AGREEMENT TO PROVIDE ECONOMIC BENEFITS
410 North Toole Avenue

This Economic Benefit Agreement (this "**Agreement**") is effective as of the date set forth on the signature page hereof ("**Effective Date**") between Altius Vitae LLC, an Arizona limited liability company d/b/a Vertigo Wines ("**Vertigo**"), and Rio Nuevo Multipurpose Facilities District, a special taxing district of the State of Arizona (the "**District**"). Vertigo and the District are sometimes referred to in this Agreement, collectively, as the "**Parties**," or, individually, as a "**Party**."

RECITALS

A. The District is a Tax Increment Finance District ("**TIF**") which is funded in part through a share of the Transaction Privilege Taxes ("**TPT**") collected by the Arizona Department of Revenue ("**AZDOR**") from retail sales within the District's boundaries. In order to receive such funds, the District relies on the proper reporting of TPT by merchants within the District, as further set forth in Section 3(c) herein.

B. Vertigo has a commercial lease agreement ("**Lease**") with the City of Tucson, an Arizona municipal corporation ("**Landlord**"). Landlord owns the real property and building located at 410 North Toole Avenue (such real property and improvements thereon, the "**Premises**"), Pima County Assessor parcel number 11706081G, which is legally described in Exhibit A-1, attached hereto. The Premises is comprised of land and improvements including, without limit, the approximately 1,012 square feet of rental space leased by Vertigo pursuant to the Lease (among other improvements), which is depicted in Exhibit A-2, attached hereto.

C. Vertigo will invest at least $197,043.00 into the Premises to renovate and remodel the Premises as described and depicted in Exhibit B (the construction proposal, architectural drawings, and renderings—all of which shall be produced and shall be consistent with the presentation made by Vertigo at the District's July 23, 2024 board meeting—collectively, the "**Construction Proposal**") to create an urban winery (collectively, the "**Project**").

D. After the Project's completion, Vertigo anticipates that the Premises will immediately generate substantial revenue that will produce TPT revenues for the District.

E. At the Rio Nuevo District's public meeting on July 23, 2024, Vertigo requested the District's financial assistance to complete construction, remodeling, and repurposing of the above-referenced areas in the Premises. Vertigo's goal is to complete development and commence its expanded operations before December 31, 2024.

F. 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.

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G. During the public meeting on July 23, 2024, the District approved—subject to other language and restrictions herein—a cost-reimbursement grant up to, **but not to exceed**, $98,500.00 (the "**Economic Incentive**") to Vertigo for the purpose of reimbursing Vertigo for as-completed construction draw costs and/or other improvements to the Project in compliance with the Construction Proposal.

H. The Parties agree that the purpose of this Agreement is to detail the terms and conditions of the Economic Incentive that the District has agreed to provide Vertigo 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. **Recitals**. The Parties hereto acknowledge the accuracy of the Recitals and understand that each Party is relying on the truth of the other Party's representations in the Recitals to support the Economic Incentive herein, 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 Premises from time to time.

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

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"**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 Section 6 hereof.

"**Default**" means a default by a Party of any term, condition, obligation, warranty, representation, or covenant of this Agreement that: (i) is not reasonably 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 Vertigo'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 Vertigo, 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, Vertigo 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, and a Certificate of Occupancy issued, no later than January 31, 2025.

(b) Insurance. In addition to any insurance required under the Lease, Vertigo 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

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(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 Vertigo 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 Vertigo 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. Vertigo shall provide a copy of such policies with the appropriate endorsements and additional insured designations upon execution of this Agreement.

