the Party (or Landlord) set forth below or at any other address as the Parties may later designate in writing. Change of address by a Party or Landlord shall be given by Notice as provided in this Section:

If to District: Rio Nuevo Multipurpose Facilities District
Attn: Edmund Marquez
1703 East Broadway Boulevard,
Tucson, Arizona 85719

With a copy to: Farhang & Medcoff, PLLC
Attn: Timothy Medcoff, Esq.
100 South Church Avenue,
Suite 100
Tucson, Arizona 85701

If to ZZA: ZZA REV, LLC
Attn: Ari Shapiro
4619 East 16th Street
Tucson, Arizona 85711

With a copy to: Ambrosio Law LLC
Attn: Christopher W. Ambrosio
1830 E. Broadway Blvd.
Suite 124
Tucson, Arizona 85719
Email: chris@ambrolaw.com

If to Landlord: Monier Investors, LLC
Attn: Adam Weinstein
127 W Franklin St.
Tucson, AZ 85701
Email: adam@gadsdencompany.com

With a copy to: Hecker Pew, PLLC
(which copy will not constitute
notice) Attn: Will Pew
405 W. Franklin St.
Tucson, AZ 85701
Email: will@heckerpew.com

(m) Successors and Assigns. All of the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the Parties (and Landlord as applicable);

provided, however, that ZZA's rights and obligations hereunder may be assigned or transferred only at any time the assignor is not in Default under any provision of this Agreement to a single person or entity that has acquired the entirety of such rights and obligations as a successor in interest to ZZA; and *provided further* that the successor has expressly and in writing for the benefit of the District assumed all of the obligations of the assignor under this Agreement. An assignee pursuant to an assignment or transfer made in compliance with all of the terms and provisions of this Agreement may be referred to as a "Permitted Assignee." Any assignment or transfer not made in compliance with all of the terms and provisions of the Agreement shall be void *ab initio*, and not voidable, and shall vest no rights in the purported assignee or transferee.

(n) Term. Unless terminated as a result of work not commencing on or before September 1, 2023 as contemplated in Section 5(d), this Agreement shall terminate without further action upon the latest term described in Section 7(A)(vii).

(o) No Partnership; Third Parties. Nothing in this Agreement shall create, or be deemed to create, any partnership, joint venture, or other similar arrangement between the Parties (or Landlord as applicable). Except for those terms and provisions benefiting or obligating Landlord, no term or provision of this Agreement is intended to or shall be for the benefit of any person, firm, organization, or corporation not a Party hereto, and no such other person, firm, organization, or corporation shall have any right or standing to any cause of action hereunder; *except* that the protection of the indemnification provisions of this Agreement shall extend to all agents, attorneys, Board members, officers, and employees of the District acting in the course and scope of their employment or engagement and all such persons shall be, and are intended to be, third party beneficiaries of such indemnification provisions.

(p) Limited Severability. The Parties agree that in the event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring the District to do any act in violation of any Applicable Law), such provision shall be deemed severed from this Agreement, and this Agreement shall otherwise remain in full force and effect provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement provides essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. The Parties further shall perform all acts and execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Agreement, as and if reformed in accordance with this Section 9(p).

(q) No Liability of District Officials. No director, officer, official, representative, agent, attorney, or employee of the District shall be personally liable to ZZA, or to any successor in interest to ZZA, in the event of any Default by the District, or for any amount which may become due to ZZA or its successors, or with respect to any obligation of the District pursuant to this Agreement.

(r) Conflict of Interest. This Agreement is subject to and may be terminated by the District in accordance with the provisions of A.R.S. § 38-511.

(s) **Israel Boycott.** If and to the extent that A.R.S. §§ 35-393 *et seq.* is applicable, ZZA certifies that it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel as that term is defined in A.R.S. § 35-393.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below, effective as of the Effective Date.

