

PROJECT AGREEMENT

THIS PROJECT AGREEMENT (hereinafter, the "Agreement"), made as of October 31, 2018, by and between the **PUTNAM COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation of the State of New York, with offices at The Lawlor Building, 2 Route 164, Patterson, New York 12563 (the "Agency"), and **AHANA HOSPITALITY LLC**, a limited liability company organized and existing under and by virtue of the laws of the State of Kentucky and authorized to do business in New York, having an office at 26 Mill River Street, Stamford, Connecticut 06902 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by pursuant to and in accordance with the provisions of the Enabling Act, Chapter 399 of the Laws of 1987 of the State of New York and Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: the acquisition of 7-11 Peach Lake Road, Brewster, New York 10509 and the completion of the construction and the fit-out of a 57-room hotel thereon, including the acquisition of all goods and services necessary to complete and operate the hotel on the premises (the "Facility"); and

WHEREAS, by Resolution, adopted on October 25, 2018 (the "Resolution"), the Agency has conferred on the Company in connection with the Project certain benefits, exemptions and other financial assistance consisting of: (a) an exemption benefit from all New York State and local sales and use taxes for purchases and rentals related to the Project with respect to the qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (b) an exemption benefit from mortgage recording tax, and (c) a partial abatement from real property taxes benefit through a ten (10) year "payment in lieu of tax agreement" with the Company for the benefit of each municipality and school district having taxing jurisdiction over the Project, (collectively, the sales and use tax exemption benefit, the mortgage recording tax benefit, and the partial abatement from real property taxes benefit, are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, it has been estimated and confirmed by the Company as included within its Application for Financial Assistance that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$83,750.00, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$83,750.00, (ii) that the mortgage recording tax exemption amount shall be approximately \$28,050.00, and (iii) that real property tax abatement benefits to be provided to the Company over the 10-year benefit period of the anticipated payment-in-lieu-of tax agreement are estimated to be approximately \$395,466; and

WHEREAS, the Company proposes to lease the Facility to the Agency, and the Agency desires to rent the Facility from the Company pursuant to the terms of a certain Company Lease

Agreement dated as of October 31, 2018 (the "Lease Agreement"), by and between the Company and the Agency; and

WHEREAS, the Agency proposes to sublease the Facility to the Company, and the Company desires to rent the Facility from the Agency, upon the terms and conditions set forth in a certain Lease Agreement dated as of October 31, 2018 (the "Lease Agreement"); and

WHEREAS, in order to define the obligations of the Company regarding payments-in-lieu-of taxes for the Facility, the Agency and the Company will enter into a Payment-in-Lieu-of-Tax Agreement, dated as of October 31, 2018 (the "PILOT Agreement"), by and between the Agency and the Company; and

WHEREAS, in order to define the obligations of the Company regarding its ability to utilize the Agency's sales and use tax exemption benefit as Sales Tax of the Agency to acquire, construct, renovate and equip the Facility and to undertake the Project, the Agency and the Company will enter into an Sales Tax Agreement, dated as of October 31, 2018 (the "Sales Tax Agreement"), by and between the Agency and the Company; and

WHEREAS, the Agency requires, as a condition and as an inducement for it to enter into the transactions contemplated by the Resolution and as more particularly described in the PILOT Agreement, and the Sales Tax Agreement, that the Company provide assurances with respect to the terms and conditions herein set forth; and

WHEREAS, this Agreement sets forth the terms and conditions under which Financial Assistance shall be provided to the Company; and

WHEREAS, no Financial Assistance shall be provided to the Company prior to the effective date of this Agreement.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Purpose of Project. It is understood and agreed by the parties hereto that the purpose of the Agency's provision of Financial Assistance with respect to the Project is to, and that the Agency is entering into the Company Lease Agreement, Lease Agreement, PILOT Agreement and Sales Tax Agreement in order to, promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of the Project facility to advance job opportunities, health, general prosperity and economic welfare of the people of Town of the Southeast and County of Putnam (Village/Town/County) and to otherwise accomplish the public purpose of the Act.

2. PILOT Agreement. The parties hereto understand and agree that Exhibit A to this Agreement contains a copy of the PILOT Agreement, to be entered into, or entered into, by and between the Company and the Agency.