(c) Tax Reporting. Vertigo shall file with the AZDOR a Form TPT-EZ on a monthly basis, and a Form TPT-1 on an annual basis (collectively, the "**TPT Forms**"), until the latter of: (a) the District sunsets (i.e., is no longer authorized to accept TPT or operate); or (b) Vertigo stops operating within the District. For both of these filings, Vertigo shall identify the region code as "PAD." Vertigo also acknowledges, agrees, and understands that for the District to receive TIF funding, it is imperative that Vertigo properly file all tax forms to memorialize all appropriate sales made within the District's district. In the event that it is determined by the District, the Arizona Department of Revenue, or the City of Tucson, that Vertigo has failed to properly or timely file any of the TPT Forms or has stopped operating in the district before generating TPT revenues that match the Economic Incentive provided by the District to Vertigo hereunder, such failure shall be considered an event of Default hereunder, and the District shall have all rights available to it pursuant to Section 6(b)(i) including, without limit, the right to claw back from Vertigo the difference between any and all Economic Incentive payments made to Vertigo at the time of such Default minus any TPT funds originating from Vertigo's operation/sales, and cease any pending or future distributions of any requested Economic Incentive payments to Vertigo. Further information regarding TPT funds and tax filings is included in Exhibit C.

(d) 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. The District's Findings. The District has determined that Vertigo'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 TPT 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.

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5. Economic Incentive for Recipient.

(a) Release of Funds. Based upon the District's findings in Section 4, and subject to Vertigo's continuing satisfaction of the Minimum Requirements, the District will pay the Economic Incentive as described in this Section 0.

(b) Amounts & Limitations. The Total Economic Incentive eligible to be paid to Vertigo shall not exceed the lesser of: (i) 50% of the total construction costs actually paid by Vertigo to complete the Improvements and Project, as described in the Construction Proposal; or (ii) $98,500.00.

(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 Vertigo's Contractor and only upon completion of the following required conditions:

(i) Vertigo 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 Vertigo or Contractor, Vertigo (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;

(iii) Upon completion of the foregoing, the District shall have 10 business days from the date of receipt of Vertigo'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 Vertigo in writing if the work (or any portion thereof) is not approved, and the District may withhold any Economic Incentive payment to Vertigo 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; and

(iv) As a further condition for release of each installment, Vertigo shall provide applicable lien waivers including, without limit, Conditional Lien waivers from all contractors, subcontractors, and suppliers with each Draw Notice as a condition for release of any Economic Incentive payment(s) by the District, and Unconditional Lien waivers evidencing such payments for each subsequent Draw Notice. All such lien waivers shall be in the form prescribed in A.R.S. § 33-1008.

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Subject to the other terms and conditions in this Agreement, if Vertigo satisfies each of the foregoing conditions in this Section 5(c), as well as the other applicable terms and conditions in Section 0, 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) Tax Filings. Vertigo hereby understands and agrees that a precondition to its eligibility for the Economic Incentive is to file the Tax Forms according to the terms and procedures set forth in Section 3(c) and Exhibit D hereof.

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

(f) Documentation. Vertigo 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 Economic Incentive funds made to Vertigo hereunder, is used consistently with the District's stated purpose and goals, this Agreement, and the Construction Proposal documents.

(g) No Material Change in Scope. Vertigo 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.

(h) Termination of Right to Economic Incentive. In addition to such other restrictions and conditions expressly contained in this Agreement, Vertigo'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) January 31, 2025. Notwithstanding the foregoing, if none of the work anticipated under this Agreement has commenced by October 31, 2024, 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 violates any term or condition of this Agreement or fails to perform its obligations under this Agreement and such violation and/or 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 violation or 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.

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(b) The District's Remedies. Whenever a Default occurs and is not cured (or, if appropriate, cure undertaken) by Vertigo 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, in all cases, recover from Vertigo any and all Economic Incentive payments made during the period of any properly noticed and uncured Default, and immediately cease all future Economic Incentive payments to Vertigo;

(ii) In addition to all other rights and remedies available to the District, the following uncured events of Default shall give the District the right to claw back from Vertigo all Economic Incentive payments previously disbursed to Vertigo:

(x) Misuse or misappropriation, or material misrepresentation or omission as to the use or purpose, of any Economic Incentive funds received hereunder, irrespective of when during the term such misuse, misappropriation or misrepresentation occurred;

(y) Failure to properly and timely file TPT Forms as set forth in Section 3(c); and

(z) Material misrepresentation or omission on the part of Vertigo to induce and/or secure the Economic Incentive or regarding the Construction Proposal, claw back from Vertigo all Economic Incentive payments previously disbursed.