ZZA REV, LLC

**RIO NUEVO MULTIPURPOSE FACILITIES
DISTRICT**

By: ari shapiro
Name: Ari Shapiro
Title: member
Date: 04 / 05 / 2023

By: _____
Name: Fletcher McCusker,
Title: Chairman
Date: _____

THIS AGREEMENT AND THE
CONSTRUCTION PLANS AND
IMPROVEMENTS IN THE ATTACHED
EXHIBITS ARE HEREBY APPROVED BY
LANDLORD, MONIER INVESTORS, LLC:

By: _____
Name: Edmund Marquez
Title: Secretary
Date: _____

By: Adam Weinstein
Name: Adam Weinstein
Title: Managing Member
Date: 04 / 12 / 2023

(s) **Israel Boycott.** If and to the extent that A.R.S. §§ 35-393 *et seq.* is applicable, ZZA certifies that it is not currently engaged in, and agrees for the duration of this Agreement to not engage in, a boycott of goods or services from Israel as that term is defined in A.R.S. § 35-393.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below, effective as of the Effective Date.

ZZA REV, LLC

**RIO NUEVO MULTIPURPOSE FACILITIES
DISTRICT**

By: _____

Name: _____

Title: _____

Date: _____

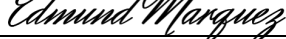
By:  _____

Name: Fletcher McCusker,

Title: Chairman

Date: 04 / 05 / 2023

THIS AGREEMENT AND THE
CONSTRUCTION PLANS AND
IMPROVEMENTS IN THE ATTACHED
EXHIBITS ARE HEREBY APPROVED BY
LANDLORD, MONIER INVESTORS, LLC:

By:  _____

Name: Edmund Marquez

Title: Secretary

Date: 04 / 05 / 2023

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

PARCEL 1:

Commercial Block C, MERCADO DISTRICT OF MENLO PARK, a subdivision of Pima County, Arizona according to Book 60 of Plats at Page 83, and Scrivener's Report recorded in Docket 12791 at Page 491, official records of Pima County, Arizona.

PARCEL 2:

Lots 25 and 38, MERCADO DISTRICT OF MENLO PARK, a subdivision of Pima County, Arizona according to Book 60 of Plats at Page 83, and Scrivener's Report recorded in Docket 12791 at Page 491, official records of Pima County, Arizona.

PARCEL 3:

