



**City of Aurora  
COUNCIL AGENDA COMMENTARY**

Item #: 10a  
 SS: \_\_\_\_\_  
 1st: \_\_\_\_\_  
 2nd: \_\_\_\_\_

<b>Item Title:</b> Consideration to APPROVE A RESOLUTION of the City Council of the City of Aurora, Colorado, authorizing the execution of an Incentive Agreement by an among the City, the Aurora Urban Renewal Authority, and Gaylord Entertainment Company
<b>Policy Committee/Other Reviews (i.e. Boards and Commissions):</b>
<b>Item Initiator:</b> Mayor Tauer
<b>Staff Source:</b> John Gross, Finance Director
<b>City Manager/Deputy City Manager Signature:</b> George Noe

**ACTIONS(S) PROPOSED** *(Check all appropriate actions)*

- Approve Item as proposed at Study Session
- Approve Item and Move Forward at Study Session
- Approve Item as proposed at Regular Meeting
- Approve Item with Waiver of Reconsideration
- Information Only

**HISTORY** *(Dates reviewed by City council, Policy Committees, Boards and Commissions, or Staff. Summarize pertinent comments. ATTACH MINUTES OF COUNCIL MEETINGS, POLICY COMMITTEES AND BOARDS AND COMMISSIONS.)*

This item is the culmination of discussions and negotiations with the city and Gaylord Entertainment concerning a major hotel and conference center project to be located in Aurora.

**ITEM SUMMARY** *(Brief description of item, discussion, key points, recommendations, etc.)*

This item is a resolution authorizing a development and incentive agreement between the City, the Aurora Urban Renewal Authority (AURA) and Gaylord Entertainment. It describes a 1500 room hotel and a 350,000 to 400,000 square foot conference center project as well as the incentive to be provided by the city and AURA.

The incentive has two components. The first major component of the incentive is a commitment of a revenue stream for up to an effective 30 years consisting of substantially all available incremental tax revenue generated by the project. The revenue stream would involve the creation of an Urban Renewal Area and Plan with a tax increment financing provision, an enhanced tax area for lodger's and admissions tax, a general improvement district and associated property tax, and a regional tourism zone with an incremental states sales tax allocation. The second major component of the incentive is a commitment, if Gaylord requests and subject to a number of criteria and conditions, for AURA to issue bonds supported by the above revenue stream and for the city to provide a moral obligation pledge in case the revenue stream is not adequate to pay debt service.

**KEY ISSUES**

Does Council wish to approve a resolution authorizing execution of the proposed incentive agreement

**LEGAL COMMENTS**

The development of the Gaylord hotel/conference center project within the boundaries of the City is expected to serve the valid public purpose of promoting economic development within the City by increasing the City's employment base, establishing the City as a resort destination for both national and international visitors; generating increased sales tax, property tax, and other general revenue for the City,

and stimulating further economic development in the region. Accordingly, the proposed Incentive Agreement is excepted from the prohibition in Article XI, Section 2 of the Colorado Constitution against the donation of public funds. See In Re Interrogatory on House Bill 91S-1005, 814 P. 2d 875 (Colo. 1991).

A moral obligation pledge does not constitute a pledge of the City's full-faith and credit as security for bonds issued by the Aurora Urban Renewal Authority, but is instead a declaration of the City's present intent to consider appropriating funds to replenish the debt service reserve fund for such bonds under the terms and conditions set forth in the Incentive Agreement. Because the decision to appropriate funds remains in the sole discretion of the City Council, such pledge does not constitute a multiple-fiscal year debt or financial obligation of the City and, thus, does not require the approval of the City's voters. Colo. Const. Art. X, §20(4)(b).

Any motion to approve the proposed resolution shall include a waiver of reconsideration. (Hyman)  
Bob Rogers

**PUBLIC FINANCIAL IMPACT** (If Yes, EXPLAIN)

Yes                       No

The city gains the benefit of a major national tourism destination. This would be the fifth Gaylord project in the country. The economic benefit in terms of new spending generated in the city is projected by an independent consultant at about \$284 m per year. This is projected to generate gross new taxes in the city of about \$16.8 m annually. Because for the first 30 years that the project is open, much of the new tax revenue is used to support the incentive for the project, the net new revenue is projected at \$2.7 m annually. A fire station may be desired to provide service to the project and to new development in the area; it may not be appropriate to consider all the cost of any fire stations to be associated with the project. But, in any event, a new fire station costs about \$1.5 m annually to operate. If that cost is taken out of the projected net new revenue to the city, the net after expenses is about \$1.2 m annually.

There are some potential costs for the General Fund associated with the incentive in terms of a cap on initial construction related fees that will be charged to Gaylord. It is difficult to estimate those potential costs.

After 30 years, in today's dollars, the project, if it is maintained as expected and the market hasn't changed, should produce net annual new city revenue of about \$15.3 m annually.

There is a risk to the General Fund associated with this project. Gaylord, under certain conditions and terms, has the option of having the Aurora Urban Renewal Authority issue bonds for the project if those bonds meet a specific set of criteria. The City's Financial Advisor for this project used these criteria and other recommended assumptions and projected a bond issue size of \$225 m that nets \$170 m in project proceeds. If bonds are issued, this incentive provides that the city will back the bonds with a moral obligation pledge. The pledge effectively means that, in the future, if there is not enough project revenue to pay debt service, the city council at that time will consider using General Fund monies to pay that debt service (technically, the city would be replenishing a debt service reserve fund that would have been drawn down to pay debt service). There is no legal requirement that the city pay that debt service. However, the financial community would expect Aurora to honor its pledge and Aurora's financial reputation would be damaged if it did not honor a moral obligation and its bond rating would likely be adversely impacted. The market is likely to consider such a bond transaction (not including the moral obligation) as having a higher than "relatively low risk" because of the general nature of the hotel/conference center market and the stand alone nature of the project. The city and its consultants have run a number of "stress" tests of various economic downturns and adverse situations using the criteria identified in the incentive plus additional criteria and assumptions as recommended by our advisors. The results of those tests indicate that if the basic assumptions of the project are correct, and if the additional advice of the advisors is followed, the project can withstand significant adverse events without the city having to consider using any General Fund monies to support the project.

**PRIVATE FISCAL IMPACT** *(If Significant or Nominal, EXPLAIN)*

Not Applicable     Significant     Nominal

Gaylord entertainment would receive an incentive in the form of project tax revenue having a value of about \$297 million (calculated at the projected interest rate of the bonds that might be issued under this incentive). However, if Gaylord elected the Bond option, the currently net amount of a bond issue that would be part of the incentive is currently projected at \$170 million. If bonds were issued today based on incentive criteria and additional assumptions and recommendations of the city's financial advisor, the total value of the incentive to Gaylord would be \$227 million inclusive of both the bonds and residual cash flow anticipated to go to Gaylord.

**EXHIBITS ATTACHED:**

Resolution Approving the Incentive Agreement  
Incentive Agreement  
Presentation of Wendy Mitchell, President AEDC  
Presentation of John Gross, Finance Director

RESOLUTION NO. R2011-\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AUTHORIZING THE EXECUTION OF THE INCENTIVE AGREEMENT BY AND AMONG THE CITY, THE AURORA URBAN RENEWAL AUTHORITY, AND GAYLORD ENTERTAINMENT COMPANY

WHEREAS, Gaylord Entertainment Company, a corporation organized and existing under the laws of the State of Delaware (“Gaylord”), is a national developer with expertise and extensive experience in development of conference centers and related hotels and amenities nationwide; and

WHEREAS, Gaylord has been actively involved in evaluating various sites located in several cities and counties in the State of Colorado (the “State”) as the location for its next state-of-the-art conference facility, which is expected to initially include an approximately 1,500 room hotel (the “Hotel”) and a conference center consisting of approximately 350,000-400,000 gross square feet of meeting space (inclusive of pre-function and public circulation space) (the “Conference Center” and collectively with the Hotel, the “Project”); and

WHEREAS, it is currently anticipated that LNR CPI High Point LLC, a Colorado limited liability company (“LNR”), will contribute to Gaylord for development of the Project, as such Project may be enhanced or expanded from time to time, an area measuring approximately 85 acres, which land is currently owned by LNR and located within the boundaries of the City; and

WHEREAS, development of the Project within the boundaries of the City is designed to provide substantial direct and indirect benefits to the City, its citizens and the surrounding region and enhance the economic vitality of the City in numerous ways, including the creation and retention of new temporary and permanent jobs; increasing the City’s employment base; establishing the City as a resort destination for both national and international visitors; generating increased sales tax, property tax, and other general revenue for the City and the State; and stimulating further economic development in the City and the surrounding region; and

WHEREAS, to help ensure the Project’s financial feasibility and success, the City, the Aurora Urban Renewal Authority (the “Authority”) and Gaylord have agreed upon various forms of incentives and financial assistance generated from the taxes Gaylord or visitors to the Project pay and, without such assistance, Gaylord would not locate the Project in the City;

WHEREAS, the City, the Authority, and Gaylord wish to enter into an Incentive Agreement (the “Agreement”) for the purpose of establishing: (i) the incentive package offered to Gaylord to ensure that the Project will be located within the City; (ii) the respective roles and responsibilities of the City, the Authority, and Gaylord to finance, develop, and construct the Project; and (iii) the timetable for implementation of the incentives described herein and the financing and construction of the Project; and

WHEREAS, in addition, the City will cause to be prepared and filed an application with the Colorado Economic Development Commission pursuant to the Regional Tourism Act, Part 3 of Article 46, Title 24, C.R.S., as amended (the “Regional Tourism Act”), for designation of the Project and surrounding environs (the “Regional Project Area”) as a regional tourism zone within the meaning of the Regional Tourism Act, which application shall include a request that

all State sales tax increment revenues derived from the Regional Project Area be allocated to the Authority to assist in the financing of the Project and such other eligible tourism or entertainment facilities located within the Regional Project Area and identified in the application; and

WHEREAS, for these purposes, the City finds it to be in the best interests of the City and its citizens to enter into the Incentive Agreement between the City, the Authority, and Gaylord.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. The City Council hereby authorizes the Mayor and the City Clerk to execute and deliver the Incentive Agreement by and among the City, the Authority, and Gaylord in substantially the form filed with the Office of the City Clerk and presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

Section 2. The City shall, and the officers, agents, and employees of the City are hereby authorized and directed to take such further action and execute such other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution and to carry out, comply with, and perform the duties of the City with respect to the Incentive Agreement.

Section 3. The City Council further authorizes the City Manager to prepare or cause to be prepared, and the Mayor to submit, by and on behalf of the City, an application to the Colorado Economic Development Commission pursuant to the Regional Tourism Act for designation of the Regional Project Area as a regional tourism zone within the meaning of the Regional Tourism Act.

Section 4. All resolutions or parts of resolutions of the City in conflict herewith are expressly rescinded.

Section 5. Any reconsideration of this Resolution is hereby waived. This Resolution shall take effect and be in full force immediately after its adoption by the City Council.

RESOLVED AND PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD J. TAUER, Mayor

ATTEST:

\_\_\_\_\_  
DEBRA JOHNSON, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
MICHAEL J. HYMAN, Assistant City Attorney

**INCENTIVE AGREEMENT**

**by and among**

**The City of Aurora, Colorado,  
Aurora Urban Renewal Authority  
and Gaylord Entertainment Company**

**Dated as of  
June 20, 2011**

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## **INCENTIVE AGREEMENT**

This INCENTIVE AGREEMENT (this "Agreement") is entered into as of June 20, 2011, among THE CITY OF AURORA, a home rule municipality and political subdivision of the State of Colorado (the "City"), organized and operating pursuant to the constitution and laws of the State of Colorado (the "State"), AURORA URBAN RENEWAL AUTHORITY, a political subdivision of the State organized and existing under the Urban Renewal Law ("AURA"), and GAYLORD ENTERTAINMENT COMPANY, a corporation organized and existing under the laws of the State of Delaware ("Gaylord"); provided, however, that AURA is a signatory hereto subject to certain conditions imposed by resolution of its Board of Commissioners. The City, AURA and Gaylord may be referred to herein as a "Party" or collectively as "Parties." All capitalized terms used herein without definition shall have the same meanings herein as such terms are defined in Article 2 hereof.

### **ARTICLE 1. RECITALS**

WHEREAS, Gaylord is a national developer with expertise and extensive experience in development of conference centers and related hotels and amenities nationwide;

WHEREAS, Gaylord has been actively involved in evaluating various sites located in several cities and counties in the State as the location for its next state-of-the-art conference facility, which is expected to initially include an approximately 1,500 room hotel (the "Hotel") and a conference center consisting of approximately 350,000-400,000 gross square feet of meeting space (inclusive of pre-function and public circulation space) (the "Conference Center" and collectively with the Hotel, the "Project");

WHEREAS, it is currently anticipated that LNR CPI High Point LLC, a Colorado limited liability company ("LNR"), will contribute to Gaylord for development of the Project, as such Project may be enhanced or expanded from time to time, an area measuring approximately 85 acres (the "Site") to be designated within approximately 125 acres of land more fully described on Exhibit A attached hereto, which land is currently owned by LNR and located within the boundaries of the City;

WHEREAS, development of the Project within the boundaries of the City is designed to provide substantial direct and indirect benefits to the City, its citizens and the surrounding region and enhance the economic vitality of the City in numerous ways, including but not limited to the creation and retention of new temporary and permanent jobs; by increasing the City's employment base; by establishing the City as a resort destination for both national and international visitors; by generating increased sales tax, property tax, and other general revenue for the City and the State; and by stimulating further economic development in the City and surrounding region;

WHEREAS, to help ensure the Project's financial feasibility and success, the City, AURA and Gaylord have agreed upon various forms of incentives and financial assistance generated from the taxes Gaylord or its visitors pay and without such assistance, Gaylord would not locate the Project in the City;

WHEREAS, the intent of this Agreement is to set forth: (i) the incentive package offered to Gaylord to ensure that the Project will be located within the City; (ii) the respective roles and responsibilities of the City, AURA and Gaylord to finance, develop, and construct the Project; and (iii) the timetable for implementation of the incentives described herein and the financing and construction of the Project; and

WHEREAS, it is the intent of the Parties to structure the incentives provided under this Agreement, whether structured pursuant to Section 6.1(a) or pursuant to Section 6.1(b), as a contribution to the capital of Gaylord within the meaning of Section 118 of the Internal Revenue Code of 1986, as amended;

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the Parties hereto hereby agree as follows:

## **ARTICLE 2. DEFINITIONS**

“Administrative Costs” shall mean actual administrative costs related to administration of the GID and the Enhanced Taxing Area, in an amount not to exceed \$200,000 per year, or if “tax interruption insurance” is available and if the City and/or AURA determines that it wishes to purchase such insurance, such greater amount as may be needed for AURA to purchase tax interruption insurance or its reasonable equivalent with coverage for a period not to exceed one fiscal year, in an amount not to exceed \$12 million in any given fiscal year and with an annual premium not to exceed \$12,000 in any given fiscal year.

“Agreement” shall mean this Incentive Agreement dated as of June 20, 2011, by and between Gaylord and the City, as the same shall be amended from time to time.

“Applications” shall have the meaning ascribed to it in Section 5.4(c) hereof.

“AURA” shall mean the Aurora Urban Renewal Authority, a political subdivision of the State organized and existing under the Urban Renewal Law.

“Available Taxes” shall mean the following: (i) State Sales Tax Increment revenues generated on the Site (assuming the Project is named a part of the Regional Tourism Project); (ii) Property Taxes payable as a result of or levied by the GID (but only if such taxes are collected); (iii) incremental Property Tax revenues allocated in the Urban Renewal Plan at the rates prevailing on the date of this Agreement, plus any increases thereof; and (iv) incremental revenues generated on the Site by the levy of the excise taxes to be specified in the Urban Renewal Plan, which excise taxes (including sales taxes) are set forth on Exhibit B, at the rates prevailing on the date of this Agreement, plus certain increases in City excise taxes, as explained further below. Of the Available Taxes, the incremental revenues from non-City taxes shall be allocated for the Project for 25 years, commencing on the Effective Date of Allocation; the incremental revenues from City taxes shall be allocated for the Project for 30 years, commencing on the Effective Date of Allocation; and the revenues from the Enhanced Taxing Area and from the Property Taxes payable as a result of or levied by the GID shall be allocated for the Project for 33 years, commencing on the Effective Date of Allocation. The taxes comprising the Available Taxes and the tax rates as of the date of this Agreement are set forth on Exhibit B attached hereto.

“Available Taxes” shall include (i) any future increase in the base rate (without taking into

account the Enhanced Tax Rate) of the Lodger's Tax generated on the Site that is equal to or less than 2% and (ii) any future increase in the base rate (without taking into account the Enhanced Tax Rate) of the City excise tax on admissions generated on the Site that is equal to or less than 6.25%. "Available Taxes" shall not include any future increase in the rate of any other City excise tax generated on the Site.

"Bond Threshold Requirements" shall mean either those characteristics set forth in Section 6.3(b)(i) or those conditions set forth in Section 6.3(b)(ii).

"Bonds" shall mean the revenue bonds (if any) issued by the Issuer to finance the Conference Center in accordance with Section 6.3 and payable from the Pledged Revenues pursuant to Sections 11.3 and 11.4(a).

"Charter" shall mean the home rule charter of the City.

"City" shall mean the City of Aurora, State of Colorado, a home rule municipality and political subdivision of the State organized and operating pursuant to the constitution and the laws of the State.

"City Code" shall mean the Code of Ordinances of the City, as amended and in effect as of the date of this Agreement.

"Conference Center" shall have the meaning in the Recitals and as more fully defined in Article 5.

"Construction Contract" shall have the meaning ascribed to it in Section 6.4(c).

"Construction Management Contract" shall have the meaning ascribed to it in Section 6.4(a).

"Council" shall mean the City Council of the City.

"C.R.S." shall mean the Colorado Revised Statutes, as amended and in effect as of the date of this Agreement.

"CSP" shall have the meaning ascribed to it in Section 5.4(c) hereof.

"Debt Service Reserve Fund" shall mean a debt service reserve fund for the Bonds that is funded from Bond proceeds in an amount not less than the maximum permitted under the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

"Denver" shall mean the City and County of Denver, Colorado.

"Effective Date of Allocation" shall mean, with respect to each of the Available Taxes, the date set forth in the Urban Renewal Plan on which the allocation of such tax for the Project shall take effect, unless an earlier date is set forth in the documents governing the formation of the GID or the Enhanced Taxing Area.

“Enabling Ordinance” shall mean an ordinance of general application of the City setting forth the procedure for the establishment of enhanced taxing areas in the City, substantially in the form attached hereto as Exhibit C.

“Enhanced Tax Rate,” with respect to the taxes specified below, shall mean the supplemental rate of such tax imposed in the Enhanced Tax Area. “Enhanced Tax Rate” shall mean the supplemental rate of 2% with respect to the Lodger’s Tax imposed in the Enhanced Taxing Area and the supplemental rate of 6.25% with respect to the City excise tax on admissions imposed in the Enhanced Taxing Area; provided, however, that, (i) if the base rate (without taking into account the Enhanced Tax Rate) of the Lodger’s Tax is increased, the Enhanced Tax Rate on the Lodger’s Tax shall be correspondingly reduced by the same percentage, but not to exceed 2%, and (ii) if the base rate (without taking into account the Enhanced Tax Rate) of the City excise tax on admissions is increased, the Enhanced Tax Rate on the City excise tax on admissions shall be correspondingly reduced by the same percentage, but not to exceed 6.25%.

“Enhanced Taxing Area” shall mean the geographic area within the City, which is formed in accordance with the Enabling Ordinance, corresponding to the map set forth on Exhibit D, in which the rates of the Lodger’s Tax and the City excise tax on admissions are enhanced by the Enhanced Tax Rate. The Enhanced Tax Area Election Ordinance may provide for the Enhanced Tax Rate to take effect on January 1, 2013, and extending for a term not exceeding 33 years.

“Enhanced Tax Area Election Ordinance” shall mean the action of the Council, submitting the question of imposition of the Enhanced Tax Rate to the electors of the Enhanced Taxing Area on November 1, 2011.

“FDP Amendment” shall have the meaning ascribed to it in Section 5.4(c) hereof.

“Financing Entity” shall mean, in reference to the Regional Tourism Project, the entity designated to receive and utilize the State Sales Tax Increment, pursuant to Section 24-46-303(6) of the Regional Tourism Act.

“Gaylord” shall mean Gaylord Entertainment Company, a corporation organized and existing under the laws of the State of Delaware.

“Gaylord Affiliate” shall have the meaning ascribed to it in Section 22.6.

“General Improvement District” or “GID” shall mean a general improvement district formed by the City pursuant to the General Improvement District Act and having the boundaries depicted on Exhibit E hereto.

“General Improvement District Act” shall mean Part 6 of Article 25, Title 31, C.R.S, as amended.

“GID Mill Levy” shall mean the ad valorem property tax imposed by and levied throughout the GID at the rate of 40 mills, commencing on January 1, 2013 and continuing for 33 years thereafter, pursuant to authorization by the qualified electors of the GID.

