AGREEMENT TO PROVIDE ECONOMIC BENEFITS
141 South Stone Avenue

This Economic Benefit Agreement (this "**Agreement**") is effective as of the date set forth on the signature page hereof ("**Effective Date**") between FHG DTN Tucson Owner, LLC, a Delaware limited liability ("**FHG**"), and Rio Nuevo Multipurpose Facilities District, a special taxing district of the State of Arizona (the "**District**"). FHG and the District are sometimes referred to in this Agreement, collectively, as the "**Parties**" or, individually, as a "**Party**."

RECITALS

A. FHG has a Purchase/Lease/Option Agreement ("**Lease**") with the District, as Landlord and FHG as Tenant. The District owns the real property and building located at 141 South Stone Ave, Tucson, Arizona 85701 (such real property and improvements thereon, the "**Premises**"), Pima County Assessor parcel number 117-13-162A, which is legally described and depicted in Exhibit A and Exhibit B, attached hereto. The Premises is comprised of land and improvements including, without limit, the approximately 787 square feet of rental space leased by FHG pursuant to the Lease.

B. FHG will invest up to Four Hundred Thousand and No/100 Dollars ($400,000.00) to renovate and remodel the Premises as described and depicted in Exhibit C (the construction proposal, architectural drawings, and renderings—all of which shall be produced and shall be consistent with the presentation made by FHG at the District's June 27, 2023 board meeting—collectively, the "**Construction Proposal**") to create a leasable space for a bakery retail location (collectively, the "**Project**").

C. After the Project's completion, FHG anticipates that the Premises will immediately generate substantial revenue that will produce transaction privilege tax revenues for the District.

D. At the Rio Nuevo District's public meeting on June 27, 2023, FHG requested the District's financial assistance to complete construction, remodeling, and repurposing of the above-referenced areas in the Premises. FHG's goal is to complete development of the Project so that its tenant may commence its expanded operations before February 29, 2024.

E. The District's board members (the "**Board Members**") have determined that the remodeling, repurposing, and development of the above-referenced areas in the Premises and the District's support of the Project in the Premises, will generate substantial taxable revenue, appreciably increase employment opportunities, and will therefore benefit downtown Tucson, the Convention Center, and the District, in general.

F. During the public meeting on June 27, 2023, the District approved—subject to other language and restrictions herein—a cost-reimbursement grant up to, **but not to exceed**, Two Hundred Thousand and No/100 Dollars ($200,000.00) (the "**Economic Incentive**") to FHG for the purpose of reimbursing FHG for as-completed hard construction draw costs (*i.e.*, costs other than architectural/design work, legal fees, permits and furniture, fixtures, or equipment) and/or other improvements to the Project in compliance with the Construction Proposal.

G. The Parties agree that the purpose of this Agreement is to provide detailed the terms and conditions of the Economic Incentive that the District has agreed to provide FHG for assistance with completing the Project in the Premises, and to generally describe the terms and conditions that the Parties will incorporate into their relationship thereafter with respect to the 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. **<u>Recitals</u>**. The Parties hereto acknowledge the accuracy of the Recitals, which are incorporated herein by this reference.

2. **<u>Definitions</u>**. 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 Premises from time to time.

"**Architect**" means the architect engaged by FHG to complete the formal plans and specifications for the Project as detailed in the Construction Proposal.

"**City**" means the City of Tucson, Arizona.

"**Contractor**" means FHG's general contractor engaged for completion of the Project, at all times in accordance with the accepted Construction Proposal.

"**Convention Center**" means the Tucson Convention Center, constituting the primary component of the District as that term is defined in A.R.S. § 48-4201.

"**Cure Period**" has the meaning assigned in <u>Section 6</u> hereof.

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"**Default**" means a default by a Party of any term, condition, obligation, warranty, representation, or covenant of this Agreement that: (i) is not reasonable capable of being cured or (ii) otherwise remains uncured after the applicable Cure Period.

"**Draw Notice**" has the meaning assigned in Section 5(c)(i) hereof.

"**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 the FHG's planned improvements to the Premises, in compliance with the descriptions, plans, and other information in the Construction Proposal.

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

"**Notice**" means any objection, approval, disapproval, demand, document, or other notice permitted or required under this Agreement.

"**Order**" means the order, judgment, action, or determination of any court, administrative agency, governmental authority or other governmental body.