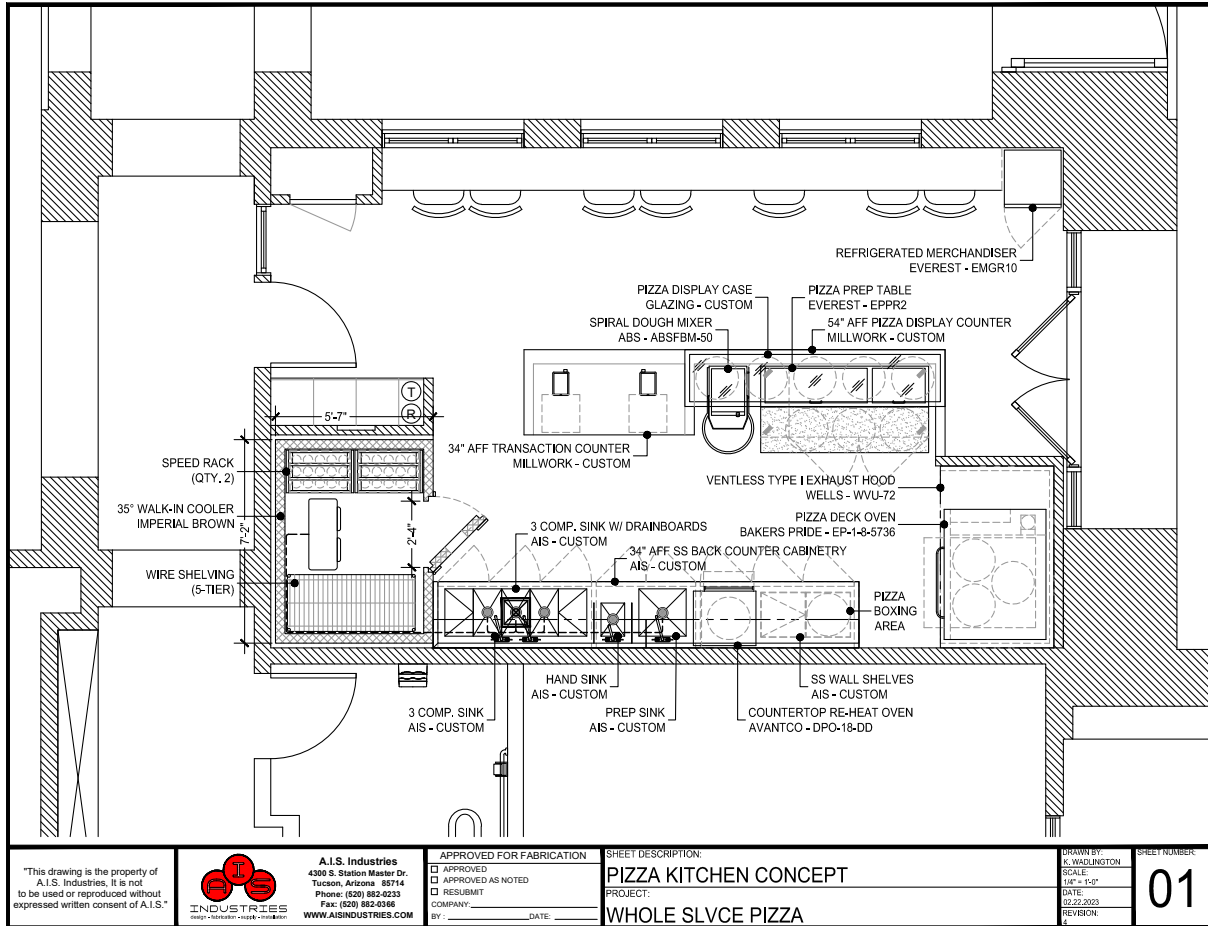
Easement and other rights appurtenant to Parcel 1 and Parcel 2, subject to the terms and conditions set forth in Declaration of Establishment of Maintenance Association and Covenants, Conditions, Restrictions and Easements for Mercado District of Menlo Park as recorded in Amended and Restated Declaration in Docket 12769 at Page 4204; and Common Area Alteration recorded in Docket 13884 at Page 91; and First Amendment recorded in Sequence No. 20121660913, and Second Amendment recorded in Sequence No. 20161270702; official records of Pima County, Arizona.

**EXHIBIT B
TENANT IMPROVEMENT BUDGET**

ITEM	EXPENSE
CONSTRUCTION	\$95,300
ARCH & PERMITS	\$18,500
SIGNS, PERM FIXTURE	\$25,000
HARD KITCHEN COSTS	\$163,000
TOTAL PROJECT COST	\$301,800

Material Changes to the following Tenant Improvement Budget may only be made with the written consent of the Parties and Landlord.

EXHIBIT C CONSTRUCTION PROPOSAL PLANS AND DOCUMENTS



<p>*This drawing is the property of A.I.S. Industries, it is not to be used or reproduced without expressed written consent of A.I.S.*</p>		<p>A.I.S. Industries 4300 S. Station Master Dr. Tucson, Arizona 85714 Phone: (520) 882-0233 Fax: (520) 882-0368 WWW.AISINDUSTRIES.COM</p>	<p>APPROVED FOR FABRICATION</p> <p><input type="checkbox"/> APPROVED <input type="checkbox"/> APPROVED AS NOTED <input type="checkbox"/> RESUBMIT</p> <p>COMPANY: _____ BY: _____ DATE: _____</p>	<p>SHEET DESCRIPTION: PIZZA KITCHEN CONCEPT</p> <p>PROJECT: WHOLE SLVCE PIZZA</p>	<p>DRAWN BY: K. WADLINGTON</p> <p>SCALE: 1/8" = 1'-0"</p> <p>DATE: 02/22/2003</p> <p>REVISION: 4</p>	01
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