

**FIRST AMENDMENT TO THE ECONOMIC INCENTIVE LOAN  
AGREEMENT BY AND BETWEEN THE TOWN OF CASTLE ROCK AND  
BRINKERHOFF RESTAURANTS, LLC**

**THIS FIRST AMENDMENT TO THE ECONOMIC INCENTIVE LOAN AGREEMENT** (the “First Amendment”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2025, by and between the Town of Castle Rock, a home rule municipal corporation of the State of Colorado (the “Lender”), and Brinkerhoff Restaurants, LLC, a limited liability company of the State of Colorado (the “Borrower”), (each, individually, a “Party” and, collectively, the “Parties”).

**WITNESSETH:**

**WHEREAS**, the Borrower is constructing the Hummingbird Event Center, an approximately 9,052 square foot restaurant and 2,633 square foot event center, to be located near the intersection of Castle Rock Parkway and Promenade Parkway in the Promenade at Castle Rock Community Center (the “Project”); and

**WHEREAS**, the Project qualifies for economic development incentives under the Lender’s Business and Development Program and serves a public purpose by providing jobs and tax revenues, as well as a much-needed event center to serve as a gathering space for the community; and

**WHEREAS**, on June 20, 2023, the Lender and the Borrower entered into an Economic Incentive Loan Agreement (the “Agreement”), which Agreement is attached hereto as ***Exhibit A***, pursuant to which the Lender would provide a loan to the Borrower in the amount of \$500,000 secured by a second deed of trust in the Borrower’s real property, buildings, and improvements and a second security interest in the Borrower’s business assets and related contract rights; and

**WHEREAS**, according to Section 9.b, the Agreement will automatically terminate without any notice to the Borrower if a temporary certificate of occupancy for the Project is not issued by June 30, 2025 (the “Termination Date”); and

**WHEREAS**, the Borrower has experienced delays in the delivery of equipment necessary to complete the Project that will prevent it from obtaining a temporary certificate of occupancy by the Termination Date; and

**WHEREAS**, the Lender finds that it is in the best interests of its citizens to extend the Termination Date through and including December 31, 2025.

**NOW, THEREFORE**, the Parties, in and for the consideration of the performance of the mutual promises set forth herein, the receipt and adequacy of which is hereby acknowledged, do hereby agree as follows:

1. **Amendment.** Section 9 of the Agreement is amended to read as follows:

“9. Termination. This Agreement shall automatically terminate without any notice to Borrower if:

- a. A structural building permit for the Project is not issued by December 31, 2023;
- b. A temporary certificate of occupancy for the Project is not issued by December 31, 2025; or
- c. The Borrower has not received any deferment of Town Fees or disbursement of Loan Proceeds from the Lender; and the Borrower fails to pay its debts as they become due, makes an assignment for the benefit of its creditors, admits in writing its inability to pay its debts as they become due, files a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, becomes “insolvent” as that term is generally defined under the Federal Bankruptcy Code, files an answer admitting insolvency or inability to pay its debts as they become due in any involuntary bankruptcy case commenced against it, or fails to obtain a dismissal of such case within sixty (60) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or is the subject of an order for relief in such bankruptcy case, or is adjudged a bankrupt or insolvent, or has a custodian, trustee, or receiver appointed for it, or has any court take jurisdiction of its property, or any part thereof, in any proceeding for the purpose of reorganization, arrangement, dissolution, or liquidation, and such custodian, trustee, or receiver is not discharged, or such jurisdiction is not relinquished, vacated, or stayed within sixty (60) days of the appointment.”

2. Ratification. Except as modified herein, in all other respects, the Agreement shall remain in full force and effect and is hereby ratified and confirmed in all respects.

**Attached Exhibits:**

Exhibit A – Agreement

**IN WITNESS WHEREOF**, this First Amendment is executed by the parties hereto as of the day and year first written above.

**ATTEST:**

**TOWN OF CASTLE ROCK**

\_\_\_\_\_  
Lisa Anderson, Town Clerk

\_\_\_\_\_  
Jason Gray, Mayor

**Approved as to form:**

**Approved as to content:**

\_\_\_\_\_  
Michael J. Hyman, Town Attorney

\_\_\_\_\_  
David L. Corliss, Town Manager

**BRINKERHOFF RESTAURANTS, LLC**

\_\_\_\_\_  
Mark Brinkerhoff, Managing Member

**STATE OF COLORADO**            )  
  ) ss.  
**COUNTY OF DOUGLAS**        )

The foregoing instrument as acknowledged before me this \_\_ day of \_\_\_\_\_, 2025, by Mark Brinkerhoff as Managing Member of Brinkerhoff Restaurants, LLC.

Witness my official hand and seal.

My commission expires:

\_\_\_\_\_  
Notary Public