“GID Election Ordinance” shall mean the action of the Council forming the GID and submitting the question of imposition of the GID Mill Levy to the electors within the GID on November 1, 2011.

“Ground Lease” shall mean the ground lease substantially in the form of Exhibit F hereto, the term of which shall be coterminous with the Improvements Lease, and pursuant to which Gaylord shall lease to the City or AURA the parcel within the Site on which the Conference Center is constructed; provided, however, that the Parties shall mutually cooperate to timely complete any exhibits, schedules or other attachments that are intended to be included in such ground lease but are not included in Exhibit F as of the date hereof.

“Hotel” shall have the meaning ascribed to it in the Recitals and as more fully defined in Article 5 below.

“Improvements Lease” shall mean the improvements lease substantially in the form of Exhibit G hereto, the term of which shall be 50 years, which exceeds the useful life of the Conference Center; provided, however, that the Parties shall mutually cooperate to timely complete any exhibits, schedules or other attachments that are intended to be included in such improvements lease but are not included in Exhibit G as of the date hereof.

“Intergovernmental Agreement” shall mean an agreement entered into among the City, AURA and the GID pursuant to the Intergovernmental Cooperation Law.

“Intergovernmental Cooperation Law” shall mean Part 2 of Article 1, Title 29, C.R.S., as amended.

“Issuer” shall mean the entity issuing the Bonds (if and when any such Bonds are issued), which shall be AURA.

“LNR” shall mean LNR CPI High Point LLC, a Colorado limited liability company.

“LNR District” shall mean Colorado International Center Metropolitan District No. 4.

“LNR District Revenue Sharing Agreement” shall mean an agreement to be entered into between the GID and the LNR District, pursuant to which (i) property taxes levied by the GID that are generated from property other than the Site shall be paid to the LNR District and (ii) all Property Taxes levied by the GID shall be paid to the Issuer, its successors and assigns, for use as contemplated by the Urban Renewal Plan.

“Lodger’s Tax” shall mean the tax imposed pursuant to Article IV of Chapter 130 of the City Code as of the date of this Agreement.

“Loss of Revenue Stream” shall have the meaning ascribed to it in Section 16.3(c).

“Moral Obligation Pledge” shall mean the pledge given by the City either (i) in this Agreement pursuant to Section 6.3(b)(i) or, (ii) in the event that Bonds are issued pursuant to Section 6.3(b)(ii), in such approving resolution adopted by the Council at the time of the issuance of such Bonds. In either case, the Moral Obligation Pledge may also be incorporated in or referred to in the Bond documents and requires the City Manager to prepare and submit to the Council a

request for a supplemental appropriation to replenish the Debt Service Reserve Fund whenever such fund is depleted because of a shortfall in the Pledged Revenues available for debt service on the Bonds pursuant to Sections 11.3 and 11.4(a). The requirement that the City Manager make such request for a supplemental appropriation shall be mandatory, provided that the decision to appropriate the funds necessary to replenish the Debt Service Reserve Fund shall be within the sole discretion of the Council. Any funds appropriated to replenish the Debt Service Reserve Fund shall be treated as a loan by the City to AURA, and shall be subject to repayment from Pledged Revenues pursuant to Sections 11.3 and 11.4(a).

“Permitted Public Costs” shall include the items set forth in this definition, which will constitute contributions to the capital of Gaylord for Gaylord’s use of such contributions for such public benefit items or for reimbursement for Gaylord’s payment of such public benefit items.

“Permitted Public Costs” shall include but not be limited to the following, in no particular order of priority: (i) any all costs associated with design, construction, repair, maintenance and replacement of or capital upgrades to items or space in or around the Conference Center or which are otherwise an integral part of the operations of the Conference Center, including by way of example only and without limitation, the building structure and all interior and exterior patios or atriums or verandas, driveways, gathering space, walkways, courtyards; all related interior and exterior amenities, fixtures, furnishings, offices, landscaping, audio-visual and equipment, lighting, alarms, heating and air conditioning, plumbing, kitchens, catering space and equipment, computers, other operations systems, and operating maintenance systems and central plants serving the Conference Center; (ii) repair, maintenance, upgrades or replacement of or capital upgrades to all surrounding open areas and infrastructure (including road, water, sewer and utility improvements, medians and rights of way) serving the Conference Center and the Hotel and owned by Gaylord but used by the public utilizing the Conference Center and the Hotel; (iii) the pro rata share of the Conference Center and the Hotel (in that order, based on respective overall square footages) of the overall Project utility (including water, sewer, electric, gas, cable, refuse, etc.) costs and costs to operate and maintain/repair the central plant, including related infrastructure, that provides services/utilities to the entire Project; (iv) the pro rata share of the Conference Center’s other costs (based on overall square footage of the Hotel and Conference Center), including but not limited to insurance and general security costs, which apply to the entire Project; (v) increased costs of special or extra security incurred as a result of any particular event or meeting held at the Conference Center; (vi) costs related to any payments for emergency services related to the Conference Center; (vii) Web site, technology and personnel costs associated with maintenance of the Web site and online meeting space management, maintenance of technology systems, and operations and maintenance of call centers for the Conference Center; and (viii) the costs of any and all forms of advertising, marketing, and promotion of the Hotel and Conference Center, including, without limitation, all forms of media advertising (including television, radio, print, billboard, brochure and Internet), direct mail, direct marketing, sponsorship marketing and related promotional activities, marketing through trade associations, including, without limitation, Web site and technology costs associated with Internet marketing and advertising, targeted marketing trips to association meetings, conventions and related events, complimentary trips to familiarize convention or trade show organizers with the Hotel and Conference Center improvements, other travel to promote the Hotel and Conference Center, and other advertising and promotional activities developed as part of an overall advertising and marketing strategy to promote the Hotel and Conference Center improvements (including without limitation, direct and indirect costs, such as salaries, benefits and bonuses, related to the hiring or compensation of sales, reservation, public relations and



marketing staff with respect to the Hotel and Conference Center activities). The use of any revenues from Available Taxes that are paid to Gaylord shall comply with the Regional Tourism Act and the Urban Renewal Law, as applicable.

“Permitted Successor” shall have the meaning ascribed to it in Section 22.6.

“Plat” shall have the meaning ascribed to it in Section 5.4(c) hereof.

“Pledged Revenues” shall mean the Available Taxes pledged to incent the construction of the Project in the City as follows: (i) if the Conference Center is financed pursuant to Section 6.1(a), Pledged Revenues shall mean 100% of Available Taxes to be used towards the City’s direct payment to Gaylord for use on the Permitted Public Costs or (ii) if Gaylord elects to have AURA use Bond financing on the Conference Center pursuant to Section 6.1(b), Pledged Revenues shall mean all Available Taxes other than (A) any amount of non-GID Property Taxes in excess of \$10 million annually, escalating by 3% per year beginning after the first full year of operation of the Project as set forth in Section 11.1 and (B) any amount of City use tax not approved by Gaylord for use in the Bond offering; provided, however that such Pledged Revenues (other than Property Taxes to be levied by the GID) shall be used towards the payment of the Bonds and, if applicable, any direct payment to Gaylord for use on the Permitted Public Costs pursuant to Section 11.4(a), the Property Taxes levied by the GID shall be used only for those purposes set forth in Section 11.3, and any amount of non-GID Property Taxes in excess of \$10 million annually, escalating by 3% per year beginning after the first full year of operation of the Project shall be used as set forth in Section 11.1. The Urban Renewal Plan to be adopted by the City shall provide for the City’s allocation of the Available Taxes to AURA, which Available Taxes shall be Pledged Revenues as defined hereunder. The payment obligations of AURA pursuant to this Agreement, under either the direct payment financing described in Section 6.1(a) or the Bond financing described in Section 6.1(b), shall be payable solely from the Pledged Revenues allocated to AURA pursuant to the Urban Renewal Plan.

“Project” shall mean the Hotel and the Conference Center and all related amenities as may be expanded or enhanced from time to time.

“Property Tax” shall mean any and all general ad valorem property taxes imposed upon real and personal property in the Site, whether such taxes are imposed by the City, the GID or other taxing jurisdictions in which such property is located. Such taxes, as of the date hereof, are listed on Exhibit B hereto.

“Regional Project Area” shall have the meaning ascribed to it in Section 7.1 to this Agreement, as more fully described on Exhibit H hereto.

“Regional Tourism Act” shall mean Part 3 of Article 46, Title 24, C.R.S., as amended.

“Regional Tourism Project” shall mean the project approved or to be approved by the Colorado Economic Development Commission with respect to the financing of eligible improvements within the regional tourism zone, as defined in the Regional Tourism Act.

“Shortfall Reserve Fund” shall mean a revenue variance reserve fund accumulated from Pledged Revenues pursuant to Section 11.4(a) in an amount equal to 50% of maximum annual debt service on the Bonds, which shall increase to 100% of maximum annual debt service on the

Bonds at any time that the amount of Pledged Revenues is less than 110% of the then-current year's debt service on the Bonds.

"Site" shall have the meaning ascribed to it in the Recitals to this Agreement.

"State" shall mean the State of Colorado.

"State Sales Tax" shall mean State sales tax at 2.90% on all taxable sales including lodging, as set forth on Exhibit B.

"State Sales Tax Increment" shall mean the State Sales Tax revenues allocated pursuant to the Regional Tourism Project.

"Successor" shall have the meaning ascribed to it in Section 22.6.

"Tax Increment" shall mean and include any and all revenues allocated pursuant to the Urban Renewal Law or the Regional Tourism Act in connection with the Project.

"Urban Renewal Area" shall mean, as applicable, the area measuring approximately 125 acres and having the boundaries depicted on Exhibit A hereto, or such area as reduced by subsequent action of AURA to include only the Site (pursuant to Section 8.1), within which taxes shall be allocated and applied pursuant to the Urban Renewal Plan.

"Urban Renewal Law" shall mean Part 1 of Article 25, Title 31, C.R.S., as amended.

"Urban Renewal Plan" shall mean an urban renewal plan adopted by the City pursuant to the Urban Renewal Law specifically with respect to the Urban Renewal Area.

"Validation Proceeding" shall mean a proceeding initiated pursuant to the Supplemental Public Securities Act, Part 2 of Article 57, Title 11, C.R.S., for the purpose of confirming the validity of any obligations issued, or revenues pledged, in connection with the financing of the Conference Center, the payment of the Available Taxes to Gaylord and the definition of "Permitted Public Costs," among other matters.

### **ARTICLE 3. CITY AND AURA REPRESENTATIONS AND WARRANTIES**

#### **SECTION 3.1 City Representations and Warranties.**

The City represents, warrants and covenants for the benefit of AURA and Gaylord as follows:

(a) *Organization.* The City is duly organized and existing as a home rule municipality and political subdivision of the State and is organized and operated pursuant to Article XX of the constitution of the State and the Charter, and has the power to enter into this Agreement and perform its obligations hereunder.

(b) *Authority.* The City has the authority to enter into and perform its obligations under this Agreement. The Council, as the governing body of the City, has duly authorized the

execution, delivery and performance of this Agreement by proper action taken at a public meeting or meetings duly noticed and convened.

(c) *No Litigation.* To the best of the City's knowledge and belief, there is no litigation or proceeding pending or threatened against the City or any other person affecting the right of the City to execute and deliver this Agreement or the ability of the City to perform any of its obligations under this Agreement.

(d) *Binding Obligation; No Indebtedness.* This Agreement is the legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms, subject to bankruptcy and equitable principles, provided that, to the extent that the provisions hereof contemplate the submission of matters to the Council subsequent to the execution and delivery of this Agreement, nothing herein shall bind or require the members of the present or any future Council to vote, or to vote in any particular manner, and further provided that this Agreement does not create a debt, indebtedness or multiple fiscal year financial obligation of the City within the meaning of the constitution of the State or any other law.

(e) *No Conflict.* The execution and delivery by the City, and compliance with the provisions hereof, do not and will not in any material respect conflict with or constitute on the part of the City a breach or default under any agreement or instrument to which it is a party or by which it is bound.

(f) *Compliance with Law.* Neither the execution and delivery of this Agreement, nor the performance of any obligations hereunder, shall result in the violation of any Charter or constitutional provision, statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to the City.

(g) *Economic Benefit.* The City reasonably believes that the construction and operation of the Project will serve a public purpose and contribute to the elimination of blight within the Urban Renewal Area by promoting tourism and stimulating economic development within the City by expanding employment opportunities for City residents, and will serve the purposes required by the Regional Tourism Act.

### SECTION 3.2 AURA Representations, Covenants and Warranties.

AURA represents, warrants and covenants for the benefit of the City and Gaylord as follows:

(a) *Organization.* AURA is duly organized and existing as a political subdivision of the State and is organized and existing pursuant to the Urban Renewal Law, and has the power to enter into this Agreement and perform its obligations hereunder.

(b) *Authority.* AURA has the authority to enter into and perform its obligations under this Agreement. The Board of Commissioners of AURA, as the governing body of AURA, has duly authorized the execution, delivery and performance of this Agreement by proper action taken at a public meeting or meetings duly noticed and convened.

(c) *No Litigation.* To the best of AURA's knowledge and belief, there is no litigation or proceeding pending or threatened against AURA or any other person affecting the right of

AURA to execute and deliver this Agreement or the ability of AURA to perform any of its obligations under this Agreement.

(d) *Binding Obligation.* Subject to (i) the fulfillment of such conditions imposed by resolution of the AURA Board of Commissioners with respect to AURA's execution of this Agreement, (ii) the City's determination that the Urban Renewal Area is a blighted area within the meaning of the Urban Renewal Law and designation of the Urban Renewal Area as appropriate for urban renewal, and (iii) the City's approval of the Urban Renewal Plan for the redevelopment and/or rehabilitation of the Urban Renewal Area, this Agreement is the legal, valid and binding obligation of AURA, enforceable against AURA in accordance with its terms, subject to bankruptcy and equitable principles, provided that, to the extent that the provisions hereof contemplate the submission of matters to the AURA Board of Commissioners subsequent to the execution and delivery of this Agreement, nothing herein shall bind or require the members of the present or any future AURA Board of Commissioners to vote, or to vote in any particular manner. The Parties acknowledge that, according to the decision of the Colorado Court of Appeals in *Olson v. City of Golden*, 53 P.3d 747 (2002), an urban renewal authority under the Urban Renewal Law is not a local government and, therefore, is not subject to the provisions of Article X, Section 20 of the constitution of the State. Accordingly, AURA shall be obligated to make payments to provide the incentives set forth herein in accordance with this Agreement. AURA further agrees that it shall make such payments in accordance with this Agreement to the extent that Pledged Revenues accrue and are available. The obligations of AURA to make payments to provide the incentives set forth herein are special, limited obligations payable solely from Pledged Revenues and shall accrue only during the periods of allocation set forth in the definition of Available Taxes.

(e) *No Conflict.* The execution and delivery by AURA, and compliance with the provisions hereof, do not and will not in any material respect conflict with or constitute on the part of AURA a breach or default under any agreement or instrument to which it is a party or by which it is bound.

(f) *Compliance with Law.* Neither the execution and delivery of this Agreement, nor the performance of any obligations hereunder, shall result in the violation of any Charter or constitutional provision, statute, regulation, rule, order of any court having jurisdiction, judgment or administrative order applicable to AURA.

(g) *Economic Benefit.* AURA reasonably believes that the construction and operation of the Project will serve a public purpose and contribute to the elimination of blight within the Urban Renewal Area by promoting tourism and stimulating economic development within the Urban Renewal Area.

#### **ARTICLE 4. GAYLORD REPRESENTATIONS AND WARRANTIES**

##### **SECTION 4.1     Representations and Warranties.**

Gaylord represents, warrants and covenants for the benefit of the City and AURA as follows:

(a) *Organization.* Gaylord is duly organized, validly existing and in good standing under the laws of the state of its formation and is duly authorized and will take all actions necessary to qualify it to conduct business in the State and to do all things required of it under this Agreement, and has the power to enter into this Agreement and to perform its obligations hereunder.

(b) *Authority.* Gaylord has the power and authority to enter into this Agreement and to perform its obligations under this Agreement, and has taken all action necessary to cause this Agreement to be executed and delivered, and this Agreement has been duly and validly executed and delivered by Gaylord.

(c) *Binding Obligation.* This Agreement is a legal, valid and binding obligation of Gaylord, enforceable against Gaylord in accordance with its terms, subject to bankruptcy and other equitable principles.

(d) *No Conflict.* The execution and delivery by Gaylord of this Agreement and compliance with the provisions thereof, do not and will not in any material respect conflict with or constitute on the part of Gaylord a breach or default under any agreement or instrument to which it is a party or by which it is bound.

(e) *Compliance with Laws.* Gaylord shall not, with knowledge, commit, suffer or permit any act to be done in, upon or to the Site in violation of any law, ordinance, rule, regulation or order of any governmental authority or any covenant, condition or restriction now or hereafter affecting the Site.

## **ARTICLE 5. HOTEL AND CONFERENCE CENTER**

### **SECTION 5.1 Hotel.**

(a) *Description.* Gaylord intends to build a hotel immediately adjacent to the Conference Center (defined below) that will initially contain approximately 1,500 rooms and be of the quality and with similar amenities and long-standing levels of service as all of Gaylord's other conference center hotels (the "Hotel"), including but not limited to the 2,800-room Opryland Hotel in Nashville, Tennessee, the 1,400-room Gaylord Palms Resort and Convention Center near Orlando, Florida, the Gaylord National, a 2000-room hotel near Washington D.C. and the over 1500-room Gaylord Texan Hotel and Convention Center in Grapevine, Texas.

(b) *Financing.* Gaylord shall pay for all costs of the construction of the Hotel and associated amenities (hardscape, parking, pools, etc.).

(c) *Gaylord's Conditions Precedent to Construction of Hotel.* The obligations of Gaylord to construct the Hotel have been undertaken in reliance upon the due performance by the City and AURA of their respective obligations and agreements set forth hereunder. The obligations of Gaylord to construct the Hotel are also subject to the fulfillment of the following conditions precedent on or before the date of the commencement of construction of the Hotel, in form and substance satisfactory to Gaylord and its counsel:

- (i) Transfer of Ownership. Contribution and transfer of fee ownership in the Site to Gaylord, including that portion of the Site on which the Hotel will be located, and the portion of the Site on which the Conference Center will be located;
- (ii) Government Approvals. Receipt of all permits and land use and other governmental approvals required for commencement of construction of the Conference Center and Hotel;
- (iii) Conference Center Financing. Final agreement among the Parties regarding either the issuance of the Bonds to finance an agreed upon portion of the Conference Center, and the issuance of such Bonds, or a written election by Gaylord and an assignment by the appropriate entities for Gaylord to receive the Available Taxes as set forth in Article 6;
- (iv) Hotel Financing. In Gaylord's reasonable estimation, Gaylord has adequate financing for the Hotel construction and initial operation;
- (v) Infrastructure. Receipt by Gaylord of assurances in a form and substance reasonably satisfactory to Gaylord that all required infrastructure for the Hotel and Conference Center will be constructed and able to be used for its intended purpose prior to the opening of the Project; and that such plans and specifications for all such infrastructure will be subject to the review and approval of Gaylord which approval shall not be unreasonably withheld.

## SECTION 5.2 Conference Center.

(a) *Description.* The Conference Center shall be approximately 350,000-400,000 gross square feet of meeting space (inclusive of pre-function and public circulation space). The Conference Center shall be constructed and opened, and when operated by Gaylord or a Gaylord Affiliate, shall be operated at the quality and with similar amenities and long-standing levels of service as all of Gaylord's other conference centers including those operated in conjunction with the Opryland Hotel in Nashville, Tennessee, the Gaylord Palms Resort and Convention Center near Orlando, Florida, the Gaylord National near Washington D.C. and the Gaylord Texan Hotel and Convention Center in Grapevine, Texas.

(b) *Financing and Construction.* Financing and construction of the Conference Center shall be as set forth in Article 6.

## SECTION 5.3 Fees and Development Permits for Hotel and Conference Center.

The total development fees charged to the Project for the development and construction of the Project, inclusive of tap fees and fees associated with expedited processing of plans, specifications and permits, shall not exceed \$7,000,000, which includes approximately \$3,570,000 in City water and sanitary sewer service connection fees, \$930,000 in Metro Wastewater Reclamation District sanitary sewer service connection fees, \$250,000 in development fees, \$950,000 in E-470 highway expansion fees, and \$1,300,000 in plan review and building permit fees; provided, however, that, subject to such aggregate cap of \$7,000,000,

there shall be no specific cap on any category of fees charged directly by the City; provided further, however, that if there is a decrease in any category of fees charged by an entity other than the City, such aggregate cap of \$7,000,000 shall be decreased correspondingly.

The total amount of water and sanitary sewer service connection fees is based, in part, upon the fees charged by the City to commercial and industrial users for an eight-inch service connection in effect as of the date of this Agreement. In the event that there are any increases in any of the fees listed above prior to the time of payment, the Council hereby agrees that the City will assume the amount over the \$7,000,000 cap (as adjusted pursuant to the paragraph above) in the same manner as set forth in Section 6.02 of Ordinance No. 2003-18.

