

TUESDAY STAFF BRIEFINGS

May 17, 2016

****Please Note Briefings Will Begin Immediately Following Hearings****

All items on this agenda are scheduled for immediately following Hearings and will normally be considered in the order the item appears on the agenda. The Board, at their discretion, may choose to alter the order in which items are considered, may break, or may continue any item to be considered on a future date.

Convene immediately following Hearings; BCC Conference Room, 5th Floor

Briefing Items

- | | | |
|----|--|---------------------------------|
| 1. | Personal Property Tax Incentive Request
(30 minutes) | Holly Bjorklund, Leigh Seeger |
| 2. | Prospect Recreation and Park District Grant for Applewood Golf Course Acquisition (45 minutes) | Tom Hoby |
| 3. | Countywide Insurance Renewal
(30 minutes) | Mary O'Neil, Scott Holzer |
| 4. | RMMA - Metro Business Center - Consulting Agreement Surf Fore, LLC (15 minutes) | Jeanie Rossillon, Bryan Johnson |
| 5. | RMMA - Metro Business Center - Arby's Ground Lease (15 minutes) | Jeanie Rossillon, Bryan Johnson |
| 6. | Official and Legal Newspaper Designation
(15 minutes) | Kate McIntire |
| 7. | Jefferson County Business Education Alliance
(15 minutes) | Kate Newman |

County Commissioners' Report

- Letter of Support from MACC/CCI

County Manager's Report

- Discussion - Appointments to the Community Development Advisory Board and Household Hazardous Waste Storage Authority Management Committee

County Attorney's Report

Executive Session

- Litigation Update - Legal Advice C.R.S. 24-6-402(4)(b) (15 minutes)

Jefferson County does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in the provision of services. Disabled persons requiring reasonable accommodation to attend or participate in a County service, program or activity should call 271-5000 or TDD 271-8071. We appreciate a minimum of 24 hours advance notice so arrangements can be made to provide the requested auxiliary aid.

TUESDAY STAFF BRIEFINGS

May 17, 2016

Briefing Items			Total Estimated Time: 2 hours 45 minutes
Begin	End	Agenda No.	Title
8:15	8:45	1.	Personal Property Tax Incentive Request
8:45	9:30	2.	Prospect Recreation and Park District Grant for Applewood Golf Course Acquisition
9:30	10:00	3.	Countywide Insurance Renewal
10:00	10:15	4.	RMMA - Metro Business Center - Consulting Agreement Surf Fore, LLC
10:15	10:30	5.	RMMA - Metro Business Center - Arby's Ground Lease
10:30	10:45	6.	Official and Legal Newspaper Designation
10:45	11:00	7.	Jefferson County Business Education Alliance
Commissioners Report			Total Estimated Time: 5 minutes
Begin	End	Agenda No.	Title
11:00	11:05		Letter of Support from MACC/CCI
County Manager Report			Total Estimated Time: 5 minutes
Begin	End	Agenda No.	Title
11:05	11:10		Discussion - Appointments to the Community Development Advisory Board and Household Hazardous Waste Storage Authority Management Committee
County Attorney Report			Total Estimated Time: 5 minutes
Begin	End	Agenda No.	Title
11:10	11:15		
Executive Session			Total Estimated Time: 15 minutes
Begin	End	Agenda No.	Title
11:15	11:30		Litigation Update - Legal Advice C.R.S. 24-6-402(4)(b)

BOARD OF COUNTY COMMISSIONERS SCHEDULE

Time*

Topic*

<u>Time*</u>	<u>Topic*</u>
	<u>Monday, May 16, 2016</u>
8:30 – 10:00	Axiom Update BCC Board Room
10:15-11:15 a.m.	Squire Patton Boggs BCC Board Room
	<u>Tuesday, May 17, 2016</u>
7:25 – 7:55 a.m.	Board of Health BCC Board Room
8:00 a.m.	BCC Meeting - (Hearing Room One) Public Comment Public Hearings
Immediately following Public Hearings	Staff Briefings - (BCC Board Room)
Immediately following Staff Briefings	Ralph Schell - (BCC Board Room)
3:00 – 3:30 p.m.	Squire Patton Boggs BCC Board Room
	<u>Wednesday, May 18, 2016</u>
	NO TOPICS SCHEDULED TO DATE
	<u>Thursday, May 19, 2016</u>
	NO TOPICS SCHEDULED TO DATE
	<u>Friday, May 20, 2016</u>
7:15 – 9:00 a.m.	Arvada Chamber of Commerce - State of the County Arvada Center for Arts and Humanities, 6901 Wadsworth Blvd.
1:00 – 2:30 p.m.	Court Space Planning BCC Board Room

***Emergency Items Or Other County Business For Which Prior Notice Was Not Possible May Be Considered.**

BOARD OF COUNTY COMMISSIONERS BRIEFING PAPER

Personal Property Tax Incentive Request May 17, 2016

- For Information For Discussion/Approval
Prior to Future Hearing For Action

ISSUE: In this briefing a Personal Property Tax Incentive request will be reviewed for Zimmer Biomet.

BACKGROUND: Zimmer Biomet Spine, Inc. is a subsidiary of Zimmer Biomet, a manufacturer and developer of orthopedic devices. Over the last six months, following the merger of Zimmer, Inc. and Biomet, Inc., the new Zimmer Biomet has been evaluating the best locations for its long term, combined business operations across a number of business units, including the company's spine division that today resides in Broomfield, Colorado.

Zimmer has identified a building in the Westmoor Technology Park in Westminster, Colorado as the preferred location for the long term home of Zimmer Biomet Spine. Favorable real estate costs, availability of a skilled workforce, and incentive support to help offset up-front project costs and reduce long term operating expenses, were all significant factors that were considered in their search.

DISCUSSION: The proposed relocation of Zimmer Biomet Spine to Jefferson County is expected to result in an investment of approximately \$9,000,000 in real property investments and approximately \$3,800,000 in new personal property investments. There is \$2,500,000 of existing personal property included in the rebate calculation. In addition, the facility is expected to employ in excess of 200 employees at full employment with an average annual salary of approximately \$79,000 per year, exclusive of benefits. This information is set forth in more detail in the company's Business Incentive Questionnaire.

Zimmer Biomet Spine is requesting a corporate personal property tax rebate of 100 percent per year for ten years.

FISCAL IMPACT: If all requirements for receiving the Personal Property Tax Incentive are met, the financial impact to Jefferson County is estimated at \$443,349 over a 10 year period.

RECOMMENDATIONS: It is recommended that the Board of County Commissioners consider this request for Personal Property Tax Incentive.

ORIGINATOR: Holly Björklund, Finance & Information Technology

CONTACTS FOR ADDITIONAL INFORMATION:

Holly Björklund, hbjorklu@jeffco.us 303-271-8597

David Wunderlich, 303-271-8939

Leigh Seeger LSeeger@jeffcoedc.org



January 18, 2016

Mr. Ralph Schell
Jefferson County Administrator
100 Jefferson County Parkway, #5538
Golden, CO 80419

Dear Mr. Schell:

I would like to take this opportunity to introduce you to Zimmer Biomet Spine, Inc., a subsidiary of Zimmer Biomet, a manufacturer and developer of orthopedic devices. Over the last six months, following the merger of Zimmer, Inc. and Biomet, Inc., the new Zimmer Biomet has been evaluating the best locations for its long term, combined business operations across a number of business units, including the company's spine division that today resides in Broomfield, Colorado.

After an extensive search, we have identified a building in the Westmoor Technology Park in Westminster, Colorado as the preferred location for the long term home of Zimmer Biomet Spine. Favorable real estate costs, availability of a skilled workforce, and incentive support to help offset up-front project costs and reduce long term operating expenses, were all significant factors that were considered in our search.

The proposed relocation of Zimmer Biomet Spine to Jefferson County is expected to result in an investment of approximately \$9,000,000 in real property investments and approximately \$3,800,000 in new personal property investments. In addition, the facility is expected to employ in excess of 200 employees at full employment with an average annual salary of approximately \$79,000 per year, exclusive of benefits. This information is set forth in more detail in the company's Business Incentive Questionnaire.

In order to support this proposed relocation and to make the Westminster facility as competitive as possible when compared to other alternatives, Zimmer Biomet Spine respectfully requests a corporate personal property tax rebate of 100 percent per year for ten years. We also respectfully request that this matter be presented to the Jefferson County Commissioners for consideration and, if acceptable, approval. Approval of the tax rebate will allow Zimmer Biomet Spine to move forward with finalizing its growth plans in Jefferson County.

We appreciate the assistance to date from the Jefferson County economic development team, and look forward to working with your office to finalize this request. If you have any questions or require any additional information to consider our request, please contact our consultant on this project, Chad Sweeney with Ginovus, at (317) 819-4415 or Chad@Ginovus.com.

Sincerely,

Andrew D. Urban

Andrew D. Urban
International Real Estate Associate Manager

cc: Leigh Seeger, Jeffco EDC
Holly Bjorklund, Jefferson County
Chad Sweeney, Ginovus



JEFFERSON COUNTY, COLORADO
 Business Incentive Questionnaire-10 Yr
 CONFIDENTIAL

COMPANY INFORMATION

Company name: Zimmer Biomet Spine Inc. Year established: 2015

Product/service description:

See attached

Industry: Orthopedic device development and manufacturing

Present

location(s): 310 Interlocken Parkway, Suite 120, Broomfield CO 80021 (formerly Lanx Inc., Biomet Spine Inc.)

PROJECT INFORMATION

Project description:

See attached

Total project

cost \$ \$ 12,800,000

(land, building, personal property)

Is project an:

expansion x
 relocation x
 new facility _____

Are you looking at a(n):

existing bldg x
 build-to-suit _____

Will you:

lease x
 purchase _____

Facility size: 103,999 Sq.ft.

Jefferson County site(s) being considered:

1095 Westmoor Dr., Building 6, Westminster, CO 80021

If leasing

average annual lease pymt Approximately \$2,000,000
 market value of property \$

Other competitive site(s) being considered:

310 Interlocken Parkway, Broomfield CO 80021

If purchasing

cost of new facility \$
 tenant improvements costs \$

335/329 Interlocken Parkway, Broomfield CO 80021

If doing a build-to-suit

land purchase \$
 construction material costs \$
 construction soft costs \$
 construction labor costs \$

Project timeframe (projected dates):

Begin construction: Q1 2016

Begin company operations: Q3 2016

% of goods/services exported outside

of the County: _____

FINANCIAL INFORMATION

Estimated gross and net revenues: See attached

	Gross	Net		Gross	Net
Year 1	\$	\$	Year 6	\$	\$
Year 2	\$	\$	Year 7	\$	\$
Year 3	\$	\$	Year 8	\$	\$
Year 4	\$	\$	Year 9	\$	\$
Year 5	\$	\$	Year 10	\$	\$

INVESTMENT INFORMATION

EMPLOYMENT INFORMATION

REAL property investment at new facility:
 \$9,000,000

Corporate **PERSONAL** property (cpp) investment:
 (Starting in year 2016)
 \$6,300,000

EXISTING cpp at move-in:
 \$2,000,000 Furniture/fixtures
 \$500,000 Computer/IT equipment
 \$2,500,000 **TOTAL**

NEW cpp investment over the next 10 years:
 \$3,800,000

Number of **CURRENT** employees that will work at the new facility: 167

Total of **ADDITIONAL** employees to be hired at the new facility over 15 years:

Year 1	0	Year 8	0
Year 2	20	Year 9	0
Year 3	20	Year 10	0
Year 4	0		
Year 5	0		
Year 6	0		
Year 7	0		

(purchased for the new facility)

Average wage: \$79,000
 (including top executives)

Year 1		Year 7
\$825,000	Furniture/fixtures	\$
	Computer equipment	\$
\$425,000	Lab equipment	\$
\$1,250,000	TOTAL	\$
Year 2		Year 8
\$825,000	Furniture/fixtures	\$
	Computer equipment	\$
\$425,000	Lab equipment	\$
\$1,250,000	TOTAL	\$
Year 3		Year 9
\$850,000	Furniture/fixtures	\$
	Computer equipment	\$
\$450,000	Lab equipment	\$
\$1,300,000	TOTAL	\$
Year 4		Year 10
\$	Furniture/fixtures	
\$	Computer equipment	
\$	Lab equipment	
\$	TOTAL	

Average wage by position and salary range:
 (Please include number of employees in each position)

Num.	Position title	Avg. salary
12	Managerial	\$72,000
28	Research & Development	\$82,000

Annual benefits package for employees:
 (\$ value/employee): Estimated at 21% of average compensation

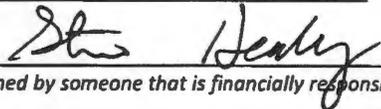
Year 5			Estimated average annual payroll:		
\$	Furniture/fixtures		Year 1	\$13,000,000	Year 8 \$
\$	Computer equipment		Year 2	\$14,700,000	Year 9 \$
\$	Mfg equipment		Year 3	\$16,300,000	Year 10 \$
\$	TOTAL		Year 4	\$	
Year 6			Year 5	\$	
\$	Furniture/fixtures		Year 6	\$	
\$	Computer equipment		Year 7	\$	
\$	Mfg equipment				
\$	TOTAL				

The information in this application has been represented in good faith.

Company name: Zimmer Biomet Spine, Inc.

Name: Steve Healy

Title: General Manager & Vice President

Signature: 

Date: 12/14/2015

(Must be signed by someone that is financially responsible for the company)

Economic Development Corporation
 3000 South Foothills Parkway, Suite 400, Golden, CO 80401
 Phone: 303.202.2967 • www.jeffcoedc.org

Project Summary (10 years/100%)

Prospect Name: Zimmer Biomet Spine, Inc.

Product: Zimmer Biomet Spine, Inc., a subsidiary of Zimmer Biomet, develops, manufactures, and markets orthopedic reconstructive devices, spinal and trauma devices, biologics, dental implants, and related surgical products in the Americas, Europe and the Asia Pacific.

The company was established in 1927 and is headquartered in Warsaw, IN. Through a recent merger transaction, the company currently has two operation facilities in its spine business line, one of which is currently headquartered in Broomfield, CO.

Project Background: The proposed project would consolidate the spine business unit operations in a single location. If Jefferson County is selected for the project, approximately 167 employees would be transferred from the company's Broomfield location. In addition, the company will create 40 net new jobs with an overall average wage in excess of the county's average. In addition to the relocation and expansion of high paying jobs, the proposed project would help establish Jefferson County as a center of excellence for the combined company.

Key considerations in the evaluation process have included workforce availability, real estate costs, relative costs of consolidation/expansion, state and local tax and regulatory climate, and the availability of incentive support to offset up-front project costs and to reduce long-term operating expenses.

Project Type: Relocation/Expansion

Current Location: 310 Interlocken Pkwy, Ste 120, Broomfield, CO 80021

Considered Locations: 10955 Westmoor Dr., Bldg. 6, Westminster, CO 80021
310 Interlocken Pkwy, Broomfield CO, 80021
335/329 Interlocken Pkwy, Broomfield, CO 80021

Project Size: 103,999 sq. ft.

Employees: 207 new jobs over the next ten years
Average annual salary: \$79,000

Project

Investment: Total Project Investment \$12,800,000
Personal Property Investment: \$6,300,000

County Rebate:

Year 1: \$28,108	Year 6: \$47,221
Year 2: \$37,477	Year 7: \$47,221
Year 3: \$47,221	Year 8: \$47,221
Year 4: \$47,221	Year 9: \$47,221
Year 5: \$47,221	Year 10: \$47,221

10 year total = \$443,349 (estimate does not include depreciated values)

Economic Impact:

- Net economic & fiscal benefit to the County: \$185.8 million over twenty years with a payback of .06 years.
- Net public revenue to the County: \$2.9 million with a payback period of 4.04 years.

Definitions:

- Economic Benefits: Economic benefits occur when dollars are transferred from one entity to another, and include the public revenues associated with a project's on-going operations, as well as the direct/indirect dollars circulated throughout private enterprises due the project's on-going spending pattern.
- Public Revenues: Public revenues include revenue received by the local government from residents, businesses, and/or employees associated with the project, and include real and personal property taxes, sales/use taxes, impact and other fees, and any visitor-related taxes.
- Public Costs: Public costs include the cost of providing local governmental services to residents, businesses, and/or employees associated with the project, including the value of tax credits or other incentives granted to the project.
- Payback Period: The number of years needed to recover the investment

Total Economic Benefit – Total Public Costs = **Net Economic Impact**
Total Public Revenues – Total Public Costs = **Net Fiscal Impact**

Summary of Project Returns

Menu

Project Flex

Total Local Government Incentives and Project Costs		\$0	Construction
		\$443,353	Business Operations
		<u>\$443,353</u>	<u>Total incentives and project costs over ten years</u>
<i>Net Economic & Fiscal Benefits to Local Gov't</i>	\$185,838,593		Net benefit/(cost) over twenty years
<i>Net Public Revenue to Local Government</i>	\$2,977,748		Net benefit/(cost) over twenty years
Payback Period for Public Cost of:	\$443,353		
<i>Net Economic & Fiscal Benefits to Local Gov't</i>		0.06	years
<i>Net Public Revenue to Local Government</i>		4.04	years

Return on Investment			
<i>Total Economic & Fiscal Benefits to Local Government</i>			
Year One	\$59.97	Benefit received for each public dollar spent	
Years One through Twenty	\$63.99	Cumulative benefit for each public dollar spent over twenty years	
<i>Total Public Revenue to Local Government</i>			
Year One	\$1.59	Public revenue received for each public dollar spent	
Years One through Twenty	\$2.01	Cumulative public revenue for each public dollar spent over twenty years	

Net Present Value (NPV) Analysis			
		Net Economic & Fiscal Benefits (Costs)	Net Fiscal Benefits (Costs)
	<u>Discount Rate</u>	<u>NPV</u>	<u>NPV</u>
Safe Rate of Return	2.2%	\$149,198,842	\$2,344,136
	0.2%	\$182,716,458	\$2,923,484
	1.2%	\$164,764,628	\$2,612,408
	3.2%	\$135,651,845	\$2,111,963
	4.2%	\$123,818,556	\$1,910,328

Jefferson County Corporate Personal Property Tax Rebate

Estimate Prepared for Project Flex

	<u>Year 1</u> 2016	<u>Year 2</u> 2017	<u>Year 3</u> 2018	<u>Year 4</u> 2019	<u>Year 5</u> 2020
Existing PP Invest./Prior Yr.	\$2,500,000	\$3,750,000	\$5,000,000	\$6,300,000	\$6,300,000
New Investment	\$1,250,000	\$1,250,000	\$1,300,000	\$0	\$0
Accumulative Invest.	\$3,750,000	\$5,000,000	\$6,300,000	\$6,300,000	\$6,300,000
Assessment	0.29	0.29	0.29	0.29	0.29
Mill Levy	0.025846	0.025846	0.025846	0.025846	0.025846
Property Tax Revenue	\$28,108	\$37,477	\$47,221	\$47,221	\$47,221
County Rebate at 100%	\$28,108	\$37,477	\$47,221	\$47,221	\$47,221

	<u>Year 6</u> 2021	<u>Year 7</u> 2022	<u>Year 8</u> 2023	<u>Year 9</u> 2024	<u>Year 10</u> 2025	<u>Total</u> 2016-2025
Prior Year's PP Invest.	\$6,300,000	\$6,300,000	\$6,300,000	\$6,300,000	\$6,300,000	
New Investment	\$0	\$0	\$0	\$0	\$0	
Accumulative Invest.	\$6,300,000	\$6,300,000	\$6,300,000	\$6,300,000	\$6,300,000	\$6,300,000
Assessment	0.29	0.29	0.29	0.29	0.29	0.29
Mill Levy	0.025846	0.025846	0.025846	0.025846	0.025846	0.025846
Property Tax Revenue	\$47,221	\$47,221	\$47,221	\$47,221	\$47,221	\$443,349
County Rebate at 100%	\$47,221	\$47,221	\$47,221	\$47,221	\$47,221	\$443,349

10-Year/100% County Rebate Estimate: \$443,349

Estimates does not include depreciated values on assets and does not constitute an Agreement.

Attachment to Jefferson County Business Incentive Questionnaire – Zimmer Biomet Spine, Inc.

Product/Service Description:

Zimmer, Inc., together with its subsidiaries, including Zimmer Biomet Spine, Inc., designs, develops, manufactures, and markets orthopedic reconstructive devices, spinal and trauma devices, biologics, dental implants, and related surgical products in the Americas, Europe, and the Asia Pacific. It offers orthopedic reconstructive devices that restore function lost due to disease or trauma in joints comprising knees, hips, shoulders, and elbows; dental reconstructive implants, which restore function and aesthetics in patients who have lost teeth due to trauma or disease; spinal devices that are utilized by orthopedic surgeons and neurosurgeons for the treatment of degenerative diseases, deformities, and trauma in various regions of the spine; and trauma devices used primarily to reattach or stabilize damaged bone and tissue to support the body's natural healing process. The Company also provides related surgical products, such as surgical supplies and instruments to aid in orthopedic surgical procedures and post-operation rehabilitation; and other healthcare related services. It primarily serves orthopedic surgeons, neurosurgeons, oral surgeons, dentists, hospitals, stocking distributors, and healthcare dealers, as well as agents, healthcare purchasing organizations, or buying groups. Zimmer, Inc. was founded in 1927 and is headquartered in Warsaw, IN. Through a recent merger transaction, the company currently has two operation facilities in its spine business line, one of which is currently headquartered in Broomfield, CO.

Project Description

The proposed project would consolidate the spine business unit operations in a single location. If Westminster is selected for the project, approximately 167 existing employees would be transferred from the Company's Broomfield operations. In addition, the Company projects adding an additional 40 new employees with an overall average wage in excess of the county average over a two to three year timeframe. In addition to the relocation and expansion of high wage jobs, the proposed project would help establish Westminster/Jefferson County as a center of excellence for the combined Company.

Key considerations in the evaluation process have included workforce availability, real estate costs, relative costs of consolidation/expansion, state and local tax and regulatory climate, and the availability of incentive support to offset up-front project costs and to reduce long term operating expenses.

Financial Information

The company is publicly traded, and as a result is unable to provide forward-looking financial projections. However, the company's most recent quarterly financial report can be viewed at <http://investor.zimmerbiomet.com/releasedetail.cfm?ReleaseID=924724>

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BOARD OF COUNTY COMMISSIONERS BRIEFING PAPER

**Prospect Recreation and Park District
Grant for Applewood Golf Course Acquisition
May 17, 2016**

- For Information
- For Discussion/Approval
Prior to Future Hearing
- For Action

ISSUE:

Consideration of 2016 Jefferson County Open Space (JCOS) Local Park and Recreation Grant (Local Grant) request submitted by the Prospect Recreation and Park District (PRPD) for \$2M to partially fund the acquisition of Applewood Golf Course.

BACKGROUND:

In November 2015, the PRPD applied for a 2016 JCOS Local Grant requesting up to \$2M to partially fund the acquisition of Applewood Golf Course. The JCOS staff and Advisory Committee reviewed this application and subsequently recommended \$1.1M in funding to the Board of County Commissioners (BCC) on January 26, 2016. At that time, the BCC requested additional information including a Letter of Intent from the seller and price for the property before acting on this grant request. This information is now available and attached for BCC review, discussion and action.

DISCUSSION:

In 2015 residents of the Applewood area and PRPD became very interested in preserving and purchasing the Applewood Golf Course. In November 2015, the voters of PRPD approved a referendum for the issuance of up to \$9M in bonds to fund the purchase of Applewood Golf Course and an additional one mill in taxes to support overall PRPD operations. Anticipating a purchase price greater than that amount, PRPD has applied for a JCOS Local Grant requesting \$2M and a Great Outdoors Colorado (GOCO) grant for \$3M. The GOCO grant application is pending and due to be considered by the GOCO Board on June 13, 2016. Jefferson County action and approval of our Local Grant prior to the GOCO Board meeting has been requested.

During the January 26, 2016, BCC Briefing, several questions were raised by the Board relative to using JCOS funds for golf courses and whether or not this project had a willing seller. Several documents are attached to answer these questions including the JCOS Local Grant guidelines (attachment A), a list of golf courses within the County that have been funded with JCOS funds (attachment B) and a Letter of Intent from Molson Coors (attachment C) that identifies a sale price of \$13.5M with a donation of at least \$1.5M to make up the appraised value of over \$15M.

Another matter that was discussed during the January 26, 2016 BCC Briefing included PRPD's ability to acquire water and sustain golf course or other park operations on this property. Several members of the PRPD Board and Staff will be at this Briefing to answer questions about these items.

FISCAL IMPACT:

Applewood Golf Course Purchase Price (Letter of Intent, attachment C)	\$13,500,000
Proceeds from PRPD Bond Issue	\$8,500,000
GOCO Protect Grant Application (pending Action on 6/13/16)	\$3,000,000
JCOS Local Grant Request \$2M, recommended award \$1.1M	<u>\$1,100,000</u>
Unsecured Funding	\$900,000

RECOMMENDATIONS:

The JCOS Staff and Advisory Committee recommend a grant of \$1.1M for the acquisition of Applewood Golf Course. In addition, this recommendation includes considering additional funding assistance if it is needed to complete this acquisition. If additional funding is needed, staff would schedule a BCC Briefing with a specific request and rationale.

ORIGINATOR:

Tom Hoby, Director of Open Space & Parks

CONTACTS FOR ADDITIONAL INFORMATION:

Tom Hoby, Director of Open Space & Parks - 303-919-8251, thoby@jeffco.us

Janet Shangraw, Chair, JCOS Advisory Committee - 303-748-4389, jshangraw@comcast.net

Mike Hanson, PRPD District Manager - 303-424-2346, mhanson@prospectdistrict.org

Jim Zimmerman, Chair PRPD - 303-424-0250, zimzimzim@aol.com

Hillary Merritt, Project Manager, The Trust for Public Land - 303 837-1414 Hillary.Merritt@tpl.org

Ben Moline, Molson Coors, 303-927-3680, ben.moline@molsoncoors.com

Brian Hemphill, Molson Coors, 303-927-2472, brian.hemphill@molsoncoors.com

ATTACHMENTS:

2016 Jefferson County Open Space Local Park and Recreation Grant Guidelines, A

List of Jefferson County Open Space Golf Course Projects using JCOS Funds, B

Molson Coors Letter of Intent, C

2016 Jefferson County Open Space Local Park and Recreation Grant Recommendations, D



2016 Local Park & Recreation Grant Program

Purpose

To support the long standing partnerships between Jefferson County Open Space (JCOS) and the cities and park and recreation districts in Jefferson County. The Local Park & Recreation Grant Program (Local Grants) provides supplemental funding to assist local government partners with their priority land acquisitions and/or capital projects.

Eligible Entities

All cities, towns and districts that provide Public Park and recreation services are eligible to apply for Local Grants. Currently, 12 cities/towns and 12 districts are eligible to apply for Local Grants.

Eligible Projects

- Outdoor Recreation Projects – new and capital renovations
- Land acquisitions for parks, trails, open space and recreation facilities
- Conservation education facilities – indoor and outdoor
- Historic building or site restoration/renovation

Examples of projects unlikely to be funded - Golf courses, regular or ongoing maintenance, facilities offering limited public access, parking lots.

Annual Funding

Bond funding authorized by voters in 1998 has been fully expended. With annual debt service payments totaling \$12.9 million, funding for Open Space land acquisitions, capital projects and grants has been reduced by 70% through 2019. As part of this reduction, local grant funding has been reduced to a total of approximately \$1.6 million per year for land acquisitions and capital projects. As a result of reduced funding and a competitive grant process, entities may not receive funding on an annual basis.

Note: Local Grant funding must be approved by the Board of County Commissioners (BCC), as part of the 2016 Open Space Budget which will likely occur in December of 2015.

Attachment A

Grant Criteria

1. All applications must be for an eligible project as described above. Projects that are "ready to be implemented" are highly encouraged.
2. In order to accommodate the size of entities and projects, there are two grant categories:

<u>Grant Size</u>	<u>Cycle</u>
Up to \$100k	May apply annually
Up to \$400k	1-2 years hiatus depending on size of grant

Note: Grant funding over these amounts may be possible for special opportunities and unique circumstances.

3. Each eligible entity may apply for one grant annually. If an entity is partnering with another eligible local entity, the application will be the only grant request considered for all entities involved.
4. JCOS supplemental grant funding is up to 25% for cities and up to 35% for districts. Entities must provide a cash match for the remainder of project funding.
5. Enhanced Funding, or JCOS matching funds over 25% for cities and 35% for districts, will be considered when one or more of the following criteria are met:
 - Land acquisition
 - Partnerships with other public, non-profit or business organizations
 - Regionally significant outdoor recreation
 - Conservation education

Note: Entities must request Enhanced Funding in their application and provide evidence that the project meets one or more of the Enhanced Funding criteria.