"**Permitted Assignee**" has the meaning given in Section 9(m) hereof

"**Term**" means the term of this Agreement, beginning upon the Effective Date and terminating in accordance with Section 9(n) hereof.

"**Third Party**" means any person or entity other than a Party or an Affiliate of a Party.

3. **Recipient's Minimum Requirements**. To be eligible for the Economic Incentive provided by the District, FHG shall at all times satisfy the following Minimum Requirements:

(a) **Timing of Improvements**. The Improvements to the Premises and Project contemplated by this Agreement must be completed by February 29, 2024 , and a Certificate of Occupancy issued no later than April 30, 2024.

(b) **Insurance**. In addition to any insurance required under the Lease, FHG 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 the existing and new improvements and betterments on the Premises, written at replacement cost value and with a replacement cost endorsement, covering the Premises for the Lease's term (as provided 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 FHG 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 as "an additional insured," and FHG 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 this Agreement and the Project, 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 FHG's satisfaction of the Minimum Requirements: (a) will benefit the District, the Convention Center, and the City in numerous ways including, without limitation, (i) increasing transaction privilege tax revenues and other revenues, (ii) increasing the District's and City's employment base, (iii) stimulating further economic development in and around the Convention Center and within the District's district, and (iv) otherwise improving or enhancing the economic welfare of the downtown Tucson area, the Convention Center, and the District, in general; (b) is not likely to occur (or to occur at this time and/or in this manner and/or in the Premises) without the benefits provided in this Agreement; and (c) 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 Recipient.

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

(b) Amounts & Limitations. The Total Economic incentive eligible to be paid to FHG shall not exceed the lesser of: (i) 50% of the total construction costs actually paid by FHG to complete the Improvements and Project, as described in the Construction Proposal; or (ii) Two Hundred Thousand and No/100 Dollars ($200,000.00).

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

(i) FHG and/or Contractor shall deliver to the District a signed construction draw ("**Draw Notice**") proving the Improvements have been made in the Premises in compliance with the applicable Draw Notice and Construction Proposal;

(ii) For each Draw Notice submitted by FHG or Contractor, FHG (or its Architect) shall further provide written verification that: (X) certain improvements and work consistent with the applicable Draw Notice number have been made in the Premises in compliance the Construction Proposal, and (Y) proof of payment to Contractor and each of the applicable subcontractors and suppliers for Economic Incentive draws previously paid by the District. For the avoidance of doubt, the requisite proof of payment shall include the lien waivers as elsewhere described in this Section; and

(iii) Upon completion of the foregoing, the District shall have 10 business days from date of receipt of FHG's applicable Draw Notice to inspect the construction work and confirm such work is in accordance with the Construction Proposal, if applicable, and the submitted Draw Notice. Within 7 business days of such inspection, the District shall notify FHG in writing if the work (or any portion thereof) is not approved, and the District may withhold any Economic Incentive payment to FHG 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, the District will conclusively be deemed to have approved the Draw Notice.

Subject to the other terms and conditions in this Agreement, if FHG satisfies each of the foregoing conditions in this Section 5(c), as well as the other applicable terms and conditions in Section 5, the District shall release the applicable installment of Economic Incentive funds. For any work approved by the District, each such installment shall be released no later than 14 business days following the date the District inspects and approves the construction work in the Premises and work pursuant to Section 5(c)(iii), above.

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

(e) Documentation. FHG shall promptly provide the District with any and all documentation and/or evidence that the District requests to establish that the Economic Incentive granted herein, and each installment of funds made to FHG 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. FHG agrees that it shall not materially change the scope of this Project without first notifying the District in writing and negotiating with the District before any material changes are made to the Project.

(g) Termination of Right to Economic Incentive. In addition to such other restrictions and conditions expressly contained in this Agreement, FHG's right to Economic Incentive funds will terminate at the earlier of: (i) the completion date of the Improvements and payment by the District of the Economic Incentive pursuant to Section 5(b), or (ii) February 29, 2024. Notwithstanding the foregoing, if none of the work anticipated under this Agreement has commenced by December 31, 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.

(a) Party Default. If either Party fails to perform its obligations under this Agreement and such failure continues for a period of 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 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 FHG in accordance with this Agreement, the District's remedies shall include, without limit, the following:

(i) Upon any Default which continues for 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 FHG 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 FHG of any Economic Incentive funds received hereunder, claw back from FHG 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 FHG.