3. Termination, Modification and/or Recapture of Agency Financial Assistance. It is understood and agreed by the Parties hereto that the Agency is entering into the Company Lease Agreement, the Lease Agreement, the PILOT Agreement, and the Sales Tax Agreement in order to provide Financial Assistance to the Company for the Facility and to accomplish the public purposes of the Act. The Company hereby makes the following representations and covenants in order to induce the Agency to proceed with the Project/Facility:

(a) In accordance with Section 875(3) of the New York General Municipal Law, the policies of the Agency, and the Resolution, the Company covenants and agrees that it may be subject to a Recapture Event Determination (as hereinafter defined) resulting in the potential recapture of any and all Financial Assistance, as described below, if the Company receives, or its Sub-Sales Taxes receives any Financial Assistance from the Agency, and it is determined by the Agency that:

(1) the Company or its Agents, if any, authorized to make purchases for the benefit of the Project is not entitled to the sales and use tax exemption benefits; or

(2) the sales and use tax exemption benefits are in excess of the amounts authorized by the Agency to be taken by the Company or its Agents, if any; or

(3) the sales and use tax exemption benefits are for property or services not authorized by the Agency as part of the Project; or

(4) the Company has made a materially false or misleading statement, or omitted any information which, if included, would have rendered any information in the application or supporting documentation false or misleading in any material respect, on its application for Financial Assistance; or

(5) the Company fails to meet and maintain the thresholds and requirements representing certain material terms and conditions, said Investment Commitment, Employment Commitment, Local Labor Commitment, and Equal Pay Commitment, all as further defined below, being additional purposes to be achieved by the Agency with respect to its determination to provide Financial Assistance to the Project and required by the Agency to be complied with and adhered to, as evidenced by submission, as so required by the Agency, of written confirmation certifying and confirming on an annual basis beginning in the first year in which Financial Assistance is so claimed, through the conclusion of the later of either two (2) years following the (i) construction completion date or (ii) the termination of the Sales Tax Agreement (said date hereinafter referred to as the "Project Completion Date" and the time period so referenced being hereinafter defined as the "Material Terms and Conditions Monitoring Period") confirming the following:

(a) Investment Commitment - that the total investment actually made with respect to the Project at the Project's construction completion date equals or exceeds \$4,116,323.90 (which represents the product of 85% multiplied by \$4,842,734.00 being the total project cost as stated in the Company's application for Financial Assistance); and

(b) Employment Commitment - that there are at least eight (8) existing full time equivalent (“FTE”) employees located at, or to be located at, the Facility as stated in the Company’s application for Financial Assistance (the “Baseline FTE”); and

- the number of current FTE employees in the then current year at the Facility; and
- that the Company has maintained and created FTE employment at the Facility equal to eight (8) FTE employees (representing the sum of ten (10) Baseline FTE plus the product of 85% multiplied by ten (10) (being the total number of new FTE employee positions as proposed to be created by the Company as stated in the Company’s application for Financial Assistance.) See **Exhibit B**; and

(c) Local Labor Commitment - that the Company adheres to and undertakes or has undertaken construction activities in compliance with the Agency’s “Local Labor Reporting Requirements,” reporting certified payrolls on a quarterly reporting basis during the construction period (Exhibit C); and

(d) Project Assessment Reporting Commitment – that the Company shall provide, annually by the last day of February, to the Agency, certain information to confirm that the Project is achieving the investment, job retention, job creation, and other objectives of the Project. In addition, the Company will pay a Compliance Fee of \$250 annually for preparation and submission of reports as required by the Public Authorities Accountability Act 2005, 07, and as further amended.

In order to accomplish the foregoing, the Company shall provide annually, to the Agency, a certified statement and documentation: i) enumerating the full time equivalent jobs retained and the full time equivalent jobs created as a result of the Financial Assistance, by category, including full time equivalent independent contractors or employees of independent contractors that work at the Project location, and (ii) indicating that the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that was provided in the application for Financial Assistance is still accurate and if it is not still accurate, providing a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and jobs created. Exhibit B contains the form of annual certification as so required as discussed above as well as additional Project assessment information that the Agency requires, on an annual basis, to be submitted to the Agency by the Company.

The findings made by the Agency with respect to Section 3(a)(1), (2), (3) and/or (4) and/or failure to provide the written confirmation as required by Section 3(a)(5) with respect to the thresholds and requirements as identified in Section 3(a)(5), above, and/or failure to meet the thresholds and requirements as identified in Section 3(a)(5) above, may potentially be determined by the Agency, in accordance with the Agency’s “Policy for Termination of Agency Benefits and Recapture of Agency Benefits Previously Granted”, to constitute a failure to

comply with Section 875(3) of the New York General Municipal Law, and/or a failure to comply with a material term or condition to use property or services or Agency Financial Assistance in the manner approved by the Agency in connection with the Project, and/or a failure to comply with the Agency's policies and Resolution (collectively, findings and determinations made as described herein with respect to Section 3(a)(1), (2), (3) and/or (4) and/or the failure under Section 3(a)(5) to submit the required certification and/or the failure to meet the required thresholds and requirements as specified in Section 3(a)(5) are hereby defined as a "Recapture Event Determination"). If the Agency makes a Recapture Event Determination, the Company agrees and covenants that it will (i) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (ii) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s). The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine the New York State and local sales and use tax due from the Company, together with any relevant penalties and interest due on such amounts.