(iii) 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) Vertigo'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 Vertigo 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 Vertigo may seek damages from the District limited to the amount of any undisbursed funds that a court determines should properly be disbursed to Vertigo 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

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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 Vertigo. Vertigo represents, warrants, and covenants to the District that:

(i) Organization. Vertigo is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Arizona, and Vertigo 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 Vertigo, enforceable against it in accordance with the terms and conditions herein.

(ii) Performance. Vertigo 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, Vertigo knows of no litigation, proceeding, or official investigation contesting the powers of Vertigo or its officers with respect to this Agreement, including Vertigo'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 Vertigo 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 Vertigo's performance or failure to perform its obligations under this Agreement, whether or not Vertigo is a party to such claim, action, or proceeding, and whether or not negligence or gross negligence by the District is alleged, Vertigo 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 Vertigo 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 Vertigo's counsel, at Vertigo'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

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to the foregoing, Vertigo 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 Vertigo'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 Vertigo. Notwithstanding anything in this Agreement to the contrary, Vertigo's obligations in this Section 7(a)(v) shall survive termination and/or the expiration of this Agreement.

(vi) No Consideration to Third Parties. Vertigo 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 Vertigo.

(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 Vertigo, 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.

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(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 Vertigo be deemed to have failed to satisfy Vertigo 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 Vertigo, from labor shortages, nor from the unavailability for any reason of particular materials or other supplies, contractors, subcontractors, vendors, investors, or lenders desired by Vertigo. It is understood and agreed that Vertigo 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.

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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.

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(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 the District: Rio Nuevo Multipurpose Facilities District
Attn: Fletcher McCusker
1703 East Broadway Boulevard,
Tucson, Arizona 85719
Email: fjmccusker@gmail.com

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

If to Vertigo: Altius Vitae LLC
Attn: Kristel Johnson
1809 East 9th Street
Tucson, Arizona 85719
Email: kristeljohnson520@gmail.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 Vertigo'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 Vertigo; 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 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(h). Following the Term, the Parties shall have no rights or obligations hereunder; *except* that, notwithstanding anything in this Section or Agreement to the

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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 Vertigo, or to any successor in interest to Vertigo, in the event of any Default by the District, or for any amount which may become due to Vertigo 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 Vertigo 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.*

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(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, Vertigo 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.

[*Signatures on Following Page*]

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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: _____

ALTIUS VITAE LLC

By: _____
Name: Kristel Johnson
Title: Owner

Date: 10 / 04 / 2024

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: _____
Name: Fletcher McCusker
Title: Chairman

Date: _____

By: _____
Name: Taunya Villicana
Title: Secretary

Date: _____

APPROVED AND CONSENTED TO BY LANDLORD:

CITY OF TUCSON

By: _____
Name: Timothy Thomure
Title: City Manager

Date: _____

Attest:
By: _____
Name: Suzanne Mesich
Title: City Clerk
Date: _____

Doc ID: 5fc4d6c965642948bf9fb6c2553393ba99bec93b

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: _____

ALTIUS VITAE LLC

By: _____
Name: _____
Title: _____

Date: _____

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

By: _____
Name: Fletcher McCusker
Title: Chairman

Date: 10 / 04 / 2024

By: _____
Name: Taunya Villicana
Title: Secretary

Date: 10 / 04 / 2024

APPROVED AND CONSENTED TO BY LANDLORD:

CITY OF TUCSON

By: _____
Name: Timothy Thomure
Title: City Manager

Date: November 4, 2024

Attest:
By: _____
Name: Suzanne Mesich
Title: City Clerk
Date: November 4, 2024

Doc ID: 868abc6d139c7a41c4a262a38c758bd194c50a45

EXHIBIT A-1
LEGAL DESCRIPTION

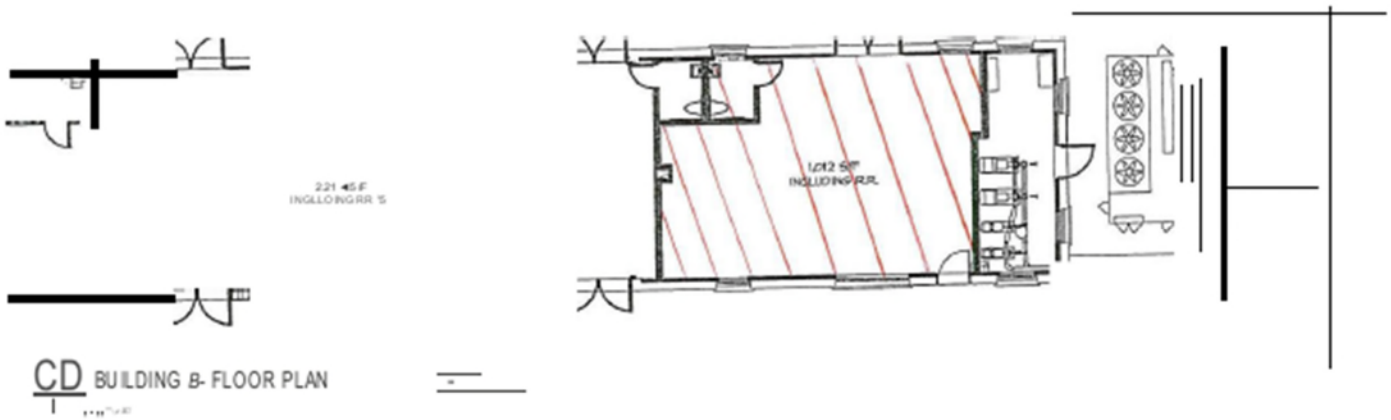
All those portions of Blocks 82, 83, 84, 90 and 94, and of the alleys traversing said blocks, and of Fourth Avenue, Fifth Avenue, Ninth Street, Tenth Street and Eleventh Street, all as recorded as City of Tucson in Book 3 of Maps and Plats at Page 70 and Page 71, Records of Pima County, Arizona, more particularly described as follows:

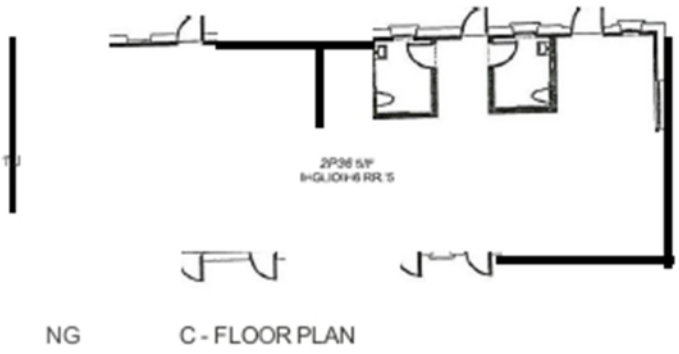
Beginning at the intersection of the northeasterly right of way of Toole Avenue, as recorded in Docket 1972 at Page 71 and shown in Book 13 of Record of Survey at Page 64; Thence N 00° 52' 37" W along said easterly right of way, 22.62 feet to an angle point thereof; Thence continuing along said easterly right of way N 00° 54' 00" W, 204.87 feet; Thence S 45° 35' 35" E 40.00 feet southwesterly of and parallel with the centerline of the Union Pacific Railroad Company (formerly Southern Pacific Transportation Company) 100 foot wide right of way as recorded in Docket 1860 at Page 166 and shown in Book 13 of Record of Survey at Page 64; Thence S 00° 56' 52" E along said westerly right of way, 227.69 feet to the northeasterly right of way of said Toole Avenue; Thence N 45° 35' 35" W along said northeasterly right of way 1914.50 feet to the Point of Beginning.

Contains 306, 226 Sq. Ft. more or less.