6. The maximum grant award is 50% of the total project cost.
7. All projects must be completed within 24 months of award. If projects are not completed in this period, future grant eligibility may be suspended until they are completed.

2016 Local Grant Schedule/Process

Applications emailed to eligible applicants	September 21, 2015
Applications due to JCOS	November 6, 2015
Applicant presentations to Open Space Advisory Committee (OSAC)	December 3, 2015
OSAC Recommendations to BCC	January 7, 2016
BCC Approval	February, 2016

Information and Questions

Hugh Wilson, Business Services Manager
303-271-5920 or hwilson@jeffco.us

Attachment B
 Jefferson County Open Space
 Golf Course Projects using JCOS Funds

Project	Date of Purchase/ Local Grant Award	Acquisitions & Improvements
City of Arvada		
Lake Arbor Golf Course	1976	\$325,000
West Woods Golf Course	1986	\$917,125
	Total	\$1,242,125
City of Lakewood		
Fox Hollow Golf Course	1992	\$3,000,000
	Total	\$3,000,000
City of Westminster		
Heritage Golf Course	1997	\$300,000
Heritage Golf Course	1998	\$1,500,000
Heritage Golf Course	1999	\$1,500,000
Heritage Golf Course Restroom	2008	\$41,407
	Total	\$3,341,407
Foothill Park & Recreation District		
Meadows Golf Course Addition	1992	\$400,000
Meadows Golf Course Water Rights	1977	\$1,000,000
Meadows - Dutch Creek Trade	1982	\$70,000
Foothills Golf Course	1985	\$110,000
Meadows Golf Course	1985	\$50,000
Meadows Golf Course	1985	\$160,000
Meadows Golf Course	1982	\$258,400
	Total	\$2,048,400
North Jeffco Park & Recreation District (formerly North Jeffco)		
Indian Tree Golf Course Trail	1984	\$10,000
Indian Tree Golf Course	1991	\$156,893
Indian Tree restroom	1992	\$32,000
Indian Tree Golf Course	1992	\$75,000
	Total	\$273,893
	GRAND TOTAL	\$9,905,825



Colorado Office
1410 Grant Street
Suite D210
Denver CO
80203
T 303 837 1414
F 303 837 1131
tpl.org

CONFIDENTIAL AND PROPRIETARY

May 2, 2016

Dan Roberts
VP Global Technical Services
Molson Coors Brewing Company
1801 California; Suite 4500
Denver, Colorado 80202

Re: Applewood Golf Course
Letter of Intent

Dear Dan:

Thank you again for both meeting with us and continuing to move forward the evaluation of a transaction that will benefit all the parties in determining the future of the Applewood Golf Course (the "Property"), owned by Coors Brewing Company, a wholly-owned subsidiary of Molson Coors Brewing Company ("CBC"). We remain excited and dedicated to exploring all alternatives to allow the contemplated transaction to occur. As you well know, the Property contains a number of outstanding conservation values and The Trust for Public Land ("TPL") may be in a unique position to facilitate the acquisition and protection of the Property, and most importantly achieving an outstanding conservation result for the Applewood community.

Accordingly, this Letter of Intent is written to outline the process, timing and shared goals, which will allow the parties to move forward, in good faith, with negotiations intended to eventually result in a Purchase Agreement. This Letter of Intent is neither a real estate contract nor an option, but is intended to commit both parties to an exclusive opportunity to define the future of the Property, i.e., the Property shall not otherwise be offered for sale or lease between now and June 20, 2016, a period of just under two months. This time period will allow TPL to begin a preliminary review of due diligence items available, as well as further discuss the feasibility of the acquisition with our funding partners. TPL affirms its understanding that no warranty or representation, either express or implied, is made or being made in connection herewith by Seller or by any of its representatives or agents. This Letter of Intent constitutes a non-binding proposal between the parties, and that the parties negotiations shall not be binding unless and until a definitive written purchase and sale contract ("Purchase Agreement") regarding the same is fully executed and delivered by both Seller and Buyer. Neither Seller nor Buyer has a duty to negotiate or to reach a legally binding obligation or definitive Agreement with the other party, and neither Seller nor Buyer is obligated to proceed under this Letter of Intent or otherwise. Further, either Seller or Buyer may withdraw from negotiations under this Letter of Intent or otherwise at any time and without penalty. This Letter of Intent is intended to reflect the current intent of the parties and supersedes any prior agreement or negotiations between the parties, whether oral or written.

This Letter of Intent and any documents produced as a result hereof are all specifically subject to those certain Mutual Nondisclosure Agreements executed among Seller and TPL and Prospect Recreation and Park District ("PRPD,") each dated January 8, 2016.

Objective: TPL and CBC share a common interest in achieving a conservation sale of the Property. The objective of this Letter of Intent is to focus both CBC and TPL on the feasibility of such a transaction, with the goal of negotiating a formal Purchase Agreement during this letter's temporal exclusivity that will replace this Letter of Intent. To be sure, we have discussed the

Attachment C

nature and form of this transaction over many months, and set forth below are the structural elements we have been working on:

Purchase Proposal and Timing:

TPL proposes structuring a purchase agreement to acquire your property in accordance with the following general terms:

Seller: Coors Brewing Company

Buyer: The Trust for Public Land, a non-profit California public benefit corporation

Subject Property: Applewood Golf Course, approximately 146 acres located on W. 32nd Ave. in Jefferson County, Colorado, including all buildings, improvements, entitlements, and mineral and other subsurface rights, but excluding water rights, except as otherwise discussed herein.

Type of Contract: Purchase Agreement, Cash at Closing.

Term of Agreement: Six (6) months, with closing on or before October 31, 2016.

Critical Deadlines:

- a. 15 business days after the date this Letter of Intent is executed by both Seller and Buyer – waiver or exercise by Touchstone Golf, LLC of its right of first refusal set forth in the Lease (hereinafter defined). If Touchstone exercises their right, this Letter of Intent shall be null and void;
- b. May 30, 2016 – Finalize Purchase Agreement.
- c. June 20, 2016 - Funding proposal conditionally approved by Great Outdoors Colorado (“GOCO”) and Jefferson County Open Space (“Jeffco”):
- d. Inspection Period – From the mutual execution of the Agreement through August 15, 2016.
- e. Appraisal – Buyer to conduct a “highest and best use” appraisal for the Property by August 15, 2016 (the “Appraisal”). The Appraisal must meet the Uniform Appraisal Standards of Professional Appraisal Practice (USPAP) and be reviewed and approved by Seller, Buyer and participating Public Agencies.

f. September 30, 2016 - Final funding approval by TPL board, GOCO and Jefferson County Open Space (“Jeffco”):

Contract Consideration: \$10,000 (Ten Thousand Dollars), becoming nonrefundable after the Inspection Period, except for a Seller default.

Purchase Price: \$13,500,000 (Thirteen Million Five Hundred Thousand Dollars), subject to (i) funding approval by Jeffco and GOCO, and (ii) the Appraisal being at least \$15 million. Buyer will provide Seller with copies of the grant proposals submitted for this acquisition.

Attachment C

Tax Benefits: Buyer and Seller acknowledge that the Purchase Price is less than the Property's fair market value; Seller intends to take a charitable donation of the difference between the Purchase Price and the fair market value of the Property. Together with the Appraisal, Buyer shall attempt to obtain for the benefit of Seller an unqualified opinion from a reputable law or accounting firm, that the tax benefits to Seller from a below-market sales price to TPL will be recognized and upheld by the taxing authorities. The opinion will consider facts solely related to the valuation of the property under the highest and best use principles as presented in the Appraisal and the amount of the bargain purchase proposed by the Buyer. The opinion will not consider the Seller's ability to deduct the charitable donation, rather the sustainability of the bargain purchase amount itself. Seller will provide such information as is necessary to obtain such an opinion.

Due Diligence: During the Inspection Period set forth above, Buyer would conduct its investigations as to the condition of the title, the physical condition of the Property including the presence, if any, of environmental contamination or hazardous materials, a full evaluation of the existing lease for the Property (the "Lease") and such other investigations as are determined to be needed, all of which would be at Buyer cost, and the results thereof shared with Seller.

Lease Assignment: The existing Lease of the Property would be conveyed from Seller and assumed by Buyer at closing. Buyer recognizes under the current Touchstone lease agreement that Buyer will assume sole responsibility to provide water to the golf course operation.

Adjacent Reservoirs: Seller has expressed concerns about storm water detention, retention, water quality, and runoff issues as they relate to Seller's adjacent reservoirs. The parties agree to work cooperatively to come to written agreement that any such problems are addressed to Seller's sole and absolute satisfaction during the Inspection Period.

Trail Connection: Seller shall negotiate with Buyer, or Buyer's nominee, an easement for a multi-use trail that would connect West 32nd Avenue along the eastern boundary of the Property to the Clear Creek trail. Seller acknowledges that this trail connection is a critical component of securing the funding necessary to accomplish the project. Buyer acknowledges that Buyer, or Buyer's nominee, be responsible for all costs and expenses of improving and maintaining such trail, and that water quality protection of Seller's adjacent water storage assets, and potential liability arising from the public use of the trail, is of tantamount importance to Seller.

Water Rights: Seller acknowledges that Buyer is working with Consolidated Mutual Water Company ("Consolidated") on an agreement to provide sufficient water to satisfy the reasonable needs for the Property following the closing. In any event, such agreement would provide that Seller agrees to provide water following closing for golf course operations for a limited time and at rates to be agreed upon. All of the foregoing agreements shall be finalized with Seller's participation and consent during the Inspection Period to each party's satisfaction, in that party's sole and absolute discretion.

Water Storage: The parties contemplate negotiating a water storage agreement for the creation of a water storage vessel on the Property during the Inspection Period to each party's satisfaction, in that party's sole and absolute discretion. Depending on who ultimately is developing the water storage vessel, each party acknowledges that the other may need a temporary ingress and egress to build such a water storage vessel on the Property, which the burdened party would have to provide pursuant to such agreement.

Attachment C

Exclusive. There shall be a covenant recorded at closing that attempts to ensure that any beer, malt or other alcoholic beverages that are typically sold by Molson Coors or its affiliates are exclusively sold from any restaurant, bar or retail operations on the Property.

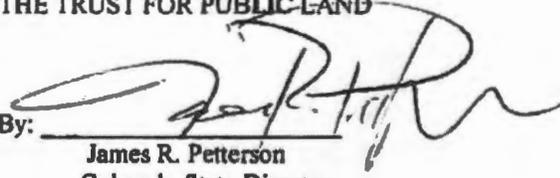
As-Is: The Property is being sold in its as-is, where-is condition, without any representations or warranties of Seller as to the condition of the Property. There shall be no zoning or entitlement contingency or condition in favor of Buyer.

Seller's Agent: Seller and Buyer acknowledge that Mr. John "Packet" Lowery of Jones Lang LaSalle is the Seller's agent, and that Seller is solely responsible for any commissions and/or brokerage fees that may become due and owing in connection with this transaction.

Thank you for your consideration, I look forward to discussing the terms of this proposal with you soon.

Very truly yours,

THE TRUST FOR PUBLIC LAND

By: 

James R. Petterson
Colorado State Director

Attachment C

AGREED AND ACCEPTED:

COORS BREWING COMPANY

By: Daniel E. Roberts

Name: DANIEL E. ROBERTS

Title: V.P. GLOBAL TECHNICAL SERVICES

Date: 5/2/2016

cc: Packet Lowery
Brian Hemphill
Mike Glade
E. Lee Reichert, III, Esq.
Robert Simmons, Esq.
Jay F. Kamlet, Esq.
Jim Zimmerman
Bill Farrell
Mike Hanson
Tim Flynn

Bob West moved that the following Resolution be adopted:

**BEFORE THE JEFFERSON COUNTY
OPEN SPACE ADVISORY COMMITTEE
OF THE COUNTY OF JEFFERSON
STATE OF COLORADO
Resolution #16-02**

**RE: 2016 Local Park and Recreation Grants Funded with Jefferson County
Open Space Sales Tax Fund**

WHEREAS, The Jefferson County Open Space Advisory Committee ("Advisory Committee"), as duly constituted and authorized by the voters of Jefferson County, was appointed to make recommendations to the Jefferson County Board of County Commissioners regarding the use and allocation of Open Space funds; and

WHEREAS, the Advisory Committee heard presentations for the 2016 Local Park and Recreation Grants at a scheduled meeting on December 3, 2015 and heard staff recommendations at its Study Session on January 7, 2016. At its regularly scheduled meeting on January 7, 2016, the Advisory Committee made certain findings and the following Grant award and future entity eligibility recommendations:

Local Park & Recreation Grant Awards and future eligibility

Entity/Project	Recommended Award	Future Eligibility
City of Arvada/Terrace Park Renovations – Trail Connection	\$200,000	2017
Apex Park & Recreation District/Final Phase of Simms Street Center Pickleball Courts and Demonstration Garden	\$430,000	2019
Evergreen Park & Recreation District/Marshdale Park Improvements	\$95,000	2017
Foothills Park & Recreation District/Clement Park Renovations	\$3,000,000	2027
Prospect Recreation & Park District/Applewood Golf Course Acquisition	\$1,100,000	2027
TOTAL	\$4,825,000	

Attachment D

Open Space Advisory Committee
Resolution #16-02
Page 2 of 2

NOW, THEREFORE BE IT RESOLVED, that the Advisory Committee recommends that the Board of County Commissioners approve the above referenced 2016 Local Park and Recreation Grant awards.

Felicity Hannay seconded the adoption of the foregoing Resolution. The roll having been called, the vote was as follows:

	Vote	Absent		Vote	Absent
John Wolforth			Felicity Hannay		
Bob West			Jacy Rock		
John Litz			Vacant, Regular Member		
Ken Morfit			Paul Murphy, Alternate		
Mike Dungan			Vacant, Alternate		
Rebecca Watson			Janet Shangraw, Chairman		

The Resolution was adopted by Unanimous vote of the members in attendance of the Jefferson County Open Space Advisory Committee of the County of Jefferson, State of Colorado.

DATED: January 7, 2016

I, John Litz, Secretary of the Jefferson County Open Space Advisory Committee of Jefferson County Colorado, certify that the above is a true and correct copy of a Resolution adopted at a scheduled meeting of the Jefferson County Open Space Advisory Committee held on, January 7, 2016.

By: John Litz
John Litz, Secretary
Jefferson County Open Space Advisory Committee
Jefferson County, Colorado

**BOARD OF COUNTY COMMISSIONERS BRIEFING PAPER
COUNTYWIDE INSURANCE RENEWAL**

May 17, 2016

For Information

For Discussion/Approval
Prior to Future Hearing

For Action

ISSUE: The County's Risk Management program includes procuring insurance from various insurance carriers. The County contracts with the insurance brokerage firm, IMA, Inc., in order to assist us in acquiring insurance policies and with other risk management needs. The current policies will expire May 31, 2016, and require re-negotiating of terms for each type of coverage.

BACKGROUND: The County procures excess insurance policies to limit exposure to various types of public liability incidents and Workers' Compensation claims. In addition, the County carries insurance coverage for property, crime-related occurrences, airport liability, boiler and machinery claims, and terrorism exposures. The renewal policies listed below cover the period from June 1, 2016 through May 31, 2017.

DISCUSSION: Risk Management recommends the following carriers:

1. Affiliated FM - Property, Boiler and Machinery

New premium	\$275,379
Expiring premium	\$287,526
Decrease of	\$12,147

Coverage terms are as expiring. The premium decrease is due to a favorable loss history and current market changes. The property insurance marketplace remains very competitive

2. One Beacon – Excess Public Liability including Terrorism

New Premium	\$253,806
Expiring premium	\$226,296
Increase of	\$27,510

Coverage terms are as expiring. The premium increase is due to increase in law enforcement personnel as well as an increase in County expenditures.

3. Midwest Employers Casualty – Excess Workers' Compensation

New premium	\$205,507
Expiring premium	\$184,656
Increase	\$20,851

Coverage terms are as expiring. The premium increase is due to an increase in payroll and claims experience.

4. Chartis – Crime	
New premium	\$11,881
Expiring premium	\$11,881
Increase	\$0

Coverage terms are as expiring with the addition of Social Engineering Coverage

5. Airport Liability	\$5,223
No change	
6. Pollution Liability Coverage – 3 year policy	
Carrier – Indian Harbor Insurance Company	
New Premium	\$48,337
Expiring Premium	\$48,827
Decrease	\$469

Coverage terms are as expiring. Slight decrease is due to market conditions and favorable loss experience.

7. Cyber Coverage	
Carrier – AIG	
New Coverage	
Premium	\$43,225
8. IMA of Colorado, Inc. – Insurance brokerage services	
No change	\$46,000

FISCAL IMPACT: The annual premium recommended for the 2016-2017 renewal period is \$843,358 this is an increase of \$103,264. The increase is due to the addition of Cyber coverage and increases in Property, Liability and Workers' Compensation coverages.

RECOMMENDATIONS: Approve the procurement of insurance coverage as recommended by the County's insurance broker, IMA, Inc. These renewals will take effect as of June 1, 2016.

ORIGINATOR:
Scott Holzer, Risk Manager

CONTACTS FOR ADDITIONAL INFORMATION:
Mary O'Neil, Director Budget and Risk Management
Holly Bjorklund, Director Finance and IT

BOARD OF COUNTY COMMISSIONERS BRIEFING PAPER

**RMMA Metro Business Center
Consulting Agreement Surf Fore, LLC
May 17, 2016**

- For Information For Discussion/Approval
Prior to Future Hearing For Action

ISSUE: Consideration of the Consulting Agreement with Surf Fore, LLC and the County relating to the development of the vacant 15-acre parcel located at Metro Business Center at the Rocky Mountain Metropolitan Airport (RMMA).

BACKGROUND: The Metro Business Center at RMMA is located on the southwest corner of Wadsworth Parkway and Metro Airport Avenue within the City and County of Broomfield. This site is approximately 15 acres in size and has been envisioned as an opportunity to further expand and incorporate development through the use of ground leases. Currently, RMMA has an executed lease agreement with the 7-Eleven Corporation.

DISCUSSION: As a result of an RFP process RMMA has been negotiating a consulting agreement with Surf Fore, LLC. The agreement has Garrett Baum and Bill Branyan assisting the County with all aspects of the development of the 15-acre parcel of land, similar to the assistance provided on the west side of the Airport with the Verve Innovation Park development. The services include, but are not limited to, master planning, obtaining entitlements from the City of Broomfield, design and infrastructure development, marketing the property and assisting with all aspects of leasing the property. Surf Fore, LLC will also work with the City of Broomfield to obtain sales tax rebates for the County. Since the parcels on the east side will likely remain lease parcels because of FAA grant assurances, the County will be the party contracting for the services associated with the development, including the construction of infrastructure with Surf Fore, LLC providing coordination services. Surf Fore, LLC will have 10 years to develop the parcel under the agreement.

FISCAL IMPACT: The Consulting Agreement is structured so that Surf Fore, LLC only gets paid once the County receives revenue from leases or a sale of property. Surf Fore, LLC will receive 15% of the Rental Income from Qualifying Leases, or 15% from a sale after commissioners and charges.

RECOMMENDATIONS: Staff recommends the BCC approve the Consulting Agreement with Surf Fore, LLC at a future business meeting.

ORIGINATOR: Bryan Johnson, Airport Director, ext 4851

CONTACTS FOR ADDITIONAL INFORMATION:

Jeanie Rossillon, Director of Transportation & Development, ext 8575
Kourtney Hartmann, County Attorney's Office, ext 8964

CONSULTING AGREEMENT

This Consulting Agreement (this "Agreement") is made and entered into this ___ day of May, 2016, by and between Jefferson County, Colorado on behalf of the Rocky Mountain Metropolitan Airport (the "County"), and Surf Fore, LLC, a Colorado limited liability company (the "Consultant"). The County and the Consultant shall be referred to herein, individually, as a "Party" and, collectively, as the "Parties."

RECITALS

A. The County owns approximately fifteen (15) acres of vacant land zoned for non-aviation commercial use as more particularly described on Exhibit A and incorporated herein by this reference (the "Property"). The County desires to develop the Property for commercial uses.

B. The County distributed a Request for Statements of Qualification for Project Number 5019H-JA (the "SOQ") relating to the lease or possible sale of the Property. The Request for Statements of Qualification package and all addenda and attachments shall be referred to as the "SOQ."

C. Since the release of the SOQ, the County has determined that its primary purpose is to develop the Property for long-term leasing. The County will, however, consider for-sale opportunities for the Property on a case-by case basis and in the County's sole and absolute discretion and only after all approvals, as applicable, for the sale of the property are obtained from the Federal Aviation Administration.

D. The Consultant submitted a response to the SOQ deemed to be the most advantageous to the County. The Consultant is capable and willing to perform the work in accordance with the terms and conditions of this Agreement.

AGREEMENT

NOW THEREFORE, in consideration the foregoing recitals and of the mutual promises and covenants contained herein, the Parties agree as follows:

1. Services.

(a) Generally. The Consultant shall use its commercially reasonable efforts to oversee and manage all development activities relating to the development and lease of the Property, including furnishing the labor, materials and supervision necessary for or incidental to the complete and timely performance of everything described or reasonable implied from this Agreement (the "Services"). The Consultant shall perform, or cause to be performed, the Services in a first-class, workmanlike manner to the satisfaction of the County. The Consultant warrants that it is fully qualified to perform the Services and shall perform the Services in accordance with the professional standards of the industry and in strict compliance with the provisions of this Agreement. The Services shall include, but are not limited to, due diligence, master planning services, assisting with the procurement of entitlements, design engineering,

overseeing the general contractors hired by the County to complete construction on the Property, marketing, and leasing of the Property as well as overseeing the ongoing management of the common area and lease tenants consistent with the Agreement terms all as more particular described below. It is the intent of the Parties that the initial build-out of the Property will be completed within the initial ten (10) year period of this Agreement, as such, it is contemplated that Section 1(b) thru 1(i) below will be completed during the initial ten (10) year period and the only remaining responsibility will be for the obligations set forth in Section 1(j) below throughout the remaining term of the Agreement. The Parties acknowledge and agree that certain portions of the Services described in Sections 1(b) through 1(i) below have been completed by Consultant and agreed to and accepted by the County, all as more fully described on the “Work Plan” shown on Exhibit B attached hereto and incorporated herein by reference.

(b) Master Plan. The Consultant shall prepare, or cause to be prepared, a master plan for the development of the Property (as may be amended from time to time, the “Plan”). The Plan will be used for multiple purposes including, but not limited to, the establishment of the framework for development of the common facilities (e.g., roadways, utilities, landscaping, and signage) and for development of individual building sites within the Property by tenants. At a minimum, the Plan shall contain a listing of acceptable and prohibited land uses, development standards including minimum/maximum floor area ratios, setback criteria, maximum building heights, maximum coverages for buildings, parking and drives, landscaping, signage criteria for common project signage as well as signage for individual building sites and buildings, landscape design criteria, master utility systems (including wet and dry utility master plans), storm drainage and master detention pond systems, roadway and traffic master plans (including roadway lineage and access criteria), and master lighting plan (including proposed fixtures for roadways and building sites).

(c) Work Plan. The “Work Plan” is attached hereto as Exhibit B and outlines actions and items required for development of the Property and an associated time frame for which work can be completed for each item, subject to Force Majeure (as defined in Section 15(r) below). The County’s Representative and the Consultant may agree to extend or shorten the time frames set forth in Exhibit B as mutually agreeable and consistent with the development of a first-class commercial space.

(d) Site Development Plan/PUD process. The Consultant shall prepare, or cause to be prepared, all documents, including any site development plans (“SDP”), and any planned unit development (“PUD”) documents, as required by the City and County of Broomfield, for development of the Property. The SDP and PUD will be based on and will comply with the Plan. Any SDP for individual development lease sites, or pad sites, located within the Property will be prepared by the proposed tenant or buyer, unless otherwise agreed to by the County within the terms of the lease agreement with said tenant or the purchase agreement with the proposed buyer.

(e) Design and Development Criteria Manual; Owner’ Association. The Consultant will prepare a Design and Development Criteria Manual (“DDC”) which will include specific design standards for development of the Property. The DDC will be used in parallel with the Plan to direct the specific design and engineering of individual building sites and the

establishment of any covenants and restrictions with respect to the Property. If requested by the County, the Consultant shall prepare, or cause to be prepared, and file all documents for and assist the County with establishing an owner's association for the Property, including the establishment of an Architectural Control Committee.

(f) Infrastructure. The Consultant will coordinate all infrastructure construction on the Property including planning, engineering, and construction for all utilities, stormwater and any other necessary facilities for the proposed tenants or proposed buyers as may be applicable. The Consultant will be responsible for obtaining proposals for all proposed work, and shall coordinate with County staff on the bidding of all construction work. The Consultant shall make recommendations to the County for selection, and assist the County in awarding and contracting for the work. The County shall be directly responsible for all contracts. The Consultant will review and approve all invoices at the discretion of the County.

(g) City and County of Broomfield. The Consultant will coordinate and use commercially reasonable efforts to negotiate an agreement between the County and the City and County of Broomfield for the rebate of sales taxes with respect to the Property in order to offset the infrastructure costs for the development.

(h) Marketing, Offer and Due Diligence Documents. The Consultant shall market and promote the development of the Property and project sites located at the Property and shall copy the County on all formal correspondence received or sent by the Consultant relating to the marketing of the Property, including but not limited to copies of all responses to requests for proposals, marketing brochures, and offers received for the Property.

(i) Third-Party Brokerage Form or Firms. The Consultant shall identify and assist the County in negotiating with a third-party brokerage firm or firms to assist with marketing and promotion of the Property on a national and international basis. The Consultant shall oversee any brokerage team chosen by the County. Any third-party brokerage firm listing agreement and performance standards shall be reviewed and approved by the County and all listing agreements and/or commission agreements relating to any of the foregoing shall be executed by the County. To ease administration of contracts, the Consultant shall attempt to negotiate a reasonable brokerage fee, consistent with industry standards, into the terms of the lease agreement or proposed purchase agreement, whichever is applicable, between the County and the proposed tenant or buyer rather than requiring the execution of a separate brokerage agreement; provided, however, the Parties acknowledge and agree that Consultant's failure to successfully negotiate into any such contract the foregoing provision shall not be a default by Consultant of its performance obligations under this Agreement.

(j) Tenant Relations and Owners' Association. The Consultant shall remain in contact with the tenants during the Term (as defined in Section 3 below) of this Agreement and, in conjunction with the County Representative, manage any issues that arise relating to the lease, including but not limited to, common area maintenance issues, general complaints or concerns of tenants within the Property. The Consultant shall also be responsible for, in conjunction with the

County, managing the owners' association, if established, and ensuring the proper operation of such organization.

2. Authority and Liens; Third Party Professionals; Reports; Approval of the Services; Review Meetings.

(a) Authority and Liens. During the Term, the Consultant shall have authority to develop the Property for and on behalf of the County in accordance with this Agreement. The Consultant shall not, directly or indirectly, take any action with respect to the Property, including the incurring of any obligation or the termination or cancellation of any service relating to the Property not otherwise expressly permitted or contemplated by the terms of this Agreement, without the County's consent. The Consultant shall not permit nor cause any mechanics liens to be filed against the Property for work that has been completed at the request of, or on behalf of the Consultant, and if any such mechanics liens are filed, the Consultant shall promptly remove the same.

(b) Third-Party Professionals. The Consultant may request that the County engage various engineering, architectural, landscaping, surveying, environmental review, accounting, legal or other professionals to assist with the Services. The County will enter into the contracts directly with the professionals relating to such services in accordance with Section 4 below.

(c) Lease to End Users; Property Sales. (1) During the term of this Agreement the County intends to lease the Property to third parties (each, an "End User"). The County shall have final discretion as to the suitability of any End User or any proposed use of the Property by an End User. The Consultant acknowledges that all leases must be approved by the Board of County Commissioners. The Director of Development and Transportation shall provide the Consultant with guidance throughout the term of this Agreement as to which End Users and what terms and conditions of a lease or purchase agreement may, or may not, be acceptable to the County. The County will provide guidance on lease or purchase agreement terms that are required to be included in any lease to comply with any Federal Aviation Administration ("FAA") requirements, any grant assurance requirements for airport sponsors or other provisions as the County deems necessary in its sole discretion.

(2) Notwithstanding the County's primary objective to lease the Property to End Users, the County recognizes that for-sale opportunities may arise from time to time in which the County elects, in its sole and absolute discretion, to pursue. Accordingly, the County may elect to sell portions of the Property to third parties (each a "Buyer"). Any such sale to a Buyer shall occur under the following terms and conditions:

(aa) The County shall have final discretion as to the suitability of a Buyer or any proposed use of the Property by a Buyer.

(bb) The County shall have sole and absolute discretion as to the compatibility of a Buyer or any proposed use of the Property with preexisting development and uses of parcels adjacent to the Property. The County will provide guidance on sale terms that are required to be included in any purchase and sale agreement to comply with any FAA

requirements, any grant assurance requirements for airport sponsors or other provisions as the County deems necessary in its sole discretion.