#### SECTION 5.4 Land Use and Development Approvals for Hotel and Conference Center.

(a) The City agrees to: (i) provide serviceability of sanitary sewer flows from the Project at the time of commencement of construction, in accordance with Section 5.4(d); (ii) ensure the availability of sufficient potable water flows not earlier than, and at all times subsequent to commencement of construction of the Project, as further set forth in Section 5.4(e); (iii) permit Gaylord the floor area ratio to construct the Project in a manner consistent with Gaylord's usual and customary plans for a project of this type; (iv) grant height requirement waivers for the Project to the maximum extent permitted by the Federal Aviation Administration; (v) permit Gaylord to install or display signs related to the Project in or around the Project in a manner consistent with Gaylord's usual and customary plans for a project of this type; and (vi) permit mutually agreeable low-impact development techniques on the Project Site to enhance the water quality. The Parties acknowledge that it is Gaylord's desire to avoid or minimize, if feasible, the use of a traditional water quality pond.

(b) The City agrees to work with Gaylord to process all building permits, inspections and approvals in connection with the Project on a first-priority basis and to expedite all permits and inspections required for the Project. A staged and sequential permitting and processing schedule and procedure will be developed by the Parties prior to the start of construction. The City will assign knowledgeable and experienced inspectors to the Project on a first-priority basis. Given the size and complexity of the Project, the Parties acknowledge that they shall mutually cooperate to implement such expedited schedule and procedure and agree to meet and confer regarding the timeframe for and approach to conducting inspections and reviews, including, without limitation, the possible engagement of third-party inspectors reasonably acceptable to both Parties upon Gaylord's request, if City inspectors are not timely available.

(c) The processes and timelines for the development applications for the Gaylord framework development plan amendment ("FDP Amendment"), contextual site plan ("CSP") and final subdivision plat ("Plat," and together with the FDP Amendment and CSP, the "Applications") are set forth on Exhibit I attached hereto. Upon Gaylord's written request, the City shall process the Applications contemporaneously. So long as Gaylord adheres to its submittal timeframes set forth on Exhibit I, the City commits to process and decide upon (i) the CSP and Plat in no more than 62 working days from the date of Gaylord's initial formal submittal thereof; and (ii) the FDP Amendment in no more than 115 working days from the date of Gaylord's initial formal submittal thereof, all in accordance with the timeline set forth on Exhibit I; provided, however, that if Gaylord elects to have the City process the Applications contemporaneously, the City commits to process and decide upon the CSP and Plat, along with

the FDP Amendment, in no more than 115 working days from the date of Gaylord's initial formal submittal thereof. If Gaylord fails to adhere to its submittal timeframes, the City shall continue to commit to processing the Applications in its review timeframes set forth below, provided that the total working days to process and decide upon the applicable Application(s) will be adjusted accordingly.

(d) In order to facilitate the City's provision of serviceability of sanitary sewer flows in connection with the Project, by no later than December 31, 2011, the City and Gaylord shall mutually agree upon a timetable setting forth pertinent milestones for the completion of the Project, such as the completion of the architectural building plans, the receipt of the initial building permit for the Project and month-by-month flow quantities. Gaylord shall timely notify the City of any material changes to such timetable. The City shall notify and confer with Gaylord before the City enters into any contract for any work in connection with the City's provision of serviceability of sanitary sewer flows for the Project, to ensure that such work is actually necessary.

(e) The City hereby agrees, and the Parties anticipate, that the City will meet the domestic water demands set forth by Gaylord in the *Project Utility Requirements* (January 2011) for the term of this Agreement. From time to time, Aurora Water has had to enact various generally applicable water rationing rules and regulations, and Gaylord acknowledges that Gaylord may be subject to such rationing rules and regulations. The City and Aurora Water shall not discriminate against Gaylord with respect to the delivery of water.

#### SECTION 5.5 Validation Proceeding

The City will proceed with the commencement of the Validation Proceeding by filing a petition that generally describes and seeks validation of all aspects of the transactions described herein that may be legally validated, including, without limitation, the following: (i) the specific method of creation of the Enhanced Taxing Area, including the City's authority to prescribe election procedures in connection therewith; (ii) the imposition of the Enhanced Tax Rate, including the effective date thereof; (iii) timing issues related to the Urban Renewal Area, including the Effective Date of Allocation and the authority to allocate City excise taxes for a period exceeding 25 years under the Urban Renewal Plan; (iv) the Issuer's ability to pledge incremental revenues from the levy of the Lodger's Tax, enhanced by the Enhanced Tax Rate, and construction use taxes under the Urban Renewal Plan; (v) the definition of Permitted Public Costs; (vi) the pledge of the GID Mill Levy revenues to separate taxing entities and the effective date of the GID Mill Levy; and (vii) any other specific issues agreed upon by the City and Gaylord. Such Validation Proceeding shall be filed by the City and AURA immediately after the November 1, 2011 elections.

### ARTICLE 6. CONFERENCE CENTER FINANCING AND CONSTRUCTION

#### SECTION 6.1 Conference Center Financing Pursuant to Gaylord Election.

As an inducement for Gaylord's bringing the Project to the City, AURA shall make a permanent contribution to the capital of Gaylord in one of the following ways:



(a) *Direct Payment.* Gaylord may elect to construct the Conference Center with its own funds, in which case, (i) Gaylord shall not be subject to the requirements of Section 6.4, (ii) Gaylord shall be the sole owner of the Conference Center, and (iii) all of the Pledged Revenues as defined in clause (i) of the definition of Pledged Revenues shall be used for payment directly to Gaylord, to be used for Permitted Public Costs, subject to the following conditions:

- (i) Revenues from City use taxes on materials used in the construction (at any time) of new capital projects in connection with the Project (but not including City use taxes on the replacement of existing furniture, fixtures, or equipment or repairs to or renovation of the Project), and from Property Taxes generated during the construction period of the Project, shall be paid to Gaylord only if plans and permits have been processed for the construction of the Hotel meeting the description set forth in Section 5.1(a) and the Conference Center meeting the description set forth in Section 5.2(a); and
- (ii) Pledged Revenues (net of statutory collection costs and Administrative Costs) generated after the opening of the Conference Center shall be paid to Gaylord only if the Hotel meets the description set forth in Section 5.1(a), and the Conference Center meets the description set forth in Section 5.2(a).

(b) *Bond Financing.* At any time during the period commencing four months prior to construction of the Conference Center and ending four years after the opening of the Project, and if Gaylord and the City meet the Bond Threshold Requirements, Gaylord may elect to have AURA use Bond financing, which is a permanent contribution by AURA to Gaylord's capital, for the construction of all or a portion of the Conference Center. The proceeds of the Bonds will be used to construct the Conference Center, which will be leased to Gaylord as set forth herein for a term of 50 years, which exceeds the useful life of the Conference Center. If Gaylord elects before construction on the Conference Center commences to have AURA use Bond financing for the Conference Center, Sections 6.4 and 6.5 hereof shall apply. In such event, Gaylord and the City and/or AURA, as appropriate, agree to cooperate in a process to allocate ownership and title of portions of the Conference Center prior to completion of the Conference Center, in accordance with Section 6.2. The Bonds shall be secured by a pledge of the Pledged Revenues as provided in clause (ii) of the definition of Pledged Revenues and in Section 11.4(a) below, and such Pledged Revenues shall be paid in accordance with Sections 11.3 and 11.4(a).

## SECTION 6.2 Ownership of Conference Center if Bonds Are Issued.

(a) *Ownership Priority.* If Bonds are issued and the net proceeds available for construction are not sufficient to complete the construction of the Conference Center, Gaylord shall finance the remaining construction of the Conference Center, and Gaylord and the City will work together to allocate the space between the publicly and privately financed portions of the Conference Center. The Parties' priority will be to define those sections easiest to segregate as discrete elements either because of use (such as loading docks, kitchen, back of house space) or cost and then to assign such items between the parties.

(b) *Final Ownership.* The Parties recognize that the final allocation of ownership cannot be completed until the majority of the construction of the Conference Center is completed, and agree to work as expeditiously as possible to complete the final allocation and ownership transfer prior to the opening of the Conference Center. It is the Parties' intent that there shall be no private payment on any publicly owned portion of the Conference Center. The Parties acknowledge and agree that, if Bonds are issued after construction of all or part of the Conference Center is completed, ownership of the Conference Center shall be allocated, and appropriate lease and/or license agreements shall be adopted.

### SECTION 6.3 Conference Center Bond Financing.

The City and AURA hereby agree to work with Gaylord to issue Bonds for the Conference Center financing should Gaylord elect to have AURA do so. Such Bonds may be issued in one or more series as determined by the Parties based upon financial and market conditions at the time any series is issued; provided, however, that neither the City nor AURA shall be required to proceed with issuance of any series of Bonds after failure of any *bona fide* public offering until such time as financial and market conditions or status of the Project changes such that issuance is reasonably deemed possible by the Parties; provided further that Gaylord shall not request that the City or AURA issue Bonds or expend funds to update the information described below in this paragraph more than once a year, unless issuance may be deemed reasonably possible by the Parties based on information obtained from Gaylord or other public sources. The Parties recognize that they cannot foresee all market conditions that might prevail at the time the Bonds, if any, are issued. To the extent reasonably possible, the Parties shall mutually cooperate to solve any problems in connection with marketing the Bonds. The Parties acknowledge and agree that their discussions heretofore regarding the Moral Obligation Pledge have been based on certain information provided by the City's consultants, and that, if and when Gaylord elects to have AURA use Bond financing for the construction of the Conference Center, all revenue and valuation assumptions shall be reviewed and updated by City consultants that are third-party, nationally recognized consulting firm(s) selected by the City and having expertise on hotels, resorts and conference centers, and the Bond issuance will be sized according to such updated revenue and valuation assumptions and to satisfy the requirements of Section 6.3(b) if Gaylord elects to have AURA issue Bonds with the Moral Obligation Pledge; provided, however, that such update shall in no way affect the City's obligation to provide the Moral Obligation Pledge pursuant to Section 6.3(b), and the City shall provide the Moral Obligation Pledge if the conditions set forth in Section 6.3(b) are satisfied.

(a) *Conditions for Issuance.* In addition to the Bond Threshold Requirements, the conditions set forth in this subsection (a) shall apply to any issuance of Bonds by the Issuer to finance all or a portion of the Conference Center. The Parties acknowledge that conditions (i), (ii), (iii), (v), (viii) and (ix) set forth below will be deemed to have been met if Bonds are issued after construction on the Conference Center is completed.

- (i) Gaylord has executed a valid and binding Construction Contract for construction of the Hotel and the Conference Center;
- (ii) Gaylord must demonstrate to the City's reasonable satisfaction that Gaylord has sufficient monies to fund the construction of the Hotel and the related amenities;

- (iii) If and to the extent that Gaylord will fund the construction of any portion of the Conference Center, Gaylord must demonstrate to the City's reasonable satisfaction that Gaylord has sufficient monies to fund such construction;
- (iv) All permits and approvals to begin construction of the Hotel have been issued, and the Parties have an agreed upon plan for issuance of the permits needed for future construction (for example, perhaps only grading permit needed at closing, but timetable in place for needed building permits);
- (v) All permits and approvals to begin construction of the Conference Center have been issued, and the Parties have an agreed upon plan for issuance of the permits needed for future construction (for example, perhaps only grading permit needed at closing, but timetable in place for building permits);
- (vi) Assuming that the Parties have agreed to the lease structure described in Article 15, Gaylord and either the Issuer or the City have each executed and delivered the Ground Lease;
- (vii) Assuming that the Parties have agreed to the lease structure, described in Article 15, Gaylord and either the Issuer or the City have each agreed to the general terms of an Improvements Lease;
- (viii) The City and Gaylord have each executed and delivered a valid and binding Construction Management Contract pursuant to which Gaylord will manage construction of the Conference Center;
- (ix) If Bonds are issued, the proceeds are available to be drawn for the construction of the Conference Center in accordance with the terms of the Bond indenture and with Section 11.4(a) hereof; provided that the Bond documents shall provide that drawings shall only be permitted upon Gaylord's certification that sufficient funds are available for the construction of the Hotel and the remainder of the Conference Center, taking Bond proceeds into account;
- (x) If Bonds are issued, AURA and Gaylord will mutually cooperate on the preparation of disclosure reasonably required by the underwriter to meet what the underwriter determines to be its obligations under Securities and Exchange Commission Rule 15c2-12;
- (xi) All of the customary and normal Bond documentation has been completed to the satisfaction of both Parties. In that regard, the Parties agree to cooperate in the preparation of such documentation.

(b) *Moral Obligation of the City.*

- (i) Assuming the conditions in subsection (a) above are met, the City hereby agrees to provide the Moral Obligation Pledge for a Bond issue having the following characteristics:
  - (A) Maturing in not more than 30 years;
  - (B) Offered in a *bona fide* public offering;
  - (C) Having a Debt Service Reserve Fund;
  - (D) Having a Shortfall Reserve Fund;
  - (E) Issued under an indenture meeting the requirements of Section 11.4(a) hereof;
  - (F) Having projected debt service coverage of not less than 140%, not including revenues from Property Taxes levied by the GID;
  - (G) Secured, in part, by the proceeds of Property Taxes (at the rate of 40 mills) levied by the GID, pledged to Bond debt service and repayment of advances under the Moral Obligation Pledge;
  - (H) At a minimum, having a Standard & Poor's "A" category rating or an equivalent rating from Moody's Investors Service, Inc. or another national rating agency approved by the City;
  - (I) With a provision for the hold back of Bond proceeds in an amount equal to six months' debt service on the Bonds in a sub-account of the construction fund, to be used for debt service in the event of a delay in the opening of the Project; and
  - (J) Having all capitalized interest for up to 42 months and costs of issuance fully funded from Bond proceeds;

provided that, as of the date of issuance of the Bonds: (i) there has been no material adverse change since the date of this Agreement in the business, properties, or financial condition of the City, AURA or Gaylord as certified by their respective chief financial officers; and (ii) if the Bonds are issued prior to construction of the Project, the City has received assurances reasonably acceptable to it that the Project will be completed by no later than 36 months following the date of issuance of the Bonds.

- (ii) The City shall have no obligation to provide the Moral Obligation Pledge for any issue of Bonds not having each of the characteristics described in subsection (b)(i) above. However, nothing shall prevent the issuance, backed by a Moral Obligation Pledge, of Bonds which do not have the characteristics described above; provided, however, that the Parties agree

on the conditions applicable to such issuance, and the City Finance Director recommends such conditions to the Council for the Council's approval of such Moral Obligation Pledge.

(c) *Additional Bond Characteristics.*

- (i) If Bonds are issued, Pledged Revenues shall include all Available Taxes described in clause (ii) of the definition of Pledged Revenues.
- (ii) The use of the Pledged Revenues shall be consistent with Sections 11.3 and 11.4(a).
- (iii) The Parties shall agree that the City shall notify Gaylord of the candidates for trustee and take into consideration any objections Gaylord may have to any such candidate.
- (iv) The Bond structure will be designed such that the interest on the Bonds will be excludable from gross income for federal and state income tax purposes to the extent permitted by law.

SECTION 6.4 Construction of Conference Center if Bonds Are Issued.

The requirements in this Section 6.4 shall apply only if Gaylord elects, prior to the commencement of construction on the Conference Center, to have AURA use Bond financing for the Conference Center.

(a) *Roles of City and Gaylord.* Should Bonds be issued, pursuant to the Intergovernmental Agreement, the City shall agree to assume responsibility for all oversight and contracting related to construction of the Conference Center. City acknowledges that efficient and effective management and construction of the Conference Center will be best achieved if both the Hotel and Conference Center are managed and constructed pursuant to an integrated contract and construction plan. Therefore, pursuant to Section 2-674 of the City Code, the City believes it is in the best interest of the City, its constituents and the Project, for the City to, and the City shall, enter into a negotiated professional services/management agreement with Gaylord for the oversight and management of the construction of the Conference Center as part of the integrated Project (the "Construction Management Contract"), in light of the fact that the Conference Center is being leased to Gaylord for Gaylord's use in conjunction with the Hotel. Pursuant to Section 2-674, City shall not be required to perform any bidding process for such Construction Management Contract.

(b) *Construction Management Contract Between City and Gaylord.* The Construction Management Contract shall provide that (i) Gaylord shall have sole control over the management of the construction of the Conference Center, subject only to applicable City and State laws and the terms of the Construction Management Contract, and (ii) the City shall have no rights to approve or participate in any aspect of the construction of the Conference Center other than in its customary capacity as a municipality with respect to land use approvals and permitting and its audit rights under Section 6.6; provided, however, that the City will retain the right to have regular updates on construction progress to ensure the construction is progressing as planned. The Construction Management Contract shall also include the following terms:

- (i) Insurance. During the construction of the Conference Center, Gaylord shall obtain the insurance coverages set forth on Exhibit J hereto; provided, however, that the pollution insurance coverage amount is to be mutually agreed upon by the Parties at a later date, prior to execution of the Construction Management Contract. Upon completion of the construction of the Conference Center, Gaylord shall obtain only insurance coverages of the type and in the amounts normally and customarily obtained by Gaylord for projects similar to the Project.
- (ii) Bonding. The requirement that Gaylord obtain or otherwise provide for the provision of performance and/or payment bonds in connection with the Project.
- (iii) Indemnification. Indemnity and/or hold harmless provisions for the benefit of the City for liabilities related to the construction of the Conference Center, to the extent not covered by the indemnification provisions herein.
- (iv) Construction Contract Requirements. The requirement that Gaylord include in the Construction Contract the provisions set forth in Section 6.4(c) hereof, with respect to the Conference Center only.

(c) *Construction Contract Between Gaylord and General Contractor*. Should Bonds be issued as part of the financing plan for the Conference Center, Gaylord shall enter into a negotiated contract with any general contractor of its choice, in its sole and absolute discretion, to act as the general contractor and manager of all subcontractors for the integrated Project (the "Construction Contract"). Gaylord shall not be required to perform any bidding process prior to entering into the Construction Contract; however, in order to comply with State and/or City laws, as applicable, governing the construction of public works in the State, in addition to provisions described in Section 6.5 hereof, Gaylord shall ensure that the provisions of the Construction Contract governing only the construction of the Conference Center contains the following general provisions with respect to the Conference Center (and not the Hotel unless Gaylord decides otherwise):

- (i) Provisions for the payment of State minimum wages to all workers performing work on or for the Conference Center;
- (ii) Provisions providing for use of residents of Colorado to perform at least 80% of each type or class of labor doing work on the Conference Center;
- (iii) Certifications from the general contractor that it will refrain from hiring and will cause any subcontractor with which it contracts to refrain from hiring any illegal aliens to perform any work on the Conference Center and that each of the general contractor and all subcontractors will use the federal e-verify program to verify the status of each workers performing work on the Conference Center;

- (iv) Provisions requiring the partial payments of amounts due to the general contractor for work on the Conference Center at the end of each calendar month if work is being satisfactorily performed;
- (v) Provisions providing for holdback in an amount not to exceed 5% from all payments under the Construction Contract for work on the Conference Center;
- (vi) Provisions requiring the general contractor to pay its subcontractors any amounts actually received and included in contractor's payment request pursuant to the Construction Contract for work on the Conference Center within 7 days of receiving such payment, less any applicable share of any holdback;
- (vii) Provisions permitting the general contractor to receive some or all of the amounts of holdbacks from payments under the Construction Contract for work on the Conference Center as long as the general contractor substitutes acceptable security for such amounts;
- (viii) Provisions requiring the general contractor to disburse to subcontractors their share of any holdback amounts once such amounts are released and paid to the general contractor for work on the Conference Center pursuant to the terms of the Construction Contract;
- (ix) Provisions agreeing to comply with all applicable federal and State laws, including all anti-discrimination laws and any other laws governing public works projects in the State; and
- (x) Provisions requiring Gaylord and the general contractor to use good faith efforts to award no less than ten percent (10%) of the total dollar amount of subcontracts for the Conference Center to small business enterprises.

#### SECTION 6.5 Contractor Outreach Plan.

The following shall apply to the construction of the Conference Center regardless of whether AURA makes a permanent contribution to the capital of Gaylord through the financing described in Section 6.1(a) or the financing described in Section 6.1(b): Gaylord shall or shall ensure that its general contractor prepares and implements a contractor outreach plan in order to provide notice of subcontracting opportunities on the Conference Center to contractors that satisfy criteria for minority or women owned businesses or small businesses and that meet qualifications for bidding such work (as determined solely by Gaylord or its general contractor). Any contractor outreach plan shall provide for proactive notice of subcontracting opportunities through the Rocky Mountain E-Purchasing System. Any contractor outreach plan shall require that (i) the total amount of solicitations selected for outreach shall not be less than 50% of the estimated value of all subcontracts to be let for the Conference Center and (ii) if more than three qualified parties bid, the general contractor will be required to receive and consider at least the bids of the first three qualified subcontractors; provided, however that the general contractor may solicit and accept any other bid submitted as it sees fit (even if outside outreach plan), in its sole and absolute discretion.