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EXHIBIT A-2
DEPICTION OF PREMISES





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EXHIBIT B
CONSTRUCTION PROPOSAL PLANS AND DOCUMENTS

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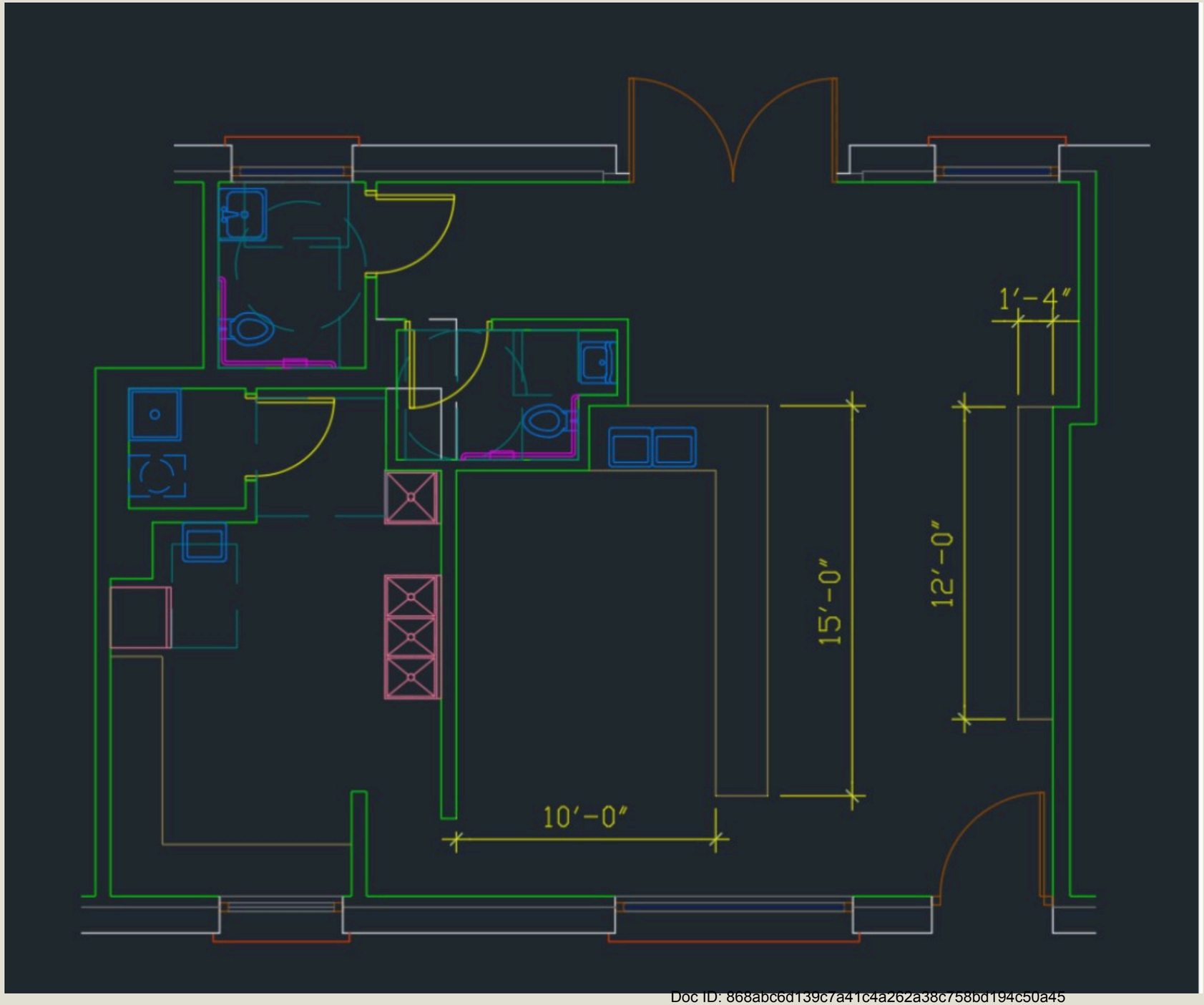
410 N. TOOLE AVE.



Lease terms have been finalized and approved by city attorneys and property management company.
On Docket for 9/11 M&C

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A2 use code triggers the requirement of a 2nd bathroom.