(cc) The County's sale of any part of the Property shall be effected by an approved contract to buy and sell real estate between the County and the Buyer and a deed, which shall comply with the County's rules, regulations, orders, and directives. The County shall have final discretion over the terms and conditions of any such contract to buy and sell.

(dd) The County shall have final discretion as to the decision to sell any of the Property to any particular Buyer and as to the final purchase price and all other terms and conditions of any contract to buy and sell real estate.

(c) Annual Report. The Consultant shall submit an annual report to the County by June 30th of each year (an "Annual Report"). The Annual Report shall contain a description of all material marketing activities undertaken in relation to the Property and the status of any further development or infrastructure projects taking place or planned with respect to the Property. Once the Property is built-out, the Annual Report will consist of an update on the status of the owners' association, if established, as well as any leasing or maintenance issues arising relating to the Property. The Annual Report shall also include all of the required information identified on Exhibit C attached hereto and incorporated by this reference.

(d) Review Meetings. During the Term, the Parties shall meet at least quarterly during the build-out phase and at least annually once build-out is completed to review the status of the Property, the leases and the operation of the owners' association, as applicable, which meetings will occur on a date mutually agreeable by the Parties each year. At each review meeting the Consultant shall submit a summary of performance of the Services to date since the last meeting. Any agreed-upon modification of the Services occurring at any review meeting shall not be effective unless it is in writing and signed by the Authorized Representative for each Party in accordance with the terms of Section 5 of this Agreement.

(e) Approval of Services, Reports and Deliverables. The Consultant will provide communications on all material activities occurring relating to the development of the Property. The content of all documents prepared in accordance with this Agreement shall be reviewed and accepted by the County. The Director of Development and Transportation shall be the sole judge of the acceptability of the Services by the Consultant and the sufficiency of any supporting data submitted by the Consultant. If the County believes a Service has not been completed to the satisfaction of the County, the County shall deliver written notice of such defect to the Consultant. The Consultant shall cure the defect or demonstrate substantial progress as to its cure of the defect to the County within thirty (30) days of receipt of written notice of defect. Failure to cure such defect within a reasonable period of time period shall constitute a material breach of this Agreement and the County may terminate this Agreement for such breach in accordance with the terms and conditions of Section 3 below.

3. Term and Termination.

(a) Term. The term for Consultant's performance obligations under this Agreement shall commence on July 1, 2015 (regardless of the Effective Date of this Agreement) and shall continue until the date on which the County's obligation to pay the Consultant the Service Fee terminates or expires in accordance with the terms and condition of Section 4(a) below, unless earlier terminated by the County in accordance with the terms of this Agreement (the "Term").

(b) Termination.

- i. Mutual Consent. This Agreement may be terminated at any time upon the mutual written consent and approval of the Parties.
- ii. For Cause. Either party may terminate this Agreement if the other party materially breaches the Agreement and fails to cure the breach within sixty (60) calendar days after receipt of a written notice from the non-breaching party identifying the nature of the breach in specific detail and its intention to terminate the Agreement; provided, however, that if the nature of the breach is such that it is not possible to cure it within sixty days, such sixty-day period shall be extended for so long as the breaching party uses diligent efforts to effect a cure.
- iii. Insolvency. This Agreement shall terminate immediately if either party shall apply for, or consent to the appointment of a receiver, trustee, or liquidator of all or a substantial part of its assets, files a voluntary petition in bankruptcy (in the event of an involuntary bankruptcy, if such involuntary bankruptcy is not dismissed within ninety (90) days after the filing of the same), makes a general assignment for the benefit of creditors, files a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of any insolvency law, or if a final order, judgment, or decree shall be entered by a court of competent jurisdiction, on the application of a creditor, adjudicating a Party as bankrupt or insolvent or approving a petition seeking reorganization of a Party or appointing a receiver, trustee, or liquidator, or all or a substantial part of its assets.
- iv. Remedies Upon Termination. If the County terminates for cause, then the Consultant shall not be entitled to any further payment hereunder, but shall be entitled to retain all monies paid hereunder prior thereto and shall be entitled to receive all monies outstanding as of the date of termination, and neither party shall have any further obligations under this Agreement except those that expressly survive the termination of this Agreement. If the Consultant terminates for cause, the County shall pay to the Consultant within fourteen (14) days following such termination an amount equal to the Service Fees outstanding as of the date of termination. Either party shall be entitled to all remedies afforded it at law and in equity, including, without limitation seeking damages and/or specific performance of this Agreement.

4. Services Fees, Payments, and Reimbursements.

(a) Services Fee. In exchange for the Services provided by the Consultant under this Agreement, the Consultant shall be entitled to a fee (the “Services Fee”) as follows: (i) an amount equal to fifteen percent (15.0%) of all Rental Income paid to and actually received by the County under any Qualifying Lease that has been executed during the initial ten (10) year period of this Agreement (and for any Qualifying Lease executed after the initial ten (10) year period if the County requests in writing that the Consultant assist it in identifying and securing such new Qualifying Leases after the initial ten (10) year period); and (ii) an amount equal to fifteen percent (15%) of the Net Sale Proceeds received by the County in connection with the sale of all or any portion of the Property to a Buyer pursuant to a purchase and sale contract approved by the County during the initial ten (10) year period of this Agreement (and for any sale consummated after the initial ten (10) year period if the County requests in writing that the Consultant assist it in identifying and securing any such Buyer and sale after the initial ten (10) year period). For purposes of this Section 4, a Qualifying Lease shall mean any lease, ground lease or built-to-suit lease for portions of the Property that is executed within the initial ten (10) year period of this Agreement. Rental Income shall mean and include the total rental income actually received by the County during the initial term of the Qualifying Lease including any lease extension options set forth when the lease is originally executed by the parties (but not including any amendments that may add additional option terms in later lease amendments unless specifically requested by the County in writing) of any such Qualifying Lease, which shall include, but not be limited to, monthly rent, interest, late charges, forfeited amounts collected as security deposits, percentage rent, loss of rents insurance proceeds, early termination fees, and negotiated termination settlements. If any Qualifying Lease entered into hereunder terminates for any reason prior to the termination of the initial term set forth in the Qualifying Lease, the Consultant shall not have any right, title, or interest in any Services Fee or portion of any lease revenues from any successor lease on the Property (except for any early termination fees, negotiated termination settlements or if any such tenant remains on the property and continues to pay rent irrespective of such lease termination), unless the County and the Consultant amend this Agreement, or such event occurs within the initial ten (10) year period of this Agreement as provided above, or the County expressly requests in writing that the Consultant assist it in identifying and securing a new Qualified Lease following the initial ten (10) year period as more fully described above. Net Sales Proceeds shall mean and include the total sale proceeds received by the County in connection with the sale less all closing costs associated therewith such as title and escrow fees and charges, attorneys’ fees, broker commissions, recording and transfer fees, tax proration and title insurance costs.

(b) Payments. The County shall pay to the Consultant, without the necessity of an invoice, the applicable Services Fee on or before the 15th day of the calendar month following the month in which the County’s receives the Rental Income from a Qualifying Lease or within fifteen (15) business days following the date the County receives the Net Sale Proceeds from the Buyer or title company in connection with a sale. Nothing herein shall be deemed to entitle the Consultant to collect any Services Fee or other royalty from the County at any time following a termination of this Agreement for cause by the County in accordance with Section 3 of this Agreement. Incorrect payments to Consultant due to omission, error, fraud, or defalcation by the Consultant may be recovered by the County from the Consultant by deduction from subsequent payments due the Consultant under this Agreement or other contracts between the County and the Consultant.

(c) Reimbursements. The County will pay for all expenses related to all aspects of the development, ownership and operation of the Property; the Consultant shall not be required to make any such payments. The Parties acknowledge and agree that from time-to-time it may be more convenient for the Consultant to pay certain fees or expenses relating to the development (e.g. an application fee with the City and County of Broomfield or similar fee). In those instances where the Consultant advances money on behalf of the County, the Consultant shall obtain written approval of such expense from the County Representative in advance of making such expenditure, and the Consultant shall submit an invoice to the County, on a no more than monthly basis, itemizing the expenses that the Consultant advanced on behalf of the County with sufficient detail for the County to verify the appropriateness of the invoice. The invoice shall be subject to review and approval by the County Representative. The County shall pay all amounts properly invoiced and documented within thirty (30) days following receipt of the invoice. The County shall not be required to pay disputed items until the dispute is resolved. Payment of any invoice shall not act as a waiver of the County's right to recover in full any over-payment revealed by any subsequent audit or inspection. Unless previously approved by the County representative, the Consultant shall not be entitled to reimbursement for meals, entertainment or other administrative or direct costs.

5. Authorized Representatives. The County Representative for this Agreement shall be the Airport Director of the County, or as otherwise designated in writing by the Board of County Commissioners. The Consultant designates Garrett Baum and William Branyan as the Consultant's Authorized Representatives under this Agreement. Each individually, or both collectively, of the Consultant's Authorized Representatives shall have the power to bind the Consultant with respect to the Services provided under this Agreement, and the County Representative or the Director of Development and Transportation shall have the power to bind the County with respect to consents, approvals and other matters subject to this Agreement. The County Representative or the Director of Development and Transportation may from time to time, by mutual written Agreement with the Consultant, make such changes to the Agreement which is necessary or convenient to accomplish the purpose intended by this Agreement with respect to changes in the Services and periods of performance. The County Representative and the Director of Development and Transportation shall have such further authority, if any, as may be specifically granted or authorized by the Board of County Commissioners to initiate or process administrative changes to this Agreement mutually agreed to by the parties hereto.

6. County Ownership of Documents. Any reports, drawings, results, conclusions or other writings or products produced by or for the Consultant relating to the Property and any data, documents or other things or information provided by the County to the Consultant or to which the Consultant has access during the performance of the Services shall be and remain the sole property of the County at all times (the "County Documents"). The Consultant shall not use any of the County Documents for any purpose other than in performance of the Services under this Agreement. The County Documents shall also constitute a "work made for hire," and the County shall retain all right, title and interest in all County Documents. The Consultant shall provide to the County all of the deliverables as the deliverables are produced for the Consultant or by the Consultant. The Consultant shall not disclose to any third party any County Document or deliverable without the prior written approval of the County unless required under the

Colorado Public Records Act or other law or in connection with performance of the Services (including, without limitation, during the ordinary course of business in procuring tenants and communications with brokers), or where disclosure is ordered by a court of competent jurisdiction, or where necessary to share such information with the Consultant's accountants or attorneys.

7. Assignment or Sale of the Company. Neither Party to this Agreement may assign, in whole or in part, its rights or obligations under the Agreement without the prior written consent of the other Party, not to be unreasonably withheld, conditioned or delayed. Any attempt to assign without such consent shall be void. In the event the Consultant's principals desire to sell the company, whether through a sale of the assets of the company, the sale of securities or merger, to an unaffiliated third party, this Assignment provision shall be triggered and the County shall have the option to terminate the Agreement or to consent to the new ownership and continue with the Agreement in its sole and absolute discretion. The Consultant acknowledges that the knowledge, skills and experience of Garrett Baum and William Branyan (the "Key Personnel") are deemed essential to the satisfactory performance of the Services. The Consultant shall demonstrate that these or skilled substitute personnel are available to perform the Services in this Agreement prior to assignment of the Agreement. Nothing in this Agreement shall prevent the Consultant from seeking and obtaining, without the requirement of obtaining the County's prior written consent, investors in the Consultant so long as the Key Personnel retain control of the Consultant. For purposes of this Agreement, "control," as applied to the Consultant means the possession of the power by one or both of the Key Personnel to directly or indirectly cause the direction of the management and policies of the Consultant, whether through the ownership of voting securities, management policies, by contract or otherwise.

8. Consultant's Representations and Warranties. The Consultant represents and warrants as of the date of this Agreement the following to the County:

(a) It is fully qualified to perform the Services and will perform the Services in a timely, accurate, and competent manner in accordance with the professional standards of the industry and the terms of this Agreement;

(b) Any methodologies or programs or other intellectual property utilized under this Agreement were independently developed by it or duly licensed from third parties and shall neither infringe upon nor violate any patents, copyrights, trade secrets or other proprietary or intellectual property rights of a third party;

(c) If it is an entity, it is duly organized, validly existing and in good standing under the laws of the State of Colorado;

(d) The execution, delivery and performance of this Agreement by the Consultant does not and will not: (1) require the consent of any undisclosed person or entity, (2) the best of Consultant's knowledge, violate any legal requirement or (3) conflict with, or constitute a breach or violation of (i) its entity's organizational documents, if any, or (ii) the terms or provisions of any other agreement, instrument or understanding by which the Consultant is bound or affected.

(e) Garrett Baum owns a direct or indirect controlling share of the voting membership interests in the Consultant. If the representation on ownership contained herein changes at any time during the Term of this Agreement, the Consultant shall promptly notify the County in writing.

9. Indemnification. The Consultant agrees to release, indemnify, defend and hold the County, its employees, officials and agents (the "County Parties") harmless from and against any and all third party claims, damages, losses, injuries, costs or expenses relating to, or arising out of: (1) any negligent act or omission, or the willful act or omission, of the Consultant, its officers, managers, employees in connection with performance of the Services; or (2) any material breach of an express covenant, representation or warranty made by the Consultant under this Agreement that is not remedied within thirty (30) days following the Consultant's receipt of written demand by the County to cure. Notwithstanding the provisions of this Section 9, Consultant will not be liable for any claim (including any environmental claim), action, loss, damage, injury, liability, penalty, fine or attorney's fee attributable to: (i) a pre-existing condition on, under, in or about the Property; or (ii) the acts of a third party that are not contracted directly with Consultant or is not in any way connected with Consultant's activities on the Property or in connection with this Agreement; or (iii) the acts of the County or the County Parties. This provision shall survive the termination and expiration of this Agreement.

10. Insurance. The Consultant and its subcontractors (to the extent Consultant execute contracts with third parties to complete work) shall purchase and maintain such insurance in a company or companies licensed to do business in the State of Colorado as will protect them from claims which may arise out of or result from operations under this Agreement, whether such operations be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance required in this paragraph shall be written for not less than the amounts set forth in Exhibit D attached hereto. The Consultant shall provide certificates evidencing such coverage to the County Representative prior to commencing the Services and during the term of this Agreement shall provide the County written evidence of continuing insurance coverage within three (3) business days of a request from the County. The Consultant shall provide the County no less than thirty (30) days' prior written notice of any proposed change to, or cancellation of the insurance coverage. Any proposed change to the insurance coverage shall comply with the terms of this Agreement. If requested by the County, the Consultant shall request from its insurance company an endorsement to the insurance policy for this Agreement, in a form approved by the County Attorney's Office, which will require the insurance company to provide the County with notice of cancellation of the policy. The Consultant shall promptly comply with all terms of the endorsement and shall pay the cost of the endorsement. The County reserves the right to re-evaluate and modify the Insurance Requirements hereunder during the term of this Agreement by providing written notice to the Consultant. The Consultant agrees to comply with any changes to insurance requirements required by the County during the Term.

11. Independent Contractor. The Consultant is an independent contractor and is not an agent, servant or employee of the County. The Consultant and its employees are not entitled to workers' compensation benefits through the County. The Consultant is solely responsible for necessary and adequate workers' compensation insurance and shall be

responsible for withholding and paying all federal and state taxes. The Consultant and its employees are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by an entity other than the County. The Consultant hereby acknowledges full and complete liability for and timely payment of all local, state and federal taxes imposed including, without limitation, tax on self-employment income, unemployment taxes and income taxes.

12. Dispute Resolution Process. If any dispute arises between the Parties relating to this Agreement, and the Parties cannot resolve such dispute within thirty (30) days following a written request by either Party to the other Party, the Parties shall hold a meeting, attended by the Director of Development and Transportation and the Consultant's Representatives (or their respective designees), to attempt in good faith to negotiate a resolution of the dispute. If, within sixty (60) days after such meeting request, the Parties have not succeeded in negotiating a resolution of the dispute, either Party may pursue any other available remedy, including the termination provisions above or any rights available to it under law or equity.

13. Illegal Alien: If Consultant has any employees, the Consultant shall comply with C.R.S. §8-17.5-101, et seq., regarding Illegal Aliens - Public Contracts for Services, and this Agreement. By execution of this Agreement, the Consultant certifies that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and that the Consultant will participate in either the E-Verify Program or Department Program in order to confirm the eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(a) The Consultant shall not:

- (i) Knowingly employ or contract with an illegal alien to perform work under this Agreement; or
- (ii) Enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

(b) The Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform Services under this Agreement through participation in either the E-Verify Program or Department Program.

(c) The Consultant shall not use either the E-Verify Program or Department Program to undertake pre-employment screening of job applicants while this Agreement is in effect.

(d) If the Consultant obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Consultant shall:

- (i) Notify the subcontractor and the County within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(ii) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to the preceding sub-subparagraph of this subparagraph, the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

(e) The Consultant shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. §8-17.5 -102(5).

(f) If the Consultant violates this provision of this Agreement, the County may terminate the Agreement for a breach of contract. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the County as required by law.

(g) The County will notify the Office of the Secretary of State if Consultant violates this provision of this Agreement and the County terminates the Agreement for such breach.

14. Appropriation. The payment of County obligations in fiscal years subsequent to the current year are contingent upon funds for this Agreement being appropriated and budgeted. If funds for this Agreement are not appropriated and budgeted in any year subsequent to the fiscal year of execution of this Agreement, this Agreement shall terminate. The County's fiscal year is currently the calendar year.

15. Miscellaneous Provisions.

(a) Compliance with Laws. Subject to the limitations set forth below, Consultant's activities under this Agreement shall comply with all applicable state, local and federal laws and regulations. The Parties acknowledge that there are multiple regulations that have been or may be imposed by the Federal Aviation Administration, the County's Airport Minimum Standards and any grant assurance for airport sponsors as may be promulgated by the FAA with respect to the Property and that Consultant may not be aware of the same. Accordingly, the Parties acknowledge and agree that Consultant shall not be obligated to comply with any regulation imposed by the FAA or the County's Airport Minimum Standards unless the County expressly informs the Consultant in writing of the content and application of any such regulation to Consultant's activities under this Agreement.

(b) Officials Not to Benefit. No elected or employed member of the County government shall be paid or receive, directly or indirectly, any share or part of this Agreement or any benefit that may arise therefrom.

(c) Conflict of Interest. The Consultant shall not knowingly perform any act that would conflict in any manner with the performance of this Agreement. The County acknowledges that the Consultant has and may obtain other interest in real property in the area that may be seen as competitive to the Property. The Consultant shall disclose all interests in

property located within a 5 mile radius of the Property at the time of execution of this Agreement and shall obtain a conflict waiver in writing from the County before obtaining any interest in any property located within a 5 mile radius of the Property during the Term hereof. The County hereby acknowledges that Consultant has disclosed to the County that it has an interest in the following real property, all of which is located within the 5 mile radius of the Property: (i) Verve Innovation Park; (ii) Arista; and (iii) Interlocken.

(d) Governing Law, Forum, Venue. This Agreement and the rights and duties of the Parties hereunder shall be interpreted in accordance with the laws of the State of Colorado and the Courts of such State shall have sole and exclusive jurisdiction over any disputes or litigation arising hereunder. Venue for any and all legal actions arising hereunder shall lie in the District or County Court in and for the County of Jefferson, State of Colorado.

(e) Notice.

(i) “Key Notices” under this Agreement are notices regarding any default, contractual dispute, termination of the Agreement, or changes in the notice address. Key Notices shall be given in writing and shall be deemed received if given by: (A) confirmed electronic transmission (as defined in subsection (ii) below) when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission, (B) certified mail, return receipt requested, postage prepaid, three (3) business days after being deposited in the United States mail, or (C) overnight carrier service or personal delivery, when received. For Key Notices, the parties will follow up any electronic transmission with a hard copy of the communication by the means described in subsection e(i)(B) or e(i)(C) above. All other daily communications or notices between the parties that are not Key Notices may be done via electronic transmission. Notice shall be given to the parties at the following addresses:

The Consultant:

Surf Fore, LLC
Attn: Garrett Baum or William Branyan
1529 Market Street, Suite 200
Denver, Colorado 80202
Tel: (303) 884-7300
Email: gbaum@urbanfrontier.com or wrb@urbanfrontier.com

The County:

Jefferson County
Attn: Airport Director
11755 Airport Way
Broomfield, CO 80021
Fax: (303) 271-4875
Email: bejohnso@jeffco.us

with a copy to:
Jefferson County Attorney
100 Jefferson County Parkway, #5500
Golden, Colorado 80419
Tel: (303) 271-8900
E-mail: CAOContracts@jeffco.us

All Key Notices to the County shall include a reference to this Agreement including the Consultant's name and the date of the Agreement but failure to do so shall not invalidate the notice if otherwise delivered in accordance with the terms of this Section 15(e).

(i) Electronic Transmissions. The parties agree that: (A) any notice or communication transmitted by electronic transmission, as defined below, shall be treated in all manner and respects as an original written document; (B) any such notice or communication shall be considered to have the same binding and legal effect as an original document; and (C) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form. The parties further agree that they shall not raise the transmission of a notice or communication, except for Key Notices, by electronic transmission as a defense in any proceeding or action in which the validity of such notice or communication is at issue and hereby forever waive such defense. For purposes of this Agreement, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts.

(f) Survival. Notwithstanding anything to the contrary, the Parties understand and agree that all terms and conditions of this Agreement that require continued performance or compliance beyond the termination or expiration of this Agreement, including without limitation the indemnification provisions, shall survive such termination or expiration and shall be enforceable against a party if such party fails to perform or comply with such term or condition.

(g) Sales Tax Exemption. The Consultant will not be required to pay Colorado State sales and use taxes for the Services. The Consultant may obtain a sales tax exemption permit from the State of Colorado, Department of Revenue, if necessary, to obtain materials for the Services without the payment of Colorado State sales and use tax.

(h) Waiver. This Agreement or any of its provisions may not be waived except in writing by a Party's authorized representative. The failure of a party to enforce any right arising under this Agreement on one or more occasions will not operate as a waiver of that or any other right on that or any other occasion.

(i) No Third Party Beneficiaries. The enforcement of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and the Consultant. Nothing contained in this Agreement shall give or allow any claim or right of action whatsoever

by any other third person, nor shall anything contained in this Agreement be construed as a waiver of any provision of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et. seq., as amended. It is the express intention of the County and the Consultant that any such person or entity, other than the County or the Consultant, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary only.

(j) Records Retention. The Consultant shall maintain all records, including working papers, notes, and financial records, which records shall be available to the County for inspection and audit for a period of three (3) years from the date of termination of the Consultant unless the Consultant is notified in writing by the County of the need to extend the retention period. Copies of such records shall be furnished to the County upon request without charge by the Consultant.

(k) Proper Execution. Each party represents that all procedures necessary to authorize such Party's execution of this Agreement have been performed and that the person signing for such Party has been authorized to do so.

(l) Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersede all prior agreements and communications with respect thereto, whether oral or written, and whether explicit or implicit. In the event of a conflict between the terms of this Agreement and any Exhibit hereto, the terms and conditions of Agreement shall govern. This Agreement may not be modified, amended, or varied in any manner unless by a written agreement duly executed by each of the Parties.

(m) Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local, or foreign statute or law will be deemed also to refer to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "including" means including without limitation.

(n) Headings. The section headings contained in this Agreement are inserted for convenience only and do not affect in any way the meaning or interpretation of this Agreement.

(o) Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

(p) Attorneys' Fees. In the event that any suit or action is instituted under or in relation to this Agreement, including, without limitation, to enforce any provision in this Agreement, the prevailing party in such dispute shall be entitled to recover from the losing party all fees, costs and expenses of enforcing any right of such prevailing party under or with respect to this Agreement, including, without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

For purposes of this Agreement, the “prevailing party” means the party obtaining substantially the relief sought, whether by compromise, settlement or judgment.

(q) Specific Enforcement. Each Party acknowledges and agrees that each Party hereto will be irreparably damaged in the event any of the provisions of this Agreement are not performed by the parties in accordance with their specific terms or are otherwise breached. Accordingly, it is agreed that, in addition to all other remedies afforded the Parties in this Agreement, at law or in equity, each Party shall be entitled to an injunction to prevent breaches of this Agreement, and to specific enforcement of this Agreement and its terms and provisions in any action instituted in any court of the United States or any state having subject matter jurisdiction.

(r) Force Majeure. If either Party is rendered unable to perform any non-monetary obligation under this Agreement because of circumstances beyond that Party’s reasonable control, then on the Party’s giving notice and full particulars of such in writing to the other Party as soon as possible after the occurrence of the cause relied on, then the obligation of the party giving such notice will be suspended during the continuance of any inability and the cause will be remedied with all reasonable efforts.

(s) Execution by Counterparts; Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The parties approve the use of electronic signatures for execution of this Agreement and any related amendments. Only the following two forms of electronic signatures shall be permitted to bind the parties to this Agreement: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, CRS §§ 24-71.3-101 to -121.

(t) Consent Standard. For all matters requiring the County’s consent or approval under this Agreement, the parties agree that the County shall, within fifteen (15) calendar days after receipt of the matter requiring its approval, provide the Consultant with its approval or disapproval thereof. Failure by the County to deliver to Consultant its approval or disapproval within the required fifteen (15) calendar day period shall be deemed automatic disapproval thereof by the County.

[remainder of page left intentionally blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

**COUNTY OF JEFFERSON,
STATE OF COLORADO**

By: _____
Libby Szabo
Chairman, Board of County Commissioners

STATE OF COLORADO
COUNTY OF JEFFERSON

The foregoing instrument was acknowledged before me this _____ day of _____
_____, 2016 by Libby Szabo as Chairman of the Board of County Commissioners of Jefferson
County, Colorado.

Notary Public

Commission expiration date

Approved as to form:

Assistant County Attorney

SURF FORE, LLC,
a Colorado limited liability company

By: _____
Garrett Baum, Manager

STATE OF COLORADO
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____
_____, 2016 by Garrett Baum, as Manager of the Surf Fore, LLC, a Colorado
limited liability company.

Notary Public

Commission expiration date

Exhibit A

Description of the Property

See attached.

Exhibit B

Rocky Mountain Metropolitan Airport 15 Acre Property Work Plan

Task/Timing	Status as of Effective Date
Phase 1 - Property Inventory to be completed by January 2016	
1. ALTA Survey with Topo	Complete
2. Preliminary Geotechnical Investigation	Complete
3. Title Commitment/Exception Research	Complete
4. Utility Provisions and As-Builts	Complete
5. Existing Agreements (utilities, etc.)	Complete
6. Phase I Environmental Site Assessment with Limited Phase II Sampling	Complete
7. Wetlands and Wildlife Survey	Complete
Phase II - Master Planning and Zoning to be completed by December 2016	
1. Programming and Analysis/Data Collection	Complete
2. Meetings with Broomfield Planning/Engineering Staff regarding Zoning Process, Community/ Neighborhood Meetings	Complete
3. Master Planning including land uses, tract layouts, roadways, access, alignments and rights-of-way, etc.	Complete
4. Project Visioning Concepts	Complete
5. Landscape Design Concepts	Complete
6. Signage Design Concepts	Complete
7. PUD/Preparation and Submittal	Complete
8. Meetings with Broomfield Planning/Engineering Staff regarding comments/revisions, Public Hearings	In Progress
9. Preliminary Cost Estimates	In Progress
10. Master Drainage Report	Complete
11. Master Utility Report	Complete
12. Master Traffic Impact Study	Complete
13. Marketing	Ongoing (1)
Phase III - Design & Engineering to be completed by December 2016	
1. Landscape/Amenity Design	In Progress
2. Signage Design	In Progress
3. Roadway and Utility Engineering	In Progress
4. Drainage Engineering	In Progress
5. Final Cost Estimates	In Progress
6. Master Declaration of Covenants, Conditions and Restrictions	In Progress
7. Design and Development Guidelines and Standards Manual	In Progress
8. Signage Guidelines and Standards Manual	In Progress
9. Marketing	Ongoing (1)

(1) Marketing in an ongoing effort throughout the term of the Agreement

Exhibit C

Annual Report Contents

The following information shall be included, at a minimum, in any Annual Report submitted to the County:

1. Evidence the Consultant is in good standing with the laws of the State of Colorado.
2. Address and phone number of the principal office for the Consultant.
3. Logged number of phone inquiries during the previous period.
4. Number of responses to RFP requests for new development within the boundaries of the Property.
5. Copies of all printed and electronic marketing materials, including all mailings and real estate contacts.
6. Number of active prospects, if any, (confidentially) logged with Jefferson Economic Council.
7. Update all marketing plan and campaign activities and provide updated copies to be kept on file at the Rocky Mountain Metropolitan Airport.
8. Status update on the Owners' Association, if applicable, including the financial standing of the entity and the operations of the Owners' Association.