## SECTION 6.6 Use of Bond Proceeds; AURA Auditing Rights.

(a) If Bonds are issued, Gaylord will be permitted under the Bond documents to submit a payment request once monthly for previously incurred costs related to the construction of the Conference Center. A form of such payment request will be attached to the Bond Indentures and approved by both AURA and Gaylord prior to issuance of any Bonds. The payment request will include a representation by Gaylord that payment under the payment request is permitted under the Bond documents and that no request has previously been made for the same items.

(b) The payment request will be submitted to the Bond trustee and the Bond trustee will be required to remit payment to the parties listed in the payment request within five (5) business days. Payment from the trustee will not be contingent on City approval or review so that Gaylord will be able to manage the construction process and ensure timely payments to its contractors or other parties under State law and the Construction Contract.

(c) Within five (5) business days after submission of the payment request to the Bond trustee pursuant to (b) above, Gaylord will submit a copy of the payment request along with supporting detail on what the payment request covers to AURA, including certification from the contractor and architect of the percent completed, and, in the case of the architect, certification that the work is in compliance with the plans and specifications for the Conference Center. For example, the payment request will list out amounts and payees for such amounts and possibly a general description of the item(s) covered. The submission to AURA will include backup for such items such as invoices or bills from contractors, receipts, worksheets or other evidence of costs tying such amounts to the items and amounts requested and to the Construction Contract or other construction documents to which they relate.

(d) AURA will have ten (10) business days to review such package to make sure costs are permitted under law and the Bond documents and that all required paperwork has been submitted. Should AURA identify an issue, AURA will notify Gaylord in writing identifying the problem in detail and requesting any additional documentation or information City needs.

(e) Gaylord and AURA will meet and confer and in good faith attempt to reach resolution of the issue as soon as possible but in no event later than 10 days after Gaylord receives written notice from AURA.

(f) Should there be an agreed upon amount that the Parties determine should not have been paid out of Bond proceeds, such amount will be deducted from the next payment request and documented on such next payment request. Should the Parties be unable to reach agreement, they will proceed to the dispute mechanism set forth in the Construction Management Contract.

## SECTION 6.7 Start Date of Pledge.

The tax allocation period shall start on the Effective Date of Allocation, with the Parties' assumption that AURA will take the necessary action to pledge the revenues allocated to it, as set forth herein. The Pledged Revenues are hereby pledged to the payment of the obligations of AURA under this Agreement. Pursuant to Section 11-57-208(2) of the C.R.S., the creation, perfection, enforcement, and priority of such pledge payable to Gaylord and/or the holders of the Bonds, as applicable, shall be governed by Section 11-57-208(2), and actions taken by AURA with respect to any obligation to Gaylord and/or the holders of the Bonds and such Pledged



Revenues shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act.

**SECTION 6.8 City Review and Approval of Plans.**

(a) Except as set forth herein with respect to the expediting processing of the plans and permits in accordance with applicable City requirements regarding land use and construction, the City's approval of Project construction plans shall not be required.

(b) Any Project construction plan shall indicate the portion of the subject facility within which the Conference Center, or any part thereof, will be built.

**ARTICLE 7.  
REGIONAL TOURISM PROJECT**

**SECTION 7.1 Regional Tourism Act Application Submittal and Preparation.**

The City and Gaylord intend that State Sales Tax Increment revenues generated on the Site will constitute a component of the Available Taxes. Accordingly, the City agrees that it will cause to be prepared and filed with the Colorado Economic Development Commission pursuant to the Regional Tourism Act, not later than June 30, 2011 or such later date as may be specified by the Colorado Economic Development Commission, an application for designation of the proposed regional project area under the Regional Tourism Act set forth on Exhibit H (the "Regional Project Area"), as a regional tourism zone as defined in the Regional Tourism Act. Such application shall include the items required by Section 24-46-304, C.R.S., shall (i) specifically request the allocation of all State Sales Tax Increment revenues derived from the Regional Project Area to the Regional Tourism Project; provided, however, that the State Sales Tax Increment revenues allocated to the Project shall be only those generated on the Site; and (ii) include an acknowledgement of AURA as the Financing Entity that will receive the State Sales Tax Increment revenues so allocated and apply such revenue to the financing of eligible improvements.

**SECTION 7.2 Mutual Cooperation.**

The City and Gaylord mutually agree to cooperate in the preparation and submission of the application contemplated by Section 7.1 hereof, including the provision of information necessary to complete the application itself, the preparation of supporting materials, maps, studies, financial and economic data. In addition, the City and Gaylord agree that they will cooperate in responding to any request from the Colorado Economic Development Commission, its agents or consultants, for interviews or additional information subsequent to the filing of such application.

**SECTION 7.3 Pledge of State Sales Tax Increment.**

If the application contemplated by Section 7.1 hereof is approved, and AURA is designated as the Financing Entity, the City shall cause AURA to pledge any State Sales Tax Increment revenues generated on the Site that AURA receives in its capacity as the Financing Entity as security for payments due hereunder either (i) to Gaylord as a contribution to capital for Permitted Public Costs, if Bonds are not issued pursuant to Section 11.4(b), or (ii) pursuant to

Section 11.4(a), if Bonds are issued.

**ARTICLE 8.  
URBAN RENEWAL AREA**

**SECTION 8.1** Blight Study; Urban Renewal Plan; Allocation of AURA Revenues.

The City and Gaylord intend that Tax Increment revenue will constitute a component of the Available Taxes. Accordingly, the City has already completed a study to determine whether the Site is a blighted area within the meaning of the Urban Renewal Law, and City staff will prepare and submit to the Council on the date hereof for approval by resolution a proposal for the designation of the area with the boundaries depicted on Exhibit A, including the Site, as the Urban Renewal Area and for the adoption of an Urban Renewal Plan providing for the allocation of the Tax Increment, in the manner provided in this Agreement and the Urban Renewal Plan; provided, however, that the Urban Renewal Area shall be reduced at a later date, upon subsequent action by AURA, to include only the Site.

**SECTION 8.2** Intergovernmental Agreement.

City staff shall cause to be prepared and submitted to the Council and the governing bodies of AURA and the GID (if applicable), within 60 days of the date hereof, (i) an Intergovernmental Agreement concerning the implementation of the financing plan utilizing the Available Taxes and the management and construction of the Conference Center as contemplated in this Agreement and (ii) a form of resolution stating the adoption thereof. The Intergovernmental Agreement shall govern the pledge of Available Taxes and the relationship among, and respective obligations of, the parties thereto.

**SECTION 8.3** Pledge of AURA Revenues.

The Urban Renewal Plan shall provide that the Tax Increment revenues generated within the Site are thereby pledged to the payment of Gaylord; provided, however, that, if and to the extent Gaylord elects to have AURA use Bond financing for the Conference Center, such pledge shall be re-assigned to the trustee for the payment of the Bonds and, the Pledged Revenues shall be distributed in accordance with Section 11.4. Such pledge shall thereby be valid and binding pursuant to Section 11-57-208(2) of the C.R.S.

**ARTICLE 9.  
ENHANCED TAXING AREA**

**SECTION 9.1** Establishment of Enhanced Taxing Area.

The boundaries of the Enhanced Taxing Area shall be approximately those set forth in Exhibit D. The City and Gaylord intend that the revenues resulting from the Enhanced Tax Rate levied on property in the Site will be a component of the Available Taxes. Accordingly, concurrently with this Agreement, City staff will prepare and submit to Council for its approval, the Enabling Ordinance, substantially in the form attached hereto as Exhibit C, and the Enhanced Tax Area Election Ordinance, with a view to the election regarding the Enhanced Tax Rate taking place on November 1, 2011 and the Enhanced Tax Rate taking effect on January 1, 2013.

**SECTION 9.2 Enabling Ordinance.**

The Enabling Ordinance shall provide the qualifications of the electors of a proposed enhanced taxing area, and shall provide a procedure whereby a specified number of the qualified electors of a proposed enhanced taxing area may file a petition with Council seeking the creation of an enhanced taxing area and requiring that the question of the creation of such enhanced taxing area and the imposition of an enhanced tax rate be submitted to the electors of the enhanced taxing area at an election.

**SECTION 9.3 Effective Date of Enhanced Tax Rate.**

If a majority of the electors of the Enhanced Taxing Area voting at such election shall approve the creation of the Enhanced Taxing Area and the imposition of the Enhanced Tax Rate, such Enhanced Tax Rate shall take effect automatically pursuant to the Enabling Ordinance and the Enhanced Tax Area Election Ordinance on January 1, 2013 and extending for a term not exceeding 33 years, but may otherwise be levied and used in accordance with the LNR District Revenue Sharing Agreement and the Intergovernmental Agreement.

**SECTION 9.4 Alternative Mechanisms for Levy.**

Nothing in this Agreement shall prevent the imposition of the Enhanced Tax Rate by alternative means, including without limitation the imposition of public improvement fees mutually agreed to by the Parties, an enhanced Lodger's Taxes and/or an enhanced City excise tax on admissions by the GID, which imposition shall be subject in such event to approval by the qualified electors of the GID.

**SECTION 9.5 Validation Procedure.**

The City and Gaylord agree that the specific method of creation of the Enhanced Tax Area and the imposition of the Enhanced Tax Rate shall be included in the issues addressed in the Validation Proceeding.

**ARTICLE 10.  
GENERAL IMPROVEMENT DISTRICT**

**SECTION 10.1 GID Formation.**

Should the GID be formed, the City and Gaylord intend that the Property Taxes payable as a result of or levied by the GID will be a component of the Available Taxes, and that the property taxes payable as a result of or levied by the GID on property within the GID that is not within the boundaries of the Site will be pledged to the LNR District. Accordingly, concurrently with this Agreement, the Council is considering a petition and a waiver of notice, publication and hearing in connection with a proposed ordinance calling an election on the creation of the GID, the authorization of the GID Mill Levy and the contracting of financial obligations by the GID, such election to be held on November 1, 2011. If such questions are approved by the qualified electors of the GID at such election, the GID shall be formed and have the powers provided in the General Improvement District Act and authorized in the petition and the ballot. The GID Mill Levy duration shall be 33 years commencing on January 1, 2013.

Pursuant to the petition for the creation of the GID and an intergovernmental agreement to be entered into by the GID and the Aurora High Point at DIA Metropolitan District, the GID will levy an ad valorem property tax on taxable real property within its boundaries at the rate of 5 mills beginning January 1, 2046 and continuing for 15 years thereafter and remit the revenues from such tax to the Aurora High Point at DIA Metropolitan District or the Aurora Regional Transportation Authority. Notwithstanding anything else to the contrary in this Agreement, such tax and the revenues from such tax are not included in the definitions of Available Taxes, the GID Mill Levy, or Pledged Revenues.

#### **SECTION 10.2 GID Levy.**

If the GID is formed, and the GID Mill Levy is authorized by the electors therein, the City and Gaylord intend that (i) the GID enter into the Intergovernmental Agreement; (ii) as a part of the Intergovernmental Agreement the GID will covenant to impose the GID Mill Levy at a uniform rate of 40 mills; (iii) the revenues from Property Taxes payable as a result of or levied by the GID shall be a component of the Available Taxes, which shall be applied by the Issuer for use in the manner provided in Section 11.3, including, without limitation, for the payment of the Bonds and repayment to the City of any call on the Moral Obligation Pledge; and (iv) the GID Mill Levy revenues generated from property other than the Site shall be allocated to the LNR District pursuant to the LNR District Revenue Sharing Agreement.

#### **SECTION 10.3 Use of GID Property Taxes.**

The City and Gaylord intend that, if Bonds are issued, the revenues from Property Taxes payable as a result of or levied by the GID shall be irrevocably pledged on a first-priority basis to be used as set forth in Section 11.3, provided that, to the extent that such revenues are not needed for the payment of debt service on the Bonds or the repayment of advances under the Moral Obligation Pledge, they shall be remitted to Gaylord as a contribution to capital for use on Permitted Public Costs. The City, AURA and Gaylord intend, if Bonds are not issued, the revenues from Property Taxes payable as a result of or levied by the GID shall be remitted by AURA to Gaylord, as a contribution to capital, for use on Permitted Public Costs.

### **ARTICLE 11. TAX CASH FLOW**

#### **SECTION 11.1 Non-GID Property Taxes in Excess of Ten Million Dollars.**

All Property Taxes (excluding Property Taxes payable as a result of or levied by the GID) that are received by AURA in excess of \$10 million annually, escalating by 3% per year beginning after the first full year of operation of the Project, shall be remitted to Gaylord, as a contribution to capital, to be used for Permitted Public Costs. By way of example, after the first full year of operation of the Project, all Property Taxes (excluding Property Taxes payable as a result of or levied by the GID) up to \$10,300,000 would be retained by AURA.

#### **SECTION 11.2 Property Taxes Equal to or Less Than Ten Million Dollars and Other Pledged Revenues.**

If Bonds are issued, all Property Taxes (including any Property Taxes on the leasehold estate described in Article 15, if applicable, however levied, but excluding any Property Taxes

payable as a result of or levied by the GID) that are received by AURA equal to or less than \$10 million annually, escalating by 3% per year beginning after the first full year of operation of the Project, shall be used for the purposes and in the order of priority set forth in Section 11.4(a). If Bonds are not issued, such Property Taxes shall be remitted by AURA to Gaylord as a contribution to capital for use on Permitted Public Costs.

### SECTION 11.3 GID Property Taxes.

If Bonds are issued, all Property Taxes payable as a result of or levied by the GID shall be used solely to pay any debt service on the Bonds, then to repay the City for any call on the Moral Obligation Pledge, and thereafter, shall be remitted to Gaylord, as a contribution to capital, to be used for Permitted Public Costs pursuant to Article 12. If no Bonds are issued, the Property Taxes payable as a result of or levied by the GID shall be remitted to Gaylord, as a contribution to capital, for use on Permitted Public Costs.

### SECTION 11.4 Use of Pledged Revenues (Other Than GID Property Taxes Addressed in Section 11.3 Above).

(a) If Bonds are issued, all of the Pledged Revenues (other than Property Taxes payable as a result of or levied by the GID) shall be used for the following purposes, in the following order:

- (i) To pay the statutory costs of tax collection;
- (ii) To pay the Administrative Costs;
- (iii) To pay annual debt service on the Bonds;
- (iv) To replenish any amounts drawn from the Bond Debt Service Reserve Fund to pay debt service on the Bonds;
- (v) To repay, with interest at a rate mutually agreed to by the Parties, amounts paid by the City pursuant to its Moral Obligation Pledge to replenish the Debt Service Reserve Fund;
- (vi) To meet the requirements set forth in the Bond documents regarding the establishment or replenishment of the Shortfall Reserve Fund;
- (vii) For any other requirements set forth in the Bond documents; and
- (viii) To Gaylord, as a contribution to capital, for Permitted Public Costs as further set forth in Article 12 below.

(b) If Bonds are not issued, all of the Pledged Revenues, after the statutory costs of collection and the Administrative Costs, shall be pledged to AURA's obligation to pay Gaylord directly, as a contribution to capital, for use on the Permitted Public Costs as set forth in Section 6.1(a).

#### SECTION 11.5 Timing of Payments.

Promptly upon the successful conclusion of the Validation Proceeding, AURA shall notify the county treasurer and the City finance director that the revenues from Available Taxes actually received should be remitted to (i) either AURA for payment to Gaylord or directly to Gaylord, as a contribution to capital, or, (ii) upon subsequent notice from AURA if Bonds are issued, to the trustee of the Bonds. On a monthly basis, if Bonds are not issued, Gaylord shall receive direct payments of the Pledged Revenues actually received. On an annual basis, if Bonds are issued, after (i) the set-aside of payment for annual debt service on the Bonds and (ii) the fulfillment of all the other payment obligations set forth in Section 11.4(a), the trustee of the Bonds shall remit the remainder of the Pledged Revenues to Gaylord, as a contribution to capital, as set forth in the Bond documents.

#### SECTION 11.6 Taxes Generated During Construction.

At Gaylord's election, City use taxes on materials used in the construction (at any time) of new capital projects in connection with the Project (but not including City use taxes on the replacement of existing furniture, fixtures, or equipment or repairs to or renovation of the Project), and Property Taxes generated on the Site during construction of the Project, shall be either remitted by AURA to Gaylord, as a contribution to capital, for Permitted Public Costs or used by the trustee of the Bonds to in accordance with Section 11.4(a). So that such use taxes can be identified by the Parties, Gaylord shall give at least 30 days' notice to the City prior to obtaining the applicable construction permit(s) for any new capital projects in connection with the Project.

#### SECTION 11.7 Accounting and Records.

The City and AURA will make available to Gaylord their respective books and records regarding the collection of Available Taxes, and agree to include in the Intergovernmental Agreement and in any ordinance establishing the AURA, the GID or the Enhanced Taxing Area, such access rights. The City shall determine in its sole discretion the method of calculating and accounting for taxes and tax receipts in accordance with standard City policies. Pursuant to Section 130-66 of the City Code, the City shall be permitted to summarize or redact such books and records to such extent as it deems necessary in its sole discretion to protect the confidentiality of tax information of taxpayers other than Gaylord. Upon Gaylord's request, the City shall provide Gaylord with a reasonable demonstration of the actual Administrative Costs.

### **ARTICLE 12. PERMITTED PUBLIC COSTS**

Gaylord shall be permitted to use all Available Taxes or Pledged Revenues received by it for Permitted Public Costs in its sole and absolute discretion.

### **ARTICLE 13. NAME OF PROJECT**

Gaylord hereby covenants not to use the name "Denver" in the official name of the Project. Notwithstanding the foregoing sentence, Gaylord shall be permitted to use the name

“Denver” as needed in geographic descriptions of the Project location in marketing and advertising directed to audiences outside Colorado.

**ARTICLE 14.  
MUTUAL COOPERATION AND GOOD FAITH OF PARTIES**

The City and Gaylord mutually agree to cooperate in the preparation of the various items described herein, including but not limited to, the preparation of various resolutions, ordinances, reports, and the submission of the application contemplated by Section 7.1 hereof, including the provision of information necessary to complete the application itself, the preparation of supporting materials, maps, studies, financial and economic data. In addition, the City and Gaylord agree that they will cooperate in responding to any request from the Colorado Economic Development Commission, its agents or consultants, for interviews or additional information subsequent to the filing of such application.

Except where a matter is expressly stated to be in the sole discretion of a party, or in their judgment, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily or capriciously and will not unreasonably withhold, delay or condition any requested approval, acknowledgement or consent.

**ARTICLE 15.  
LEASES**

If Gaylord elects to have AURA use Bond financing for the Conference Center, AURA and/or the City and Gaylord shall enter into the Ground Lease prior to the issuance of the Bonds. Prior to such Bond issuance, AURA and/or the City and Gaylord shall execute the Improvements Lease and deposit such lease into escrow until the Conference Center construction is complete.

**ARTICLE 16.  
TERM AND TERMINATION EVENTS**

**SECTION 16.1 Term.**

The term of this Agreement shall commence on the date hereof and shall terminate upon the earliest of the following: (i) the City’s and/or AURA’s termination of this Agreement pursuant to Section 16.2, (ii) Gaylord’s termination of this Agreement pursuant to Section 16.3, or (iii) when all of the Parties’ obligations hereunder have been paid or performed, as applicable.

**SECTION 16.2 Termination by City and/or AURA.**

The City and AURA shall each have the right to terminate this Agreement in any case where this Agreement provides that it is subject to automatic termination or if (i) Gaylord fails to enter into a contract with LNR by December 31, 2011 for the contribution and transfer of the Site to Gaylord, (ii) Gaylord enters into a contract with LNR by December 31, 2011 for the contribution and transfer of the Site, but LNR terminates such contract pursuant to its rights thereunder, and Gaylord fails to reinstate such contract within 180 days, or (iii) if no Bonds have been issued and Gaylord has not completed and opened the Project by July 1, 2020.

### SECTION 16.3 Termination by Gaylord.

Gaylord shall have the right to terminate this Agreement at any time; provided, however, that if Gaylord terminates this Agreement after the application contemplated by Section 7.1 hereof has been submitted to the Colorado Economic Development Commission, the following conditions shall apply:

(a) If (A) the Colorado Economic Development Commission has approved the application, but the Validation Proceeding has not yet concluded, or (B) the Colorado Economic Development Commission has not yet determined whether to approve or reject the application, Gaylord shall pay \$50,000 to the City;

(b) If the Colorado Economic Development Commission has approved the application, and the Validation Proceeding has successfully concluded, Gaylord shall pay \$100,000 to the City; or

(c) If (i) the Colorado Economic Development Commission has approved the application contemplated by Section 7.1, but the Validation Proceeding has concluded unsuccessfully on one or more of the issues presented, or (ii) the Colorado Economic Development Commission has rejected such application (in either case, a "Loss of Revenue Stream"), then the following shall apply:

- (i) Gaylord may elect whether to terminate this Agreement; provided that Gaylord shall (A) deliver notice of such election to the City within 90 days after Gaylord receives notification that a Loss of Revenue Stream has occurred, and (B) certify to the City that the Project will meet the descriptions set forth in Sections 5.1(a) and 5.2(a); provided further that, if the amount of Available Taxes has decreased by more than 10% as a result of the Loss of Revenue Stream, Gaylord may elect to have AURA use the Bond financing for the Conference Center pursuant to Section 6.1(b) either (X) without the Moral Obligation Pledge to support the payment of such Bonds, in which case, Section 6.3(b) shall not apply to the Bond financing, or (Y) upon the City's determination that the City can provide the Moral Obligation Pledge to support the payment of such Bonds.
- (ii) If Gaylord fails to notify the City in accordance with subsection (c)(i) above, this Agreement shall automatically terminate and shall no longer be of any force or effect.