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K | A | P | P | C | O | N

Tenant Improvements with addition of 2nd bathroom $197,000

Seeking $98,500 for help with TI

Work to begin immediately following M&C meeting on 9/11/2024

4847 N Daisy Dawn Pl Suite 101
Tucson AZ 85705
520-292-2225 office
520-292-2227 fax

Kappcon Inc General Contracting

PROJECT NAME:	**Vertigo Wines TI**
PROJECT NO.:	
DATE:	**8/23/2024**

Description:	**Small Tenant Improvments; add Wine Making Space, and Retail Space, 2nd Bathroom, based on Early Drawings from Osiago Studios**

Work Order Pricing

Labor	Schedule 1	$	17,920.00
Materials	Schedule 2	$	11,200.00
Equipment	Schedule 3		BY OWNER
Subcontractors			
Architecture	Architecture & Engineering	$	12,000.00
City of Tucson Building Review/Permit/Expedite	TDS	$	6,000.00
Concrete Demolition	Penhall	$	5,500.00
Plumbing	Advantage Air	$	55,000.00
HVAC	Advantage Air	$	5,000.00
Electic	Palo Verde	$	6,200.00
Painting	Wiese Painting	$	4,500.00
Millwork/Bar Tops/Display	Mill Work By Design	$	38,000.00

Subtotal Direct Construction Cost		**$**	**161,320.00**
Contractor Fee	15.0000%	$	24,198.00
Bonds	1.7250%		NIC
Builder's Risk	0.2420%	$	390.39
General Liability	0.3340%	$	538.81
Subtotal		$	929.20
Sales Tax (8.6%) X 65%	5.6550%	$	10,596.14
		$	197,043.34
Total Cost Proposal		**$**	**197,043.00**
Time requested			**60 DAYS**

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EXHIBIT C
MERCHANT INFORMATION GUIDE

Doc ID: 868abc6d139c7a41c4a262a38c758bd194c50a45



Rio Nuevo District
Sales Tax Reporting Information

TPT AND TIF INFORMATION FOR RIO NUEVO DISTRICT MERCHANTS

RIO NUEVO MULTIPURPOSE FACILITIES DISTRICT

(520) 623-7336 | 1703 E. Broadway Blvd., Tucson, AZ 85719 | www.RioNuevo.org

Doc ID: 868abc6d139c7a41c4a262a38c758bd194c50a45

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TIF District Boundaries 3

Your Role 3

Sales Tax **4**

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Amendments 5

Our Ask 5

Resources 5

Contacts 6

The Rio Nuevo District is an economic development agency that provides long-term growth by helping defray the steep costs of major projects, new development, and property improvements, benefiting the Tucson community.

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ABOUT

The Rio Nuevo District is a Tax Increment Finance District (TIF) funded by a share of state sales tax dollars and held accountable to the Arizona State Legislature for use of the funds. In 1999 voters approved the creation of the district that allows TIF funds to be reinvested into the Tucson community. TIF funds are managed by the Rio Nuevo District Board of Directors who as of 2010 are appointed by the State Governor, President of the Senate, and Speaker of the House of Representatives.

In partnership with private sector developers, commercial lenders, real estate investment firms and others, Rio Nuevo invests in projects that expand the tax base and bring people and new businesses to downtown Tucson and the Sunshine Mile. This investment helps to defray the steep costs of projects, events, new development, and property improvements.

Rio Nuevo District's mission is to revitalize downtown Tucson and the Sunshine Mile to create a vibrant, urban environment where residents and visitors can live, stay, work and play.

TAX INCREMENT FINANCE (TIF)

A tax increment finance district (TIF) is a public financing method that is used for redevelopment, infrastructure, and other community-improvement projects in many states. TIF funding is generated by growth in sales tax revenues, called the tax increment.

TIF's help local governments attract private development and new businesses by adding more jobs, more customers, and more private investment. TIF's create short- and long-term benefits for communities including:

• No tax increases • Increased property values • Private investment and development • New jobs • Job retention • Stronger, broader tax base • Stronger economic base • Locally controlled development • Incremental revenue reinvested into the TIF district • Stimulates investment outside TIF district boundaries

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TIF DISTRICT BOUNDARIES



The TIF District, https://rionuevo.org/about/tif-district/district-map/, approximately 7 miles in length, encompasses the Mercado on the west side of I10, downtown Tucson, and Broadway Blvd from downtown to Park Place Mall.

