

Term Sheet: Economic Development Loan – Hummingbird Restaurant/ The Nest Events Venue

Parties:

Town of Castle Rock (“Town”), as lender

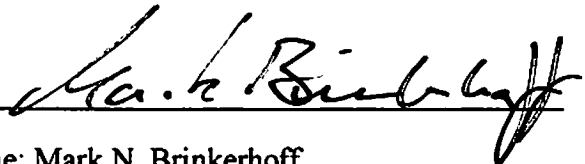
Mark Brinkerhoff/Brinkerhoff Restaurants, LLC/TBD (“Owner”), as borrower

Terms:

- Town will lend Owner an amount not to exceed \$500,000 (the “Town Loan”) to help finance the construction of an approximately 7,000 square foot restaurant and 3,000 square foot event space (the “Project”), to be located near the intersection of Castle Rock Parkway and Promenade Parkway in the Promenade at Castle Rock Community Center
 - \$300,000 will come in the form of a payment from the Town’s Economic Development Fund at the time a temporary certificate of occupancy is issued for the Project
 - \$200,000 will come in the form of a deferment of Town permit fees, land use application fees, system development fees, and development impact fees (“Town Fees”), but not including Town or County use tax
 - The final apportionment between the amount to be paid from the Town’s Economic Development Fund and the amount of Town Fees to be deferred shall be made at such time as Town staff determines the total amount of Town Fees due and owing for the Project
- The Town Loan will be evidenced by a promissory note issued by the Owner in favor of the Town (the “Note”)
 - The term of the Note will be five years
 - The Note will be payable in monthly installments of principal and interest, fully amortized
 - The Note will bear interest at an annual rate of 1% for the first 36 months, 3.5% for months 37 through 48, and 5% for months 49 through 60
 - The note shall be prepayable without penalty
- The Note will be secured by a second position in the real estate of the Project (land and building), subordinate to a senior bank loan used by Owner to finance the majority of the construction costs associated with the Project (the “Bank Loan”), or in the event Owner and such senior bank integrate an SBA loan package into the Bank Loan, whereby the SBA is in second position and the senior bank is in first position, then the Note will be secured by a third position (in either event, such position simply referred to as “Second Priority”)
 - Owner will issue a Second Priority Deed of Trust for the benefit of the Town encumbering the real property assets of the Project
 - Owner will issue a Second Priority UCC-1 Financing Statement for the benefit of the Town encumbering the Project business assets, and related contract rights, and any other contracts or agreements associated with the construction and/or operation of the Project facilities

- The Town will not collect a loan origination fee and will administer all disbursements, payments and compliance through the Town Finance Department
- Owner shall be responsible for providing an appraisal and cost review demonstrating that the Project appraises at an amount greater than the sum of the Bank Loan and Town Loan
- Owner shall be responsible for providing a title commitment insuring the Town's interest under the second deed of trust
- Owner shall be responsible for providing adequate insurance coverage for the Project, including general liability, builder's risk, hazard, and business interruption coverage
- Owner shall be responsible for providing an environmental audit of the real property upon which the Project will be constructed
- Owner shall pay all costs incurred by Town in connection with the closing of the Town Loan
- Owner shall promptly provide Town notice of any bankruptcy, reorganization, insolvency or other material adverse change in its financial condition or operations
- All financial commitments of the Town in future fiscal years are subject to the budgeting and appropriation of funds therefor by the Town Council
- Deferral of Town Fees/ Funding of Town Loan will be contingent upon Owner meeting Project development milestones (issuance of Project structural building permit; issuance of temporary certificate of occupancy)

BRINKERHOFF RESTAURANTS, LLC, a
Colorado limited liability company

By 

Name: Mark N. Brinkerhoff

Title: Managing Member