## **ARTICLE 17. DEFAULT AND REMEDIES**

### SECTION 17.1 Events of Default.

(a) Any one or more of the following acts or omissions of the City or AURA shall constitute an event of default hereunder:

- (i) Gaylord elects to receive direct payments from AURA to finance the construction of the Conference Center pursuant to Section 6.1(a), and



AURA fails to pay any portion of the Available Taxes to Gaylord, as provided herein, within 5 days after notice from Gaylord that such payment is past due;

- (ii) Gaylord elects to have AURA use Bond financing for the Conference Center pursuant to Section 6.1(b), the Bond Threshold Requirements and the conditions for issuance of the Bonds set forth in Section 6.3 have been met, and AURA fails to issue the Bonds within 120 days as provided herein;
- (iii) Gaylord elects to have AURA use Bond financing for the Conference Center, and the City and/or AURA, as applicable, fails to execute the Construction Management Contract, the Ground Lease, or the Improvements Lease, as provided herein, within 5 business days after notice from Gaylord;
- (iv) The City fails to perform any of its obligations under Section 5.4 within 5 business days after notice from Gaylord of such failure;
- (v) The City fails to perform any of its obligations under Section 8.2 within 30 business days after notice from Gaylord of such failure;
- (vi) The City fails to timely file the application contemplated in Section 7.1 hereof as provided herein; or
- (vii) The City or AURA breaches any warranty contained in Section 3.1 or Section 3.2, as applicable, or fails to perform any of its other obligations or covenants set forth herein, and the City or AURA fails to (A) cure such breach or failure within 30 days after notice from Gaylord of such breach or failure or (B) if such breach or failure is of a nature which cannot reasonably be cured within such 30-day period commence within such 30-day period, and thereafter diligently pursue a cure thereof.

(b) Any one or more of the following acts or omissions of Gaylord shall constitute an event of default hereunder:

- (i) Gaylord terminates this Agreement pursuant to, but fails to pay to the City the amounts (if applicable) set forth in, Section 16.2; or
- (ii) Gaylord breaches any warranty contained in Section 4.1 or fails to perform any other obligation or covenant of Gaylord set forth herein, and Gaylord fails to (A) cure such breach or failure within 30 days after notice from the City or AURA, as applicable, of such breach or failure or (B) if such breach or failure is of a nature which cannot reasonably be cured within such 30-day period, commence within such 30-day period and thereafter diligently pursue a cure thereof..

## SECTION 17.2 Remedies.

(a) If any Party commits a monetary default (*i.e.*, fails to make a payment when due) under this Agreement, such Party shall be subject to the payment of damages (plus any interest provided by law).

(b) If any Party commits a non-monetary default (*i.e.*, fails to perform any obligation other than a payment obligation) under this Agreement, such Party shall be subject to equitable remedies available under State law; provided, however, that if the City fails to perform its obligations under Section 5.4 (with the exception of Section 5.4(c)), the City shall be subject to the payment of damages (plus any interest provided by law).

(c) Except for the failure to pay interest on amounts expressly required to be paid hereunder, or to pay the amounts which may be due under Article 18 hereof, and subject to the provision regarding damages in subsection (b) above, neither Party shall be entitled to recover any exemplary or consequential damages for the other Party's breach of this Agreement.

## **ARTICLE 18. INDEMNITIES AND COVENANT TO DEFEND**

### SECTION 18.1 Gaylord's Indemnification of City and AURA.

Gaylord shall indemnify, protect, defend (with counsel chosen by City or AURA, as applicable, but in any event, only one counsel) and hold the City and AURA and their respective employees, representatives, invitees, and agents (including Council members) free and harmless from and against any and all claims, costs, losses, liabilities, damages, lawsuits, judgments, actions, proceedings, penalties, demands, attorneys' fees, liens (including, without limitation, mechanic's liens) or expenses of any kind or nature whatsoever sustained or incurred by City or AURA, as applicable, including statutory interest or penalties in connection with any delay of payments due from Gaylord hereunder, arising out of or resulting from any delay of payments due from Gaylord hereunder, the operation of the Conference Center, the application of Bond proceeds, the Pledged Revenues or the Available Taxes by Gaylord in a manner inconsistent with this Agreement or the Bond documents or any entry or activities upon the Site by Gaylord, Gaylord's agents, contractors or subcontractors, and the contractors or subcontractors of such agents, unless caused by the negligence or willful misconduct of the City or AURA, as applicable, the agents or invitees of the City or AURA, as applicable, the representatives of the City or AURA, as applicable, contractors or subcontractors and the contractors or subcontractors of such agents. Gaylord's indemnification obligations set forth herein shall survive any termination of this Agreement. The indemnification pursuant to this Section shall not include indemnification for securities liabilities.

### SECTION 18.2 City's Indemnification of Gaylord.

To the extent permitted by law, the City shall indemnify, protect, defend (with counsel chosen by Gaylord) and hold Gaylord and Gaylord's officers, directors, shareholders, participants, partners, affiliates, employees, representatives, invitees, agents and contractors free and harmless from and against any and all claims, costs, losses, liabilities, damages, lawsuits, judgments, actions, proceedings, penalties, demands, attorneys' fees, liens or expenses of any kind or nature whatsoever sustained or incurred by Gaylord, including statutory interest or

penalties in connection with any delay of payments due from the City hereunder, arising out of or resulting from any delay of payments due from the City hereunder, any action taken by the City with respect to the pledge of the Available Taxes or Pledged Revenues, the issuance of the Bonds, the creation of the Enhanced Taxing Area, the creation of the Urban Renewal Area or the adoption of the Urban Renewal Plan, the adoption of any resolution, ordinance or report described in this Agreement and the Validation Proceeding unless caused by the negligence or willful misconduct of Gaylord, or Gaylord's officers, directors, shareholders, participants, partners, affiliates, employees, representatives, invitees, agents and contractors. The City's indemnification obligations set forth herein shall survive any termination of this Agreement. The indemnification pursuant to this Section shall not include indemnification for securities liabilities.

### **SECTION 18.3 AURA's Indemnification of City and Gaylord.**

To the extent permitted by law, AURA shall indemnify, protect, defend (with counsel chosen by the City or Gaylord, as applicable) and hold the City and Gaylord; their respective employees, representatives, invitees, agents (including Council members) and contractors; and Gaylord's officers, directors, shareholders, participants, partners and affiliates free and harmless from and against any and all claims, costs, losses, liabilities, damages, lawsuits, judgments, actions, proceedings, penalties, demands, attorneys' fees, liens or expenses of any kind or nature whatsoever sustained or incurred by the City or Gaylord, as applicable, including statutory interest or penalties in connection with any delay of payments due from AURA hereunder, arising out of or resulting from any delay of payments due from AURA hereunder, any action taken by AURA with respect to the pledge of the Available Taxes or Pledged Revenues, the issuance of the Bonds, the creation of the Enhanced Taxing Area, the creation of the Urban Renewal Area or the adoption of the Urban Renewal Plan, the adoption of any resolution, ordinance or report described in this Agreement and the Validation Proceeding unless caused by the negligence or willful misconduct of the City or Gaylord, as applicable; their respective employees, representatives, invitees, agents and contractors; or Gaylord's officers, directors, shareholders, participants, partners and affiliates. AURA's indemnification obligations set forth herein shall survive any termination of this Agreement. The indemnification pursuant to this Section shall not include indemnification for securities liabilities.

### **ARTICLE 19. GOVERNING LAW**

The interpretation, performance and enforcement of this Agreement shall be governed by State law, including without limitation the rule that the Parties cannot by contract constrain or limit the inherent legislative discretion of the Council or the AURA Board of Commissioners.

### **ARTICLE 20. NO PERSONAL LIABILITY**

Neither the execution and delivery of the Agreement, nor the performance or failure to perform the terms hereof shall result in any personal obligation or liability of the officers, directors, Council members, employees or agents of Gaylord or the City.

**ARTICLE 21.  
SEVERABILITY**

Any provision of this Agreement which is unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction. All rights, remedies and powers provided in this Agreement may be exercised only to the extent that the exercise thereof does not violate any applicable mandatory provisions of law, and all the provisions of this Agreement are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable.

**ARTICLE 22.  
MISCELLANEOUS**

**SECTION 22.1 Authorized Representatives.**

(a) Subject to subsection (d) below, the authorized representative of the City with respect to any actions required to be taken by the City hereunder shall be the City finance director or his/her designee(s).

(b) Subject to subsection (d) below, the authorized representative of AURA with respect to any action required to be taken by AURA hereunder shall be the Development Services/AURA Manager or such Development/AURA Manager's designee(s).

(c) Subject to subsection (d) below, the authorized representative of Gaylord with respect to any action required to be taken by Gaylord hereunder shall be Bennett Westbrook or his designee(s).

(d) The authorized representative of the City, AURA or Gaylord may be changed in writing by the authorized representative of the City, AURA or Gaylord, as applicable, set forth in this Section 22.1.

**SECTION 22.2 No Waiver, Cumulative Remedies.**

No delay or failure on the part of any Party hereto in the exercise of any power or right under this Agreement shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Parties hereto are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

**SECTION 22.3 Survival of Representations.**

All representations and warranties made herein or in certificates given pursuant hereto shall survive the execution and delivery of this Agreement, and shall continue in full force and effect with respect to the date as of which they were made as long as this Agreement remains effective.

SECTION 22.4 Notices.

Except as otherwise specified herein, all notices hereunder shall be in writing (including, without limitation, notice by telecopy or email) and shall be given to the relevant party at its address, telecopier number or email set forth below, or such other address, telecopier number or email as such party may hereafter specify by notice to the other Party given by courier, by United States of America certified or registered mail, by telecopy or by other telecommunication device capable of creating a written record of such notice and its receipt (including, without limitation, by email):

**Gaylord Entertainment Company**

One Gaylord Drive  
Nashville, Tennessee 37214-1207  
Attention: Bennett Westbrook  
Telephone: (615) 316-6436  
Telecopier: (615) 316-6557  
Email: bwestbrook@gaylordentertainment.com

With a copy to:

Gaylord Entertainment Company  
One Gaylord Drive  
Nashville, Tennessee 37214-1207  
Attention: General Counsel

**City of Aurora**

15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: City Manager  
Telephone: (303) 739-7010  
Email: gnoe@auroragov.org

With a copy to:

City of Aurora  
15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: City Attorney

**Aurora Urban Renewal Authority**

15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: Urban Renewal Manager  
Telephone: (303) 739 - 7129  
E-mail: aamonick@auroragov.org

With a copy to:

Aurora Urban Renewal Authority  
15151 East Alameda Parkway  
Aurora, Colorado 80012

Attention: Michael J. Hyman, Assistant City Attorney

Each such notice, request or other communication shall be effective (i) if given by telecopier, when such telecopy is transmitted to the telecopier number specified in this Section and a confirmation of such telecopy has been received by the sender, (ii) if given by mail, 5 days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid, (iii) if given by e-mail, on the day such e-mail is transmitted to the e-mail address specified in this Section or (iv) if given by any other means, when delivered at the addresses specified in this Section.

#### SECTION 22.5 Counterparts.

This Agreement may be executed in any number of counterparts, and by the different Parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

#### SECTION 22.6 Successors and Assigns.

This Agreement shall be binding upon and inure to the benefit of the City and Gaylord and their respective successors, endorsees and assigns, except that no Party may assign or transfer its rights or obligations hereunder without the prior written consent of the other Parties.

Notwithstanding the foregoing, Gaylord's rights and obligations hereunder may be assigned or transferred at any time that Gaylord is not in default under any provision of this Agreement without the consent of the City, to any of the following, provided they are a single person or entity that has acquired the entirety of such rights and obligations (each, a "Successor", which term shall also refer to any successor, endorser or assign upon the written consent of City): (i) a successor in interest to Gaylord or any mortgagee, (ii) a person acquiring such rights and interests pursuant to foreclosure of any mortgage on the Conference Center or Hotel or deed in lieu thereof, (iii) a corporation, limited liability company, or other legal entity controlled by or under common control with Gaylord (a "Gaylord Affiliate"), (iv) a person or entity that acquires substantially all of the issued stock or assets of Gaylord, (v) any person or entity that acquires the Conference Center or Hotel and enters into an agreement with Gaylord or a Gaylord Affiliate to manage the Conference Center or Hotel for a term of at least five years, or (vi) any person or entity in the business of conference center operations or in the business of developing conference centers that reasonably demonstrates its financial, development and operating capacity to fulfill Gaylord's obligations hereunder; provided that, in any such case, the Successor has expressly and in writing for the benefit of the City either:

(A) assumed all of the obligations of Gaylord under this Agreement, including but not limited to all obligations of Gaylord arising prior to the date of such assignment or transfer, and all of the right, title and interest in the Conference Center; or

(B) assumed all of the obligations of Gaylord under this Agreement arising from and after the date of such assignment or transfer and all of the right, title and interest in the Conference Center provided further that, in the case of an assumption pursuant to item (B), either (i) a Gaylord Affiliate or (ii) a party with financial capabilities substantially equivalent to or better than Gaylord on the date of such assignment or transfer (or otherwise reasonably acceptable to

the City), shall guaranty to the City the obligations of the assignor under this Agreement arising prior to the date of such assignment or transfer.

A Successor pursuant to an assignment or transfer made in compliance with all of the terms and provisions of this Section may be referred to as a "Permitted Successor." Any assignment or transfer not made in compliance with all of the terms and provisions of this Section shall be void, and not voidable, and shall vest no rights in the purported assignee or transferee. An assignment or transfer made in compliance with all of the terms and provisions of this Agreement (including, but not limited to, the terms and provisions of this Section) shall operate to release Gaylord or its Successor, as applicable, from any liability hereunder whether arising prior to or following the date of such assignment or transfer. Any Permitted Successor may further assign or transfer its rights and obligations under this Agreement only in compliance with this Section.

#### SECTION 22.7 Third Party Beneficiaries.

The Parties do not intend to confer, and this Agreement shall not be construed to confer, any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

#### SECTION 22.8 Waivers and Amendments.

No provision of this Agreement shall be waived, amended or supplemented except by a written instrument executed by each Party hereto. No failure or delay by the Parties in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

#### SECTION 22.9 Headings.

Section headings used in this Agreement are for reference only and shall not affect the construction of this Agreement.

#### SECTION 22.10 Entire Agreement; Exclusivity.

This Agreement constitute the entire understanding of the Parties hereto with respect to the subject matter hereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby. During the term of this Agreement, Gaylord agrees that it will not take any action to locate the Project or any portion thereof in any place in Colorado other than the City.

*[Signature page follows]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

**Gaylord Entertainment Company**

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

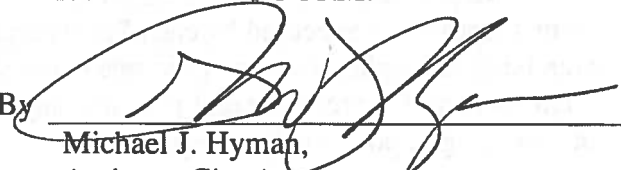
**The City of Aurora, Colorado**

By: \_\_\_\_\_  
Edward J. Tauer, Mayor

ATTEST:

By \_\_\_\_\_  
Debra Johnson, City Clerk

APPROVED AS TO FORM:

By  \_\_\_\_\_  
Michael J. Hyman,  
Assistant City Attorney

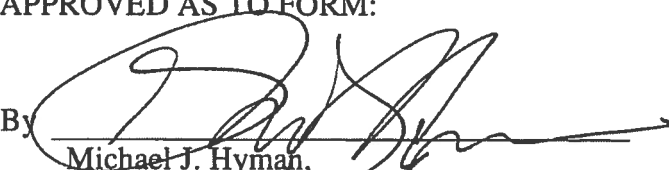
**Aurora Urban Renewal Authority**

By: \_\_\_\_\_  
Edward J. Tauer, Chairperson

ATTEST:

By \_\_\_\_\_  
George K. Noe,  
Executive Director/Secretary

APPROVED AS TO FORM:

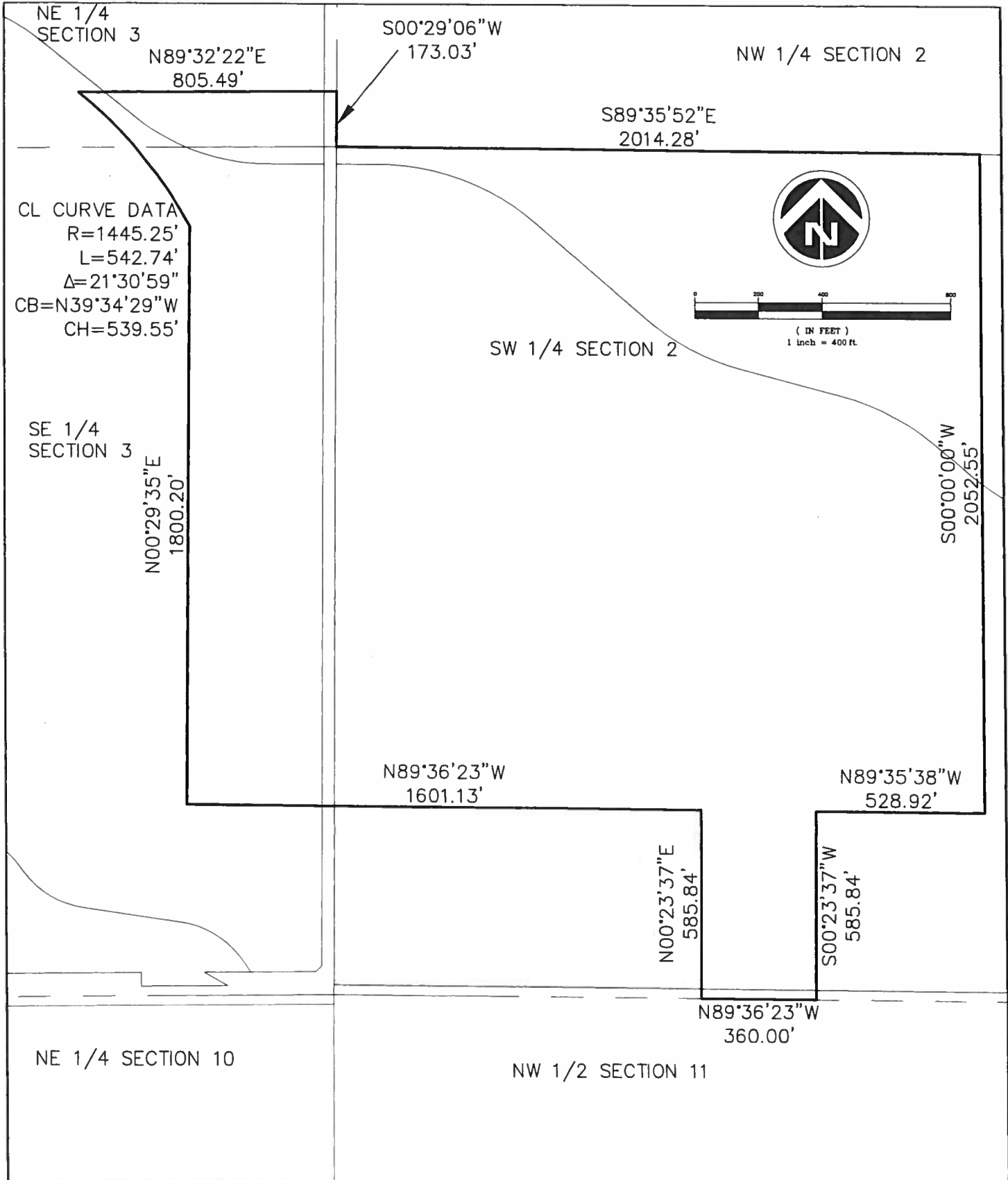
By  \_\_\_\_\_  
Michael J. Hyman,  
Counsel to the Authority



**EXHIBIT A**

**MAP OF SITE AND URBAN RENEWAL AREA**

*[See attached.]*



Project Number:	08400101	Drawn By:	ACE
Designed By:	JAM	Checked By:	JDM
Issue Date:	05/13/2011		
Sheet Number:	1 of 1		

**GAYLORD**  
**BLIGHTED LAND**

**ENGINEERING CONSULTANTS**

Contact: Jason D. Margraf, PE  
 3151 S. Vaughn Way, Suite 680 - Aurora, CO 80014-3517  
 (303) 368-5601 - FAX: (303) 368-5603  
 Email: jmargin@j3engineering.net

**LEGAL DESCRIPTION  
BLIGHT AREA**

A PARCEL OF LAND SITUATED IN A PORTION OF THE SOUTHWEST 1/4 OF SECTION 2, AND A PORTION IN THE EAST HALF OF SECTION 3, ALL IN TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4 OF SECTION 2;

THENCE S 89°35'52" E ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF SECTION 2, A DISTANCE OF 2014.28 FEET;

THENCE S 00°00'00" W, A DISTANCE OF 2052.55 FEET;

THENCE N 89°35'38" W, A DISTANCE OF 528.92 FEET;

THENCE S 00°23'37" W, A DISTANCE OF 585.84 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST 1/4 OF SECTION 2;

THENCE N 89°36'23" W ALONG SAID SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 2, A DISTANCE OF 360.00 FEET;

THENCE N 00°23'37" E, A DISTANCE OF 585.84 FEET;

THENCE N 89°36'23" W, A DISTANCE OF 1601.13 FEET;

THENCE N 00°29'35" E, A DISTANCE OF 1800.20 FEET;

THENCE ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 1445.25 FEET, AN ARC LENGTH OF 542.74 FEET, A DELTA ANGLE OF 21°30'59", THE CHORD OF WHICH BEARS N 39°34'29" W, A DISTANCE OF 539.55 FEET;

THENCE N 89°32'22" E, A DISTANCE OF 805.49 FEET TO THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 2;

THENCE S 00°29'06" W ALONG SAID WEST LINE OF THE NORTHWEST 1/4 OF SECTION 2, A DISTANCE OF 173.03 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 5,445,030 SQUARE FEET OR 125 ACRES, MORE OR LESS.