	EXHIBIT D - INSURANCE REQUIREMENTS –	GENERAL
I	Prior to the commencement of any work the vendor shall forward certificates of insurance to the department specified in the award document.	
II	Certificate Holder must be Jefferson County, Colorado.	Required
II	Jefferson County must be added as an additional insured to general liability, auto liability, and any excess liability policies.	Required
III	Insurance - Minimum requirement	
	Workers compensation - statutory limits provided by an insurance carrier that is licensed to do business in Colorado. Employer's liability - \$100,000 each accident \$500,000 disease policy limit \$100,000 disease each employee	Required
	Commercial General Liability - on an Occurrence Form The policy must not exclude or reduce coverage for mobile equipment, personal injury; blanket contractual; and death. Personal injury coverage must have the employee exclusion deleted.	\$1M ea occurrence \$2M general aggregate
	Commercial automobile liability insurance - including hired and non-owned vehicles. (If autos are used in the performance of work under this agreement.) Combined single limit for bodily injury and property damage.	\$1M CSL per accident
	Professional Liability/Errors and Omissions limits	\$1M ea occurrence \$2M aggregate
	All deductibles or self-insured retentions (SIRs) in excess of \$5,000 must be listed on the certificate of insurance	Required
	Certificates of insurance on all policies to the county shall provide written notice of not less than 30 days prior to cancellation or non-renewal of coverage	Required
	The insurance requirements specified by the county shall remain in effect for the full term of the contract and/or agreement and any extension thereof. Updated Certificates of Insurance shall be sent to the county during the full term of the contract and/or agreement and any extension thereof.	Required
	The county reserves the right to reject any insurer it deems not financially acceptable on insurance industry resources. Property and liability insurance companies shall be licensed to do business in Colorado and shall have an A.M. Best rating of not less than A- and/or VII. Additionally the county reserves the right to reject any insurance with relatively large deductibles or self-insured retentions (SIRs), deemed by the county to pose too high a risk based on the size of the contractor, financial status or rating of the contractor, or based on the size or type of the project and the exposure.	Required
IV	Any deviations below the standards given above must be approved by Jefferson County Risk Management	Required
V	Any subcontractors must meet the same insurance requirements for the contract or purchase order unless Risk Management has approved a deviation	Required

BOARD OF COUNTY COMMISSIONERS BRIEFING PAPER

**RMMA Metro Business Center
Arby's Ground Lease
May 17, 2016**

- For Information For Discussion/Approval
Prior to Future Hearing For Action

ISSUE: Consideration of a new ground lease with the United States Beef Corporation for the lease of a parcel of land for a new Arby's restaurant located on a portion of the vacant 15 acre parcel located on the southwest corner of Metro Airport Avenue and Wadsworth Parkway within the City and County of Broomfield.

BACKGROUND: County staff has been negotiating a new ground lease agreement with United States Beef Corporation for a .9 acre parcel of land. The negotiated terms meet the expectations of the Airport's Lease Policy and require the necessary compliance over time to the Airport's Primary Guiding Documents. The lease parcel will be south of the 7-Eleven lease area.

DISCUSSION: The negotiated lease includes the following terms:

Lease Parcel size: Approximately .9 acre
Original Term: 15 years
Renewal options: Three (3) 5-year renewal options
Total new lease term: 30 years

Other terms typical to a ground lease with the Airport are included in the lease.

FISCAL IMPACT: Lease Payments will be as follows:

	<u>Monthly Rent</u>	<u>Annual Rent</u>
Years 1-5	\$6,250	\$75,000
Years 6-10	\$6,937.50	\$83,250
Years 11-15	\$7,700.63	\$92,407.50
1 st Option Term (16-20)	\$8,547.69	\$102,572.32
2 nd Option Term (21-25)	\$9,487.94	\$113,855.27
3 rd Option Term (26-30)	\$10,531.61	\$126,379.34

RECOMMENDATIONS: Staff recommends that the Board of County Commissioners approve the ground lease between the County and United States Beef Corporation at a future meeting.

ORIGINATOR: Bryan Johnson, Airport Director, ext 4851

CONTACTS FOR ADDITIONAL INFORMATION:

Jeanie Rossillon, Director of Transportation & Development, ext 8575
Kourtney Hartmann, County Attorney's Office, ext 8964

GROUND LEASE

THIS GROUND LEASE is made and entered into as of the ____ day of _____, 2016 by and between **JEFFERSON COUNTY, COLORADO** a body corporate and politic, organized under the laws of the State of Colorado, on behalf of Rocky Mountain Metropolitan Airport ("Landlord") and **UNITED STATES BEEF CORPORATION**, an Oklahoma corporation ("Tenant"). The "Effective Date" of this Lease is the last date this Lease is signed by both parties as shown on the signature page of this Lease.

In consideration of the mutual covenants and agreements set forth herein, Landlord and Tenant do hereby agree as follows:

ARTICLE 1 – LEASE AND TERM

Section 1.01 – Granting of Leasehold. For and in consideration of the rents, taxes and other charges and expenses to be paid by Tenant pursuant to this Lease and the performance by Tenant of the covenants contained herein, Landlord leases to Tenant, and Tenant leases from Landlord, the land located at the Southwest corner of Wadsworth Parkway and Metro Airport Avenue and containing approximately 39,000 sq. ft. (approximately 0.895 acres) as described on **Exhibit A** attached hereto (the "Land") and shown on the site plan attached hereto as **Exhibit B** (the "Site Plan"), both of which are incorporated herein by reference and are a part of this Lease, together with all rights and appurtenances thereto belonging or in any wise incident or appertaining thereto (the "Premises"). The Premises is part of a larger fifteen (15) acre parcel owned by the Landlord (the "Development"). Landlord further grants to Tenant, and its employees, suppliers, contractors, authorized representatives and invitees, the non-exclusive right with other users in the Development to use any means of ingress and egress to property adjoining the Premises that are designated for such general use, insofar as Landlord has the right to grant such use. Notwithstanding anything to the contrary contained in this Lease, Landlord hereby reserves and retains all right, title and interest in and to all mineral rights, water, and water rights appurtenant to or relating to the Premises and the Development, together with any and all reimbursements and credits of whatever nature related to the Premises from any governmental jurisdiction, utility companies, and the District (as defined in Section 1.06(b) below).

Section 1.02 – Term. This Lease shall commence upon the Effective Date ("Commencement Date") and continue for a period of fifteen (15) years from the Rent Commencement Date (defined in Section 5.03). For purposes of this Lease, the period commencing on the Rent Commencement Date and expiring fifteen (15) years thereafter is sometimes referred to as the "Original Term." The Original Term together with all exercised renewal or extension terms are sometimes hereinafter referred to, collectively, as the "Term(s)". This Lease shall be effective as a contract between the Parties as of the Effective Date and the first Lease year hereunder shall include the period from the Effective Date through the last day of the month which is the twelfth (12th) month after the month in which the Rental Commencement Date occurs.

Section 1.03 – Option. So long as Tenant is not then in default of the Lease beyond any applicable notice and cure period, Tenant shall have and is hereby given the right and option to extend the Term of this Lease for up to three (3) successive renewal Terms of five (5) years each in accordance with the provisions hereof (each an "Option" and collectively, the "Options"). The terms, covenants, conditions and provisions set forth in this Lease shall be in full force and effect and binding upon Landlord and Tenant during each and all said renewal Terms except that Rent shall be as set forth in Section 5.01. Tenant agrees to give Landlord written notice of Tenant's intent to exercise its Option to renew the Term of this Lease not less than one hundred eighty (180) days prior to the expiration of the Original Term or the then-current renewal Term hereof, as the case may be.

Section 1.04 – Use of Premises. Subject to the provisions of this Lease, Tenant shall have the right to use the Premises for the purpose of constructing and operating an Arby's fast food service restaurant facility with a drive-thru service window (the "Building") and for any other lawful purpose with Landlord's prior written consent, which shall not be unreasonably withheld, conditioned or delayed (the "Permitted Use").

Section 1.05 – Access. Tenant shall have access to and from the Premises for ingress/egress access as generally shown on the Site Plan and as will be more fully described in the Tenant Site Documents (as defined in Section 7.01).

Section 1.06 – Project Documents; District. (a) Landlord intends (and hereby reserves the right but not the obligation) to apply certain conditions, declarations, covenants, reservations and restrictions (collectively, the "Project Covenants") that will govern the ownership, construction, design, use, operations and maintenance of the Development and which includes the right to create an architectural control committee (the "ACC") and/or an owner's association (the "Association") for the ownership, management and maintenance of common area facilities situated in the Development (e.g., landscape, signage, walkways, roadways, parking, detention ponds, etc.). Tenant acknowledges and agrees that the Premises and Tenant's use and possession thereof will be subject to the Project Covenants and the rules and regulations promulgated thereunder for the use and maintenance of the common areas. Landlord shall deliver to Tenant a copy of any proposed Project Covenant promptly following the completion thereof by Landlord and Tenant shall have the right to review and provide comments thereto with respect to any material and adverse impact it may have on the Tenant's use of the Premises and/or Tenant's Entitlements prior to Landlord's execution thereof. Landlord shall not execute, consent to or otherwise permit the execution of any Project Covenants, or any document amending, modifying or supplementing the Project Covenants, where such document contains provisions which are not commercially reasonable, which are materially inconsistent with any of the terms and conditions contained in this Lease or which would otherwise materially interfere with or diminish any of Tenant's permitted uses, rights and remedies under this Lease. Subject to Landlord's remedies upon the occurrence of a breach by Tenant under the Project Covenants, Landlord shall not take or consent to any action or determination made pursuant to the Project Covenants which is materially adverse to, materially inconsistent with or which would otherwise materially diminish any of Tenant's rights and remedies under this Lease without Tenant's prior written consent, which may be withheld in Tenant's sole discretion.

(b) Landlord reserves the right (but is not obligated) to either create a metropolitan district (the "District") or annex the Premises and/or all or any portion of the Development into an existing District for purposes of financing, constructing, and maintaining public infrastructure situated in the Development. The District, if applicable, may obtain the authority pursuant to a service plan and state statute to undertake the obligation to finance, design, engineer, construct and maintain all or a portion of certain Development public improvements and/or to acquire all or a portion thereof (the "Public Infrastructure"). To the extent the Development is subject to a District and Tenant constructs any Public Infrastructure on the Premises, Tenant agrees that it shall: (i) comply with all applicable District requirements for bidding, verification of costs and submittal of documentation required for evidencing and confirming costs associated with construction of the Public Infrastructure (the "District Requirements"); and (ii) deliver to the District all required certifications, documents and evidence of costs incurred to evidence compliance with the District Requirements.

ARTICLE 2 – DEVELOPMENT APPROVALS; DUE DILIGENCE AND CONTINGENCIES

Section 2.01 – Landlord's Documents. Within fifteen (15) days after the Effective Date, Landlord shall deliver to Tenant a copy of all documents pertaining to the Premises which are in existence and within Landlord's possession or control including without limitation existing surveys, site plans, recorded or proposed restrictions, easements or exclusives, design criteria, grading and drainage plans, soils reports; and environmental or other investigation reports covering the Premises (including that

certain Phase I Environmental Assessment Report dated November 18, 2014 and prepared by Western Environment and Ecology, Inc. (the "Phase I Report") covering the Development) (collectively, "Landlord's Documents"). Tenant acknowledges and agrees that Landlord's Documents will be furnished without any representation or warranty whatsoever from Landlord. Upon the termination of this Lease for any reason, Tenant shall return all Landlord's Documents given to it in connection with the Lease.

Section 2.02. - Development Approvals. (a) Tenant acknowledges that the Premises is currently part of a larger tax parcel and that a final subdivision plat of the Premises (the "Final Plat") must be approved by the City and County of Broomfield (the "City") and all other applicable governmental authorities and recorded in connection with Tenant's receipt of City approvals for Tenant's SDP and SIA (as defined below). The final legal description of the Premises shall be determined based upon the legal description contained in the Final Plat. Tenant further acknowledges that the Premises is a part of the Approved JeffCo Airport Business Center East PUD ("PUD") and that development of the Premises by Tenant must comply with and be completed in accordance with the PUD and all codes, planning requirements and guidelines of the City, as may be amended from time to time. Landlord shall, at Landlord's cost and expense, be responsible for obtaining the Final Plat and any amendment to the PUD (the "Amended PUD") that is necessary to assist Tenant in obtaining the Tenant Approvals (as defined below), provided that Tenant shall provide Landlord with all information about Tenant's construction and development of the Premises necessary for Landlord to complete the same.

(b) Tenant at Tenant's sole cost and expense, shall obtain, (1) all permits, licenses and governmental and private party approvals (collectively, the "Tenant Approvals") determined by Tenant to be necessary or advisable in connection with the operation of the Premises for Tenant's Permitted Use described in Section 1.04; (2) a Site Development Plan ("SDP") in accordance with the requirements of the City; (3) a Subdivision Improvement Agreement ("SIA") in accordance with the requirements of the City; and (4) all building permits required for the construction of the Improvements (the "Building Permits"); the SDP, the SIA and the Building Permits shall be collectively referred to as the "Tenant Entitlements"). The content, terms and conditions of the Tenant Entitlements must be approved in writing by the Approving Parties (as defined in Section 7.01 below) before the same is submitted to the City. Landlord shall reasonably cooperate with Tenant in obtaining the Tenant Entitlements provided that Landlord does not incur any cost or expense in connection therewith.

Section 2.03 – Survey and Title. No later than fifteen (15) days after the Effective Date, Landlord shall deliver to Tenant: (a) a copy of its existing survey of the Development (the "Existing Survey"), (b) the form of the proposed Final Plat, and (c) a title commitment for an ALTA leasehold title policy covering the Premises in the amount of \$1,200,000.00, together with copies of all title exception documents ("Title Commitment") from Land Title Guarantee Company, 3033 E. 1st Avenue, Suite 600, Denver, Colorado 80206; Attn: Sherri Goldstein; Telephone: (303) 321-1880 (the "Title Company"). All costs associated with the Title Commitment and the leasehold policy shall be paid by the Tenant. Upon the recordation of the Final Plat Tenant may elect to obtain, at its sole cost and expense, a revised ALTA/ACSM survey (the "Survey") of the Premises. On or before the expiration of the Feasibility Period (as defined in Section 2.05), Tenant may notify Landlord in writing of (A) any objectionable liens, encumbrances, exceptions, qualifications or other matters of or affecting title shown on the Title Commitment, and (B) any matters, circumstances, or conditions disclosed by the Existing Survey which are not acceptable to Tenant (the "Title Defects"). Landlord shall notify Tenant within ten (10) days following its receipt of the Tenant's written notice which, if any, of such Title Defects Landlord will attempt to cure (the "Landlord Title Notice"). If Landlord declines to cure one (1) or more Title Defects, Tenant may terminate this Lease by notice in writing delivered to Landlord. If Tenant fails to so terminate the Lease prior to the expiration of the Feasibility Period, the Title Defects Landlord declined to cure in its response to Tenant shall be deemed "Permitted Exceptions," provided that in the event any update of the Title Commitment, Survey or

the Final Plat lists any new title matters affecting the Premises after the issuance of the Commitment, Tenant shall have a fifteen (15) day period to object from the date Tenant receives notice of the new title matter, and, if Landlord declines to cure the same Tenant may elect to terminate this Lease or waive its objections in writing within five (5) days following notice of Landlord's election not to cure. Notwithstanding the foregoing, Tenant shall not have the right to object to Tenant's Entitlements or the Final Plat, PUD, Amended PUD or SIA.

Section 2.04 – Tenant's Contingencies. This Lease and Tenant's obligations hereunder are conditioned upon and subject to Tenant's approval of, prior to the expiration of the Feasibility Period, all investigations, studies, due diligence, physical and environmental testing (provided that Tenant may not conduct any Phase II environmental testing on the Premises without Landlord's prior written consent, which may be withheld in Landlord's sole discretion), inspections and other matters concerning the feasibility of Tenant's Permitted Use (collectively, "Due Diligence Contingency") which all such investigations shall be made in accordance with the terms of Section 2.05. Tenant's obligations under this Lease are further contingent upon Tenant obtaining (i) on or before the expiration of the Feasibility Period, all necessary approvals from its franchisor and/or its company board approvals (the "Franchisor Approval Contingency"); and (ii) on or before the expiration of the Approval Period (as defined below), the Tenant Approvals (as defined below) from the appropriate governmental authorities and other required third parties.

Section 2.05 – Feasibility Period. Tenant shall have from the Effective Date until the date which is sixty (60) days after delivery of Landlord's Documents, the proposed Final Plat, Existing Survey and Title Commitment ("Feasibility Period") to perform Tenant's due diligence, review the Title Commitment and object thereto in accordance with the terms of Section 2.03, and obtain approval of this Lease from Tenant's franchisor ("Due Diligence"). In the event the results of any inspection, investigation or evaluation are, in Tenant's reasonable discretion, unacceptable to Tenant, or Tenant fails to obtain franchisor approval, and Tenant provides notice to Landlord of that fact on or before the expiration of the Feasibility Period, then this Lease shall be terminated and neither party shall have any further liability under this Lease except for matters that are expressly designated to survive the termination hereof. Tenant's failure to provide written notice of its termination of this Lease prior to the expiration the Feasibility Period shall constitute its acceptance of the Due Diligence and the satisfaction of the Due Diligence Contingency and the Franchisor Approval Contingency in all respects and this Lease shall be deemed in full force and effect. Tenant shall have the right to enter upon the Premises during the Feasibility Period to conduct its Due Diligence at reasonable times acceptable to Landlord upon reasonable prior notice to Landlord. Tenant shall immediately repair any loss or damage to the Premises caused by the acts or omissions of Tenant or its employees or agents in connection with its access to, or inspection of, the Premises during the Feasibility Period. Tenant hereby agrees to defend, indemnify and hold harmless Landlord from and against any and all liability, loss, damage, cost or expense (including court costs and reasonable attorney's fees), of whatever nature and by whomever asserted, arising out of, resulting from or arising out of Tenant's access to, or inspection of, the Premises during the Feasibility Period. The terms of this Section 2.05 shall expressly survive the termination of this Lease.

Section 2.06 – Approval Period. Tenant shall be diligent and work in good faith to timely submit the Tenant Site Documents in accordance with the terms and conditions of Article 7. Tenant shall have from the Effective Date until the date which is one hundred eighty (180) days after the expiration of the Feasibility Period (the "Approval Period") to obtain all necessary governmental and/or quasi-governmental approvals and permits deemed necessary by Tenant, at its sole discretion, for the Tenant Entitlements (the "Tenant Approvals"). In the event Tenant, after using commercially reasonable efforts, is unable to obtain the Tenant Approvals on or before the expiration of the Approval Period, Tenant may extend the Approval Period for an additional thirty (30) days upon delivery of written notice to Landlord prior to the expiration of the Approval Period. If after using commercially reasonable efforts, Tenant is

unable to obtain the Tenant Approvals on or before the expiration of the Approval Period, as may have been extended, Tenant may, at its sole discretion, terminate this Lease by providing written notice to Landlord prior to expiration of the Approval Period (as extended) and the parties shall have no further obligations hereunder.

ARTICLE 3 – REPRESENTATIONS AND WARRANTIES

Landlord acknowledges and agrees that Tenant's obligations hereunder remain contingent upon Landlord's representations, covenants and warranties described below being true and correct in all material respects on the Effective Date and thereafter until the expiration of the Approval Period. If any of the representations or warranties do not remain materially correct during the Feasibility Period and the Approval Period, Tenant shall have the right to terminate the Lease by providing written notice thereof before the expiration of the Approval Period. Landlord represents, warrants and certifies to Tenant that to the best of Landlord's knowledge:

(a) Zoning. Upon obtaining the Amended PUD, if necessary, the Premises will be zoned to permit Tenant's Permitted Use.

(b) Land. The Land is in compliance with applicable governmental codes, regulations and law.

(c) Environmental. Except as may otherwise be disclosed in the Phase I Report or any other report or document provided to Tenant during the Feasibility Period: (i) the Land is free of Hazardous Substances (defined hereinafter) in amounts requiring removal or remediation under applicable law; (ii) any previous activity occurring during the period of Landlord's ownership of the Land and involving Hazardous Substances on the Land was conducted in compliance with applicable law; and (iii) there are no underground storage tanks remaining under the Land nor were any such tanks buried under the Land.

(d) Possession. The Premises is free and clear of all tenancies, whether oral or written, and Tenant shall have sole and actual possession as of the expiration of the Approval Period (as defined in Section 4.03) subject to the provisions of this Lease.

(e) Title. Landlord owns fee simple title to the Land and has the right and authority to grant the leasehold interest set forth herein, and there are no liens, encumbrances or restrictions affecting the Premises, other than as disclosed in the Title Commitment, Project Covenants, Landlord's rules and regulations covering the Development, District Requirements, Tenant Approvals and/or the Landlord's development approvals described in Section 2.02.

(f) Restrictions. Neither Landlord nor the Premises are subject to any agreements, contracts, or restrictions which would prevent Landlord from fulfilling its obligations under this Lease or which would restrict or prohibit Tenant's use of the Premises as an Arby's Restaurant with a drive-thru service window.

(g) Access. Tenant shall have access to and from the Premises as more fully depicted on Tenant's Site Plan.

(h) Utilities. The water and gas mains, electric power lines and sanitary and storm sewers are or will be located at the boundary of the Premises and available for Tenant's use on or before the expiration of the Approval Period.

(i) Separate Parcel. Upon completion of Landlord's Work, the Premises shall be a platted as a separate lot under applicable zoning and subdivision laws.

ARTICLE 4 – LANDLORD’S WORK AND DELIVERY DATE

Section 4.01 – Plat / Subdivision. Prior to the expiration of the Approval Period, Landlord shall subdivide and plat the Premises as a separate tax parcel and platted as a separate lot under applicable zoning and subdivision laws pursuant to the terms and conditions of Section 2.02. Upon obtaining the Final Plat, Tenant may apply for and follow procedures as are necessary to have the Premises taxed as a separate tax parcel separate from the Development and Landlord agrees to cooperate with Seller in such process.

Section 4.02 – Construction Work. Landlord, at its sole cost and expense, shall complete “Landlord’s Work” as described on **Exhibit C** attached hereto and made a part hereof and Tenant shall, at its sole cost and expense, complete “Lessee Resp (Arby’s)” as described on **Exhibit C** (“Tenant’s Work”). Attached to this Lease as **Exhibit D** is a construction schedule detailing the milestones and dates by which Landlord and Tenant shall complete its construction obligations contained in this Lease (the “Project Schedule”). The dates set forth in the Project Schedule is subject to events of Force Majeure (as defined in Section 26.11).

Section 4.03 – Delivery Date. Landlord shall deliver to Tenant the Land with the Design Work completed no later than July 31, 2016, subject to Force Majeure (as defined in Section 26.11). For purposes of this Lease, “Design Work” means the final grading and utility plans approved by the City of Broomfield for the Development.

ARTICLE 5 – RENT

Section 5.01 – Base Rent. Base rent (“Base Rent” or “Rent”) is due and payable on the Rent Commencement Date (as defined below), and thereafter in advance on the first day of each month during the Original Term of this Lease and all renewals thereto as follows:

<u>Lease Period</u>	<u>Total Monthly Base Rent</u>	<u>Total Annual Base Rent</u>
Lease Years 1 - 5	\$6,250.00	\$75,000.00
Lease Years 6 - 10	\$6,937.50	\$83,250.00
Lease Years 11-15	\$7,700.63	\$92,407.50
1 st Option Term (Lease Years 16-20)	\$8,547.69	\$102,572.32
2 nd Option Term (Lease Years 21-25)	\$9,487.94	\$113,855.27
3 rd Option Term (Lease Years 26-30)	\$10,531.61	\$126,379.34

Section 5.02 - Additional Rent. Tenant shall pay, as "Additional Rent", all other payments of whatever nature that Tenant has agreed to pay or assume under the terms and provisions of this Lease, including, without limitation, any costs, fees or amounts due and payable by lessees of the Development pursuant to the Project Covenants. All such amounts payable under this Section are referred to as Additional Rent. Base Rent and Additional Rent may be referred to collectively as "Rent." All Rent shall be paid in lawful money of the United States to Landlord at the address for providing notice to Landlord under this Lease, or as otherwise designated from time to time by written notice from Landlord to Tenant.

Section 5.03 – Rent Commencement. Rent shall be due and payable commencing on the earlier of (a) the date Tenant opens the Premises for business, or (b) sixty (60) days after the expiration of the

Approval Period ("Rent Commencement Date"). In the event the Rent Commencement Date is other than the first day of the month, Tenant shall pay a pro rata amount of Rent based on the remaining number of days in such partial month.

Section 5.04 – Additional Documents. Within twenty (20) days following the Rent Commencement Date, Landlord and Tenant each agree to execute and acknowledge a memorandum of lease or short form lease (the "Memorandum of Lease"), in substantially the same form as shown on **Exhibit E** attached hereto, which may be filed for record by either party any time after the Rent Commencement Date, setting forth, without limitation, the parties, a sufficient description of the Premises, the Term, Extension Term, a description of any exclusive use provisions contained in this Lease, any right of refusal of Tenant under this Lease, and any other provisions mutually agreed upon by the parties. Failure by the parties to timely execute and deliver the Memorandum of Lease shall not invalidate any provision of this Lease.

ARTICLE 6 – TAXES

Section 6.01 – Taxes. Landlord is a tax exempt entity and is not required to pay Taxes (as defined below) with respect to the Development. Nonetheless, Tenant shall, during the Term of this Lease, pay before delinquency all taxes and assessments, general, and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against the Premises, or any part thereof, upon Tenant's personal property, or upon Tenant's interest in the Premises under this Lease; and Tenant shall pay all water and sewer charges, assessments, and other governmental charges and impositions whatsoever, which if not paid when due, would encumber Landlord's title to the Premises (all of the foregoing taxes, assessments, charges or impositions are referred to as "Taxes"). Tenant shall not be responsible for the payment of any tax or assessment imposed by any governmental authority upon the rentals received by Landlord from the ownership, leasing or use of the Premises or any part thereof, any tax measured by Landlord's income or upon the proceeds of the sale of the Premises or any part thereof. Taxes for the calendar year in which this Lease commences or terminates shall be prorated between Landlord and Tenant based upon the number of days out of the full calendar year during which the Term of this Lease continues. In the event any special assessments are levied and assessed which may be paid in installments, Tenant shall be required to pay only such installments thereof which accrue during the Term of this Lease from the Rent Commencement Date as and when the same become due and payable.

Section 6.02 – Receipted Statements. Tenant shall deliver to Landlord a copy of the payment receipt for any Taxes upon Landlord's written request, but no earlier than thirty (30) days after the last day that payment can be made without penalty or interest of any such Taxes. If Tenant does not pay Taxes in a timely manner, then in addition to Landlord's other rights and remedies, Landlord may require Tenant to pay monthly as due hereunder, an amount equal to one-twelfth of the last ascertainable tax bill for the Premises. Such deposits shall be used, to the extent thereof, to pay Taxes as and when due and payable; provided, however, that the payment of deposits shall not limit or modify Tenant's obligations to pay Taxes hereunder.

Section 6.03 – Contest of Taxes. Tenant shall have the right, at its sole cost, to contest the validity or amount of any Taxes by appropriate proceedings instituted at least ten (10) days before the Taxes becomes delinquent if, and provided, Tenant: (i) diligently prosecutes any such contest; (ii) at all times effectively stays or prevents any official or judicial sale of the Premises, or any part thereof or interest therein, under execution or otherwise; and (iii) promptly pays any final judgment enforcing the Taxes or thereafter promptly procures record release or satisfaction thereof. Tenant shall protect, defend and indemnify and hold harmless Landlord from any claims, losses, liabilities, damages, costs and expenses Landlord may incur related to any such contest or Tenant's failure to pay Taxes prior to delinquency as required under this Lease. The foregoing indemnity shall survive any termination of this Lease.

ARTICLE 7 – TENANT’S IMPROVEMENTS

Section 7.01 – Construction of Tenant Improvements. (a) Within sixty (60) days following Tenant’s receipt of Landlord’s Base Plans (as defined below), Tenant shall, at its sole cost and expense, cause its architects and civil engineers to prepare and submit to Landlord and, if applicable, the ACC and the Association and the City (collectively, the “Approving Parties”), all documents pertaining to Tenant’s site plan, landscape plan, building elevations and materials, site and building signage, site lighting and construction of the Improvements and the Tenant Entitlements (collectively, “Tenant Site Documents”). For purposes of this Agreement, Landlord’s base plans shall be the proposed grading, access and utility layout specific to the Premises (the “Base Plans”). The Approving Parties shall have fifteen (15) calendar days following its receipt of all of the Tenant Site Documents to review, comment and approve or disapprove the same (the “Approval Deadline”). Written comments by the Approving Parties, if any, shall be delivered to Tenant on or before the Approval Deadline. Tenant shall have fifteen (15) calendar days following receipt of any written comments from the Approving Parties to revise the Tenant Site Documents according to the comments given to Tenant. This review process shall continue until such time as the Tenant Site Documents are approved by the Approving Parties. If the Parties cannot agree, either Party may terminate this Lease by providing prior written notice thereof to the other Party. Tenant shall submit the applicable Tenant Site Documents to the City within three (3) days following its receipt of the Approving Parties’ written approval thereof. All Tenant Site Documents shall be prepared and processed through the City in accordance with the City’s site plan and concept hearing procedures and regulations. Tenant shall pay all reasonable costs incurred by the Approving Parties in connection with their review of the Tenant Site Documents, including, without limitation, any review fees imposed promptly upon demand therefor.