(b) In accordance with the Resolution the Company further: (i) covenants that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in an amount up to \$1,000,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency, subject to Section 3(a) of this Sales Tax Agreement, cannot exceed \$83,750.

(c) The Company acknowledges and understands that a Recapture Event Determination made with respect to Section 3(a)(4) of this Sales Tax Agreement will, in addition, immediately result in the loss and forfeiture of the Company's right and ability to obtain any and all future Financial Assistance with respect to the Project.

4. Survival. All warranties, representations, and covenants made by the Company herein shall be deemed to have been relied upon by the Agency and shall survive the delivery of this Agreement to the Agency regardless of any investigation made by the Agency.

5. Notices. All notices, certificates and other communications under this Agreement shall be in writing and shall be deemed given when delivered personally or when sent by certified mail, postage prepaid, return receipt requested, or by Federal Express, addressed as follows or to such other address as any party may specify in writing to the other:

If to the Agency: to the Chairman, Putnam County Industrial Development Agency, The Lawlor Building, 2 Route 164, Patterson, New York 12563;

with a copy to: William A. Shilling, Jr., Esq., PC, 100 Old Route 6, Carmel, New York 10512, Attn.: William A. Shilling, Esq.

To the Company: Ahana Hospitality LLC, 26 Mill River Road, Stamford, Connecticut 06902 Attn.: Anita Mehra, Managing Member;

with a copy to:

Hogan & Rossi, 3 Starr Ridge Road, Suite 200, Brewster,
New York 10509, Attn.: Michael T. Liguori, Esq.

6. Amendments. No amendment, change, modification, alteration or termination of this Agreement shall be made except in writing upon the written consent of the Company and the Agency.

7. Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement or the application thereof shall not affect the validity or enforceability of the remaining portions of this Agreement or any part thereof.

8. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State, without regard or reference to its conflict of laws principles.


9. Section Headings. The headings of the several Sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning of or be taken as an interpretation of any provision of this Agreement.

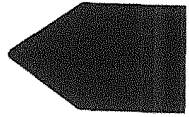
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IN WITNESS WHEREOF, the parties hereto have executed this Sales Tax Agreement as of the day and year first above written.

**PUTNAM COUNTY INDUSTRIAL
DEVELOPMENT AGENCY**

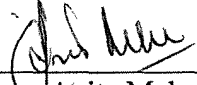
Dated: 10/31/18

By: 
Name: PCIDA
Its: Chairmen



AHANA HOSPITALITY LLC

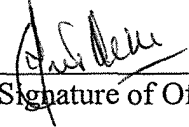
Dated: 10/31/18

By: 
Name: Anita Mehra
Title: Managing Member

STATE OF NEW YORK)
COUNTY OF PUTNAM) ss.:

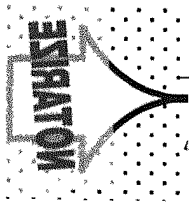
ANITA MEHRA, being first duly sworn, deposes and says:

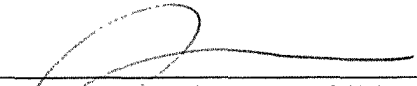
1. That I am the Managing Member of Ahana Hospitality LLC and that I am duly authorized on behalf of the Company to bind the Company and to execute this Agreement.
2. That the Company confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the Project is in substantial compliance with all applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.



(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury
this 31 day of October, 2018.





(Notary Public)

JAMIE SUE SPILLANE
NOTARY PUBLIC STATE OF NEW YORK
No. 02SP6331272
Qualified in Westchester County
My Commission Expires 10/5/19

SCHEDULE A

PILOT Agreement

Employment Schedule years 1 through 10

SCHEDULE B

FORM OF ANNUAL EMPLOYMENT AND SALARY AND FRINGE BENEFITS AND
RELATED PROJECT INFORMATION CERTIFICATION LETTER

February 28, 2019

Re: Annual Project Verification

Dear:

The _____ Industrial Development Agency (the “Agency”) is currently providing assistance in connection with the project in the Town of Southeast.