**EXHIBIT B**

AVAILABLE TAXES

<u>Overlapping Taxes/Fees</u>	<u>Existing/ Proposed Rate</u>	<u>Percentage Available for Financing</u>	<u>Net Nominal Rate Available for Financing/Gaylord</u>	
<b>Property Taxes per \$1,000</b>				
City of Aurora	10.595	100.00%	10.595	(1)
Adams County	26.883	100.00%	26.883	(1)
Brighton School District	45.703	100.00%	45.703	(1)
Urban Drainage and Flood Control	0.523	100.00%	0.523	(1)
Urban Drainage South Platte	0.053	100.00%	0.053	(1)
Rangeview Library District	3.659	100.00%	3.659	
General Improvement District	40.000	100.00%	40.000	(1)
<b>Total Property Taxes</b>	<u>127.416 mills</u>		<u>127.416 mills</u>	
<b>Sales Taxes (Excluding Admissions Sales Taxes)</b>				
City of Aurora	* 3.75%	93.33%	3.50%	(2)
State of Colorado	2.90%	100.00%	2.90%	(2)
Regional Transportation District	1.00%	0.00%	0.00%	(2)
Cultural Facilities	0.10%	0.00%	0.00%	(2)
Stadium District	0.10%	0.00%	0.00%	(2)
Adams County	0.75%	0.00%	0.00%	(2)
<b>Total Sales Taxes</b>	<u>8.60%</u>		<u>6.40%</u>	
<b>Admissions Sales Taxes</b>				
City of Aurora	* 3.75%	93.33%	3.50%	(2)
Enhanced Admissions Sales Tax	* 6.25%	100.00%	6.25%	(2)
<b>Total Sales Taxes</b>	<u>10.00%</u>		<u>9.75%</u>	
<b>Lodging Taxes &amp; Assessments</b>				
City of Aurora	* 8.00%	96.25%	7.70%	(3)
State of Colorado	2.90%	100.00%	2.90%	(3)
Regional Transportation District	1.00%	0.00%	0.00%	(3)
Cultural Facilities	0.10%	0.00%	0.00%	(3)
Stadium District	0.10%	0.00%	0.00%	(3)

Adams County		0.75%	0.00%	0.00%	(3)
Lodging Enhanced Tax	*	<u>2.00%</u>	100.00%	<u>2.00%</u>	(3)
<b>Total Lodging Taxes</b>		<u><u>14.85%</u></u>		<u><u>12.60%</u></u>	

**Use Taxes<sup>##</sup>**

City of Aurora	*	3.75%	93.33%	3.50%	
----------------	---	-------	--------	-------	--

\* Taxes marked with this symbol are City excise taxes that are part of the Available Taxes

(1) Property tax rates as provided by the City and Gaylord

(2) Sales tax rates as provided by the City and Gaylord

(3) Lodging tax rates as provided by the City and Gaylord

<sup>##</sup> Pursuant to Section 11.6 of the Agreement, use taxes include only City use taxes on materials used in the construction (at any time) of new capital projects in connection with the Project, at the rates set forth herein. Use taxes do not include use taxes on the replacement of existing furniture, fixtures, equipment or repairs to or renovation of the Project.

**EXHIBIT C**

**ENABLING ORDINANCE**

**[See attached.]**

ORDINANCE NO. 2011-\_\_\_\_\_

A BILL

FOR AN ORDINANCE AMENDING CHAPTER 130 OF THE CITY CODE OF THE CITY OF AURORA, COLORADO, BY THE ADDITION OF A NEW ARTICLE VIII REGARDING THE CREATION OF ENHANCED TAXING AREAS WITHIN THE CITY

WHEREAS, as a home rule municipality of the State of Colorado, the City of Aurora, Colorado (the "City"), is vested with the exclusive power to legislate on matters of local and municipal concern by virtue of Article XX, Section 6 of the Colorado Constitution (the "Home Rule Amendment") including, but not limited to, the levy and collection of municipal excise taxes and the conduct and control of municipal elections; and

WHEREAS, the City Council of the City (the "Council") finds and determines that the levy and collection of municipal excise taxes at an enhanced rate in a designated area located within the boundaries of the City pursuant to the petition of registered voters who also own taxable property within such area is a proper exercise of the legislative power vested in the Council by the Home Rule Amendment; and

WHEREAS, the Council further finds and determines that the conduct of a municipal election at which a ballot question authorizing the levy and collection of municipal excise taxes at an enhanced rate will be submitted only to those registered voters who reside or own taxable property within the area in which such taxes will be levied and collected is also a proper exercise of the legislative power vested in the Council by the Home Rule Amendment; and

WHEREAS, the Council deems it necessary and appropriate to adopt an ordinance authorizing the creation of enhanced taxing areas within the City.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO:

Section 1. That Chapter 130 of the City Code of the City of Aurora, Colorado, is hereby amended by adding an Article, to be numbered VIII, which Article reads as follows:

SEC. 130-551. LEGISLATIVE DECLARATION.

THE CITY COUNCIL HEREBY DECLARES THAT THE CREATION OF ENHANCED TAXING AREAS WILL SERVE A PUBLIC USE AND WILL PROMOTE THE HEALTH, SAFETY, PROSPERITY, SECURITY, AND GENERAL WELFARE OF THE RESIDENTS OF AND THE OWNERS OF PROPERTY WITHIN SAID AREAS.

SEC. 130-552. DEFINITIONS.

THE FOLLOWING WORDS AND PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

“AREA” MEANS THE GEOGRAPHICAL DIVISION OF THE CITY WITHIN WHICH ANY EXCISE TAX OR TAXES MAY BE LEVIED AT AN ENHANCED RATE FOR THE PURPOSE OF PROVIDING ANY SERVICE OR OF ACQUIRING, CONSTRUCTING, INSTALLING, OPERATING, OR MAINTAINING ANY PUBLIC IMPROVEMENT THAT THE CITY IS AUTHORIZED TO PERFORM OR PROVIDE UNDER ITS CHARTER OR ORDINANCES, OR THE LAWS OF THE STATE. ONE OR MORE NONCONTIGUOUS PARTS OR SECTIONS OF PROPERTY MAY BE INCLUDED IN ONE AREA.

“ELECTOR” OF AN AREA OR PROPOSED AREA MEANS:

- (1) A NATURAL PERSON WHO, AT THE DESIGNATED TIME OR EVENT, IS QUALIFIED TO REGISTER TO VOTE IN GENERAL ELECTIONS IN THIS STATE AND:
  - (A) HAS BEEN A RESIDENT OF THE AREA OR PROPOSED AREA FOR NOT LESS THAN 30 DAYS; OR
  - (B) OWNS, OR WHOSE SPOUSE OWNS, TAXABLE REAL OR PERSONAL PROPERTY WITHIN THE AREA OR PROPOSED AREA, WHETHER THE PERSON RESIDES WITHIN THE AREA OR PROPOSED AREA OR NOT; OR
- (2) WITH RESPECT TO ANY TAXABLE REAL OR PERSONAL PROPERTY WITHIN THE AREA OR PROPOSED AREA WHOSE OWNER IS NOT A NATURAL PERSON, ONE NATURAL PERSON WHO IS QUALIFIED TO REGISTER TO VOTE IN GENERAL ELECTIONS IN THIS STATE AND IS DESIGNATED BY SUCH OWNER TO VOTE FOR SUCH OWNER, WHETHER SUCH NATURAL PERSON RESIDES WITHIN THE AREA OR PROPOSED AREA OR NOT. SUCH DESIGNATION SHALL BE IN WRITING AND FILED WITH THE CITY CLERK. ONLY ONE SUCH PERSON MAY BE DESIGNATED BY EACH OWNER.

“ENHANCED TAX” MEANS AN EXCISE TAX LEVIED AT A RATE OVER AND ABOVE THE RATE PROVIDED FOR SUCH TAX BY ARTICLES II, IV, V, AND VI OF CHAPTER 130 OF THIS CODE. THE LEVY, COLLECTION, AND ENFORCEMENT OF ANY ENHANCED TAX SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 130 THAT GOVERN THE LEVY, COLLECTION, AND ENFORCEMENT OF THE UNDERLYING EXCISE TAX.

“EXCISE TAX” MEANS ANY OF THE FOLLOWING TAXES LEVIED BY THE CITY:

- (1) SALES TAX, PURSUANT TO ARTICLE II OF CHAPTER 130 OF THIS CODE;
- (2) USE TAX, PURSUANT TO ARTICLE II OF CHAPTER 130 OF THIS CODE;



- (3) SALES TAX ON ADMISSIONS, PURSUANT TO ARTICLE II OF CHAPTER 130 OF THIS CODE;
- (4) LODGER'S TAX, PURSUANT TO ARTICLE IV OF CHAPTER 130 OF THIS CODE;
- (5) EMPLOYER OCCUPATIONAL PRIVILEGE TAX, PURSUANT TO ARTICLE V OF CHAPTER 130 OF THIS CODE; AND
- (6) EMPLOYEE OCCUPATIONAL PRIVILEGE TAX, PURSUANT TO ARTICLE VI OF CHAPTER 130 OF THIS CODE.

SEC. 130-553. AUTHORITY OF CITY COUNCIL.

THE CITY COUNCIL IS HEREBY VESTED WITH JURISDICTION, POWER, AND AUTHORITY TO CREATE AREAS WITHIN THE CITY IN WHICH ANY ENHANCED TAX OR TAXES, WITH RESPECT TO ALL OR ANY ONE OR MORE TAXABLE TRANSACTIONS OR EVENTS, MAY BE LEVIED AND TO ESTABLISH THE PROCEDURES FOR CREATING ANY AREA, INCLUDING, WITHOUT LIMITATION, ELECTION PROCEDURES.

SEC. 130-554. CREATION PETITION – CONTENTS.

(A) THE CREATION OF AN AREA SHALL BE INITIATED BY A PETITION FILED IN THE OFFICE OF THE CITY CLERK. THE PETITION SHALL BE SIGNED BY NOT LESS THAN 30 PERCENT OR 200 OF THE ELECTORS OF THE PROPOSED AREA, WHICHEVER IS LESS. AFTER THE FILING OF A PETITION, NO SIGNER SHALL BE PERMITTED TO WITHDRAW HIS OR HER NAME FROM THE PETITION.

(B) AT A MINIMUM, THE PETITION SHALL INCLUDE THE FOLLOWING INFORMATION:

- (1) THE NAME OF THE AREA, A DESCRIPTIVE NAME OR NUMBER, AND THE WORDS "ENHANCED TAXING AREA;"
- (2) A GENERAL DESCRIPTION OF THE PURPOSES FOR WHICH THE AREA IS BEING CREATED;
- (3) A GENERAL DESCRIPTION OF THE BOUNDARIES OF THE AREA WITH SUCH CERTAINTY AS TO ENABLE A PROPERTY OWNER TO DETERMINE WHETHER OR NOT HIS OR HER PROPERTY IS WITHIN THE AREA;
- (4) A GENERAL DESCRIPTION OF THE EXCISE TAX OR TAXES AND, IF APPLICABLE, THE PARTICULAR TAXABLE TRANSACTIONS OR EVENTS, THAT ARE THE SUBJECT OF THE PETITION AND THE RATE AT WHICH SUCH TAX OR TAXES WILL BE ASSESSED WITHIN THE AREA, IF CREATED;

- (5) THE NAMES, ADDRESSES, AND TELEPHONE NUMBERS OF UP TO AND INCLUDING THREE PERSONS WHO SHALL REPRESENT THE PETITIONERS AND WHO HAVE THE POWER TO ENTER INTO AGREEMENTS RELATING TO THE CREATION OF THE AREA, WHICH AGREEMENTS SHALL BE BINDING ON THE CITY, IF CREATED; AND
- (6) A REQUEST FOR THE CREATION OF THE AREA.

(C) EACH ELECTOR OF THE PROPOSED AREA WHO IS SUBMITTING THE PETITION SHALL SIGN HIS OR HER OWN SIGNATURE AND PRINT THE DATE OF SIGNING THE PETITION.

(D) IF AN ELECTOR RESIDES OUTSIDE THE PROPOSED AREA, HE OR SHE SHALL PROVIDE A BRIEF DESCRIPTION OF THE TAXABLE REAL OR PERSONAL PROPERTY THAT HE OR SHE OWNS WITHIN SUCH AREA, THE ADDRESS AT WHICH SUCH PROPERTY IS LOCATED, AND THE ADDRESS OF HIS OR HER PLACE OF RESIDENCE.

(E) ANY ELECTOR, AS DEFINED IN CLAUSE (2) OF THE DEFINITION OF "ELECTOR" IN SECTION 130-552, SHALL PROVIDE A NOTARIZED AFFIDAVIT OF HIS OR HER AUTHORITY TO SIGN THE PETITION, A BRIEF DESCRIPTION OF TAXABLE PROPERTY LOCATED WITHIN THE PROPOSED AREA, THE ADDRESS AT WHICH SUCH PROPERTY IS LOCATED, AND THE ADDRESS OF HIS OR HER PLACE OF RESIDENCE. IN ADDITION, HE OR SHE SHALL SIGN HIS OR HER OWN SIGNATURE AND PRINT THE DATE OF SIGNING THE PETITION.

(F) TO EACH PETITION FOR AN AREA WITH MORE THAN FIVE ELECTORS, THERE SHALL BE ATTACHED A NOTARIZED AFFIDAVIT OF THE PETITION CIRCULATOR, STATING THE FOLLOWING:

- (1) THE NAME AND ADDRESS OF THE CIRCULATOR;
- (2) THE CIRCULATOR ACTUALLY CIRCULATED THE PETITION;
- (3) EACH SIGNATURE ON THE PETITION WAS AFFIXED IN THE CIRCULATOR'S PRESENCE;
- (4) TO THE BEST OF THE CIRCULATOR'S KNOWLEDGE AND BELIEF, EACH PERSON SIGNING THE PETITION WAS, AT THE TIME OF SIGNING, AN ELECTOR OF THE PROPOSED AREA; AND
- (5) THE DATE THE CIRCULATOR SIGNED THE AFFIDAVIT.

(G) FOR EACH PETITION FOR AN AREA WITH FIVE OR FEWER ELECTORS, EACH SIGNATURE AFFIXED THERETO SHALL BE NOTARIZED.

(H) NO PETITION WITH THE REQUISITE SIGNATURES SHALL BE DECLARED VOID ON ACCOUNT OF ALLEGED DEFECTS. THE CITY COUNCIL, AT ANY TIME, MAY PERMIT THE PETITION TO BE AMENDED TO CONFORM TO THE FACTS BY CORRECTING ANY ERRORS IN THE DESCRIPTION OF THE AREA OR IN ANY OTHER PARTICULAR. SIMILAR PETITIONS OR DUPLICATE COPIES OF THE SAME PETITION FOR THE CREATION OF THE SAME AREA MAY BE FILED AND TOGETHER SHALL BE REGARDED AS ONE PETITION. ALL SUCH PETITIONS FILED PRIOR TO THE HEARING ON THE FIRST PETITION FILED SHALL BE CONSIDERED BY THE CITY COUNCIL THE SAME AS THOUGH INCLUDED WITH THE FIRST PETITION PLACED ON FILE.

SEC. 130-555. BOND OF PETITIONERS.

(A) AT THE TIME OF FILING THE PETITION OR AT ANY TIME PRIOR TO THE TIME OF HEARING ON SAID PETITION, A BOND SHALL BE FILED, WITH SECURITY APPROVED BY THE CITY COUNCIL, OR A CASH DEPOSIT MADE SUFFICIENT TO PAY ALL EXPENSES CONNECTED WITH THE PROCEEDINGS IN CASE THE CREATION OF THE AREA IS NOT EFFECTED. IF AT ANY TIME DURING THE CREATION PROCEEDINGS THE CITY COUNCIL IS SATISFIED THAT THE BOND FIRST EXECUTED OR THE AMOUNT OF CASH DEPOSITED IS INSUFFICIENT IN AMOUNT, IT MAY REQUIRE THE EXECUTION OF AN ADDITIONAL BOND OR THE DEPOSIT OF ADDITIONAL CASH WITHIN A TIME TO BE FIXED, NOT LESS THAN 10 DAYS THEREAFTER, AND, UPON FAILURE OF THE PETITIONERS TO FILE OR DEPOSIT THE SAME, THE PETITION SHALL BE DISMISSED.

(B) THE CITY COUNCIL MAY WAIVE THE REQUIREMENT FOR THE FILING OF A BOND OR MAKING OF A CASH DEPOSIT UPON A SHOWING OF GOOD CAUSE BY THE PETITIONERS.

SEC. 130-556. SUFFICIENCY OF PETITION.

(A) UPON THE FILING OF ANY PETITION FOR THE CREATION OF AN AREA, THE CITY CLERK SHALL HAVE UP TO AND INCLUDING 15 BUSINESS DAYS WITHIN WHICH TO DETERMINE WHETHER THE PETITION CONTAINS THE NUMBER OF SIGNATURES REQUIRED UNDER SECTION 130-554(A). PETITION REPRESENTATIVES MAY SUBMIT ADDITIONAL SIGNATURES AT ANY TIME PRIOR TO THE ISSUANCE OF THE CITY CLERK'S CERTIFICATE AS PROVIDED IN SUBSECTION (B) OF THIS SECTION. THE CITY CLERK MAY ACCEPT A SIGNATURE AS VALID IF THE CITY CLERK HAS CONFIRMED THAT SUCH PERSON IS IN FACT REGISTERED TO VOTE IN GENERAL ELECTIONS IN THIS STATE AS OF THE DATE UPON WHICH THE CERTIFICATE OF SUFFICIENCY IS ISSUED.

(B) AT THE CLOSE OF THE 15-BUSINESS DAY PERIOD, THE CITY CLERK SHALL ISSUE A CERTIFICATE STATING WHETHER THE PETITION CONTAINS A SUFFICIENT NUMBER OF SIGNATURES TO CAUSE A PUBLIC HEARING TO BE HELD REGARDING THE CREATION OF AN AREA. FOR PURPOSES OF DETERMINING WHETHER A PETITION CONTAINS A SUFFICIENT NUMBER OF SIGNATURES, THE CITY CLERK SHALL DETERMINE THE TOTAL NUMBER OF ELECTORS FROM THE

TAX ROLLS OF THE COUNTY OR COUNTIES IN WHICH THE AREA IS LOCATED, THE LAST OFFICIAL VOTER REGISTRATION LIST, AND SUCH OTHER EVIDENCE WHICH MAY BE ADDUCED AS OF THE DATE UPON WHICH THE PETITION IS FILED.

(C) IF THE CITY CLERK ISSUES A CERTIFICATE OF SUFFICIENCY, THE PETITION SHALL BE PRESENTED TO THE CITY COUNCIL WITHOUT FURTHER AMENDMENT, WHEREUPON THE COUNCIL SHALL CONSIDER WHETHER TO ISSUE THE ORDER FIXING THE PLACE AND TIME FOR THE PUBLIC HEARING AS REQUIRED BY SECTION 130-557(A). FOR PURPOSES OF FIXING THE PLACE AND TIME OF SUCH HEARING, A PETITION SHALL BE DEEMED FILED AS OF THE DATE UPON WHICH THE CITY COUNCIL ADOPTS A RESOLUTION ACCEPTING THE CITY CLERK'S CERTIFICATE OF SUFFICIENCY.