(b) Tenant shall use good faith efforts, subject to Force Majeure, to construct or cause to be constructed on the Premises a building and other site improvements in accordance with the approved Tenant Site Documents, SDP, PUD, the Amended PUD (if applicable), SIA and the recorded Final Plat for the Permitted Use (collectively, the “Improvements”), subject to the provisions and requirements of this Lease (including the terms and conditions contained in **Exhibit F** (“the “Work Letter”)), all government agencies having jurisdiction thereover, and the approval of Landlord, the ACC and/or Association, if applicable. Tenant shall perform all construction of the Improvements in material compliance with all rules and regulations established by any applicable ACC or Association, the Landlord and the terms and conditions this Lease, the Work Letter and all applicable laws, statutes, ordinances, codes, rules, regulations, and directives (collectively, “Laws”), including, but not limited to, the Americans with Disabilities Act and only after obtaining and maintaining in full force and effect all Tenant Entitlements. Tenant shall obtain, or cause to be obtained, payment and performance bonds to the extent required by Jefferson County or other governmental authorities in connection with the construction and completion of the Improvements prior to commencing construction and, upon Landlord’s request, provide Landlord evidence thereof. Tenant shall be diligent in constructing the Improvements in a good and workmanlike manner on or before the first anniversary of the Tenant’s commencement of the construction thereof (the “Outside Completion Date”). If Tenant’s failure to complete the Improvements continues for more than twelve (12) months following the Outside Completion Date, Landlord shall have the right (but not the obligation) to terminate this Lease and recapture the Premises without any further notice and demand. The cost of the Improvements and any fines imposed for failure of Tenant to comply with applicable Laws shall be borne solely by Tenant.

Section 7.02 – Alterations. Provided there is no occurrence of an Event of Default that continues beyond all applicable notice and cure periods, Tenant may make such non-structural alterations or additions to the Improvements at any time on the Premises that Tenant desires, subject to current building codes and industry standards, provided that any and all exterior modifications shall require the prior written approval of Landlord, ACC and/or the City (if applicable). Such alterations or additions will be made in a good workmanlike manner without cost to Landlord, and shall be free and clear of mechanics’ and materialmen’s

liens provided that if any such lien is filed, Tenant shall either promptly bond or discharge the same or it may contest the same in good faith. Tenant shall provide Landlord no less than ten (10) business days' prior written notice of commencing any non-structural improvements to the Premises and Improvements which might give rise to lien rights in third parties so that Landlord shall have sufficient time to post appropriate notices of non-responsibility. Structural alterations or additions shall require the prior written consent of Landlord (and, if applicable, ACC and the City), as determined in its sole discretion.

Section 7.03 – Fixtures, Furniture and Equipment. Provided there is no occurrence of an Event of default that continues beyond all applicable notice and cure periods, Tenant may at any time and from time to time during the Term of this Lease install within the Premises any and all trade fixtures and operating equipment which Tenant deems necessary or advisable in connection with the conduct of its business (the “Trade Fixtures”); provided, however, Trade Fixtures shall not include grease traps, ventilating hoods, heating, ventilating and air-conditioning systems, and all electrical, mechanical and plumbing systems and components thereof that constitute an integral part of the Improvements. Any and all Trade Fixtures may be removed by Tenant from the Premises and Tenant shall repair, at its expense, any damage caused to the Premises by reason of such removal. Subject to the prior written approval of Landlord, the ACC, and all applicable governmental authorities, Tenant may, at Tenant's sole cost and expense, plan, design, construct, supervise and maintain upon the roof and/or the exterior of the Building any air-conditioning and electrical equipment, alarm bells and equipment, antennas, satellite dishes and similar facilities which may protect or service the Building and/or Premises, provided that the same comply with all applicable governmental codes, ordinances, rules, regulations and laws and Landlord's rules and regulations of the Development. Any such facilities which shall be so installed or erected shall, unless and until Tenant may (but shall not be obligated to) remove the same, be maintained by Tenant at Tenant's own cost and expense and any damage to the Premises caused by the removal thereof shall be repaired, at Tenant's expense, upon the expiration or earlier termination of the term of this Lease.

ARTICLE 8 – SIGNAGE

Subject to the prior approval of the Approving Parties and any required governmental approvals, Tenant shall, at its sole cost and expense, have the right to install on the Premises, all signage which is typical of its other restaurants or otherwise desired by Tenant (“Tenant's Signage”). It is acknowledged and agreed that the installation and use of Tenant's Signage are subject to the approval of the local municipality and regulatory agencies. With respect to Tenant's Signage installed by or on behalf of Tenant, Tenant shall, at Tenant's sole cost and expense: (i) install and maintain such signs in full compliance with all applicable laws, ordinances, regulations, rules and orders of any governmental authority having jurisdiction; (ii) obtain all necessary licenses and permits in connection therewith; (iii) install and promptly repair, maintain and service all such signs in accordance with proper techniques and procedures; (iv) indemnify, hold harmless and defend Landlord from all loss, cost, damage or expense, including attorney's fees, arising out of any claim relating to the installation, existence, operation, maintenance, repair, removal or condition of any such sign; and (v) on or before the termination of this Lease, remove all such signs and shall immediately repair any damage caused by removal.

ARTICLE 9 – USE

Section 9.01 – Compliance with Law. Tenant, at Tenant's sole cost and expense, shall obtain all business licenses, operating permits and other approvals for the operation of Tenant's Permitted Use at the Premises. Tenant, at Tenant's expense, shall comply with all laws, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities (“Laws”) pertaining to Tenant's use or occupancy of the Premises, regardless of when such Laws become effective including, without limitation, all applicable federal, state and local laws, regulations or ordinances pertaining to air and water quality, Hazardous Substances, waste disposal, air emissions and other environmental matters,

all zoning and other land use matters and utility availability, any Laws pertaining to accommodations for the disabled (including, but not limited to, the Americans With Disabilities Act of 1990), and with any direction of any public officer or officers, pursuant to law, which shall impose any duty upon Landlord or Tenant with respect to the use or occupation of the Premises.

Section 9.02 – Nuisance. Except as typical, usual and customary in connection with the operation of an Arby's Restaurant, Tenant shall not suffer, permit or commit any waste, nor allow, suffer or permit any odors, vapors, steam, water, vibrations, noises or other undesirable effects to emanate from the Premises. Upon written notice by Landlord to Tenant that any of the aforesaid is occurring, Tenant, at its sole cost and expense, agrees to make such commercially reasonable changes in the Premises and/or install or remove such apparatus or equipment therein or therefrom as may be required by Landlord for the purpose of obviating any such conditions.

Section 9.03 – Continuous Operations. Tenant will operate Tenant's Permitted Use and will carry on its business diligently and continuously at the Premises through the Term of this Lease. If Tenant ceases to conduct business at the Premises, as Landlord's sole remedy, Landlord shall have the right (but not the obligation) to terminate this Lease and recapture the Premises by giving Tenant at least ninety (90) days prior written notice of the recapture date (the "Recapture Notice"). For purposes of the foregoing, Tenant shall be deemed to have ceased to conduct business at the Premises only if Tenant (or its subtenants or assignees) shall fail to open for business for a period of at least ninety (90) consecutive days, other than a temporary vacation resulting from any breach or default by Landlord or other cause referenced in Section 7.02 (Alterations) and Articles 18 and 19 (Casualty and Eminent Domain), or other causes beyond the reasonable control of Tenant or otherwise permitted under this Lease. If Landlord gives notice of its election to terminate this Lease and recapture the Premises, this Lease shall terminate as of the recapture date as set forth in the Recapture Notice, which recapture date shall be at least ninety (90) days after Tenant's receipt of the Recapture Notice, unless, prior to the recapture date (i) Tenant shall be open and operating at the Premises or (ii) Tenant shall have entered into a written assignment or sublease agreement complying with the requirements of Article 10 and the assignee or sublessee shall be open and operating at the Premises or in the process of making expeditious and diligent efforts to design, obtain permits for or construct renovations, fixturize, stock or open for business and shall continue to do so promptly and with due diligence and upon completion shall promptly open for business at the Premises. Upon the date of the Recapture Notice, both Landlord and Tenant shall be released from any and all duties, liabilities and obligations under this Lease accruing on or after the recapture date.

Section 9.04 - Tenant's Exclusive Use. (a) So long as there is no Event of Default that continues beyond any applicable notice and cure periods, and as long as Tenant is in the business of operating an Arby's fast-food restaurant, Landlord covenants that, for so long as this Lease is in effect, including any extensions thereof, subsequent to the Effective Date of this Lease, Landlord shall not sell nor lease any portion of the Development owned by Landlord or any affiliate or related entity of Landlord or its principals to or by a third party or for or by itself (or any affiliates or related parties) for the operation of a fast-food or quick serve restaurant serving roast beef sandwiches as their primary business ("primary" meaning 15% or greater of its total annual gross revenues are derived from roast beef sandwiches) or the following restaurants operating under the listed trade names, or operating under any successor trade names: Lion's Choice. This restriction shall not apply to any portion of the Development being operated by a delicatessen, grocery store, sit-down restaurant, or self-serve establishment offering roast beef sandwiches. Notwithstanding the foregoing, Tenant agrees that the provisions of this Section 9.04 shall be of no force and effect if, at any time the right granted Tenant in this Section would violate any statute, decision, order, ruling or decree or any court or any governmental legislative, administrative, regulatory, adjudicatory or arbitrational body or agency having jurisdiction over Landlord, Tenant or the Premises, or an Event of Default exists and continues beyond all applicable notice and cure periods. This Section shall not apply to any lease that has been executed prior to the date of this Lease and any assignment or

sublease of any such lease or any renewal, expansion or relocation of any space that is the subject of any such lease.

(b) In the event such exclusive use covenant is violated by Landlord, Tenant shall give Landlord written notice of such breach and Landlord shall have thirty (30) calendar days from the date of said notice (or such longer period as may be reasonably required if Landlord is diligently attempting to remedy same but in no event to exceed sixty (60) calendar days) to remedy same. If Landlord fails to remedy such breach within the applicable cure period, Tenant shall have the right to immediately elect to exercise the following remedies as Tenant's sole and exclusive remedy: (i) abate and reduce Rent by fifty percent (50%) during the period of such violation; and/or (ii) terminate this Lease by written notice to Landlord.

(c) Landlord hereby grants Tenant the right to institute an action, including an action for damages or injunctive relief, against any tenant or occupant of the Development operating in violation of the rights granted Tenant in this Section 9.04. Tenant agrees to defend, protect, indemnify and hold Landlord harmless from and against any and all liability, judgments, losses, costs (including, without limitation, attorney's fees and court costs), cause of action and damages arising out of or in connection with the right granted to Tenant pursuant to the provisions of this Section 9.04(c).

ARTICLE 10 – ASSIGNMENT AND SUBLETTING

Section 10.01 – Tenant Assignment; Transfer Sublease. (a) Except as provided below, Tenant may not assign, sublease, sell or in any other manner transfer, convey or dispose of this Lease or any interest therein or part thereof, whether voluntary, involuntary or by operation of law, without the prior written consent thereto of Landlord, which shall not be unreasonably withheld, conditioned or delayed; provided, however, that any assignment, transfer or subletting shall be subject to the Premises being operated for the Permitted Use, and that Landlord shall have the right to review financial statements and other documentation relating to the financial state of the proposed sublessee, transferee or assignee as may be reasonably necessary in order for Landlord to determine whether to grant such written consent. No assignment, sublease, mortgage, pledge, sale, other transfer, conveyance or disposition shall release or discharge Tenant from its duties and obligations under this Lease. Provided Landlord's consent has been obtained and Tenant's assignee has agreed by written instrument acceptable to Landlord to assume all of Tenant's obligations hereunder, any assignee, as Tenant hereunder shall be entitled to enforce any and all rights of Tenant hereunder. Any consent by Landlord pursuant to this provision shall be held to apply only to the specific transaction thereby authorized. Such consent shall not be construed as a waiver or release of the duty of Tenant, or the successors or assigns of Tenant, to obtain Landlord's consent to any other transaction.

(b) Notwithstanding anything contained herein to the contrary, subject to Landlord's mortgagee's prior written consent, Landlord's consent shall not be required for an assignment or sublease of the Lease to (i) any subsidiary, parent or division of Tenant, or a merger or consolidation of Tenant with another corporation of Tenant; (ii) a corporation or limited liability company in which Tenant owns a majority ownership interest; or (iii) an entity with a net worth in excess of Fifty Million and 00/100 (\$50,000,000.00) Dollars (as determined by generally accepted accounting principles consistently applied), that results from a reorganization, a spin-off or split-off of or from the Tenant. Except in the case of a reorganization spin-off or split-off under (iii) above, if Tenant assigns this Lease or sublets the Premises, Tenant shall remain fully liable hereunder for any obligation whether past, present or future. Consent to any assignment or subletting for which Landlord's consent (or Landlord's mortgagee's consent) is required shall not be deemed consent to any subsequent assignment or subletting. Any assignee or subtenant hereunder shall expressly assume in writing all obligations on Tenant's part to be performed under this Lease from and after the effective date of the assignment or subletting.

Section 10.02 – Landlord Assignment; Transfer. In the event of (a) a sale of all or any portion of the Development, or (b) a transfer and assignment by Landlord of its interest in this Lease to a person or other entity that is solvent at the time of such sale or assignment, Landlord shall thereby be released from any liability hereunder which accrues after the effective date of such sale, transfer or assignment, and Tenant agrees to look solely to such successor in interest of Landlord for performance of such subsequently accruing obligations. Landlord shall provide Tenant written notice in the event Landlord conveys title to the Premises, or assigns Landlord's interest in this Lease to another party. Such notice shall include such party's tax identification number and shall be accompanied by documents (including a W-9 form or similar tax documents) which evidence the transfer of title or assignment of interest and the effective date thereof. After receipt of such notice, rent and other payments due and future notices to Landlord shall be given to the party designated therein and Tenant shall attorn to the new owner as substitute Landlord.

ARTICLE 11 – REPAIRS AND MAINTENANCE

Section 11.01 – Tenant Obligations. Subject to the provisions of Article 19, Tenant agrees that during the Term it will, at its expense and without any expense to Landlord, make all necessary repairs to or replacements of the Improvements and all parking areas, sidewalks, curbs, driveways, Tenant's Trade Fixtures and personal property, lawns and landscaping on the Premises including the landscaping located on the back of the sidewalk of the Premises, and maintain the Premises and the Improvements, in material accordance with all applicable Laws and in compliance with the Project Covenants, and all rules and regulations of the Development, and in good, sanitary and neat order, condition and repair, including repairs and replacement of the electrical, plumbing, heating, air conditioning and other equipment of all types on or in the Premises or the Improvements. Tenant, at its sole expense, shall keep any sidewalks and parking areas on the Premises free from snow, ice, rubbish and other obstructions. Tenant shall dispose of all trash and waste and recyclable material in outside trash and/or recycling containers and all garbage awaiting collection will be kept in closed containers, and shall be kept out of view to the extent reasonably possible. Tenant shall, at all times during the Term, assure that the Premises and the Improvements are in material compliance with all applicable Laws so as not to create a nuisance. Tenant shall not commit waste with respect to the Premises. The Parties intend that Landlord have no obligation, in any manner whatsoever, to repair and maintain the Premises or the Improvements or any equipment therein or thereon, whether structural or non-structural, during the Term, all of which obligations are intended to be imposed on Tenant; provided, however, if Tenant fails to repair and maintain the Premises as required herein, Landlord may complete any such repair and maintenance and Tenant shall reimburse Landlord for its actual out of pocket costs and expenses in connection therewith within twenty (20) days following written demand therefor.

Section 11.02 – Landlord Obligations. Landlord warrants and represents that, except in the event of an emergency or with respect to temporary closures occurring as a result of the operation and management of the Development, it shall not exercise its control of the Premises in any way, or take any permanent action, which shall materially and adversely restrict access to, or visibility of, the Premises, materially and adversely impair or interfere with the operation of Tenant's business or materially and adversely prevent the ingress or egress to the Premises.

ARTICLE 12: Intentionally Omitted.

ARTICLE 13 – LIENS

Section 13.01 – Mechanics' Liens. (a) Tenant shall not do or suffer anything to be done whereby the Premises may be encumbered by any mechanic's or other similar lien ("Lien") and if, whenever and

as often as any Lien is filed against the Premises, purporting to be for or on account of any labor done or materials or services furnished, for or under the authority of Tenant or anyone claiming by, through or under Tenant, Tenant shall discharge the same of record within thirty (30) days after Tenant receives written notice that such Lien is filed. Notice is hereby given that Landlord shall not be liable for any labor or materials furnished to Tenant or anyone claiming by, through or under Tenant upon credit, and that no Lien for any such labor, services or materials shall attach to or affect the reversionary or other estate of Landlord in and to the Premises or any part thereof.

(b) Notwithstanding the foregoing, Tenant shall have the right to contest any Lien if: (i) Tenant notifies Landlord in writing of Tenant's intention to contest the Lien within the thirty (30) day period stated in Section 13.01(a); (ii) Tenant diligently prosecutes such contest and at all times effectively stays or prevents any official or judicial sale of the Premises, under execution or otherwise; (iii) Tenant promptly pays or otherwise satisfies any final judgment adjudging or enforcing such contested Lien claim and thereafter promptly procures record release or satisfaction thereof; and (iv) Tenant shall protect Landlord by a good and sufficient surety bond, in an amount and with a company acceptable to Landlord, against any such Lien and any cost, liability, or damage arising out of such contest. If Tenant fails to discharge any such Lien or deposit such security within such thirty (30) day period, Landlord may pay and discharge such Lien without inquiring into the validity thereof, and Tenant shall, upon demand, reimburse Landlord for the amount so paid, regardless whether such Lien be valid or not.

Section 13.02 – No Liens. Tenant shall have no right, authority or power to bind Landlord or any interest of Landlord in the Development or the Premises, nor may the leasehold under this Lease or Tenant's right, title and interest in and to this Lease be encumbered, pledged, or transferred without Landlord's prior written consent and if given, subject to the terms and conditions of Article 22. Subject to the terms of Section 13.01, Tenant shall not place or permit any lien, claim or encumbrance resulting from Tenant's actions or inaction to be placed on, upon or against the Premises or the Development.

Section 13.03 – Indemnification. Notwithstanding the foregoing, at all times relevant hereto, Tenant shall indemnify, defend and hold harmless, Landlord and Landlord's mortgagee for, from and against any mechanic's lien filed or threatened against the Premises arising out of or resulting from work, labor or materials provided for or at the request of Tenant or anyone claiming by, through or under Tenant, and shall pay for all costs (including attorneys' fees and costs) incurred by Landlord and its mortgagee due to same.

ARTICLE 14 – UTILITIES

Tenant shall make all arrangements for obtaining service contracts and shall pay for all utilities and services furnished to, or to be used on, the Premises and/or in connection with the Improvements, including, without limitation, electricity, water, gas, sewer, telephone service and trash collection, and Tenant shall be responsible for the payment of all service commencement charges, meter and meter reading fees, tap fees, tap connection fees, tap license fees and all other costs relating to such utilities and services (collectively, the "Utilities"). All Utilities contracted for by Tenant shall be in Tenant's own name, shall be paid directly to the utility companies or other entities to which such charges and fees are payable and Tenant will be responsible for ensuring that all billing statements for all utilities will be mailed directly to Tenant for payment. Tenant shall, at its sole cost and expense, procure any and all permits, licenses or authorizations necessary in obtaining the Utilities. All costs of extending utilities from the boundary of the Premises to the Building to be constructed thereon by Tenant shall be the responsibility of Tenant.

ARTICLE 15 – INDEMNITY AND INSURANCE

Section 15.01 – Indemnity. Tenant shall indemnify, protect, defend, and hold harmless Landlord, and its officers, directors, employees, agents, and affiliates from and against any and all claims, demands, liabilities, and costs, including attorneys’ fees, arising out of or resulting from damage or injury, actual or claimed, of whatsoever kind or character, to property or persons, occurring or allegedly occurring in, on or about the Premises during the Term of this Lease, caused by or attributable to the negligence, omission, or intentional acts of Tenant, its agents, representatives, employees, contractors, subcontractors, invitees, licensees or guests, and Tenant shall, through counsel of Landlord’s choice reasonably acceptable to Tenant, defend Landlord in any action or proceeding brought thereon. The foregoing indemnity and obligation to defend shall not apply to claims resulting from the gross negligence or willful misconduct of Landlord. The foregoing indemnity and defense obligations shall survive any termination or expiration of this Lease as to claims accruing prior to such termination or expiration.

Section 15.02 – Liability Insurance. Tenant shall maintain at all times during the Term of this Lease, and prior to any entry upon the Premises during the Feasibility Period, at Tenant’s expense, the types of insurance in the amounts set forth on **Exhibit G** attached hereto and incorporated herein. At all times when construction is being performed on or about the Premises or on, in or about the Improvements, Tenant shall cause all of its contractors and subcontractors to maintain the types of insurance in the amounts shown on **Exhibit G**. Tenant shall furnish Landlord a certificate from the insurer evidencing such coverage and naming Landlord as additional insured under the policy.

Section 15.03 – Waiver of Subrogation. Landlord and Tenant hereby waive all claims of recovery from the other party for loss or damage to any of its property to the extent of any recovery collectible under valid and collectible property insurance policies or any recovery that would have been collectible if the party suffering the loss or damage maintained the property insurance policies required under this Article 15. In no event shall this clause be deemed, construed or asserted: (i) to affect or limit any claims or rights other than the right to recover damages for loss, damage or destruction to property; or (ii) to benefit any third party other than Landlord and Tenant. The obligations set forth in this Section 15.03 shall survive the termination or expiration of this Lease as to claims accruing prior to such termination or expiration.

ARTICLE 16 – ACCESS

The representatives and agents of Landlord, upon 48 hours’ prior written notice to Tenant (except in the event of an emergency as determined in Landlord’s discretion, in which case no prior notice is required), shall have the right to enter the Premises at reasonable times for the purpose of (i) inspecting the same, (ii) showing the same to prospective purchasers or lenders, and (iii) showing the same to prospective lessees within ninety (90) days of the end of the Term, except upon the occurrence of an Event of Default that continues beyond all applicable notice and cure periods, in which case Landlord may show the same at anytime. Landlord shall not materially interfere with or materially disturb Tenant’s business operations during any such inspections.

ARTICLE 17 – ESTOPPEL; SUBORDINATION

Section 17.01 – Estoppel Letter. The parties agree that, upon written request by the other party or its mortgagees, the non-requesting party will execute and deliver to the requesting an estoppel certificate, within twenty (20) calendar days following a request by the requesting party providing information regarding the date of this Lease, rental amount, existence of defaults, if any, amount of any prepaid rent, and such other information as is customarily requested in estoppels for retail ground leases. Such estoppel shall be executed and delivered by the non-requesting as may be requested by the requesting party. The requesting party, its mortgage lenders and purchasers shall be entitled to rely upon such estoppel certificate.

Section 17.02 – Attornment. If any person shall succeed to all or part of Landlord's interest in the Premises, whether by purchase, foreclosure, deed in lieu of foreclosure, power of sale or otherwise, and if so requested or required by such successor-in-interest, Tenant shall attorn to such successor landlord and shall execute such agreement in confirmation of such attornment as such successor landlord shall reasonably request, so long as such successor landlord agrees to recognize Tenant's rights hereunder. No mortgagee or successor-in-interest shall be: (i) liable for any act or omission of Landlord or subject to any offsets or defenses which Tenant might have against Landlord (prior to such party becoming Landlord under such attornment) except for continuing acts of default; (ii) liable for any security deposit or bound by any prepaid Rent not actually received by such party; or (iii) bound by any future modification of this Lease not consented to by such party. Any mortgagee of Landlord may elect to make this Lease prior to the lien of its mortgage; such elections shall be effective upon written notice to Tenant. Notwithstanding the foregoing, the Tenant's agreement to attorn and subordinate under this Article 17 is conditioned upon the successor landlord's agreement to not disturb Tenant's possession hereunder as long as Tenant is not in default under this Lease beyond any applicable notice and cure periods.

Section 17.03 – Subordination. This Lease is and shall remain subject and subordinate to, all present and future mortgages now or hereafter in existence, and to any and all present and future extensions, modifications, consolidations, replacements and renewals thereof so long as such mortgagee shall recognize the validity of this Lease and Tenant's right of possession in the event of a foreclosure of Landlord's interest and also Tenant's rights hereunder so long as Tenant is not in default of the Lease

ARTICLE 18 – EMINENT DOMAIN

Section 18.01 – Eminent Domain. If during the Term of this Lease, title to all or a portion of the Premises is condemned by any authority having the power of eminent domain, Tenant shall have the option to terminate this Lease in the event such taking either (i) prohibits, or materially and adversely reduces or restricts access or parking for the Premises, or (ii) materially and adversely interferes with the Tenant's business operations. In the event Tenant terminates this Lease, it shall provide Landlord with thirty (30) days' written notice and neither party shall have further obligations hereunder except to the extent of their respective rights to collect condemnation proceeds and participate in such proceedings. The termination of this Lease as provided above shall not operate to deprive Tenant of the right to make a separate claim for an award in condemnation for the loss of Tenant's leasehold, Trade Fixtures and Improvements but Tenant shall assign to Landlord all compensation paid to Tenant (or the right to receive) that is allocable to the fee of the Premises. In the event Tenant elects not to terminate this Lease, the Rent and other charges hereunder shall be reduced in the same proportion that the amount taken bears to the whole of the Premises.

Section 18.02 – Temporary Taking. In the event access to the Premises is ever prevented by Landlord as a result of on-site or off-site improvements or alterations to public or private streets, roads or rights of way so that Tenant cannot operate its business from the Premises for a period of more than two (2) consecutive days (if performed by Landlord other than as a result of Tenant's violation of this Lease), Tenant shall be entitled to abate Rent by fifty percent (50%) of the then scheduled payment amounts until the date such lack of access is abated so that Tenant can again operate at the Premises. In the event of any temporary taking or restriction on Tenant's access to the Premises is performed by a third party, municipality or governmental authority, Tenant shall be entitled to pursue condemnation awards directly from such authority as provided in Section 18.03 below.

Section 18.03 – Application of Condemnation Proceeds. If any condemnation of the Premises occurs, any condemnation awards (or any surplus after reconstruction) shall be apportioned between Landlord and Tenant, with Tenant to receive all proceeds for the Building and improvements and

Landlord to receive proceeds for the taking of the land on which the Building and improvements are located, together with such other proceeds to which they are entitled by applicable law.

ARTICLE 19 – DAMAGE AND DESTRUCTION

In the event the Premises is damaged or destroyed by fire or any casualty or peril covered by insurance maintained under Article 15 (or required to be maintained under Article 15), Tenant shall cause the same to be fully repaired and restored to the condition existing immediately prior to such damage or destruction (subject to changes necessary to comply with then existing Laws applicable thereto and any changes in design by Tenant that are approved in writing by Landlord and ACC). Notwithstanding the foregoing, in the event the Building is wholly or partially damaged or destroyed by fire or any casualty or peril within the last two (2) years of the Original Term of this Lease or, if an applicable Option has been exercised, during the last year of any Option Term, so that Tenant shall be prevented from using the Building for more than forty-five (45) consecutive days due to such damage or destruction, then either Landlord or Tenant may terminate the Lease by providing written notice of such termination to the other party within sixty (60) days after the occurrence of such damage or destruction and Tenant shall turn over, if received, or assign to Landlord the insurance proceeds as a result thereof; provided, however, in the event Tenant elects to terminate the Lease, Tenant shall retain a portion of the insurance proceeds, as reasonably determined by Tenant, necessary to remove all of the damaged Improvements and restore such portions of the Premises to either a landscaped or dustcap paved condition. In the event that this Lease shall remain in full force and effect pursuant to the provisions of this Article, the Base Rent and all other charges payable by Tenant hereunder shall be reduced or abated as of the date of the occurrence of such damage or destruction.

Notwithstanding anything to the contrary contained in this Article 19, if any casualty or peril occurs affecting the Premises and/or Improvements is caused by Tenant's, or Tenant's employees, officers, directors or agent's willful misconduct, Tenant shall be required to restore such portions of the Premises and Improvements to the condition existing prior to the occurrence of the casualty at Tenant's sole cost and expense.