(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). For the avoidance of doubt, the foregoing rights and remedies of the District shall be available after the Term for any Default unless otherwise expressly agreed in a separate writing signed by the District.

(c) FHG'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 FHG 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 FHG may seek damages from the District limited to the amount of any undisbursed funds that a court determines should properly be disbursed to FHG and not for any other damages of any kind or nature.

(d) Limitation on Damages. Except as limited herein, 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 nor 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.

7. Representations and Warranties and Covenants.

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

(i) Organization. FHG is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Arizona, and FHG has the power, right, and authority to enter into this Agreement, and 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 FHG, enforceable against it in accordance with the terms and conditions herein.

(ii) Performance. FHG 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, FHG knows of no litigation, proceeding, or official investigation contesting the powers of FHG or its officers with respect to this Agreement, including FHG'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 FHG 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 FHG's performance or failure to perform its obligations under this Agreement, whether or not FHG is a party to such claim, action, or proceeding, and whether or not negligence or gross negligence by the District is alleged, FHG 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 FHG 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 FHG's counsel, at FHG'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, FHG shall indemnify, defend, and hold the District, its Board Members, officers, representatives, agents, attorneys, 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 (A) with FHG's breach of any covenant, representation, warranty, or term in this Agreement, or (B) to the Improvements to the Project or the Economic

Incentive provided by the District to FHG. Notwithstanding anything in this Agreement to the contrary, FHG's obligations in this Section 7(a)(v) shall survive termination and/or the expiration of this Agreement.

(vi) No Consideration to Third Parties. FHG 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.

(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 FHG.

(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 and defend FHG, its managers, members, representatives, agents, and employees from and against any liability, loss, claim, action, or demand, including reasonable attorneys' fees and costs, which arise out of or is connected with the District's breach of any covenant, representation, warranty, or term in this Agreement. The District's indemnification obligation above 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 FHG be deemed to have failed to satisfy FHG 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 Premises and property by any governmental entity; or

(ii) any 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 FHG, from labor shortages, nor from the unavailability for any reason of particular materials or other supplies, contractors, subcontractors, vendors, investors, or lenders desired by FHG. It is understood and agreed that FHG 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 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 making the waiver. Any Party 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 for 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 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 (as appliable) and their respective permitted successors and assigns.

(g) **Further Assurances and Documentation**. Each Party 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 purposes of this Agreement and to effectuate the provisions of this Agreement and the rights of each Party.

(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 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.

(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 Notice that any Party may desire or may be obligated to give to any other Party 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 its successors or assigns, to whom the Notice is intended at the address of the Party set forth below or at any other address as the Parties may later designate in writing. Change of address by a Party 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 FHG:	FHG Dtn Tucson Owner, LLC Attn: Greg Fay 5442 Belmont Avenue Dallas, Texas 75206 Email: greg.fay@faythhosp.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; *provided*, however, that FHG'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 FHG; 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. Subject to the any express provision to the contrary, the Term shall automatically expire and terminate, without further act or notice required, upon the occurrence of the events contemplated in Section 5(g). Following the Term, the Parties shall have no rights or obligations hereunder; *except* that, notwithstanding anything in this Section or Agreement to the contrary, the Parties' indemnification obligations set forth in Section 7 shall survive along with any other rights and obligations of the Parties as may be otherwise expressly provided in this Agreement.

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

(r) **The District Expenditures.** Notwithstanding anything to the contrary herein, the District's cumulative financial responsibility for all payments, expenses, and costs incurred under this Agreement shall, in all cases, be less than the expenditure thresholds set forth in A.R.S. §§ 48 4203(E) and 48-4204(C).

(s) **Sunset Provision.** Notwithstanding anything to the contrary herein, under no circumstances shall District be subject to any liability to FHG under this Agreement that arises or results from District's termination or dissolution pursuant to applicable law and/or any actions taken by District in compliance with any applicable statutory mandate (including without limit those set forth in A.R.S. § 48-4202) or intergovernmental agreement relating to the District.

(t) **Construction with Applicable Law.** This Agreement shall be at all times construed in a manner consistent with the Arizona laws including, without limit, those applicable to multipurpose facilities districts at A.R.S. § 48-4201 *et seq.*

(u) **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.

(v) **No Offer.** The Parties acknowledge and agree that this Agreement shall not constitute an offer or be binding upon either Party until it is fully executed and delivered by the District.