(D) IF THE CITY CLERK DETERMINES THAT SAID PETITION IS NOT SIGNED BY AT LEAST THE NUMBER OF ELECTORS REQUIRED UNDER SECTION 130-554(A), THE CLERK SHALL NOTIFY THE CITY COUNCIL, WHEREUPON THE CITY COUNCIL SHALL DISMISS THE PETITION AND ADJUDGE THE COST AGAINST THOSE EXECUTING THE BOND FILED TO PAY SUCH COSTS. NO APPEAL OR OTHER REMEDY SHALL LIE FROM AN ORDER DISMISSING SAID PROCEEDING. NOTHING IN THIS SECTION SHALL PREVENT THE FILING OF SUBSEQUENT PETITIONS FOR A SIMILAR OR THE SAME AREA. THE RIGHT TO RENEW SUCH PROCEEDING IS HEREBY EXPRESSLY GRANTED AND AUTHORIZED.

#### SEC. 130-557. NOTICE OF HEARING.

(A) EXCEPT AS PROVIDED IN SECTION 130-558(B), AS SOON AS POSSIBLE AFTER THE FILING OF SUCH PETITION, THE CITY COUNCIL SHALL FIX, BY RESOLUTION, A PLACE AND TIME, NOT LESS THAN 20 CALENDAR DAYS NOR MORE THAN 40 CALENDAR DAYS AFTER THE PETITION IS FILED, FOR A HEARING THEREON. THEREUPON, THE CITY CLERK SHALL CAUSE NOTICE BY PUBLICATION TO BE MADE OF THE PENDENCY OF THE PETITION, OF THE PURPOSES AND BOUNDARIES OF THE PROPOSED AREA, OF THE EXCISE TAX OR TAXES THAT ARE THE SUBJECT OF THE PETITION AND THE RATE AT WHICH SUCH TAX OR TAXES WILL BE ASSESSED WITHIN THE PROPOSED AREA, AND OF THE TIME AND PLACE OF HEARING THEREON. THE CLERK SHALL ALSO CAUSE A COPY OF SAID NOTICE TO BE MAILED TO EACH ELECTOR OF THE PROPOSED AREA AT SUCH ELECTOR'S LAST-KNOWN ADDRESS, AS DISCLOSED BY THE TAX AND OFFICIAL VOTER REGISTRATION RECORDS OF THE COUNTIES IN WHICH SAID AREA IS PROPOSED TO BE LOCATED.

(B) NO MEMBER OF THE CITY COUNCIL SHALL BE DISQUALIFIED TO PERFORM ANY DUTY IMPOSED BY THIS ARTICLE BY REASON OF OWNERSHIP OF PROPERTY WITHIN ANY PROPOSED AREA.

#### SEC. 130-558. HEARING - DISMISSAL - FINDINGS - DECLARATION - WHEN ACTION BARRED.

(A) ON THE DAY FIXED FOR SUCH HEARING OR AT ANY ADJOURNMENT THEREOF OR, IF THE HEARING IS WAIVED UNDER SUBSECTION (B) OF THIS SECTION, IF IT IS SHOWN THAT:

- (1) ONE OR MORE OF THE SIGNATURES ON THE PETITION ARE NOT GENUINE OR ARE OTHERWISE INVALID AND SUCH FACT WOULD CAUSE THE PETITION TO FALL BELOW THE NUMBER OF SIGNATURES REQUIRED TO INITIATE THE CREATION OF AN AREA UNDER SECTION 130-554(A) OR TO WAIVE A HEARING UNDER SUBSECTION (B) OF THIS SECTION; OR
- (2) THE ENHANCED TAX AS DESCRIBED IN THE PETITION WOULD CONSTITUTE AN UNLAWFULLY DISCRIMINATORY, ARBITRARY, OR CONFISCATORY TAX WITHIN THE MEANING OF FEDERAL OR STATE LAW,

THEN THE CITY COUNCIL SHALL DISMISS THE PETITION AND ADJUDGE THE COSTS AGAINST THOSE EXECUTING THE BOND FILED TO PAY SUCH COSTS. THE FINDINGS OF THE CITY COUNCIL UPON THESE ISSUES AND ALL MATTERS OF FACT INCIDENT THERETO SHALL BE FINAL AND CONCLUSIVE ON ALL PARTIES IN INTEREST, WHETHER APPEARING OR NOT. NO APPEAL OR OTHER REMEDY SHALL LIE FROM AN ORDER DISMISSING SAID PROCEEDING PURSUANT TO THIS SECTION. NOTHING IN THIS SECTION SHALL PREVENT THE FILING OF SUBSEQUENT PETITIONS FOR A SIMILAR OR SAME AREA. THE RIGHT SO TO RENEW SUCH PROCEEDING IS HEREBY EXPRESSLY GRANTED AND AUTHORIZED.

(B) IF THE PETITION FOR CREATING AN AREA IS SIGNED BY 100% OF THE OWNERS OF TAXABLE REAL PROPERTY TO BE INCLUDED IN THE AREA AND CONTAINS A REQUEST FOR A WAIVER OF ALL OR ANY OF THE REQUIREMENTS FOR NOTICE, PUBLICATION, HEARING OR FILING OF A BOND SET FORTH IN THIS SECTION AND IN SECTION 130-557(A), THE CITY COUNCIL MAY, AT ITS DISCRETION, WAIVE SUCH REQUIREMENTS.

- (C)(1) UPON THE HEARING IF REQUIRED, OR WITHOUT A HEARING PURSUANT TO SUBSECTION (B) OF THIS SECTION, IF IT APPEARS THAT A PETITION FOR THE CREATION OF AN AREA HAS BEEN DULY SIGNED AND PRESENTED IN CONFORMITY WITH THIS ARTICLE AND THAT THE ALLEGATIONS OF THE PETITION ARE TRUE, THE CITY COUNCIL, BY ORDINANCE DULY ADOPTED AND MADE EFFECTIVE, SHALL ADJUDICATE ALL QUESTIONS OF JURISDICTION AND MAY ORDER THAT THE QUESTION OF CREATING THE AREA AND OF LEVYING AN ENHANCED TAX OR ENHANCED TAXES BE SUBMITTED TO THE ELECTORS AT AN ELECTION TO BE HELD FOR THAT PURPOSE IN ACCORDANCE WITH THE PROVISIONS OF THE UNIFORM ELECTION CODE OF 1992 (§§ 1-1-101, ET SEQ., C.R.S.), THE COLORADO MUNICIPAL ELECTION CODE OF 1965 (§§ 31-10-101, ET SEQ., C.R.S.), AND CHAPTER 54 OF THIS CODE. SUCH ELECTION MAY BE HELD IN

CONJUNCTION WITH A REGULAR MUNICIPAL ELECTION OR A STATEWIDE GENERAL ELECTION.

- (2) AT AN ELECTION HELD UNDER PARAGRAPH (1) OF THIS SUBSECTION (C), THE ELECTORS OF THE PROPOSED AREA SHALL VOTE FOR OR AGAINST THE QUESTION OF CREATING THE AREA AND OF LEVYING THE ENHANCED TAX OR ENHANCED TAXES. IF A MAJORITY OF THE VOTES CAST AT THE ELECTION ARE IN FAVOR OF THE QUESTION, THE CITY COUNCIL SHALL ADOPT AN ORDINANCE DECLARING THE AREA CREATED AND THE ENHANCED TAX OR ENHANCED TAXES LEVIED.
- (3) IF A PETITION FILED WITH THE CITY COUNCIL COMPLIES WITH SUBSECTION (B) OF THIS SECTION, THE CITY COUNCIL MAY ADOPT AN ORDINANCE DECLARING THE AREA CREATED WITHOUT ANY NOTICE, PUBLICATION, HEARING, ELECTION, OR FILING OF A BOND; PROVIDED, HOWEVER, THAT THE QUESTION OF LEVYING AN ENHANCED TAX SHALL BE SUBMITTED TO THE ELECTORS AT AN ELECTION HELD UNDER PARAGRAPH (1) OF THIS SUBSECTION (C).

(D) IF AN ORDINANCE IS ADOPTED CREATING THE AREA AND LEVYING AN ENHANCED TAX, SUCH ORDINANCE SHALL FINALLY AND CONCLUSIVELY ESTABLISH THE CREATION OF THE AREA AND THE LEVYING OF AN ENHANCED TAX OR ENHANCED TAXES AGAINST ALL PERSONS UNLESS AN ACTION ATTACKING THE VALIDITY OF THE ORDINANCE IS COMMENCED IN A COURT OF COMPETENT JURISDICTION WITHIN 30 CALENDAR DAYS AFTER THE ADOPTION OF SUCH ORDINANCE. THEREAFTER, ANY SUCH ACTION SHALL BE PERPETUALLY BARRED. THE CREATION OF THE AREA AND THE LEVYING OF THE ENHANCED TAX OR ENHANCED TAXES SHALL NOT BE DIRECTLY OR COLLATERALLY QUESTIONED IN ANY SUIT, ACTION, OR PROCEEDING.

SEC. 130-559. FILING OF ORDINANCE; MAPS AND LOCATION GUIDES.

(A) FOLLOWING THE ELECTION AND PRIOR TO THE EFFECTIVE DATE OF THE ORDINANCE LEVYING AN ENHANCED TAX, THE CITY FINANCE DIRECTOR SHALL FILE A COPY OF SUCH ORDINANCE WITH THE EXECUTIVE DIRECTOR OF THE COLORADO DEPARTMENT OF REVENUE AND THE COLORADO MUNICIPAL LEAGUE.

(B) THE CITY SHALL MAKE AVAILABLE TO ANY REQUESTING RETAILER OR VENDOR A MAP OR OTHER LOCATION GUIDE SHOWING THE BOUNDARIES OF ANY AREA. THE REQUESTING RETAILER OR VENDOR MAY RELY ON THE MAP OR OTHER LOCATION GUIDE AND ANY UPDATE THEREOF AVAILABLE TO SUCH RETAILER OR VENDOR IN DETERMINING WHETHER TO COLLECT THE ENHANCED TAX. NO PENALTY SHALL BE IMPOSED OR ACTION FOR DEFICIENCY MAINTAINED IF THE REQUESTING RETAILER OR VENDOR IN GOOD FAITH COMPLIES WITH THE MOST RECENT MAP OR OTHER LOCATION GUIDE AVAILABLE TO SUCH RETAILER OR VENDOR.

SEC. 130-560. INCLUSION OR EXCLUSION - PETITION - NOTICE - HEARING -- ORDER.

(A) THE BOUNDARIES OF ANY AREA CREATED UNDER THE PROVISIONS OF THIS ARTICLE MAY BE CHANGED IN THE MANNER PRESCRIBED IN THIS SECTION, BUT THE CHANGE OF BOUNDARIES OF THE AREA SHALL NOT IMPAIR OR AFFECT ITS CREATION OR THE RIGHT OF THE CITY TO LEVY AN ENHANCED TAX OR ENHANCED TAXES THEREIN, NOR SHALL IT AFFECT OR IMPAIR OR DISCHARGE ANY CONTRACT, OBLIGATION, LIEN, OR CHARGE OF THE CITY OR ANY RELATED ENTITY TO WHICH ANY REVENUES FROM AN ENHANCED TAX OR ENHANCED TAXES MIGHT BE PLEDGED HAD ANY SUCH CHANGE OF BOUNDARIES NOT BEEN MADE. THE OWNERS OF PROPERTY PROPOSED TO BE INCLUDED OR EXCLUDED MAY FILE WITH THE CITY COUNCIL A PETITION, IN WRITING, REQUESTING THAT SUCH PROPERTY BE INCLUDED IN OR EXCLUDED FROM THE AREA. THE PETITION SHALL DESCRIBE THE PROPERTY OWNED BY THE PETITIONERS AND SHALL BE VERIFIED. THE PETITION SHALL BE ACCOMPANIED BY A DEPOSIT OF MONEYS SUFFICIENT TO PAY ALL COSTS OF THE INCLUSION OR EXCLUSION PROCEEDINGS. THE CITY CLERK SHALL CAUSE NOTICE OF FILING OF SUCH PETITION TO BE GIVEN AND PUBLISHED, WHICH NOTICE SHALL STATE THE FILING OF SUCH PETITION, NAMES OF PETITIONERS, DESCRIPTIONS OF PROPERTY SOUGHT TO BE INCLUDED OR EXCLUDED, AND THE REQUEST OF SAID PETITIONERS.

(B) SUCH NOTICE SHALL NOTIFY ALL PERSONS HAVING OBJECTIONS TO APPEAR BEFORE THE CITY COUNCIL AT THE TIME STATED IN SAID NOTICE AND SHOW CAUSE WHY THE PETITION SHOULD NOT BE GRANTED. THE CITY COUNCIL, AT THE TIME AND PLACE MENTIONED OR AT SUCH TIMES TO WHICH THE HEARING MAY BE ADJOURNED, SHALL PROCEED TO HEAR THE PETITION AND ALL OBJECTIONS THERETO WHICH MAY BE PRESENTED BY ANY PERSON SHOWING CAUSE WHY SAID PETITION SHOULD NOT BE GRANTED. THE FAILURE OF ANY PERSON INTERESTED TO SHOW CAUSE SHALL BE DEEMED AS AN ASSENT ON HIS PART TO THE INCLUSION OR EXCLUSION OF SUCH PROPERTY AS REQUESTED FOR IN THE PETITION. IF THE PETITION IS GRANTED, THE CITY COUNCIL SHALL ADOPT AN ORDINANCE TO THAT EFFECT AND FILE A COPY OF THE SAME AS PROVIDED IN SECTION 130-559(A). THEREUPON SAID PROPERTY SHALL BE INCLUDED OR EXCLUDED FROM THE AREA.

(C) ALL PROPERTY INCLUDED WITHIN OR EXCLUDED FROM AN AREA SHALL THEREAFTER BE SUBJECT TO THE LEVY OF AN ENHANCED TAX OR ENHANCED TAXES TO THE EXTENT THAT ANY CONTRACT, OBLIGATION, LIEN, OR CHARGE OF THE CITY OR ANY RELATED ENTITY TO WHICH ANY REVENUES FROM AN ENHANCED TAX OR ENHANCED TAXES ARE PLEDGED REMAINS OUTSTANDING AT THE TIME OF INCLUSION OR EXCLUSION.

SEC. 130-561. DISSOLUTION.

ANY AREA CREATED PURSUANT TO THIS ARTICLE MAY BE DISSOLVED AFTER NOTICE IS GIVEN AND A HEARING HELD IN THE MANNER PRESCRIBED BY SECTIONS 130-557(A) AND 130-558(A). AFTER HEARING ANY PROTESTS AGAINST OR OBJECTIONS TO DISSOLUTION, IF THE CITY COUNCIL DETERMINES THAT IT IS FOR THE BEST INTERESTS OF ALL CONCERNED TO DISSOLVE THE AREA, IT SHALL SO PROVIDE BY AN EFFECTIVE ORDINANCE, A COPY OF WHICH SHALL BE FILED AS PROVIDED IN SECTION 130-559(A). UPON SUCH FILING, THE DISSOLUTION SHALL BE COMPLETE. NOTWITHSTANDING ANY PROVISION HEREIN TO THE CONTRARY, NO AREA SHALL BE DISSOLVED IF ANY CONTRACT, OBLIGATION, LIEN, OR CHARGE OF THE CITY OR ANY RELATED ENTITY TO WHICH ANY REVENUES FROM AN ENHANCED TAX OR ENHANCED TAXES ARE PLEDGED REMAINS OUTSTANDING.

Section 2. All ordinances or parts of ordinances of the City Code of the City of Aurora, Colorado, in conflict herewith are expressly repealed.

Section 3. Pursuant to Section 5-5 of the Charter of the City of Aurora, Colorado, the second publication of this ordinance shall be by reference, utilizing the ordinance title. Copies of this ordinance are available at the office of the City Clerk.

INTRODUCED, READ AND ORDERED PUBLISHED this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

PASSED AND ORDERED PUBLISHED BY REFERENCE this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
EDWARD J. TAUER, Mayor

ATTEST:

\_\_\_\_\_  
DEBRA JOHNSON, City Clerk

APPROVED AS TO FORM:

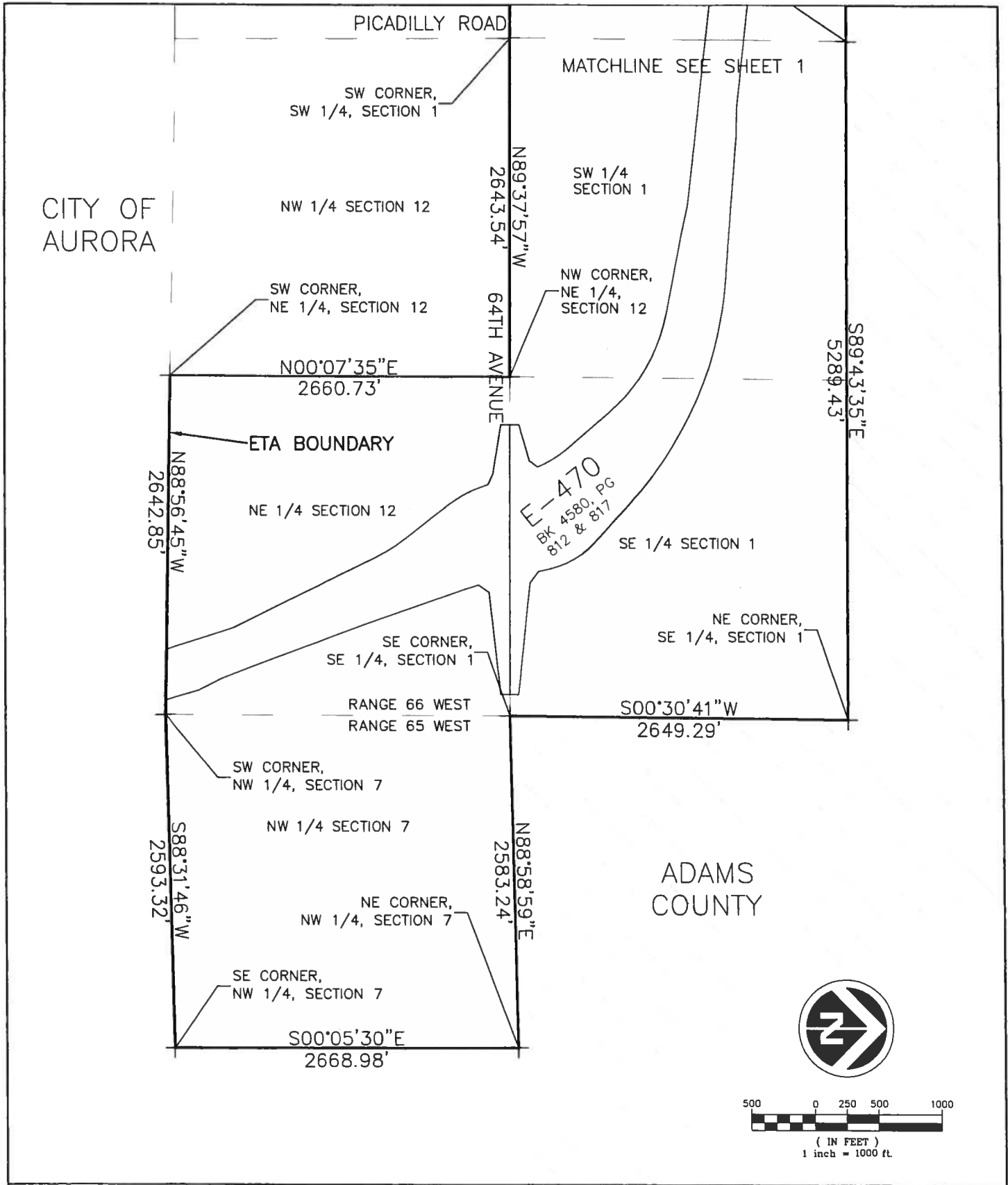
\_\_\_\_\_  
MICHAEL HYMAN, Assistant City Attorney



**EXHIBIT D**

ENHANCED TAXING AREA

[*See attached.*]



Project Number: 08400121  
 Drawn By: ACE  
 Designed By: KSC  
 Checked By: JDM  
 Issue Date: 06/07/2011  
 Sheet Number: 2 of 2