ARTICLE 20 – DEFAULT AND REMEDIES

Section 20.01 – Tenant Default. The following events shall constitute an (“Event of Default”) hereunder:

- (a) Tenant's failure to pay any installment of Base Rent within ten (10) days following written notice that such sum is past due; or
- (b) Tenant's failure to pay any sum (other than Base Rent) due Landlord hereunder within ten (10) days following written notice that such sum is past due (unless a shorter time period is expressly provided elsewhere in this Lease); or
- (c) Tenant fails to continuously operate the Permitted Use in the Premises from and after the Rent Commencement Date for a period of ninety (90) consecutive days or more; or
- (d) Tenant assigns, subleases or transfers all or any part of its interests in the Lease, Improvements or the Premises without Landlord's prior written consent, or in violation of Article 10; or
- (e) Tenant hypothecates, pledges, encumbers or attaches all or any portion of Tenant's interests in this Lease, the Improvements, or the Premises without Landlord's prior written consent not to be unreasonably withheld; or

(f) Tenant's failure to perform any of the other covenants, conditions and agreements herein contained on Tenant's part to be kept or performed (except for those specific covenants, conditions and agreements that are otherwise addressed elsewhere in this Section) which was not cured within thirty (30) days after receipt of Landlord's notice of such default (or if Tenant did not commence to cure such default within thirty (30) days of such notice if such default was not susceptible to cure within thirty (30) days and thereafter diligently pursue such cure to completion); or

(g) Tenant shall (i) file a petition commencing a voluntary case under any applicable federal or state bankruptcy, insolvency or other similar law; (ii) make a general assignment for the benefit of its creditors; (iii) file an application for, or consent to, the appointment of any receiver or a permanent or interim trustee of Tenant or of all or a substantial portion of its property; (iv) file a petition seeking a reorganization of its financial affairs or to take advantage of any bankruptcy, insolvency or similar law, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law; (v) take any action for the purpose of effecting any of the foregoing; or (vi) be the subject of a decree or order for relief by a court having jurisdiction in respect of Tenant in any involuntary case under any applicable federal or state bankruptcy, insolvency or similar law where such decree or order is not rescinded or dismissed within sixty (60) days; or

(h) if any proceedings brought against Tenant seeking any of the relief mentioned in this Section shall not have been dismissed within sixty (60) days; or

(i) the dissolution of Tenant.

Section 20.02 – Landlord Remedies. Upon the occurrence of a Tenant Event of Default, at any time after the expiration of all applicable notice and cure periods, at Landlord's option, and without limiting Landlord in the exercise of any other rights or remedies which Landlord may have at law or in equity by reason of such breach, Landlord may exercise the following remedies:

(a) Landlord may re-enter and take complete and peaceful possession of the Premises, with process of law, full and complete license to do so being hereby granted to Landlord, and Landlord may remove all occupants and property therefrom, using such force as may be necessary to the extent allowed by law, without being deemed guilty in any manner of trespass, eviction or forcible entry and detainer and without relinquishing Landlord's right to rent or any other right given to Landlord hereunder or by operation of law.

(b) If Landlord terminates the right of Tenant to possession of the Premises without terminating this Lease, Landlord shall have the right to immediate recovery of all amounts then due hereunder. Such termination of possession shall not release Tenant, in whole or in part, from Tenant's obligation to pay rent hereunder for the full Term, and Landlord shall have the right, at its sole option, to: (i) from time to time, to recover from Tenant, and Tenant shall remain liable for, all rent and any other sums accruing as they become due under this Lease during the period from the date of such notice of termination of possession to the stated end of the Term; or (ii) require Tenant to pay an amount equal to the rent and any other sums accruing payable over the balance of the Lease Term remaining, discounted to present value less the amount of such rents that Landlord actually avoided or could have avoided by using commercially reasonable efforts in mitigating damages, and upon such payment, Tenant shall be released from all further liability under this Lease except for accrued and outstanding obligations. Landlord shall be diligent and use commercially reasonable efforts to relet the Premises or any part thereof for the account of Tenant, for such time (which may be for a term extending beyond the Term) and upon such terms as Landlord shall reasonably determine and may collect the rents from such reletting. Landlord shall not be required to accept any tenant offered by Tenant or to observe any

instructions given by Tenant relative to such reletting but shall not unreasonably withhold its consent. Also, in any such case, Landlord may make repairs, alterations and additions in or to the Premises that are reasonably necessary to relet the Premises and redecorate the same to the extent reasonably necessary and in connection therewith change the locks to the Premises, and Tenant upon demand shall pay the cost of all of the foregoing together with Landlord's reasonable expenses of reletting. The rents from any such reletting shall be applied first to the payment of the expenses of reentry, redecoration, repair and alterations and the expenses of reletting and second to the payment of rent herein provided to be paid by Tenant. Any excess or residue shall operate only as an offsetting credit against the amount of Rent due and owing as the same thereafter becomes due and payable hereunder, and the use of such offsetting credit to reduce the amount of Rent due Landlord, if any, shall not be deemed to give Tenant any right, title or interest in or to such excess or residue and any such excess or residue shall belong to Landlord solely. No such reentry or repossession, repairs, alterations and additions, or reletting shall be construed as an eviction or ouster of Tenant or as an election on Landlord's part to terminate this Lease, unless a written notice of such intention is given to Tenant, or shall operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, and Landlord, at any time and from time to time, may sue and recover judgment for any deficiencies remaining after the application of the proceeds of any such reletting.

(c) If this Lease is terminated by Landlord giving notice to Tenant, Landlord shall be entitled to recover from Tenant all rent accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Tenant, or for which Tenant is liable or for which Tenant has agreed to indemnify Landlord under any of the provisions of this Lease (including without limitation any and all environmental indemnities), which may be then owing and unpaid, and all costs and expenses, including without limitation court costs and reasonable attorneys' fees incurred by Landlord in the enforcement of its rights and remedies hereunder, and, in addition, Landlord shall be entitled to recover as damages for loss of the bargain and not as a penalty the unamortized portion of any concessions offered by Landlord to Tenant in connection with the Lease.

Section 20.03 – Landlord's Default. Landlord shall be in default if (i) Landlord fails to perform its obligations under this Lease and such failure continues for thirty (30) days after written notice from Tenant (or, in the event the failure cannot be cured within thirty (30) days, if Landlord has not commenced within such thirty (30) days and is not diligently pursuing such remedy) upon the occurrence of a Landlord Default that continues beyond all applicable notice and cure periods, then Tenant may cure such Landlord Default and either recover from the Landlord the reasonable costs and expenses incurred by Tenant to effect such cure or offset such costs and expenses against Base Rent otherwise due under this Lease and/or seek equitable remedies of injunction or specific performance.

Section 20.04 – Legal Fees. In the event either party shall bring any legal action or suit to enforce the terms of this Lease, the prevailing party shall be awarded all costs and expense incurred, including reasonable attorney's fees, from the non-prevailing party. As used herein, the term "prevailing party" shall mean the party, which has succeeded upon a significant issue in the litigation and achieved a material benefit with respect to the claims at issue, taken as a whole, whether by compromise, settlement or judgment.

ARTICLE 21 – SURRENDER OF POSSESSION

Section 21.01 – Surrender. Upon accrual of Landlord's right of re-entry because of Tenant's default hereunder or upon the expiration or termination of this Lease by lapse of time or otherwise, Tenant shall peacefully quit and surrender possession of the Premises and Improvements and alterations (if any) to Landlord without delay. Such surrender of the Premises, Improvements and alterations shall be accomplished without the necessity for any payment by Landlord. Upon such event, title to the

Improvements and alterations shall automatically vest in Landlord free and clear of all liens, charges and encumbrances other than the Permitted Exceptions without the execution of any further instrument; provided, however, Tenant covenants and agrees, upon either such event, to execute (at no cost or expense to Tenant) such appropriate documentation as may be reasonably requested by Landlord to transfer title to the Improvements and alterations to Landlord. Provided, however, Tenant shall have the right, but not the obligation, prior to or within three (3) business days following the termination or expiration of this Lease, to remove from the Building all personal property, machinery, equipment, furniture, and trade fixtures installed by Tenant in the Building. Any such personal property not so removed from the Building within three (3) business days after the termination or expiration of this Lease shall become, at Landlord's option, the separate and absolute property of Landlord. Notwithstanding anything to the contrary contained in the foregoing, Landlord may elect to require that Tenant demolish and remove all or any portion of the Improvements, at Tenant's sole cost and expense, within thirty (30) days following the expiration or termination of this Lease by providing Tenant written notice thereof no less than ninety days before the expiration or termination of this Lease.

Section 21.02 – Holding Over. Any holding over after the expiration of the Original Term or any renewal hereof without the written consent of Landlord shall be construed to be a month to month tenancy at sufferance, at 150% of the Base Rent payable during the last month of the Original Term or the renewal term thereof, whichever is applicable (prorated on a monthly basis, the “Holdover Rent”), but shall otherwise be subject to all of the terms and conditions of this Lease. Nothing herein contained nor Landlord's acceptance of such Holdover Rent, however, shall be construed as precluding or operate to preclude Landlord from exercising any legal or equitable remedies, including specifically, without limitation, those set forth in this Lease. Notwithstanding anything to the contrary contained in Section 21.02, Tenant shall not be deemed to be holding over the Premises in the event that both parties are engaged in good faith negotiations to extend the Term of the Lease; provided, however, under no circumstances shall Tenant remain in possession of the Premises more than 90 days from the expiration of the Lease as extended without a executed lease amendment for extension.

ARTICLE 22 – TENANT'S MORTGAGES

Section 22.01 – Leasehold Mortgage; No Subordination. Provided no Event of Default exists or is continuing beyond all applicable notice and cure periods, Tenant and every successor and assignee of Tenant shall have the right, at any time and from time to time, subject to Landlord's prior written consent, not to be unreasonably withheld, to mortgage its interests under this Lease as collateral security for a mortgage or mortgages to an Institutional Lender to finance or refinance its interests in the Premises (as it may exist from time to time). While Tenant's mortgage may refer to an existing loan agreement between Tenant and Tenant's lender that is intended to cover several properties of Tenant, the mortgage given by Tenant covering the Premises shall specify that sum attributable to the Premises and Tenant shall not be entitled to mortgage its interest hereunder in the Premises for any property other than the Premises or any fixtures, equipment or personal property allocated thereon. Any holder of any such mortgage is herein referred to as a "Tenant's Mortgagee."

Section 22.02 – Notices to Landlord. Tenant shall provide to Landlord written notice of any default by Tenant as to which Tenant receives notice pursuant to any mortgage on Tenant's interest in the Premises, and Tenant shall obtain the agreement of any Tenant's Mortgagee to accept any cure tendered by the Landlord (without the obligation of the Landlord to undertake any such cure) of any such mortgage default.

Section 22.03 – Notices to Landlord's Mortgagees. If Landlord or Landlord's Mortgagee shall have given to Tenant a written notice, specifying the name and address of such Mortgagee, Tenant thereafter shall give to such Landlord's Mortgagee prompt notice of any casualty damage to the Premises

or of any default on the part of Landlord under this Lease and agrees to allow such Landlord's Mortgagee a reasonable length of time (taking into consideration for the purpose of determining such permitted length of time any unavoidable delays), after notice to cure or cause the curing of such default before exercising Tenant's remedies under this Lease.

Section 22.04 – Non-Disturbance of Tenant's Interest. Tenant's Mortgagee may, at its option, at any time before the rights of Tenant shall have been forfeited to the Landlord as herein provided, cure any default of Tenant within the periods provided herein. Under no circumstances will Landlord be required to subordinate or encumber Landlord's fee simple title or any interests of Landlord in the Premises to any such mortgage of Tenant. Within ten (10) days of written request by Tenant, Landlord will request from Landlord's Mortgagee such instruments reasonably requested by Tenant or the Title Company that are necessary or proper to evidence that said party will continue to recognize this Lease and all of Tenant's and Tenant's Mortgagee's rights hereunder, and this Lease will continue in full force and effect.

ARTICLE 23 – NOTICES

All notices required or desired to be given hereunder shall be in writing and shall be given by hand-delivery or by a nationally recognized overnight delivery service (such as FedEx or UPS). Notice shall be deemed effective when received by the intended addressee (whether accepted or rejected) if addressed to Tenant or Landlord at the addresses noted below. A copy of any such notice shall also be provided contemporaneously via facsimile or email; however, such facsimile or email notice shall not be effective notice for purposes hereof. Notice shall be sent to the following:

To Landlord: Rocky Mountain Metropolitan Airport
11755 Airport Way
Broomfield, Colorado 80021
Attn: Bryan Johnson
Fax: 303-271-4875
E-mail: bejohnson@flyRMMA.com

With a copy to:

County Attorney's Office
100 Jefferson Parkway
Golden, Colorado 80419
Attn: County Attorney
Fax: 303-271-8901
caocontracts@jeffco.us

To Tenant: United States Beef Corporation
Attn: Lynn Conard
4923 East 49th Street
Tulsa, Oklahoma 74135
Fax: 918-628-3241
Email: lconard@usbeefcorp.com

With a copy to:

Messner Reeves LLP
Attn: David A. Reeves
1430 Wynkoop Street, Suite 300
Denver, Colorado 80202
Fax: 303-623-0552

The parties hereto may from time to time designate a different notice address within the continental United States by giving notice to the other party of the change of address. See also Section 27.1 below.

ARTICLE 24 – HAZARDOUS SUBSTANCES

Section 24.01 – Condition of Premises. Landlord represents to Tenant that, to Landlord's actual knowledge and except as disclosed in the Phase I Report or any report or other document provided to Tenant during the Feasibility Period, the Premises and the Development do not contain any Hazardous Materials (as hereinafter defined) in any amounts that would require remediation or removal under applicable law in effect as of the date hereof. If it is determined that there are Hazardous Materials on, upon or within the Premises or the Development in violation of any environmental regulations and such Hazardous Materials were not brought on the Premises or the Development by Tenant, then Tenant shall provide Landlord with notice of such violation and Landlord shall take commercially reasonable efforts to cause the party that created the violation to take all necessary remedial action to cause the Premises and the Development to comply with applicable law. If in Tenant's reasonable opinion the presence of Hazardous Materials materially impairs Tenant's ability to conduct business upon the Premises and Tenant ceases to operate from the Premises as a direct result thereof, all Rent and charges payable by Tenant hereunder shall abate during such period as Tenant ceases to so operate as a result of such violation until such violation is remedied so that Tenant can again reasonably operate from the Premises and if such violation of environmental law continues for in excess of two (2) months and Landlord has not cured such violation so that applicable law is complied with, Tenant shall have the right to terminate this Lease by giving written notice to Landlord at any time after the expiration of such two (2) month period and so long as such violation continues, which termination shall be effective upon Landlord's receipt of such notice.

Section 24.02 – Tenant's Liability. Tenant shall not cause or permit any Hazardous Material to be transported, used, stored, maintained, generated, disposed or released in or about the Premises or the Development by Tenant, its employees, officers, directors, agents, employees, subcontractors, contractors, guests, or invitees. However, the foregoing provisions shall not prohibit the transportation to and from, and use, storage, maintenance and handling within the Premises of substances customarily used in the business or activity expressly permitted to be undertaken in the Premises under this Lease; provided, however, that: (i) such substances shall not be disposed of, released or discharged in the Development, and shall be used and maintained only in such quantities as are reasonably necessary for such permitted use of the Premises and the ordinary course of Tenant's business therein, strictly in accordance with applicable law, highest prevailing standards, and the manufacturers' instructions therefor; (ii) such substances shall be transported to and from the Premises in compliance with all applicable laws, and as Landlord shall reasonably require; (iii) Tenant shall make arrangements at Tenant's expense for such disposal directly with a qualified and licensed disposal company at a lawful disposal site (subject to scheduling and approval by Landlord); (iv) any remaining such substances shall be completely, properly and lawfully removed from the Premises and the Development upon expiration or earlier termination of this Lease, and (v) for purposes of removal and disposal of any such substances, Tenant shall be named as the owner and generator, obtain a waste generator identification number, and execute all permit applications, manifests, waste characterization documents and any other required forms. Tenant hereby represents and warrants to Landlord that Tenant's Permitted Use does not require the transportation, use, storage, maintenance or handling within the Premises of any Hazardous Materials that would fall under the purview of the foregoing sentence.

Tenant shall and hereby does indemnify, defend, and hold harmless Landlord and its officers, directors, employees, agents, and affiliates from and against any and all loss, damages, expenses, fees,

claims, costs and liabilities (including, but not limited to, attorneys' fees and costs of litigation) arising out of or resulting from the release or threatened release of, and for any clean-up responsibility imposed upon Landlord under any federal, state or local law, ordinance, rule or regulation new or hereafter in effect, with respect to any Hazardous Material or hazardous substance or any other pollutant, or other contaminant on, in, from or about the Premises or the Development or any portion or portions thereof, which release or threatened release arises out of the conduct of Tenant or the breach of Tenant's obligations hereunder. Landlord agrees that Tenant shall not be responsible for remediation costs of any clean-up of environmental contamination existing on the Premises prior to the date of this Lease.

If any Hazardous Material is released, discharged or disposed of by Tenant or its employees, agents or contractors, on or about the Premises or the Development in violation of the foregoing provisions, Tenant shall immediately, properly and in compliance with applicable laws clean up and remove the Hazardous Material from the Premises or the Development and any other affected property and clean or replace any affected personal property (whether or not owned by Landlord), at Tenant's expense (without limiting Landlord's other remedies therefor). Such clean up and removal work shall be subject to Landlord's prior written approval (except in emergencies), and shall include, without limitation, any testing, investigation, and the preparation and implementation of any remedial action plan required by any court or governmental body having jurisdiction or reasonably required by Landlord. At such times as Landlord may reasonably request, Tenant shall provide Landlord with a written list, certified to be true and complete, identifying any Hazardous Material then used, stored, or maintained upon the Premises, the use and approximate quantity of each such material, a copy of any material safety data sheet ("MSDS") issued by the manufacturer therefor, and such other information as Landlord may reasonably require or as may be required by applicable law. The obligations of Tenant under this Section 24.02 shall survive the termination of the Lease.

Section 24.03 – Hazardous Materials Definition. "Hazardous Material" and "Hazardous Substances" are used in this Lease in its broadest sense and shall mean any substance or material defined, designated or regulated as hazardous or toxic, or other similar term (including but not limited to, asbestos, petroleum based products, pesticides, paints and solvents, polychlorinated biphenyl, lead, cyanide, DDT, acids, ammonium compounds) by any federal, state or local environmental statute, regulation, or ordinance affecting the Premises or the Development presently in effect or that may be promulgated in the future, as such statutes, regulations and ordinances may be amended from time to time.

ARTICLE 25 – QUIET ENJOYMENT

Landlord covenants that so long as Tenant shall not be in default under this Lease beyond any applicable notice and cure period, Tenant shall and may, subject to the provisions hereof, peaceably and quietly have, hold, and enjoy the Premises free from any disturbance, claims, demands for possession or interference of any kind by Landlord or any person acting by, through or under Landlord.

ARTICLE 26 – MISCELLANEOUS

Section 26.01 – Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

Section 26.02 – Amendments. This Lease may be amended, changed or modified only by written agreement signed by and between Landlord and Tenant.

Section 26.03 – Construction; Venue. This Lease shall be construed and enforced in accordance with the laws of the State of Colorado. Any litigation between the parties arising out of this Lease shall be subject to the venue and jurisdiction of the state or federal court located in Jefferson County, Colorado.

Section 26.04 – Invalidity of Provisions of Lease. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provision hereof shall not be affected thereby.

Section 26.06 – Successors. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind their respective heirs, executors, administrators, successors and assigns of the said parties; and if there shall be more than one Tenant, they shall all be bound jointly and severally by the terms, covenants and agreements herein. No rights, however shall inure to the benefit of any assignee of Tenant unless the assignment to such assignee has been approved by Landlord in writing as provided in Article 10 hereof.

Section 26.07 – Execution of Counterparts. This Lease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 26.08 – Brokers. The parties represent to each other that no broker is involved in this transaction, except that Tenant is represented by Kyle Underwood of Legend Retail Group, LLC (“Tenant’s Broker”) and Landlord is represented by Scott Crosbie of Crosbie Real Estate Group, LLC (“Landlord’s Broker”). Landlord shall pay a commission to Tenant’s Broker and Landlord’s Broker in accordance with a separate agreement. Each party agrees to indemnify and hold harmless the other party from all damages, liability and expense (including reasonable attorneys' fees) arising from any claims or demands of any broker or brokers or finders (other than those named above) for any commission alleged to be due such broker or brokers or finders in connection with its participating in the negotiation with the indemnifying party of this Lease.

Section 26.09 – Recording. Either party may record the Memorandum of Lease at any time following the Rent Commencement Date in accordance with the terms of Section 5.04. In the event this Lease or Tenant’s right of possession hereunder is terminated or the Term hereof expires, Tenant shall promptly upon Landlord’s request execute and deliver an instrument releasing said memorandum; provided, however, that Tenant’s failure to do so shall not be deemed to expand or extend any of Tenant’s rights hereunder. Tenant’s obligations hereunder shall survive any termination or expiration of this Lease.

Section 26.10 – Entire Agreement. This instrument contains the entire agreement between the parties as of this date. The execution hereof has not been induced by either party by representations, promises or understandings not expressed herein, and there are no collateral agreements, letter(s) of intent, stipulations, promises or undertakings whatsoever upon the respective parties in any way touching the subject matter of this instrument which are not expressly contained in this instrument.

Section 26.11 – Excuse of Performance. Notwithstanding anything to the contrary in this Lease, Landlord and/or Tenant shall not be deemed to be in default with respect to the performance of any of the terms, covenants and conditions of this Lease if Landlord's and/or Tenant's nonperformance shall be due to any strike, lockout, civil commotion, governmental regulations or controls, inability to obtain any permits after diligently and timely applying for the same, certificates of occupancy, material, service or

labor, acts of God or any other cause, whether or not similar to the foregoing, beyond the control of Landlord and/or Tenant, as applicable (“Force Majeure”). The performance of such acts shall be excused for the period of the delay thus occasioned, and the period for the performance of any such acts shall be extended for a period equivalent to the period of such delay. Provided, however, the foregoing shall not apply to Tenant’s obligation to timely pay Rent or to make any other payment required of Tenant under this Lease.

Section 26.12 – No Third Party Beneficiaries. The terms and provisions of this Lease shall not be deemed to confer any rights upon, nor obligate any party hereto to, any person or entity other than the parties hereto, the County with respect to Section 26.23, Section 26.24 and Section 26.25, and as is otherwise expressly set forth in Section 27.6.

Section 26.13 - Relationship of Parties. Nothing contained in this Lease shall be deemed to create a partnership or joint venture between Landlord and Tenant, and Landlord and Tenant’s relationship in this Lease shall be deemed to be one of landlord and tenant only.

Section 26.14 – Time of Essence. Except as specifically provided to the contrary herein, time is of the essence with regard to every provision of this Lease and the exhibits attached hereto.

Section 26.15 – Captions. The captions used in this Lease are inserted as a matter of convenience only, and in no way define, limit or describe the scope of this Lease or the intentions of the parties hereto, and shall not in any way affect the interpretation or construction of this Lease.

Section 26.16 - Governmental Immunity. Notwithstanding any other provision of this Lease to the contrary, no term or condition of this Lease shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq.. Liability for claims for injuries to persons or property arising out of the negligence of the Landlord, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of CRS §24-10-101, et seq., and CRS §24-30-1501, et seq.. All provisions of this Lease are controlled, limited and otherwise modified to limit any liability of the parties in accordance with the foregoing cited statutes.

Section 26.17 - Officials Not To Benefit. No elected or employed member of the State or County government shall directly or indirectly be paid or receive any share or part of this Lease or any benefit that may arise therefrom. The signatories aver that to their knowledge, no State or County employee has any personal or beneficial interest whatsoever in the service or property described herein.

Section 26.18 - Appropriation. The payment of Landlord obligations in fiscal years subsequent to the current year are contingent upon funds for this Lease being appropriated and budgeted. If funds for this Lease are not appropriated and budgeted in any year subsequent to the fiscal year of execution of this Lease, the Landlord shall terminate this Lease. The Landlord’s fiscal year is currently the calendar year.

Section 26.19. - WAIVER OF JURY TRIAL. THE PARTIES HERETO AGREE NOT TO SEEK A JURY TRIAL, HEREBY WAIVE TRIAL BY JURY, AND HEREBY FURTHER WAIVE ANY OBJECTION TO VENUE IN THE CITY AND COUNTY OF DENVER OR THE COUNTY IN WHICH THE BUILDING IS LOCATED AND AGREES AND CONSENT TO THE PERSONAL JURISDICTION OF THE COURTS OF THE STATE OF COLORADO, IN ANY ACTION OR PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE. By execution of this Lease, the parties agree that this provision may be filed by any party hereto with the clerk or judge before whom any action is instituted, which filing shall constitute the written consent to a

waiver of jury trial. The provisions of this Section shall survive the expiration or earlier termination of this Lease.

Section 26.20 – Incorporation of Exhibits. All exhibits attached to this Lease are hereby incorporated herein as though set forth in full in this Lease itself.

Section 26.21 – Drafting. Landlord and Tenant agree that this Lease has been drafted and negotiated by both parties, and neither party shall be deemed to be the draftsman for purposes of construing provisions of this Lease.

Section 26.22 – Due Authority. Landlord and Tenant each warrant and represent, upon which warranty and representation the other party has relied in the execution of this Lease, that each party has full right and lawful authority to execute this Lease in the manner and upon the conditions and provisions herein contained, and that no consent to the execution of this Lease is required.

Section 23.23 – Non-Discrimination. Neither party hereto shall discriminate or permit discrimination against any person on the grounds of race, color, national origin, disability, age, religion, or sex, and shall abide by the provisions of Part 21 of the Rules and Regulations of the Office of the Secretary of Transportation effectuating Title VI of the Civil Rights Act of 1964, as amended. Both parties reserve the right to take such action as necessary to enforce this covenant.

Section 26.24 – Airspace Above Premises. The County reserves for itself and for the use and benefit of the public, and Lessee acknowledges and accepts the Premises subject to, a right of flight for the passage of aircraft in the airspace above the surface of the Premises, together with the right to cause in said airspace such noise, vibration, exhaust and fumes as may be inherent in the operation of aircraft now known or hereafter used for landing upon, taking off from, or operating on, the Airport.

Section 26.25 – Interference with Aircraft. Lessee shall not erect or permit the erection of any structure or object, nor permit the growth of any tree on the Premises above the elevation set forth in the Primary Guiding Documents. Lessee shall not make use of the Premises in any manner that might interfere with the landing, taking off, or operation of aircraft upon the Airport nor create any hazard at the Airport. If Lessee fails to comply with this Section, the County reserves the right to enter upon the Premises and remove any offending structure or object, or cause the abatement of any interference or hazard, at the sole cost and expense of Lessee.

ARTICLE 27 – ADDITIONAL PROVISIONS RELATED TO FRANCHISOR

Section 27.01 – Notices; Opportunity to Cure Defaults. In the event that Landlord sends any written notice of material default to Tenant under this Lease, Landlord shall use good faith efforts to concurrently send a copy of such notice of default to Arby's Restaurant Group, Inc., the franchisor of the Arby's® restaurant system (or any successor thereto as franchisor, "Arby's"), at 1155 Perimeter Center West, Atlanta, Georgia 30338, Attn. General Counsel, or to such other address as may be designated in writing by Arby's. Arby's shall have the right (but not the obligation) to cure any such default within the same cure time period that is given Tenant hereunder. Landlord shall also use good faith efforts to provide reasonable prior written notice to Arby's at such address of any proposed termination of this Lease. In addition, upon any material amendment or modification to this Lease, Landlord shall use good faith efforts to provide a written copy thereof to Arby's at such address. Notwithstanding anything to the contrary contained in the foregoing, Landlord's failure to provide Arby's copies of the letters and materials described in this Section 27.1 shall in no way release, limit, extend, alter, or modify in any way Tenant's obligations under this Lease.

Section 27.02 – Right to Assume Lease. Tenant shall provide Landlord prior written notice of any termination (prior to expiration) of Tenant’s License Agreement to operate an Arby’s® restaurant on the Premises (the “License Agreement”). Within thirty (30) days following such termination (prior to expiration), Arby’s shall have the right (but not the obligation) to assume Tenant’s rights and obligations under this Lease arising from and after the date of such assumption pursuant to the terms and condition of Article 10. Upon the exercise of such right by Arby’s, Tenant shall assign to Arby’s, and Landlord shall irrevocably and unconditionally consent to same, all of Tenant’s right, title and interest to and under this Lease. Arby’s may thereafter assign this Lease or sublease the Premises to another Arby’s franchisee subject to the prior consent of Landlord in connection with the terms and condition of Article 10.