YOUR ROLE

A majority of Rio Nuevo funding is generated by a splitting of the transaction privilege taxes (TPT) paid by District merchants to the Arizona Department of Revenue. Merchants within the District complete sales tax reports by using the code 'PAD' in the Region Code section of the sales tax form. By using code 'PAD' on the form, this instructs the Arizona Department of Revenue to direct funds to Rio Nuevo, which are invested into the community.

Per the Arizona Department of Revenue:

"Effective October 1, 2002, taxable activity and collections occurring in the Rio Nuevo District must be reported separately. The code ***PAD*** *should be used in place of PMA for all business activity occurring within Rio Nuevo in the Business Classes listed below. Activity will continue to be reported by TPT class. The tax rate applied to* ***PAD*** *Business Classes will remain the same as that applied to PMA Business Classes.*

For example, if your business has activity within the Rio Nuevo District in Pima County and it has taxable retail transactions, that activity should be listed on the TPT-EZ return in ***PAD*** *017 instead of PMA 017. All transactions not located in the Rio Nuevo District should continue to be filed under the specific county code. If your business has multiple locations within Pima County, only the taxable transactions at the locations within the Rio Nuevo District should be filed under* ***PAD****. All remaining taxable activity should be filed under PMA."*

This does not increase your tax and does not raise rates.

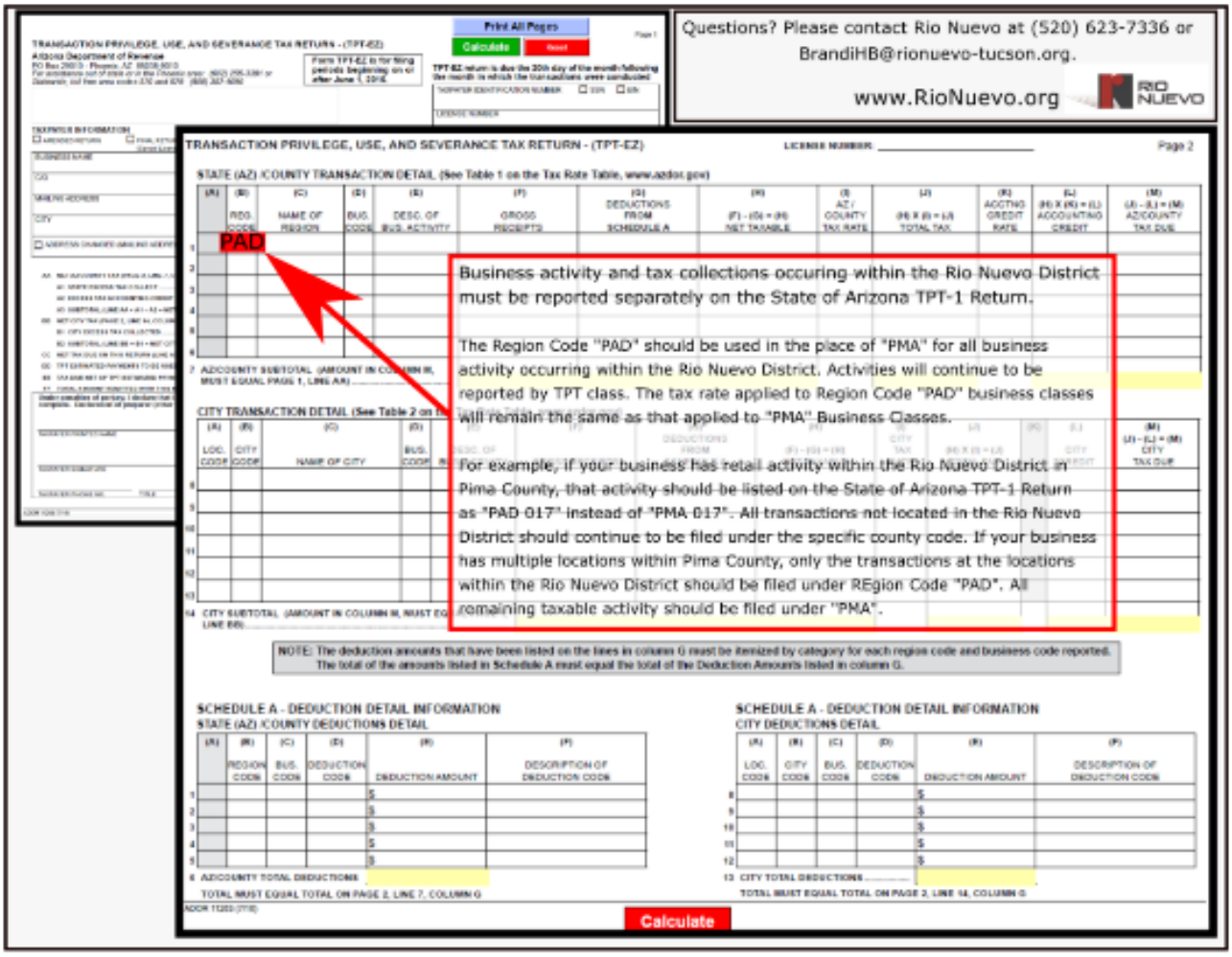
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SALES TAX (TPT)