(w) **Israel Boycott.** If and to the extent that A.R.S. § 35-393 *et seq.* is applicable, FHG 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 dates set forth with their respective signatures, effective as of the Effective Date below.

Effective Date: December 28, 2023

FHG DTN TUCSON OWNER, LLC

By: FHG Dtn Tucson JV, LLC
Its: Managing Member

By: Fayth Hospitality Group MM, LLC
Its: Managing Member

By: ______________________________
Name: Greg Fay
Title: Managing Member

Date: ______________________________

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: ______________________________
Name: Fletcher McCusker,
Title: Chairman

Date: 12 / 28 / 2023

By: ______________________________
Name: Taunya Villicana
Title: Secretary

Date: 12 / 29 / 2023

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth with their respective signatures, effective as of the Effective Date below.

Effective Date: December 28, 2023

FHG DTN TUCSON OWNER, LLC

By: FHG Dtn Tucson JV, LLC
Its: Managing Member

By: Fayth Hospitality Group MM, LLC
Its: Managing Member

By: Greg Fay
Name: Greg Fay
Title: Managing Member

Date: 12 / 28 / 2023

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: ______________________________
Name: Fletcher McCusker,
Title: Chairman

Date: ______________________________

By: ______________________________
Name: Taunya Villicana
Title: Secretary

Date: ______________________________

EXHIBIT A
LEGAL DESCRIPTION

That portion of Block 225 of "CITY OF TUCSON", according to the official survey map and field notes of said City, made and executed by S. W. Foreman, approved and adopted by Mayor and Common Council of said City (then Village), Pima County, Arizona on June 26, 1872, in Section 13, Township 14 South, Range 13 East, Gila and Salt River Meridian, a copy of which is recorded in the office of the County Recorder of Pima County, Arizona, in Book 3 of Maps and Plats at page 70 thereof, the resubdivision of which is recorded in Book 3 of Maps and Plats at page 9 in the office of the Pima County Recorder, and as described in Sequence No. 20152670560, Pima County Records, being more particularly described as follows:
BEGINNING at a 1/2" iron rebar monumenting the southwest corner of Block 225 as shown in Book 3 at page 9 of Maps and Plats;

THENCE upon the east right of way line of Stone Avenue North 09°21'31" West a distance of 277.89 feet to a nail with tag stamped RLS 26932 monumenting the northwest corner of Lot 9 Block 225 as shown in Book 3 at page 9 of Maps and Plats;

THENCE upon the south right of way line of Ochoa Street North 81°48'39" East a distance of 133.42 feet to a nail with tag stamped RLS 13178 monumenting the northeast corner of Lot 8 Block 225 as shown in Book 3 at page 9 of Maps and Plats;

THENCE upon the east lines of said Lot 8 and Lot 2 Block 225 as shown in Book 3 at page 9 of Maps and Plats South 05°41'11" East a distance of 154.95 feet to a 1/2" iron rebar tagged LS 4527 monumenting the southeast corner of said Lot 2;

THENCE North 85°05'31" East a distance of 5.18 feet to a nail with a washer stamped LS 13178 moumenting the northeast corner of Lot 3 Block 225 as shown in Book 3 at page 9 of Maps and Plats;

THENCE upon the east lines of Lot 3 and Lot 6 Block 225 as shown in Book 3 at page 9 of Maps and Plats South 09°15'15" East a distance of 120.40 feet to a nail with tag stamped LS 13178 monumenting the southeast corner of said Lot 6;

THENCE upon the north right of way line of Corral Street South 80°45'39" West a distance of 128.46 feet to the POINT OF BEGINNING.