Section 27.03 – Conformance to Current System Standards. Upon any assignment or other method by which Arby’s or another Arby’s franchisee becomes Tenant under this Lease, Landlord shall permit, subject to prior written approval of the ACC and all applicable governmental authorities, such new Tenant to make any necessary repairs, modifications and upgrades so as to conform the Premises to Arby’s then-current standards for similar restaurants.

Section 27.04 – Right to Protect Health and Safety. If Arby’s has a justifiable reasonable basis to believe a condition of the Premises or any product sold in the Restaurant poses an immediate threat to the health or safety of any customers, employees or other persons, Arby’s shall have the right (but not the obligation) to take such action that is permissible under the terms of this Lease as it deems necessary to protect such individuals and the goodwill associated with its proprietary marks and the Arby’s® restaurant system. Such actions may include any or all of the following: Arby’s may require Tenant temporarily to close and suspend operation of the Restaurant and correct such conditions; Arby’s may immediately remove or destroy any products that Arby’s suspects are causing such threat; and if Tenant fails to correct the threat on demand or within another time period set by Arby’s, then Arby’s or contractors retained by Arby’s may enter the Restaurant without being guilty of, or liable for, trespass or tort, and correct the condition; provided, however, any and all of the foregoing actions must be made in compliance with the terms and conditions of this Lease including obtaining Landlord’s prior consent in any such circumstance if so required hereunder, which such consent shall not be unreasonably withheld.

Section 27.05 – Right to Protect Proprietary Marks. Upon the occurrence of any (i) default by Tenant that results in the discontinuance or abandonment of Tenant’s business operations on the Premises or (ii) default by Tenant that results in the termination of Tenant’s License Agreement, Tenant and Landlord agree that Arby’s shall have the right (but not the obligation) to enter the Premises to remove signage and to otherwise make such modifications or alterations to the Premises that Arby’s deems reasonably necessary to protect its proprietary marks and distinguishing characteristics of Arby’s locations; provided, however, that (i) Arby’s shall give Landlord prior written notice of its entry (which notice shall identify the proprietary marks and distinguishing characteristics to be so removed if and to the extent known by Arby’s), (ii) Landlord shall have the right to be present during such entry, and (iii) Arby’s shall repair at its liability and expense all damage caused to the Premises by said removal, modification or alteration.

Section 27.06 – Third Party Beneficiary. Notwithstanding anything to the contrary contained in this Lease, the parties hereto acknowledge and agree that Arby’s is intended to be a third-party beneficiary with respect to the rights and obligations under this Section.

[Remainder of page left intentionally blank; signatures on following page]

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

LANDLORD:

JEFFERSON COUNTY, COLORADO

By: _____
Libby Szabo
Chairman Board of County Commissioners

Date: _____

TENANT:

UNITED STATES BEEF CORPORATION,
an Oklahoma corporation

By: _____
Brett Pratt, President

Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF LAND

Lot 3, Jeffco Airport Business Center East Filing No. 1 Minor Subdivision, County of Broomfield, State of
Colorado

EXHIBIT C

MATRIX OF LANDLORD'S WORK AND TENANT'S WORK

Metro Airport East - Arby's
Lessor/Lessee Development Responsibilities

as of: 4/12/2016

Category Task	"Landlord's Work" Lessor Resp (RMMA)	Lessee Resp (Arby's)
Fees		
Zoning Application Fees for PUD Amendment, Plat and Filing No. 1 SDP	X	
Zoning Application Fees for Arby's SDP		X
Building/Sitework Review Fees for Arby's Site		X
Letter of Credit for Arby's Site Improvements		X
Letter of Credit for Site Improvements Outside of Arby's Site	X	
Fire Department Review Fees for Arby's Site		X
Water/Sewer License, Usage and Tap Fees for Arby's Site		X
Storm Sewer Fees ("South Sewer Outfall") for Arby's Site		X
Public Improvement Permit Fees for Water/Sewer Stubs to Arby's Site Property Line	X	
Public Improvement Permit Fees for Water/Sewer within Arby's Site		X
Fees for Grading and Construction of Landlord's Work	X	
Governmental Approvals		
Grading Permits for Landlord's Work	X	
CDPHE Stormwater Permit for Landlord's Work	X	
Grading/Overexcavation Permits for Arby's Site		X
CDPHE Stormwater Permit for Arby's Site		X
Public Improvement Permit for Non-Arby's Site Improvements	X	
Public Improvement Permit for Arby's Site Improvements		X
Grading		
Placement of Fill per Landlord's Grading Plan	X	
Detention & Water Quality Pond Excavation	X	
Grading of Internal Streets and Access	X	
Grading of Arby's Site including Overexcavation (if required)		X
Grading of RIRO from Wadsworth Blvd.	X	
Roadways		
RIRO Access from Wadsworth Blvd.	X	
Full Movement Access from Metro Airport Ave.	X	
Internal Private Streets	X	
Drive Apron at Arby's Entry (shared with 7-11) to Property Line	X	
Shared Entry Drive from Internal Private Street within Arby's and adjacent 7-11 site		X
Potable Water		
Water Lines within Internal Private Streets	X	
Water Laterals from New Water Lines in Internal Private Street to Arby's Site at Property Line	X	
Water Distribution & Fire Protection within Arby's Site		X
Sanitary Sewer		
Sanitary Sewer from Point of Connection to Arby's Site at Property Line	X	
Sanitary Sewer within Arby's Site		X
Storm Drainage		
Storm within Internal Private Streets	X	
Storm within Arby's Site to Property Line		X
Water Quality & Detention Pond Outfall	X	

Metro Airport East - Arby's
 Lessor/Lessee Development Responsibilities

as of: 4/12/2016

Category Task	"Landlord's Work" Lessor Resp (RMMA)	Lessee Resp (Arby's)
Electric		
Electric Service for Street Lights and Common Area Irrigation Controller within Internal Private Streets	X	
Electric Service and Transformer to Serve Arby's Site		X
Natural Gas		
Sleeves (as required) to Arby's Property Line for connection to Existing Gas Service	X	
Distribution within Arby's Site		X
Phone		
Distribution within Arby's Site		X
Landscape/Sidewalk/Signage		
Internal Private Street Parkway Strip and Sidewalk	X	
Restoration Seeding within and around Temporary Water Quality & Detention Pond and all Disturbed Areas Outside of Arby's Site	X	
Landscape within Arby's Site to Back of Sidewalk and Property Line along Wadsworth Blvd		X
Landscape within Wadsworth Blvd and Metro Airport Ave Right-of-Way	X	
Project Common Area Signage	X	
Tenant Monument Signage		X

EXHIBIT D

PROJECT SCHEDULE

Grading Complete and Certified:

Deliver Graded Pad to Tenant:

Site Utilities Complete and Inspected:

Roadway Complete and Inspected:

Substantial Completion:

EXHIBIT E

WHEN RECORDED RETURN TO:

Messner Reeves LLP
Attn: David A. Reeves
1430 Wynkoop Street, Suite 300
Denver, Colorado 80202

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE is made and entered into as of the ____ day of _____, 2016, by and between **JEFFERSON COUNTY, COLORADO** a body corporate and politic, organized under the laws of the State of Colorado, on behalf of Rocky Mountain Metropolitan Airport ("Landlord") and **UNITED STATES BEEF CORPORATION**, an Oklahoma corporation ("Tenant").

W I T N E S E T H:

WHEREAS, Landlord is the owner of certain land located in the City and County of Broomfield, Colorado, which is legally described on Exhibit A (the "Land");

WHEREAS, pursuant to a certain Lease dated _____, 2016 ("Lease"), Landlord to Tenant and Tenant from Landlord the Land, the building to be constructed on the Land (the "Building") and all appurtenant rights thereto as more particularly provided in the Lease (collectively, the "Premises"), upon the terms and conditions set forth therein; and

WHEREAS, Landlord and Tenant wish to place notice of the Lease on record.

NOW, THEREFORE, Landlord hereby leases the Premises to Tenant, Tenant hereby leases the Premises from Landlord, and Landlord and Tenant hereby execute this Memorandum of Lease for the purpose of evidencing Tenant's interest in the Premises, **TO HAVE AND TO HOLD** the Premises unto Tenant upon and subject to the terms, covenants and conditions contained in the Lease, for a fifteen (15) year term commencing on the "Rent Commencement Date" described in the Lease, subject to three (3) separate options to extend the term for successive periods of five (5) years each. The "Rent Commencement Date" is _____.

So long as no Event of Default occurs and is continuing beyond all applicable notice and cure periods, and so long as Tenant operates the Premises as an Arby's fast-food restaurant, Landlord has agreed that, for so long as this Lease is in effect, including any extensions thereof, subsequent to the Effective Date of the Lease, Landlord shall not sell nor lease any portion of the Land owned by Landlord or any affiliate or related entity of Landlord or its principals to or by a third party or for or by itself (or any affiliates or related parties) for the operation of a fast-food or quick serve restaurant serving roast beef sandwiches as their primary business ("primary" meaning 15% or greater of its total annual gross revenues are derived from roast beef sandwiches) or the following restaurants operating under the listed trade names, or operating under any successor trade names: Lion's Choice. The foregoing shall not apply to any portion of the Land being operated by a delicatessen, grocery store, sit-down restaurant, or self-serve establishment offering roast beef sandwiches.

This Memorandum of Lease is made and executed and is to be recorded with Broomfield County, Colorado Recorder of Deeds for the purpose of giving notice of the Lease and the rights of the parties thereunder.

This Memorandum of Lease is subject in each and every respect to the rental and other terms, covenants and conditions contained in the Lease, which is incorporated herein by this reference, and is executed by Landlord and Tenant with the understanding and agreement that nothing contained herein shall in any manner alter, modify or vary the rental or other terms, covenants or conditions of the Lease.

IN WITNESS WHEREOF, Landlord and Tenant have executed this Memorandum of Lease as of the day, month and year first above written.

LANDLORD:

JEFFERSON COUNTY, COLORADO

By: _____

Name: _____

Title: _____

TENANT:

UNITED STATES BEEF CORPORATION,
an Oklahoma corporation

By: _____

Brett Pratt, President

STATE OF OKLAHOMA

COUNTY OF TULSA

Before me, the undersigned authority, on this day personally appeared Brett Pratt, the President of United States Beef Corporation, an Oklahoma corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and official seal this ____ day of _____, 2016.

(SEAL)

Notary Public in and for the State of Oklahoma

My commission expires: _____

STATE OF COLORADO

COUNTY OF _____

Before me, the undersigned authority, on this day personally appeared _____, the _____ of Jefferson County, Colorado, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity stated, and as the act and deed of said corporation.

Given under my hand and official seal this ____ day of _____, 2016.

(SEAL)

Notary Public in and for the State of Colorado

My commission expires: _____

EXHIBIT F

Work Letter

This Work Letter is attached to and made part of that certain Ground Lease of even date herewith by and between **JEFFERSON COUNTY, COLORADO**, a body corporate and politic, organized under the laws of the State of Colorado, on behalf of Rocky Mountain Metropolitan Airport, as Landlord, and **UNITED STATES BEEF CORPORATION**, an Oklahoma corporation, as Tenant (the "Lease").

A. Landlord and Tenant have executed the Lease pursuant to which Landlord agreed to lease to Tenant and Tenant agreed to lease from Landlord the Premises.

B. Landlord and Tenant desire to set forth the terms and conditions on which Landlord shall construct Landlord's Work and Tenant shall construct the Tenant's Work (as defined below) in conjunction with the Lease.

AGREEMENTS

1. Defined Terms. Unless otherwise defined herein, all capitalized terms shall have the meanings given to them in the Lease.

2. Provisions Relating to the Tenant's Work.

(a) Landlord shall have no obligation with respect to Tenant's Contractors nor shall Tenant have any obligation with Landlord's Contractors. Tenant's Contractors shall be obligated by virtue of their contracts (the "Contracts") with Tenant to cooperate with contractors employed by Landlord and Landlord's Contractors shall be obligated by virtue of the contracts with Landlord to cooperate with contractors employed by Tenant's Contractors to the extent Landlord's contractors are completing work in the Premises and/or Development when Tenant's Contractors commence the Tenant Work. Landlord's and Tenant's Contractors shall each conduct their respective work in an orderly fashion and manner so as not to unreasonably interfere with the other in the performance of their respective work.

(b) In connection with performance of all work by Tenant's Contractors, Tenant shall assume full responsibility therefor, and for all Tenant's and/or Tenant's Contractors' property, equipment, materials, tools or machinery placed or stored in the Premises and/or Development during the completion of the Tenant Work. Further, all work performed by Tenant's Contractors shall be in compliance with all applicable Laws. Tenant shall be responsible for causing all such work to be performed in a good and workmanlike manner consistent with first class standards.

(c) All materialmen, contractors, artisans, mechanics, laborers and other parties hereafter contracting with Tenant for the furnishing of any labor, services, materials, supplies or equipment with respect to any portion of the Premises are hereby charged with notice that they must look solely to Tenant for payment for same.

Notwithstanding anything to the contrary contained in the Lease, the obligations of Landlord to perform Landlord's Work and any covenant, representation, warranty or undertaking made by Landlord in the Lease with respect to the completion of Landlord's Work, will be deemed to exclude any matter to the extent attributable in whole or in part to (a) architectural, design and/or engineering defects contained in the Tenant's Work or non-compliance of the same by Tenant with any applicable Laws, including, without limitation, applicable building, fire and other codes, and (b) errors and/or omissions and/or negligent acts of Tenant, Tenant's Contractor, Tenant's architect and/or engineer.

3. Representatives; Notice.

(a) Tenant has designated _____(Phone: _____/) as its sole representative with respect to the matters set forth in this Work Letter, who shall have full authority and responsibility to act on behalf of Tenant as required in this Work Letter. Tenant shall have the right, by written notice to Landlord, to change its designated representative.

(b) Landlord has designated _____ (Phone: _____/) as its representative with respect to Landlord's responsibilities under this Work Letter, who shall have full authority and responsibility to act on behalf of Landlord as required in this Work Letter. Landlord shall have the right, by written notice to Tenant, to change its designated representative.

(c) Any and all notices required to be given hereunder shall be in writing in accordance with the terms and provisions of Article 23 of the Lease. However, in all cases under this Work Letter, notices shall also be given to those individuals to be specified in (a) and (b) above by phone or facsimile.

4. General Requirements.

(a) Tenant shall submit to Landlord, in writing, at least ten (10) days prior to the proposed date for commencement of construction of any the Tenant Work, the following information:

1. The names and addresses of the general contractor Tenant intends to engage for the construction of the Tenant Work and copies of the Contract to be executed between Tenant and such contractor. As used in this Work Letter, the term "Contractor" shall mean Tenant's general contractor or, if Tenant does not use a general contractor, all contractors with whom Tenant contracts directly for any part of the Tenant Work. The term "Subcontractors" shall mean all entities contracting with the Contractor to complete any part of the Tenant Work. All of Tenant's Contractors shall be subject to Landlord's prior approval as set forth in the Work Letter.

2. Copies of performance and/or labor and materials bonds, if so required by Landlord, from the Contractor and Subcontractors.

3. Evidence of insurance as required herein or in the Lease.

(b) The Contractor and any Subcontractors engaged by Tenant shall be bondable, licensed contractors capable of maintaining good labor relations, performing quality workmanship, and working harmoniously with Landlord's general contractor and other contractors on the Development. Landlord shall have the right to require Contractor and Subcontractors to provide a cash guarantee, letter of credit or performance bonds, at Tenant's sole cost and expense, for any or all of the Tenant Work. Any bond shall be requested and provided prior to the commencement of the Tenant Work.

(c) The Contracts shall comply in all respects with applicable federal, state, county and/or local statutes, ordinances, regulations, laws and codes. All required building and other permits in connection with the construction and completion of the Tenant Work shall be obtained and paid for by Tenant.

(d) The Contracts shall include a statement requiring the Contractor and all Subcontractors, laborers and materialmen to execute a lien waiver for any interim and final payments. A copy of the executed waiver or notice of refusal is to be immediately forwarded to Landlord.

(e) Prior to commencement of any Tenant Work, Landlord will provide Tenant with the Landlord's notice which provides that Landlord is not responsible for the payment for such work and setting forth such other information as Landlord may deem necessary. Tenant and Tenant's Contractor shall not remove, destroy, deface or otherwise modify the notice.

(f) The Contracts shall contain provisions requiring that the Contractor, to the fullest extent permitted by applicable Law, shall indemnify and hold harmless Landlord and its representatives, agents and employees from and against all claims, damages, losses and expenses, including, but not limited to, reasonable attorneys' fees arising out of or resulting from the performance of the Tenant Work and which are: (1) caused in whole or in part by any negligence or omission of Contractor, any Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, loss, damage or expense is caused in part by a party indemnified hereunder; or (2) attributable to bodily injury, sickness, disease or death, or the destruction of tangible property, including loss or use resulting from any of the foregoing acts. In any and all claims against Landlord or its representatives, agents or employees by an employee of Contractor, any Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any Subcontractor under the Worker's Compensation Act, disability benefit acts or other employee benefits acts.

(g) The Tenant Work and Landlord Work shall be done in such a manner as to be coordinated with the other and any other work being performed (or to be performed) by Landlord.

(h) Landlord shall have the right to establish reasonable rules and regulations governing the Tenant's Work and Tenant's Contractor in order that the construction of the

Landlord's Work and the Tenant's Work may proceed in a safe and orderly manner in accordance with all of the provisions of the Lease and all governing building and safety codes and other applicable Laws.

(i) Tenant's Contractor and Subcontractors are responsible for its own trash removal during construction. Contractors are expected to remove debris from the Premises and Development on a daily basis.

(j) Upon substantial completion of the Tenant's Work, Tenant shall furnish to Landlord:

1. A notarized affidavit executed by Tenant or Tenant's authorized representative, stating that all work and materials performed or used in connection with the Tenant's Work have been paid for by Tenant;

2. True and correct original releases or waivers of lien from the Contractor, Subcontractors and suppliers with respect to the Tenant's Work; and

3. A Certificate of Occupancy, or final inspection cards, whichever is applicable, issued by the applicable Governmental Authorities, including the building, fire and health departments.

4. Any other documentation reasonably requested by Landlord.

EXHIBIT H
Insurance Requirements

	INSURANCE REQUIREMENTS –	GENERAL
I	Prior to the commencement of any work the vendor shall forward certificates of insurance to the department specified in the award document.	
II	Certificate Holder must be Jefferson County, Colorado.	Required
III	Insurance - Minimum requirement	
	Workers compensation - statutory limits provided by an insurance carrier that is licensed to do business in Colorado. The policy shall contain a Waiver of Subrogation on behalf of Jefferson County. Employer's liability - \$100,000 each accident \$500,000 disease policy limit \$100,000 disease each employee	Required
	Commercial General Liability - on an Occurrence Form The policy must not exclude or reduce coverage for mobile equipment, personal injury; blanket contractual; and death. Personal injury coverage must have the employee exclusion deleted. The policy shall contain a Waiver of Subrogation on behalf of Jefferson County. Products and completed operations aggregate	\$1M ea occurrence \$2M general aggregate \$2M
	Professional Liability/Errors and Omissions (E&O) limits	\$1M ea occurrence \$2M aggregate
	Commercial automobile liability insurance including hired and non-owned vehicles and statutory Colorado uninsured/under insured motorist liability coverages. Combined single limit for bodily injury and property damage.	Required \$1M CSL per accident
	Jefferson County must be added as an additional insured to general liability, auto liability and any excess liability policies.	Required
	All deductibles or self-insured retentions (SIRs) in excess of \$5,000 must be listed on the certificate of insurance	Required
	The insurance requirements specified by the county shall remain in effect for the full term of the contract and/or agreement and any extension thereof. Updated Certificates of Insurance shall be sent to the county during the full term of the contract and/or agreement and any extension thereof.	Required
	The county reserves the right to reject any insurer it deems not financially acceptable on insurance industry resources. Property and liability insurance companies shall be licensed to do business in Colorado and shall have an A.M. Best rating of not less than B+ and/or VII. Additionally the county reserves the right to reject any insurance with relatively large deductibles or self-insured retentions (SIRs), deemed by the county to pose too high a risk based on the size of the contractor, financial status or rating of the contractor, or based on the size or type of the project and the exposure.	Required
	Any deviations below the standards given above must be approved by Jefferson County Risk Management	Required
IV	Any subcontractors must meet the same insurance requirements for the contract or purchase order unless Risk Management has approved a deviation	Required

BOARD OF COUNTY COMMISSIONERS BRIEFING PAPER**Approval of Official and Legal Newspapers****Tuesday, May 17, 2016** For Information For Discussion/Approval
Prior to Future Hearing For Action**ISSUE:** Designation of "official" and "legal" newspapers**BACKGROUND:** Colorado counties are required to publish certain legal notices in an "official newspaper," which meets the statutory requirements that define a legal newspaper. The term "legal newspaper" is defined by statute as one that is of general circulation, is published at least weekly and has been continuously published for a year.

In 2013, Jeffco's Purchasing Division issued bid packages with the option to renew for three additional one-year terms to three newspaper groups. The *High Timber Times* (Evergreen Newspapers) submitted the lowest bid and it is recommended that the BCC designate it as the "official newspaper" for the purpose of publishing legal notices. It is also recommended that the BCC authorize the publication of legal notices in the *Golden Transcript* (Colorado Community Media) and the *Denver Post YourHub* provided those notices are not specifically required to be published in the "official" newspaper.

Authorizing publication in additional newspapers enables the County to lock in lower prices and gives County divisions greater flexibility to place notices in whichever of the three publications is most geographically appropriate, offers quicker turn-around time or greater circulation for a particular notice. The pricing submitted for 2016 remained the same as the renewal pricing in 2015. This approval shall not preclude the placement of notices in other publications provided they qualify as a "legal newspaper."

Fiscal Impact: The value of the combined awards resulting from this selection is estimated not to exceed \$60,000. Funding for the publication of legal notices is included in the respective divisions' budgets.**Recommendation:** Approval of a resolution designating the *High Timber Times* as the County's "official" newspaper" and authorizing the publication of legal notices in the *Golden Transcript* and the *Denver Post YourHub*.**Originator:** Katherine McIntire, Public Engagement Director, x8515**Contacts for Additional Information:** Kathleen Budd, Purchasing, 8592.

CONTRACT

THIS CONTRACT, dated for reference purposes only this 2nd day of May, 2016, is made and entered into by and between the COUNTY OF JEFFERSON, STATE OF COLORADO, a body politic and corporate (the "County") and JEFFERSON COUNTY BUSINESS EDUCATION ALLIANCE (the "Contractor").

WITNESSETH:

WHEREAS, the County desires the services provided by the Contractor as more fully described in the Scope of Work attached hereto and incorporated herein (the "Services"), and;

WHEREAS, the Board of County Commissioners has authority to market the county under Section 30-11-116, C.R.S; and

WHEREAS, the Contractor is ready and willing to perform in accordance with the terms and conditions of this Contract.

NOW, THEREFORE, for and in consideration of the covenants and conditions set forth herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the County and the Contractor agree as follows:

1. **CONTRACT DOCUMENTS.** The "Contract Documents" shall consist of this Contract, Scope of Services/Payment Schedule/Reporting, Insurance Requirements, Timeline, and Provision Regarding Illegal Aliens, all of which are incorporated herein by this reference whether or not attached hereto. If there is any conflict between this Contract and the other Contract Documents, this Contract shall control.
2. **DESCRIPTION OF SERVICES.** The Contractor shall provide complete and timely performance of everything described in or reasonably implied from the Contract Documents (the "Services"). The Contractor warrants that it is fully qualified to perform the Services and shall perform the Services in accordance with the professional standards of the industry and in strict accordance with the provisions of the Contract Documents. No adjustment or modification of the Contract Documents shall be allowed for any misunderstanding of the Services or of the terms and provisions contained in the Contract Documents.
3. **AUTHORIZED REPRESENTATIVES.** The County designates Kate Newman, Deputy County Manager as the "County Representative" under this Contract. The Contractor designates Joni Inman, Executive Director, as the "Contractor Representative" under this Contract. The Contractor Representative shall have the authority to bind the Contractor with respect to the Services and shall be present at the work site as necessary to assure the Contractor's satisfactory performance. The Contractor Representative shall also be responsible for advising the County Representative of the status of the Services and agrees to take direction only from the County Representative and to comply promptly and fully with the reasonable requests and directives issued by the County Representative from time to time. The County may change its representative at any time by notice to the Contractor. The Contractor shall not replace the Contractor Representative unless: (a) The County requests a replacement, or (b) The

Contractor terminates the employment of the Contractor Representative and provides a satisfactory substitute. The County must approve a substitute Contractor Representative, and, if no substitute is acceptable, the County may terminate this Contract.

4. **APPROVAL AND ACCEPTANCE OF SERVICES.** The County Representative shall be the sole judge of the acceptability of the Services by the Contractor and the sufficiency of any supporting data submitted by the Contractor. If, at the sole discretion of the County, conferences with the Contractor are necessary or desirable to explain or correct Services, the Contractor shall make no additional charge for time or costs for attendance at such conference or for making the required explanations or corrections.

5. **PRICE AND PAYMENT.** The County shall pay the Contractor a not-to-exceed amount of Thirty-Six Thousand Dollars and No Cents (\$36,000.00) (the "Contract Price") inclusive of reimbursable expenses for the Services, upon satisfactory completion of the Services and receipt of an invoice by the Authorized Representative and approval of the payment by the Authorized Representative. Payments shall be made in three installments, with the first payment in the amount of \$18,000 due June 1, \$9,000 due September 1, and \$9,000 due December 1, 2016. Contractor shall submit invoices, and the invoices will be paid upon approval of the Authorized Representative. The Contract Price shall not be increased regardless of the time expended or expenses incurred by the Contractor. The Contractor shall not be entitled to reimbursement or payment for any travel, meals, entertainment, administrative or overhead (copies, telephone, supplies, etc.) costs.

Incorrect payments to Contractor due to omission, error, fraud, or defalcation may be recovered from the Contractor by deduction for subsequent payments due to the Contractor under this Contract or other contracts between County and Contractor.

6. **TERM, PERIOD OF PERFORMANCE.** The term for the services to be performed pursuant to this Contract shall be January 1, 2016, to and including December 31, 2016.

7. **CHANGES IN SERVICES.** The County Representative, by written instructions issued to the Contractor, may extend the Start Date or the Completion Date or make such changes in the Services as may be necessary to accomplish the purposes intended to be provided under this Contract. This Contract contains the entire agreement of the parties and may not be modified or amended except by an agreement in writing signed by the parties. The Contractor shall not commence any changed or increased Services prior to receipt of the required duly executed change order or contract amendment. The County shall have no duty or obligation to compensate or reimburse the Contractor for any additional Services not specifically authorized as provided herein.

8. **AMENDMENT.** This Contract contains the entire agreement of the parties relating to the subject matter hereof and, except as provided, this Contract may not be modified or amended except by written agreement of the parties. For purposes of clarity, the terms and conditions of any Contractor invoice, Contractor time sheet, or other form, including but not limited to indemnification, limitation of liability, or cancellation fees, shall be void and of no effect against the County notwithstanding any signatures on such form by a County employee.

The Contractor's rights and obligations shall be solely governed by the terms and conditions of this Contract and the Contract Documents. Any County employee's signature on Contractor's forms shall be effective only to establish receipt of services.

9. **TERMINATION.** The County reserves the right to terminate this Contract, in whole or in part, with or without cause by written notice to the Contractor. In the event of termination, the Contractor shall incur no additional expenses and shall perform no further Services for the County under this Contract after the date of receipt of the notice of termination, unless otherwise specified by the County. The County shall pay the Contractor for all Services satisfactorily performed prior to receipt of the notice of termination and for other services required by the County to be completed prior to termination and satisfactorily performed. In the event that the County terminates this Contract for cause, the provisions of the paragraph titled "Damages" shall apply.

10. **DAMAGES.** If the Contractor fails to comply with any material provision of the Contract, the Contractor shall be liable for any and all damages, including without limitation, the cost of procuring similar supplies or services and all other costs and expenses incurred by the County because of such failure.

The Contractor's failure substantially to complete the Services in conformance with this Contract shall result in damages suffered by the County, including, without limitation, the County's cost to complete the Services together with any other expenses incurred, as determined by the County. The County may offset any amounts owed to it as damages against any monies due and owing to the Contractor under this Contract. In addition, the County shall be entitled to any other rights and remedies available to it in law or equity.

11. **NON-ASSIGNMENT, SUBCONTRACTORS, PERSONAL SERVICES.** The Contractor shall not assign this Contract or employ any sub-contractor without the prior written approval of the County Representative. The Contractor shall be responsible for the acts and omissions of its agents, employees and sub-contractors. The Contractor shall bind each sub-contractor to the terms of this Contract. The County may terminate this Contract if the Contractor assigns or subcontracts this Contract without the prior written consent of the County Representative, and any such assignment or subcontracting shall be a material breach of this Contract. This Contract is a personal services contract pursuant to which the County intends to obtain the personal services of the Contractor Representative designated whose knowledge, skills and experience are deemed essential to satisfactory performance of the Services.

