

April 27, 2021

City of Rollingwood, Texas

Re: *Letter of Intent for Concessionaire Contract and Ground Lease City of Rollingwood, Texas ("Landlord"):*

This letter states the basic terms on which Tenant will lease from Landlord the Premises (as defined below).

STREET ADDRESS OF  
GROUND LEASE:

Rollingwood Blvd, Rollingwood, TX 77401, ("Property")

PREMISES:

A 1,200 square foot pad on Rollingwood Drive, approximately next to the property line of the swim club and the Rollingwood Park ("**Premises**"), upon which the tenant will build a small walkup building of approximately 750 square feet with 450 square feet being covered space ("**Building**"). The parties acknowledge that the Building's design has not been finalized yet, so the exact layout of the Premises is not available yet. Further, the tenant will have rights to allow for a predetermined number of parking spots for employees and customers onsite.

BUILDING:

Tenant, at its sole cost, will pay for the cost to design, engineer, build and occupy the Building.

PERMITTED USE:

The Premises and Building shall be used exclusively for the operation of a walkup food service business to sell coffee, baked goods and ice cream and similar "to go" style food products ("**Milk & Cookies**"). Operating hours to be 7:00 am to 8:00 pm Monday through Sunday.

INITIAL TERM:

60 months

MINIMUM MONTHLY  
RENT DURING INITIAL  
TERM:

\$3,500.00- \$4,500 per month.

REVENUE SHARE/  
ANNUAL LUMP SUM

**PAYMENT FORMULA:** 6% of annual gross revenue (gross sales minus sales tax) greater than \$500,000, minus the sum of the monthly rent payments.

**TRIPLE NET:** The lease shall be "Triple Net". Tenant shall pay for all utilities, taxes and insurance associated with the Premises and Building.

**POSSESSION:** Landlord to deliver the Premises in its "as-is, where-is, and with-all-faults" condition on the Commencement Date.

**RENT COMMENCEMENT:** Rent will commence upon completion and certificate of occupancy of the Building and grounds improvements.

**RENEWAL TERM:** Tenant shall have the option to renew, subject to Council approval, the Lease for three additional terms of 60 months. Upon renewal, the rent will increase by 2% each year.

**TAXES:** Tenant shall also be responsible for (a) all personal property taxes levied against its personal property, including inventory, and (b) all sales taxes for sales, if any, effected by Tenant from the Premises.

**INSURANCE:** Landlord shall be responsible for carrying property insurance for the Building. Tenant shall also be responsible for procuring and maintaining liability insurance, builder's risk insurance, and property insurance for its personal property and leasehold improvements, in accordance with the City's requirements, and in connection therewith, shall be entitled to the full proceeds of Tenant's property insurance in the event of any casualty with respect thereto. The lease shall contain a mutual waiver of subrogation clause for all casualties that would be covered by commercially available fire and extended coverage property insurance policies written on an "all risk" basis to full replacement value.

**UTILITIES:** The Premises shall be separately metered for electricity, water, sewer and gas, and Tenant shall contract directly with, and pay, utility providers for all utility services that are separately metered for the Premises.

**BUILDING SIGNAGE:** Tenant shall not be allowed to erect any monument signs. However, the Tenant will be allowed to affix or paint a sign to the exterior of the Building subject to Council approval.

**LIGHTING** Tenant shall not be allowed to implement large scale and/or after hours illumination. Lighting will be minimal and limited to

safety purposes and landscaping lighting. All lighting will be shielded. Lighting plan will be approved by the City Council.

**TENANT'S WORK:**

As necessary to complete the Premises in accordance with plans and specifications to be approved by Landlord, which approval will not be unreasonably withheld. Upon termination of the Lease, Tenant shall be entitled to remove all inventory, furnishings, trade fixtures and equipment installed by Tenant.

**CONSTRUCTION ALLOWANCE:**

Landlord agrees to work with tenant to facilitate access to appropriate water and sewer utilities.

**LANDLORD RESPONSIBILITIES:**

Landlord shall not be responsible for maintenance and repair of any structural portions of the building, nor is the Landlord responsibility for maintenance and repair of all common areas of the Property. The Landlord will be responsible for maintaining adequate ingress and egress to the property, including adjacent parking spots for the benefit of the Tenant.

**TENANT RESPONSIBILITIES:**

Tenant shall be responsible for the repair and maintenance of the interior, structural and non-structural maintenance of the Premises, including windows, plate glass, and doors. Further, the Tenant is responsible for the repair and replacement of all electrical, plumbing and HVAC improvements to the Building.

**ASSIGNMENT:**

Tenant shall have no right to assign the Lease without Landlord's consent. However, Tenant may (i) assign the Lease to an entity with which or into which Tenant is merged, consolidated or converted, and (ii) assign the Lease to an entity that acquires all or substantially all of Tenant's assets or controlling interest subject to Landlord's consent which will not be unreasonably withheld.

**PARKING:**

Tenant shall have access to public parking, as available.

**RULES AND REGULATIONS:**

Tenants shall follow Landlord's standard rules and regulations for the Property provided that such rules and regulations (i) are enforced in a non-discriminatory manner against all tenants in the Property, and (ii) do not contravene any provision of the Lease. In the event of a conflict between the terms of such rules and regulations and the Lease, the terms of the Lease shall govern and control.

LEASE FORM:

Tenant's legal counsel will draft the Lease.

This proposal is intended solely as a preliminary expression of general intentions and is to be used for discussion purposes only. The parties intend that neither shall have any contractual obligations to the other with respect to the matters referred herein unless and until a definitive agreement has been fully executed and delivered by the parties. The parties agree that this proposal is not intended to create any agreement or obligation by either party to negotiate a definitive lease and imposes no duty whatsoever on either party to continue negotiations, including, without limitation, any obligation to negotiate in good faith or in any way other than at arm's length.

Sincerely,

**Tiny Boxwoods Austin, LLC.**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

AGREED AND ACKNOWLEDGED:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_