EXHIBIT B
DEPICTION OF PREMISES

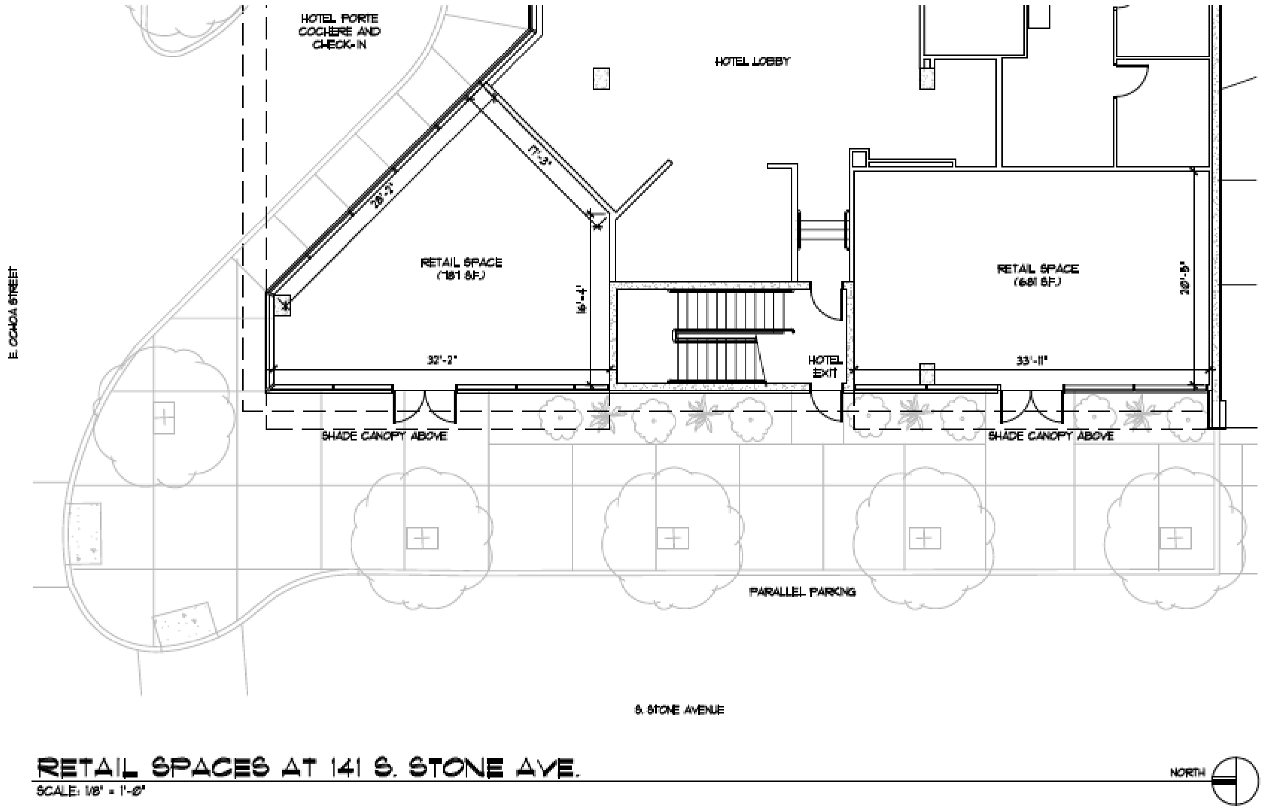

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EXHIBIT C
CONSTRUCTION PROPOSAL PLANS AND DOCUMENTS

June 2023

Suite 100 retail space

Hampton Inn/Home2 Suites 141 S Stone Ave

Fayth Hospitality Group, LLC

- Fayth Hospitality completed the construction of the Hampton Inn/Home2 Suites 199-room dual branded hotel in August 2021
- The hotel has 2 retail spaces on Stone Ave
- The corner space of approximately 787sf is proposed to be leased to La Estrella Bakery
- The bakery would be directly on the northeast corner of Stone Ave and Ochoa St

Expansion of La Estrella Bakery

Overview

- Expansion of well-known locally owned and operated bakery
- This new location would be La Estrella's 4th location in Tucson
- Shell of location is complete
- La Estrella would sign a new 5-year lease and landlord would complete the required tenant improvements

Request

- Landlord would complete finish out of suite including HVAC, electrical, flooring and employee restroom
- Due to the market rental rates for downtown Tucson, the landlord needs assistance from the Rio Nuevo District to complete the tenant improvements
- The sales tax revenue from the bakery will be 100% in addition to the current tax revenue from the hotel

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Tenant Improvements	
Electrical	$ 52,500
HVAC	$ 46,000
Plumbing	$ 45,000
Architectural	$ 27,000
Other costs	$149,500
Total Cost	**$400,000**
Request to Rio Nuevo	$200,000
YOUR Investment	$200,000 plus shell costs already completed

- Current Year 1 revenue is projected at $300,000; Year 2 - $500,000; and Year 3 - $750,000
- All revenue is fully incremental to existing sales tax revenues at the hotel

La ESTRELLA BAKERY INC.

FORSarchitecture+interiors

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La ESTRELLA BAKERY INC.

La ESTRELLA BAKERY INC.