Transaction Privilege Tax (TPT) is commonly referred to as sales tax and is a tax on a vendor for the privilege of doing business in the state. Various business activities are subject to sales tax and must be licensed.

Form TPT-EZ, https://azdor.gov/forms/tpt-forms/tpt-ez-transaction-privilege-use-and-severance-tax-return, is the form that merchants must submit to the Arizona Department of Revenue. And is where the code 'PAD' will be used in the Region Code section.

If you are correctly completing your sales tax reports, we sincerely thank you. If for some reason you are not, we strongly encourage you to correctly complete the TPT Form. Rio Nuevo District staff are available to assist you if you have any questions. You can also amend prior filings for up to four years.



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ONLINE FILING

If your business reports sales tax online and is not currently using code "PAD" please use the following link to update the Region code: **AZDOR – Updating a TPT Account** https://azdor.gov/transaction-privilege-tax/tpt-license/updating-tpt-account

Detailed instructions to fix your code online is available at: **Step By Step Instructions** https://azdor.gov/sites/default/files/2023-03/PUBLICATION_TPT_TPT2-stepbystep.pdf

AMENDMENTS

Amendments to sales tax reports can be made by using the TPT-1 form and placing a checkmark in the 'Amended Return' box: **AZDOR TPT-1** https://azdor.gov/forms/tpt-forms/tpt-1-transaction-privilege-use-and-severance-tax-return-filing-periods-june-1-2016

The TIF keeps money in Tucson and allows Rio Nuevo to invest in the community.

OUR ASK

We ask that you assist the Rio Nuevo District by correctly completing your TPT form by using the code 'PAD'.

RESOURCES

- Arizona Department of Revenue – Taxpayer Education and Information https://azdor.gov/taxpayer-education/online-tutorials/tpt-tutorials
- Arizona Department of Revenue Tax Rate Table https://modelcitytaxcode.az.gov/Tax_rate/PDF/201909.pdf
- Arizona Department of Revenue – Determine if you are in the Rio Nuevo District https://www.aztaxes.gov/Home/Address?Length=13
- Arizona Department of Revenue – Update Online State/Region Code https://azdor.gov/transaction-privilege-tax/tpt-license/updating-tpt-account

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- Arizona Department of Revenue – Amendments to Sales Tax Reports TPT-1 Form https://azdor.gov/forms/tpt-forms/tpt-1-transaction-privilege-use-and-severance-tax-return-filing-periods-june-1-2016

- Rio Nuevo District - Learn more about Rio Nuevo District projects www.RioNuevo.org

CONTACTS

Brandi Haga-Blackman, Administrative Director
(520) 623-7336, Brandihb@rionuevo-tucson.org

Dan Meyers, Chief Financial Officer
(520) 623-7336, Danielm@rionuevo-tucson.org

If you would like updates on Rio Nuevo projects, please sign up for our board meeting agenda notification at www.RioNuevo.org.

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