12. **INDEPENDENT CONTRACTOR STATUS; PAYMENT OF TAXES AND UNEMPLOYMENT INSURANCE.** The Contractor is an independent contractor and is not an agent, servant or employee of the County. The Contractor and its employees are not entitled to workers' compensation benefits through the County. The Contractor is solely responsible for necessary and adequate workers' compensation insurance and shall be responsible for withholding and paying all federal and state taxes. The Contractor and its employees are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by an entity other than the County. The Contractor hereby acknowledges full and complete liability for and timely payment of all local, state and federal taxes imposed including, without limitation, tax on self-employment income, unemployment taxes and income taxes.

13. **INSURANCE.** The Contractor and its subcontractors shall purchase and maintain such insurance in a company or companies licensed to do business in the State of Colorado as will protect them from claims which may arise out of or result from operations under the Contract, whether such operations be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance required in this paragraph shall be written for not less than the amounts set forth in the Insurance Requirements Exhibit attached hereto. The Contractor shall provide certificates evidencing such coverage to the County Representative prior to commencing the Work and during the term of this Contract shall provide the County written evidence of continuing insurance coverage within three (3) business days of a request from the County. The Contractor shall provide the County no less than thirty (30) days' prior written notice of any proposed change to, or cancellation of the insurance coverage. Any proposed change to the insurance coverage shall comply with the terms of this Contract. If requested by the County, the Contractor shall request from its insurance company an endorsement to the insurance policy for this Contract, in a form approved by the County Attorney's Office, which will require the insurance company to provide the County with notice of cancellation of the policy. The Contractor shall promptly comply with all terms of the endorsement and shall pay the cost of the endorsement.

14. **CERTIFICATE OF INSURANCE.** All certificates of insurance and guarantees required by this Contract shall be submitted by the Contractor prior to commencement of the Work to:

County Manager
Attn: Kate Newman, Deputy County Manager
100 Jefferson County Parkway
Golden, Colorado 80419

Within a reasonable time after submittal, the County shall either approve the certificates of insurance or notify the Contractor of any unacceptable conditions stating the specific reasons therefor. The Contractor shall promptly re-submit an acceptable certificate of insurance, which the County shall review within a reasonable time. The County shall not issue a Notice to Proceed until all required certificates of insurance have been accepted by the County. Certificates of insurance shall name Jefferson County as an additional insured as its interest may appear.

15. **INDEMNIFICATION.** The Contractor shall indemnify, defend and hold the County and its officials, agents and employees harmless from and against any and all claims, damages, losses, injuries and expenses (including reasonable attorneys' fees), relating to or arising out of: (1) any act or omission of the Contractor, its officers, employees, sub-Contractors, or agents in connection with the performance of the Services; (2) any breach of a covenant, representation or warranty made by the Contractor under this Contract; and (3) use by the Contractor of any intellectual property in connection with the Services (whether such intellectual property is owned by the Contractor or a third party) or the incorporation by the Contractor of intellectual property into the Services.

16. **EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor shall not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified solely because of race, creed, sex, color, national origin or ancestry, religion, disability, age, sexual orientation, or any other basis prohibited by federal, state or local law.

17. **ILLEGAL ALIENS/AUTHORIZATION TO WORK.** Contractor will comply with C.R.S. §8-17.5-101, as set forth on the Attachment titled “Provision Regarding Illegal Aliens.”

18. **NON-APPROPRIATION.** The payment of County obligations in fiscal years subsequent to the current year is contingent upon funds for this Contract being appropriated and budgeted. If funds for this Contract are not appropriated and budgeted in any year subsequent to the fiscal year of execution of this Contract, this Contract shall terminate. The County’s fiscal year is currently the calendar year.

19. **WARRANTIES.** The Contractor represents and warrants that:

(a) It is fully qualified to perform the Services and will perform the Services in a timely, accurate, and competent manner in accordance with the professional standards of the industry; provided that this warranty shall not abrogate any independent duty of care owed by the Contractor to the County;

(b) Any methodologies or programs or other intellectual property utilized under this Contract were independently developed by it or duly licensed from third parties and shall neither infringe upon nor violate any patents, copyrights, trade secrets or other proprietary or intellectual property rights of a third party;

(c) If it is an entity, it is duly organized, validly existing and in good standing under the laws of the State of Colorado;

(d) The execution, delivery and performance of this Contract by the Contractor does not and will not: (1) require the consent of any undisclosed person or entity, (2) violate any legal requirement or (3) conflict with, or constitute a breach or violation of (a) its entity’s organizational documents, if any, or (b) the terms or provisions of any other agreement, instrument or understanding by which the Contractor is bound or affected.

20. **NOTICES.**

(a) “Key Notices” under this Contract are notices regarding any Contract renewals, Contract default, contractual dispute, termination of the Contract, or changes in the notice address. Key Notices shall be given in writing and shall be deemed received if given by: (i) confirmed electronic transmission (as defined in subsection (b) below) when transmitted, if transmitted on a business day and during normal business hours of the recipient, and otherwise on the next business day following transmission; (ii) certified mail, return receipt requested, postage prepaid, three (3) business days after being deposited in the United States mail; or (iii) overnight carrier service or personal delivery, when received. For Key Notices, the parties will

follow up any electronic transmission with a hard copy of the communication by the means described in subsection (a)(ii) or (a)(iii) above. All other daily communications or notices between the parties that are not Key Notices may be done via electronic transmission. Notice shall be given to the parties at the following addresses:

The Contractor:

Jefferson County Business Education Alliance
Attn: Joni Inman, Executive Director
809 Quail Street
Building #1
Lakewood, CO 80215
Tele: 303-568-0874

The County:

County Manager
Attn: Kate Newman
100 Jefferson County Pkwy.
Golden, Colorado 80419
Tele: 303-271-8567
Email: knewman@jeffco.us

with a copy to:

Jefferson County Attorney
100 Jefferson County Pkwy.
Golden, Colorado 80419-5500
Tele: 303-271-8900
E-Mail: CAOContracts@jeffco.us

All Key Notices to the County shall include a reference to the Contract including the Contractor's name and the date of the Contract.

(b) Electronic Transmissions. The parties agree that: (i) any notice or communication transmitted by electronic transmission, as defined below, shall be treated in all manner and respects as an original written document; (ii) any such notice or communication shall be considered to have the same binding and legal effect as an original document; and (iii) at the request of either party, any such notice or communication shall be re-delivered or re-executed, as appropriate, by the party in its original form. The parties further agree that they shall not raise the transmission of a notice or communication, except for Key Notices, by electronic transmission as a defense in any proceeding or action in which the validity of such notice or communication is at issue and hereby forever waive such defense. For purposes of this Contract, the term "electronic transmission" means any form of communication not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process, but specifically excluding facsimile transmissions and texts.

21. **MISCELLANEOUS PROVISIONS.**

(a) **Compliance with Laws.** The Contractor shall observe and comply with all Federal, State and local laws, regulations and ordinances that affect the Contractor or those employed or engaged by it, the materials or equipment used and the performance of the Services. The Contractor shall procure all necessary approvals, licenses and permits at its own expense.

(b) **Officials Not to Benefit.** No elected or employed member of the County government shall be paid or receive, directly or indirectly, any share or part of this Contract or any benefit that may arise therefrom.

(c) **Conflict of Interest.** The Contractor shall not knowingly perform any act that would conflict in any manner with the performance of the Services. The Contractor certifies that it is not engaged in any current project or business transaction, directly or indirectly, nor has it any interest, direct or indirect, with any person or business that might result in a conflict of interest in the performance of Services.

(d) **County's Ownership of Documents/Deliverables.** Any data, documents or other things or information provided by the County to the Contractor or to which the Contractor has access during the performance of the Services(the "County Documents") and any reports, drawings, results, conclusions of the Services or other writings or products produced by the Contractor (the "Deliverables") shall be and remain the sole property of the County at all times; and the Contractor shall not use any of the Deliverables or County Documents for any other purpose. The Deliverables shall also constitute a "work made for hire," and the County shall retain all right, title and interest in and to both the County Documents and the Deliverables. The Contractor shall provide to the County all of the Deliverables and return all County Documents by the Completion Date or the earlier termination of this Contract. The Contractor shall not disclose to any third party any County Document or Deliverable without the prior written approval of the County unless required under the Colorado Public Records Act or other law.

(e) **Confidentiality.** During the course of Contractor's performance of the Services, Contractor may have access to certain confidential and proprietary information owned by the County that may be disclosed to Contractor and Contractor's employees, agents, representatives, assigns or subcontractors orally, in writing or by observation. All such information disclosed to Contractor or Contractor's employees shall be maintained in strict confidence, shall not be used except as necessary for the performance of the Contract and shall not be disclosed to any third party without prior written approval of the County unless required under the Colorado Public Records Act or other law. All tangible items or material developed by or made available to Contractor or Contractor's employees, agents, representatives, assigns, or subcontractors hereunder shall be delivered to the County promptly upon the cancellation, termination or completion of this Contract.

(f) **Confidentiality of Systems.** In addition to containing public record information, a substantial amount of the information stored in the County's networks and systems (collectively, the "System") is confidential and is prohibited from unauthorized disclosure. Many programs, processes and other software products in the County's possession are confidential and may be protected by copyright, trade secret or other proprietary rights, and are not subject to unauthorized

disclosure. All proprietary rights shall at all times remain with the County, and no such rights are transferred to the Contractor. The County is and shall remain the sole owner of any programs, data or other information contained on the System, and at no time shall the Contractor have the right to license, sublicense, assign, sell, copy, modify or otherwise make available to any third party, any portion of the System or any information contained on the System. The Contractor shall indemnify and hold harmless the County and its elected officials, agents and employees from and against any and all liability, claims, damages and expenses (including reasonable attorneys' fees) arising out of the Contractor's unauthorized access to, modification or disclosure of, such System information.

(g) Governing Law, Forum, Venue. This Contract and the rights and duties of the parties hereunder shall be interpreted in accordance with the laws of the State of Colorado applicable to contracts made and to be performed entirely within such State without regard to its conflict of law provisions; and the Courts of such State shall have sole and exclusive jurisdiction over any disputes or litigation arising hereunder. Venue for any and all legal actions arising hereunder shall lie in the District or County Court in and for the County of Jefferson, State of Colorado.

(h) Survival. Notwithstanding anything to the contrary, the parties understand and agree that all terms and conditions of this Contract that require continued performance or compliance beyond the termination or expiration of this Contract, including without limitation the indemnification and warranty provisions, shall survive such termination or expiration and shall be enforceable against a party if such party fails to perform or comply with such term or condition.

(i) Sales Tax Exemption. The Contractor will not be required to pay Colorado State sales and use taxes for the Services. The Contractor may obtain a sales tax exemption permit from the State of Colorado, Department of Revenue, if necessary, to obtain materials for the Services without the payment of Colorado State sales and use tax.

(j) Waiver. This Contract or any of its provisions may not be waived except in writing by a party's authorized representative. The failure of a party to enforce any right arising under this Contract on one or more occasions will not operate as a waiver of that or any other right on that or any other occasion.

(k) No Third Party Beneficiaries. The enforcement of this Contract and all rights of action relating to such enforcement, shall be strictly reserved to the County and the Contractor. Nothing contained in this Contract shall give or allow any claim or right of action whatsoever by any other third person, nor shall anything contained in this Contract be construed as a waiver of any provision of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et. seq., as amended. It is the express intention of the County and the Contractor that any such person or entity, other than the County or the Contractor, receiving services or benefits under this Contract shall be deemed an incidental beneficiary only.

(l) Records Retention. The Contractor shall maintain all records, including working papers, notes and financial records, which records shall be available to the County for inspection

and audit for a period of three (3) years from the date of termination of the Contract unless the Contractor is notified in writing by the County of the need to extend the retention period. Copies of such records shall be furnished to the County upon request without charge by the Contractor.

(m) Execution by Counterparts; Electronic Signatures. This Contract may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. The Parties approve the use of electronic signatures for execution of this Contract. Only the following two forms of electronic signatures shall be permitted to bind the Parties to this Contract: (1) Electronic or facsimile delivery of a fully executed copy of a signature page; (2) The image of the signature of an authorized signer inserted onto PDF format documents. All documents must be properly notarized, if applicable. All use of electronic signatures shall be governed by the Uniform Electronic Transactions Act, C.R.S. §§24-71.3-101 to -121.

(n) Proper Execution. Each party represents that all procedures necessary to authorize such party's execution of this Contract have been performed and that the person signing for such party has been authorized to do so.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed.

COUNTY OF JEFFERSON
STATE OF COLORADO

By _____
Libby Szabo, Chairman
Board of County Commissioners

STATE OF COLORADO
COUNTY OF JEFFERSON

The foregoing Contract was acknowledged before me this _____ day of _____, 20____ by Libby Szabo as Chairman of the Board of County Commissioners for the County of Jefferson, State of Colorado.

Notary's official signature

Commission expiration date

Contractor:

JEFFERSON COUNTY BUSINESS EDUCATION
ALLIANCE

By _____

STATE OF COLORADO
COUNTY OF _____

The foregoing Contract was acknowledged before me this _____ day of _____, 20____
by _____ as _____ of Jefferson County Business Education
Alliance.

Notary's official signature

Commission expiration date



May 9, 2016

Board of County Commissioners
Jefferson County, Colorado

Re: Proposal to market Jefferson County through the Jefferson County Business Education Alliance

Dear Commissioners Szabo, Tighe and Rosier,

Thank you so much for your continued support of the work that the Jefferson County Business Education Alliance does with young people. It's refreshing to know that elected officials understand the direct link between training in basic business skills and the ultimate benefit to the business community.

As the former Deputy City Manager in Lakewood, responsible for economic development, I can tell you that the benefits of maintaining a strong employment base is twofold - first in helping our small businesses grow and prosper so that they can continue to provide increased employment opportunities; and then to attract primary employers by demonstrating that we have an educated workforce at the ready to support them.

The Economic Policy Institute released results of a study in 2013 that revealed the following:

- Overwhelmingly, high-wage states are states with a well-educated workforce.
- Providing expanded access to high quality education will not only expand economic opportunity for residents, but also likely do more to strengthen the overall economy than anything else a government can do.
- States can increase the strength of their economies and their ability to grow and attract high-wage employers by investing in education and increasing the number of well-educated workers.
- Investing in education is also good for government budgets in the long run, since workers with higher incomes contribute more through taxes over the course of their lifetimes.

The Jefferson County Business Education Alliance is working on a number of initiatives that strengthen the ability for small businesses to stay in place and grow, employing more people in Jefferson County, as well as attracting larger employers. Among them:

- In 2015 we established a Business/Employer Roundtable to identify the primary Career Ready Skills that the Jefferson County business community feels are important for students to have as they leave high school and enter the work world. We had a number of discussions with representatives from small businesses like the Egg & I to larger employers such as Kaiser

Permanente, Miller Coors, and FirstBank. The recommendations have been endorsed by all chambers of commerce in Jeffco, presented to the Jefferson County Board of Education for consideration in curriculum development and assessment, and incorporated into our Career Ready Workshops for teens ages 15 and older

- Career Ready workshops, focusing on providing high school students training in the basic business skills that will give them the edge in entering the work world, have been taught, by members of the Jefferson County business community, at no cost, after school at several high schools, many more are scheduled, and we're working with the American Job Center to add five more that are in economically depressed areas.
- We are in the process of building a coalition to develop and launch an apprenticeship program that will fill the needs of Jeffco employers, primarily in the manufacturing sector, with qualified apprentices at both the high school and community college level. We've actually already been working on behalf of the County with the Jefferson County School District, Jeffco Economic Development Corporation, Red Rocks Community College, State elected officials and private businesses. This work continues into 2016 and will certainly result in Jefferson County being recognized nationally as leaders in this type of initiative.
- We are launching a series of Entrepreneur Roundtable discussions to hear from small businesses in Jefferson County about the skills needed by young people in order to successfully start and grow a business. We will be partnering with others in the development and training of an Entrepreneur training program for young people. We hope to begin this training in 2017.
- We are in the planning stages of a virtual career day video database that will allow students to explore careers by viewing people from a variety of Jefferson County businesses actually on the job, doing their work.
- Creation of a success tracking system to allow us to better validate the results of the program.

We are already bringing recognition to Jefferson County, Colorado and have been contacted by representatives of the Texas Governor's Office and Kiwanis International's Capital District in Washington, DC to provide information on our program. We feel that there are a number of exceptional ways to bring attention to the progressiveness of Jefferson County in the support of business growth by jointly branding several of our initiatives.

Request

Our request is for the County to partner with us in keeping this important organization growing by contributing \$25,000 to help market, brand and create public relations opportunities that will benefit the County.

Benefits

Jefferson County will be recognized as a leader nationally in the support of its business community through a true partnership with the private sector. In addition, young people who might otherwise not be able to obtain basic business skills will benefit and stay in our county to start their own businesses or become exceptional employees, supporting our business community.

Deliverables

- Jefferson County will be recognized as the Diamond Sponsor of all JCBEA programming.
- Jefferson County will be recognized as the primary supporter in all communication with regional and national entities.
- Jefferson County's logo will be prominently displayed on the JCBEA website, with a link to the County website.
- Jefferson County's logo will appear on all program materials that are provided to students and their families.
- Jefferson County will be publicly recognized at all JCBEA events.
- A press release will be issued, with language developed jointly with the County's communication staff, regarding County and JCBEA efforts to focus on providing a well trained business force to employers.
- The County will be provided with table marketing space at all JCBEA events.
- JCBEA will provide Basic Business Etiquette training in scheduled sessions for County employees.
- Jefferson County will be featured with professional on-site signage at events.
- Jefferson County will be recognized as the sponsor of the first year of the Virtual Career Day project.
- Ad space will be provided on the JCBEA website.
- Quarterly reports will be provided to the Board of Commissioners.

Measureable Outcomes

A well-educated workforce is a key to economic prosperity. Jefferson County benefits from this program by ensuring that employers have trained entry-level employees. This is important not only to the attraction of business to Jefferson County but also in the reduction of unemployment rates.

Therefore, the JCBEA has identified the following as metrics of success for the 12 month period beginning June, 2016:

- Increase the total number of Career Ready Workshops held at Jefferson County high schools by 60%, from seven to 11.
- Lower the age of eligible participants from 16 to 15 years of age – resulting in an increase of participants by five per class – a 25% increase in class size. This will result in 275 students receiving Career Ready Certification.
- Add a Career Ready Workshop for the children, ages 15 and older, in the Jefferson/Gilpin CASA program. This program will be held in August, 2016, with an anticipated enrollment of 40.
- Establish one full-day entrepreneur basics program for teens in Jefferson County. These teens will then be connected to entrepreneur programs at Red Rocks Community College. Anticipated enrollment: 25.
- Increase number of Jefferson County businesses that commit to providing Career Ready graduates priority hiring status by 100%, from 17 to 34.
- Increase number of Jefferson County businesses offering job shadow opportunities by 100%, from 20 to 40.
- Increase number of business representatives training workshop sessions by 100%, from 12 to 24, which will allow us to grow.

- Approximately 350 notebooks will be branded with, “This program brought to you through the generosity of the business community, with special gratitude to the support of the Jefferson County Board of Commissioners.” These are distributed to students and sponsors.
- Finalize strategic plan for development of a “Virtual Career Day” database, highlighting Jefferson County businesses and the jobs within those companies.
- The JCBEA presents to approximately 24 community organizations per year, each with a minimum of 20 in attendance. All marketing materials will be branded with the support language identified above – exposure: 480.

The Board of the Jefferson County Education Alliance meets in a Strategic Planning session at the end of June, to establish three-year goals. Those will be shared with the County Commissioners during the quarterly updates.

Commitment

It is my commitment, as Executive Director of the Jefferson County Business Education Alliance, to come before the Board of County Commissioners at requested intervals with reports on progress of our mission. I further commit to working with the Commissioners in the pursuit and creation of a strong vocational education program that will benefit both employers and students.

Thank you all so much for your consideration. Please let me know if I can provide more information. I'm also happy to meet with you for further discussion.

Best to all,

Joni Inman

Joni Inman
Executive Director
Jefferson County Business Education Alliance
303-568-0874 (office)
303-829-1655 (mobile)



DENVER'S SMART CITY CHALLENGE GRANT

The U.S. Department of Transportation is seeking to award a \$50 million “Smart City Challenge Grant” to a mid-sized city this spring. The winning city will create a “smart” transportation system that uses technology, data and information to connect travelers with affordable, accessible and reliable multi-modal options. Outcomes will be improved mobility, safety and climate, and a program that can be exported to and replicated in cities nationwide.

Denver’s application was crafted by the City, Regional Transportation District and Colorado Department of Transportation and is supported by more than 50 partners. We are proposing to establish a robust data management and sharing platform that will connect disparate data sets from multiple agencies. This unified data platform will support and be integrated with three strategic mobility components:

- **Mobility on Demand** – This component will become Denver’s bridge to mobility options by bringing them to our fingertips through apps and kiosks. This initiative will integrate the city’s five car sharing and three ride sharing companies with B-Cycle and RTD to empower customers to make transportation decisions based on their preferences – on one interactive platform.
- **Vehicle Electrification** – This component will expand the electrification infrastructure to help increase market share for electric vehicles. The initiative also will electrify the taxi and City vehicle fleets, introduce wireless charging (including for transit buses) and electrify components of the ride sharing economy.
- **Intelligent Vehicles** – This component will introduce an urban deployment of connected-vehicle technology, building on CDOT’s RoadX program and removing regulatory barriers to autonomous vehicle technology. This initiative also will aim to introduce autonomous elements to fleet and transit vehicles while testing autonomous vehicle business models.

Our Smart City Program will allow us to leverage existing infrastructure, respect prior investments and connect users with rapidly advancing technologies. The benefits will be transformational, enabling Denver to:

- Convert a significant percentage of the city’s fleet vehicles to electric
- Accelerate the build-out of electric vehicle charging stations
- Create a policy and regulatory environment inviting for automated vehicles
- Establish a path for an 80 percent reduction of greenhouse gas emissions by 2050
- Increase bike and pedestrian commuter mode share to 15 percent by 2020
- Reduce single-occupant vehicle mode share to 60 percent by 2020
- Install 15 miles of new bike lanes each year
- Increase the number of and public availability of transportation-related open data sets
- Successfully implement a Vision Zero safety program to reduce and ultimately eliminate vehicle-related crashes, injuries and fatalities



Denver Smart City Challenge Partners

Foundational

City and County of Denver
State of Colorado
Colorado Department of Transportation
Regional Transportation District

Research

National Renewable Energy Laboratory
Colorado State University
University of Colorado Denver
Colorado School of Mines
Mountain Plains Consortium
Electric Power Research Institute
North Dakota State University

Automakers

GM
BYD
Ford
Via Motors
Audi

Energy

Xcel Energy
NRG
Momentum Dynamics
ABB

Organizations & Individuals

Rocky Mountain Institute
Denver Metro Chamber of Commerce
Environmental Defense Fund
Conservation Colorado
United Way
Mile Hi Connects
Former U.S. Secretary of Transportation &
Energy Federico Pena
Former U.S. Interior Secretary Ken Salazar
Former Colorado Governor Bill Ritter

Technology

Panasonic
Xerox
Revision
MTS
HERE
INRIX
Siemens
Lockheed Martin
Quanergy
Bosch
Bishop Consulting
Peloton

Safety

West Safety Services
Colorado State Patrol
Tyco

Transport

TransDev
B-Cycle
Car2Go
eGo Carshare
FedEx

Policy

Society of Automotive Engineers
Transportation for America

Telecom

Verizon



Mayor Heidi Williams
City of Thornton
Chair

Mayor Cathy Noon
City of Centennial
Co-Vice Chair

Mayor Marjorie Sloan
City of Golden
Co-Vice Chair

April 26, 2016

Mr. Anthony Foxx
Secretary of Transportation
US Department of Transportation

Honorable Secretary Foxx,

The Metro Mayors Caucus is a collaborative regional organization comprised of mayors from 41 cities and towns throughout the metropolitan Denver region. Our membership represents more than half of Colorado's population and spans the seven-county metro region.

On behalf of the Metro Mayors Caucus, I am pleased to provide this letter of support for the City and County of Denver's application for a \$50M US DOT Smarter City Challenge Grant. Crafted in partnership with the Regional Transportation District and Colorado Department of Transportation, the grant would allow Denver and its more than fifty partners to develop a data management and sharing platform that would allow greater coordination and enhanced efforts around mobility on demand, vehicle electrification and intelligent vehicles. It would further allow Denver to leverage existing infrastructure dollars in furtherance of other high priority transportation infrastructure investments that would be of benefit to the greater metro area including creating a policy and regulatory environment for automated vehicles and increasing the number and public availability of transportation related open data sets.

Due to the enhanced collaboration which is a hallmark of our region, what is learned in Denver will be shared with cities and counties throughout metro Denver. The existence of decades long regional partnerships, such as our 41-member Metro Mayors Caucus, provides a clear and vital path for replication of Denver's outcomes around safety, mobility, and climate. For the above reasons, a grant award to Denver would be transformational not just for the City & County of Denver, but also for our greater metropolitan region

In closing, we join the more than fifty partners in urging your consideration of Denver's application and commit to providing a forum for the sharing of information about grant implementation.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Heidi Williams", with a long horizontal flourish extending to the right.

Mayor Heidi Williams, City of Thornton
2016 Chair Metro Mayors Caucus

May 13, 2016

Mr. Anthony Foxx
Secretary of Transportation
US Department of Transportation

Honorable Secretary Foxx,

The Metro Area County Commissioners (MACC) is a collaborative regional organization comprised of commissioners representing the seven metro area counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, and Jefferson. Collectively, the MACC represents approximately 2.8 million Colorado residents, more than half of the state's population.

On behalf of the MACC, I am pleased to submit this letter of support for the City and County of Denver's application for a \$50 million U.S. Department of Transportation Smarter City Challenge Grant.

This grant would enable Denver and its many partners – including the Regional Transportation District, Colorado Department of Transportation, 7 metro counties, nearly 50 local municipalities and dozens of nonprofit and business interests – to create a data management and sharing platform that will facilitate enhanced collaboration, expansion and coordination with mobility on demand, vehicle electrification and intelligent vehicles. By leveraging existing infrastructure dollars for priority transportation investments, the grant would also benefit the greater metro area by developing the policy and regulatory framework for autonomous vehicles and expanding the accessibility of open data sets used for transportation purposes. In addition, with our region's strong tradition of collaboration, what Denver learns through this grant will be shared with other localities around the region, amplifying the benefit to the greater metro region.

In conclusion, we strongly support this application and look forward to partnering with Denver and others in the region in sharing the information resulting from of this effort.

Thank you for your consideration.

Sincerely,

Elise Jones, Boulder County Commissioner
Chair, Metro Area County Commissioners

MEMORANDUM

TO: Janice Fredricksen, Board of County Commissioners Office

FROM: Kat Douglas, Director Community and Workforce Development Division

RE: Community Development Advisory Board – Recommendation for Membership Appointment – Peter Pittman and Donna Mullins

DATE: 5/6/2016

Staff Recommendation: The Community Development Advisory Board recommends the appointments of: Peter Pittman and Donna Mullins.

Background: The purpose of the Community Development Advisory Board is to make recommendations to the Jefferson County Board of County Commissioners regarding matters related to community development, housing and economic development for low and moderate income residents; to recommend to the Commissioners recipients for federal funds made available to Jefferson County from the Community Development Block Grant, and to serve as liaison for the Commissioners to the Jefferson County community on issues related to housing and community development.

Vacancy Posting: This posting was advertised on the Jefferson County website under the Board Vacancies announcement. The Advisory Board consists of up to nine members who represent the interests of different segments of the community. In addition, the Advisory Board includes at least one member from each participating jurisdiction. The Board received three applications. Two are being recommended to fill open seats.

Appointment

Peter Pittman: Filling vacated appointment, regular member. Peter is a financial advisor with Wells Fargo Advisors, LLC. He has an in-depth understanding of social investment and financial expertise within the community. Peter will bring a unique perspective to the CDAB, including cost/benefit analysis, financial insights, small business, relationship management, and network. Given his lending and analytical skills, the CDAB believes Peter will enhance the CDAB's composition.

Donna Mullins: Filling vacated appointment, regular member. Donna has been actively involved in the field of affordable housing for older adults since 1990. She is committed to addressing the needs of seniors in Jefferson County particularly those with low income. She has been working and been very involved in the field of affordable housing for older adults since 1990 and will bring an in-depth understanding of the needs of older residents in

Jefferson County, particularly those with low income. She has experience developing subsidized senior housing projects and is actively involved with the Aging Well program since its inception in 2008 and multiple senior service and housing entities.

Not Recommending:

Deborah Deal (Blackwell): Deborah is not being recommended by the CDAB. She does not support workforce housing development.

Copy to: Meg Spence, Human Services Administration