The Agency is required to file an annual report with the New York State Comptroller providing information on its activities, and the activities of projects that are assisted by the Agency. In order for the Agency to compile that report, it is necessary that we obtain information relating to assistance provided and benefits derived from all entities that receive such assistance. Failure by the Agency to file the report information required by New York State could result in the Agency losing its ability to provide future assistance or the entity suffering claw-back provisions and forfeiting benefits previously received. Therefore, it is important that this information be provided in an accurate and timely manner.

Attached please find a questionnaire to be completed and returned to the IDA by _____. If you have any questions regarding the required information, please do not hesitate to call our office.

We appreciate your assistance in this matter. A self-addressed stamped envelope is enclosed for your convenience.

Very truly yours, .

Company name and address:

Project Name:

Company contact:

Contact phone number:

(Please correct any information above)

Financing Information

Has the Agency provided project financing assistance through issuance of a bond or note)

Yes No

If financing assistance was provided, please provide:

- Original principal balance of bond or note issued _____
- Outstanding principal balance of such bond or note at December 31, 2019 _____
- Principal paid during 2019 _____
- Outstanding principal balance of such bond or note at December 31, 2019 _____

Interest rate on mortgage as of December 31, 2019 _____

Final maturity date of the bond or note _____

Is the Company a not-for-profit? _____

Sales Tax Abatement Information

Did your company receive Sales Tax Abatement on your Project during 2019

Yes No

If so, please provide the amount of sales tax savings received _____

(A copy of the ST-340 sales tax report submitted to New York State for the reporting period is required to be attached with this report)

Mortgage Recording Tax Information

Did your company receive Mortgage Tax Abatement on your Project during 2019

Yes No

(NOTE: Only be applicable the year that a mortgage was placed upon the project)

The amount of the mortgage recording tax that was abated during 2019 _____

Job Information

Number of full time equivalent employees (“FTE”) existing jobs by category and average Hourly wage for each **before IDA status**

Category	FTE	Average Hourly Wage
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____

Current number of FTE employees for 2019 by category and average hourly wage.

Category	FTE	Average Hourly Wage
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____

Number of FTE jobs **created** during 2019 as a result of the assistance received through the IDA by category and average hourly wage.

Category	FTE	Average Hourly Wage
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____

Number of FTE jobs retained during 2019 by category and average hourly wage.

Category	FTE	Average Hourly Wage
Management	_____	_____
Professional	_____	_____
Administrative	_____	_____
Production	_____	_____
Other	_____	_____

Total annual payroll for 2019 _____

A copy of the NYS 45 form for the project location is required to be submitted with this report. If the NYS 45 form is not available for the specific project location or the form does not accurately reflect the full time jobs created an internal report verifying the total jobs by employment category as outlined above at the location is required with this submission.

Number of FTE construction jobs created during 2019 _____

Number of FTE construction jobs during 2019 _____

2019 Capital Investment

Real Estate	_____
Construction	_____
Machinery and Equipment	_____
Other Taxable Expenses	_____
Other Non-Taxable Expenses	_____
Total Capital Investment	_____

I certify that to the best of my knowledge and belief all of the information on this form is correct. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to voidance of the agreement and potential claw back of benefits.

Signed: _____
(authorized company representative)

Date: _____

Exhibit B (continued)
Insert annual employment form generated by Teri here

Exhibit C
MEMORANDUM

To: Putnam County IDA

From: Michael T. Liguori

Re: Shalinder Nichani / Ahana Hospitality LLC

Date: September 6, 2018

Members,

This is the current list of contractors to be engaged on the Project. Note that the Applicant has chosen to hire the very same contractors who previously worked on the Project based on their institutional knowledge and the fact that they can pick up exactly where they left off. Importantly, many of the CT companies listed below have NY residents as employees.

O&G (Formerly Brewster Transit Mix- Brewster, NY)

Roger Electric (Danbury);

Foley Plumbing (Danbury)

APA HVAC (Brewster)

Lyons Construction (Brewster)

Otis Elevator (Albany)

Calculated Fire Protection (Philipstown)

Danbury Drywall (Danbury)

Arrow Paving (Westchester)

FFE is provided direct by a Comfort Inn supply company in North Carolina. There are no FFE companies here in Putnam County.

Misc. material supplies will all be purchased locally.

Hope this helps.

Mike

I certify that to the best of my knowledge and belief all of the information on this form is correct. I also understand that failure to report completely and accurately may result in enforcement of provisions of my agreement, including but not limited to voidance of the agreement and potential claw back of benefits.

Signed: _____
(authorized company representative)

Date: _____