**GAYLORD ENTERTAINMENT**

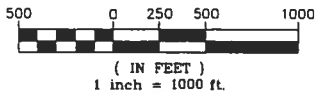
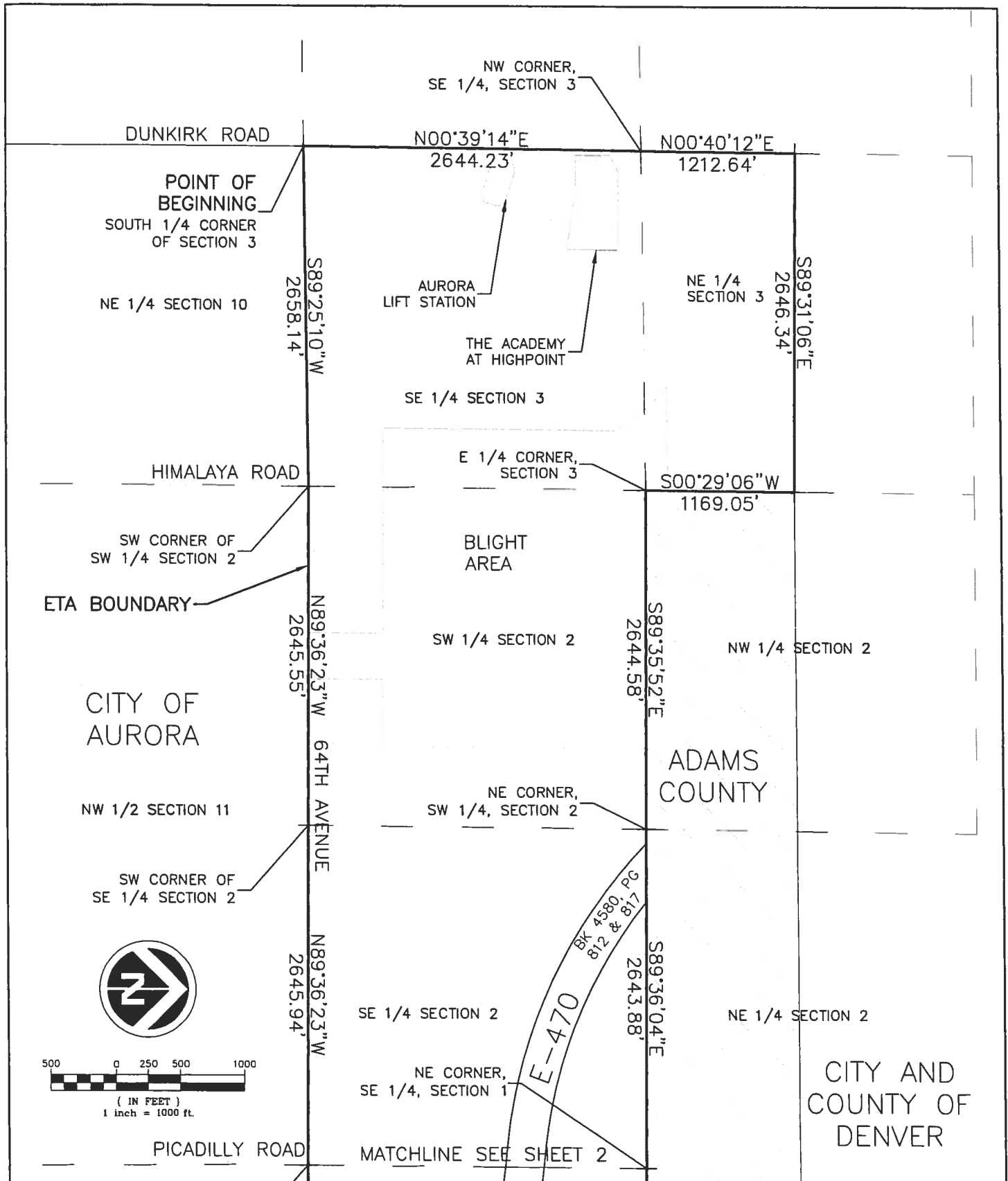
**LNR ENHANCED TAXING AREA (ETA)**

June 20, 2011




**ENGINEERING CONSULTANTS**

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Project Number: 08400121  
 Drawn By: ACE  
 Designed By: KSC  
 Checked By: JDM  
 Issue Date: 06/07/2011  
 Sheet Number: 1 of 2

**GAYLORD ENTERTAINMENT**  
**LNR ENHANCED TAXING AREA (ETA)**  
 June 20, 2011 Council Meeting Page 108


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**LEGAL DESCRIPTION  
ENHANCED TAXING AREA**

A PARCEL OF LAND LOCATED IN THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 3 SOUTH, RANGE 65 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, AND A PORTION OF THE FOLLOWING: SOUTH 1/2 OF SECTION 1, THE SOUTH 1/2 OF SECTION 2, A PORTION THE EAST 1/2 OF SECTION 3, THE NORTHEAST 1/4 OF SECTION 12, ALL IN TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTH 1/4 CORNER OF SECTION 3;

THENCE ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3, N 00°39'14" E, A DISTANCE OF 2644.23 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 3;

THENCE ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 3, N 00°40'12" E, A DISTANCE OF 1212.64 FEET;

THENCE S 89°31'06" E, A DISTANCE OF 2646.34 FEET TO THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION SAID 3;

THENCE ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 3, S 00°29'06" W, A DISTANCE OF 1169.05 FEET TO THE EAST 1/4 CORNER OF SAID SECTION 3;

THENCE ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 2, S 89°35'52" E, A DISTANCE OF 2644.58 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 2;

THENCE ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 2, S 89°36'04" E, A DISTANCE OF 2643.88 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 CORNER OF SAID SECTION 2;

THENCE ALONG THE NORTH LINE OF THE SOUTH 1/2 OF SAID SECTION 1, S 89°43'35" E, A DISTANCE OF 5289.43 FEET TO ON THE NORTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 1;

THENCE ALONG THE EAST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 1, S 00°30'41" W, A DISTANCE OF 2649.29 FEET TO THE SOUTHEAST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 1;

THENCE ALONG THE NORTH LINE OF THE NORTHWEST 1/4 OF SECTION 7, N 88°58'59" E, A DISTANCE OF 2583.24 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 7;

THENCE ALONG THE EAST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 7, S 00°05'30" E,

A DISTANCE OF 2668.98 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 7;

THENCE ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 7, S 88°31'46" W, A DISTANCE OF 2593.32 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF SAID SECTION 7;

THENCE ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SECTION 12, N 88°56'45" W, A DISTANCE OF 2642.85 FEET TO THE SOUTHWEST CORNER OF THE OF THE NORTHEAST 1/4 OF SAID SECTION 12;

THENCE ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SECTION 12, N 00°07'35" E, A DISTANCE OF 2660.73 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF SAID SECTION 12;

THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 1, N 89°37'57" W, A DISTANCE OF 2643.54 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 1;

THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 2, N 89°36'23" W, A DISTANCE OF 2645.94 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST 1/4 OF SAID SECTION 2;

THENCE ALONG THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SECTION 2, N 89°36'23" W, A DISTANCE OF 2645.55 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 2;

THENCE ALONG THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 3, S 89°25'10" W, A DISTANCE OF 2658.14 FEET TO THE **POINT OF BEGINNING**;

**EXCEPTING** FROM THERE THE E-470 CORRIDOR AS DESCRIBED IN BOOK 4580 AT PAGE 812 AND PAGE 817 AS RECORDED IN ADAMS COUNTY, COLORADO.

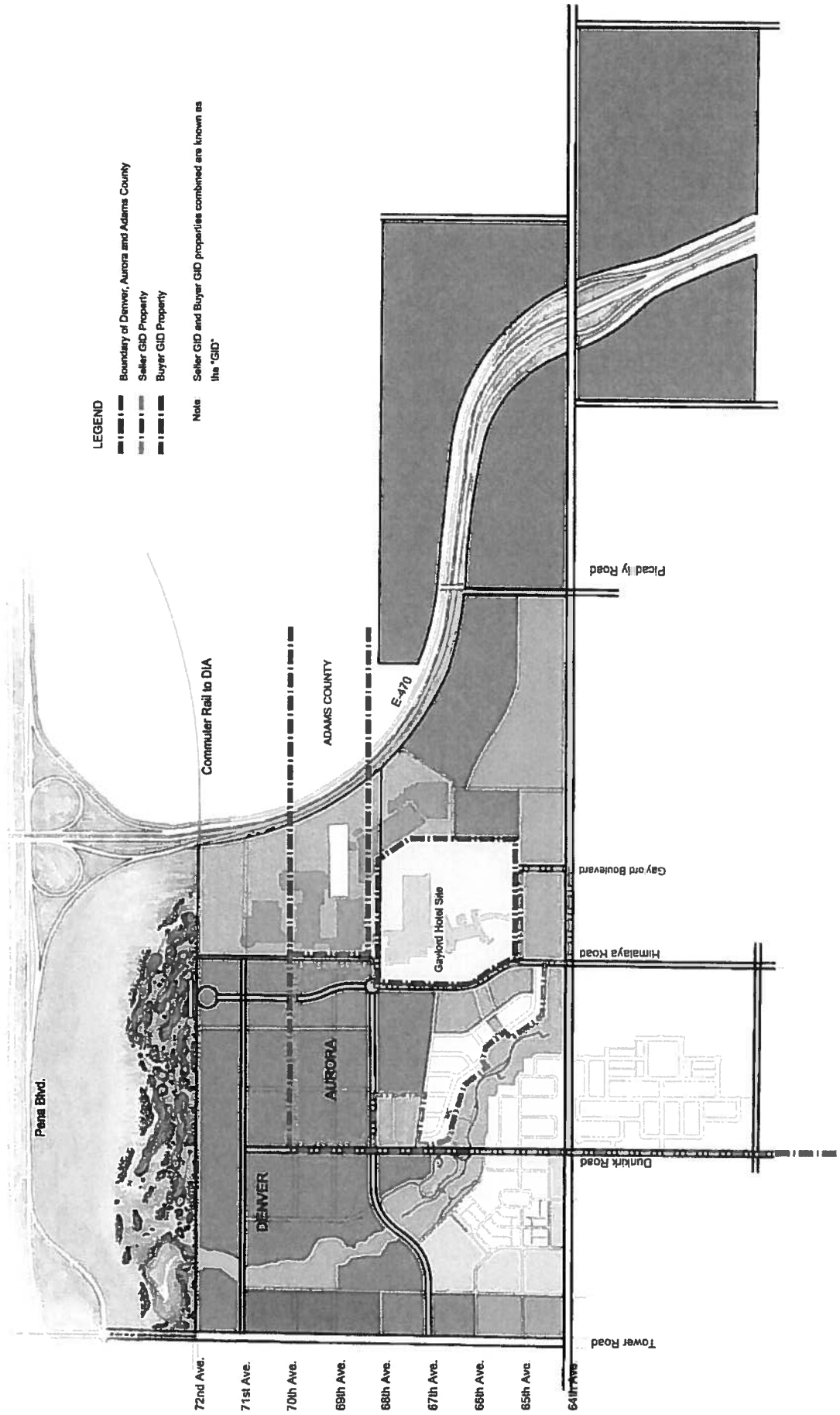
DESCRIBED PARCEL CONTAINS 47,535,090 SQUARE FEET OR 1091.25 ACRES OF LAND, MORE OR LESS.

**EXHIBIT E**

GENERAL IMPROVEMENT DISTRICT

*[See attached.]*

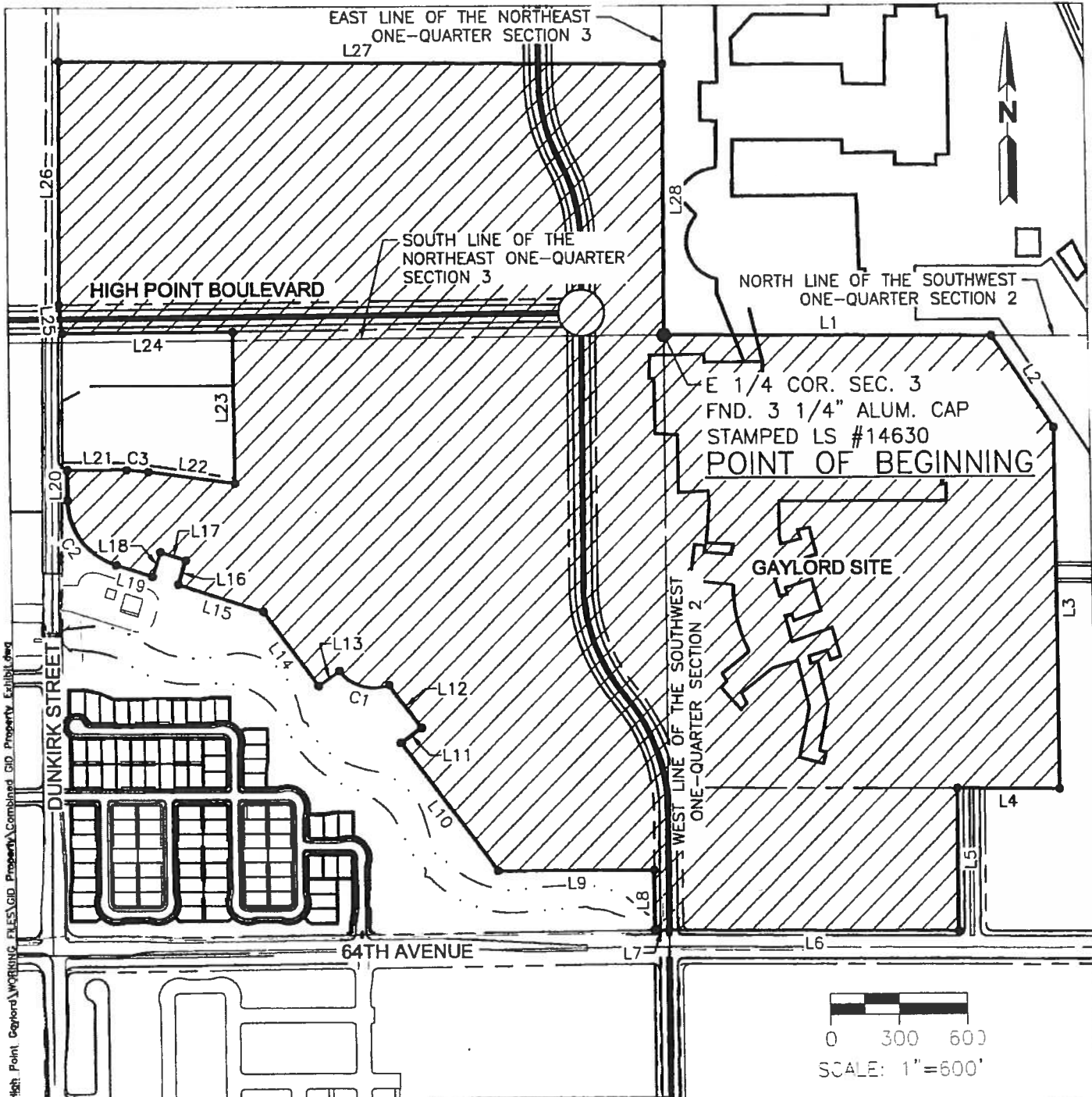
# GID PROPERTIES



**LEGEND**

- Boundary of Denver, Aurora and Adams County
- Seller GID Property
- Buyer GID Property

Note: Seller GID and Buyer GID properties combined are known as the "GID"

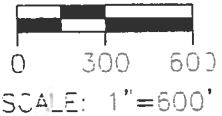


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**COMBINED GID PROPERTY**

PARCEL CONTAINS 251.879 ACRES (10,971,865 SF) MORE OR LESS

NOTE:  
THIS ILLUSTRATION DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.



SHEET 2 OF 3 JUNE 8, 2011

**MARTIN / MARTIN**  
CONSULTING ENGINEERS

12499 WEST COLFAX AVE.  
LAKEWOOD, CO 80215  
303.431.6100  
FAX 303.431.4028



DRAWING LOCATION: G:\JANSEN\18370.C\36 High Point Gondola\WORKING FILES\GRID Property\Combined\_GID\_Property\_ Exhibit.dwg

### CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	74°08'08"	182.00'	235.49'	N73°31'27"W	219.40'
C2	72°17'14"	292.00'	368.40'	N36°02'15"W	344.45'
C3	5°02'00"	1077.67'	94.67'	S84°43'29"E	94.64'

### LINE TABLE

NUMBER	LENGTH	DIRECTION
L1	1427.14'	S89°35'52"E
L2	478.49'	S34°02'20"E
L3	1558.51'	S00°00'00"E
L4	451.19'	N89°36'01"W
L5	613.24'	S00°23'37"W
L6	1261.67'	N89°36'23"W
L7	61.01'	S89°25'52"W
L8	260.20'	N00°29'35"E
L9	677.65'	N90°00'00"W
L10	689.38'	N36°44'25"W
L11	109.88'	N53°14'57"E
L12	230.02'	N36°36'51"W
L13	110.00'	S53°32'37"W
L14	399.49'	N36°27'23"W
L15	388.03'	N72°10'52"W

### LINE TABLE

NUMBER	LENGTH	DIRECTION
L16	110.00'	N17°49'08"E
L17	114.02'	N72°10'52"W
L18	110.00'	S17°49'08"W
L19	164.00'	N72°10'52"W
L20	131.53'	N00°06'22"E
L21	251.48'	N89°53'10"E
L22	377.15'	S82°12'29"E
L23	653.53'	N00°06'49"W
L24	732.00'	S89°38'11"W
L25	123.11'	N06°16'12"W
L26	1051.24'	N00°40'12"E
L27	1308.23'	S89°31'41"E
L28	1169.59'	S00°29'06"W

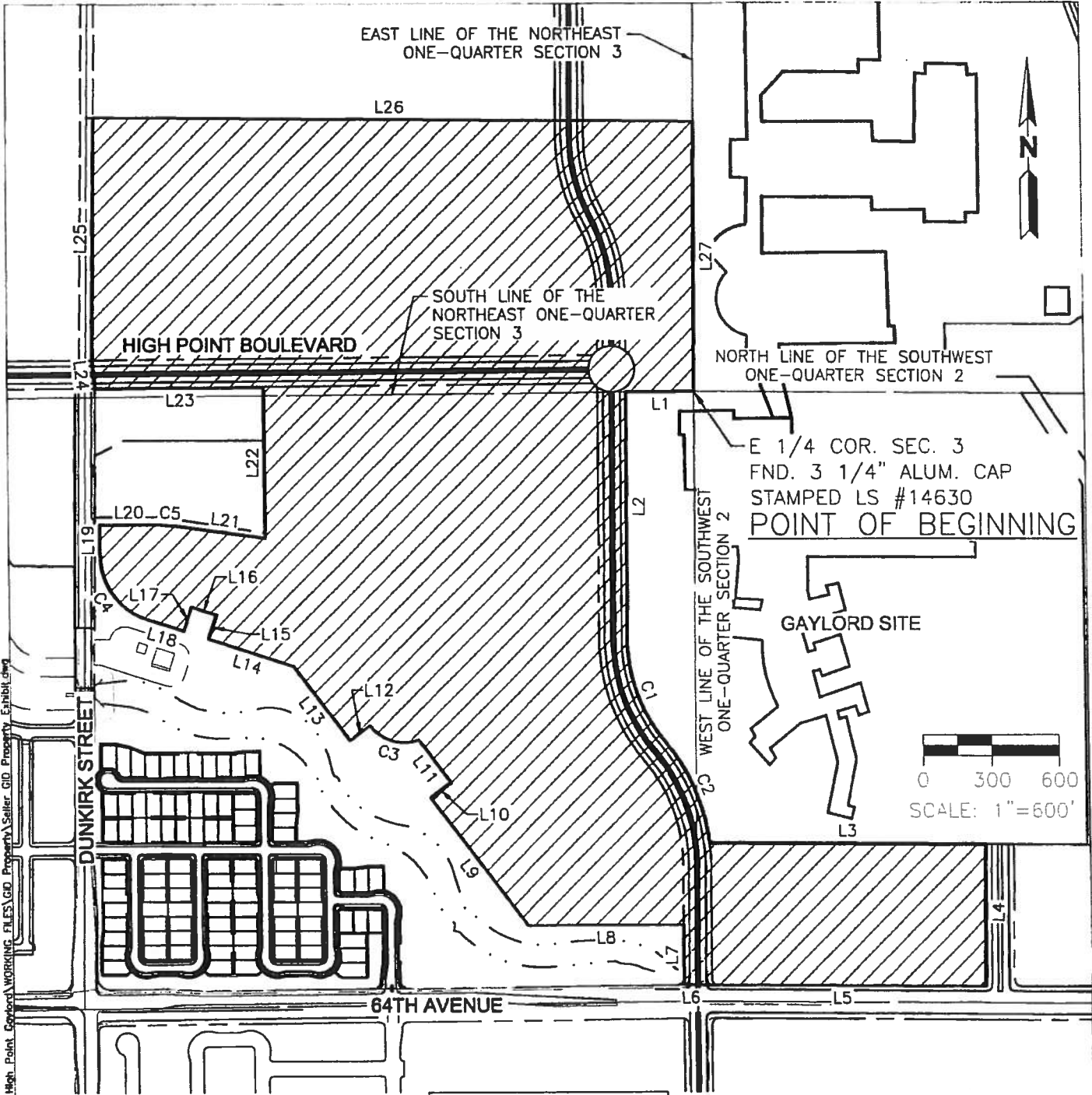
SHEET 3 OF 3

JUNE 8, 2011



**MARTIN / MARTIN**  
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DRAWING LOCATION: G:\WANSSEN\118370\_C\_36\_High Point\_Corridor\WORKING\_FILES\GID\_Property\Seller\_GID\_Property\_Export.dwg

**SELLER GID PROPERTY**

PARCEL CONTAINS 166.663 ACRES (7,259,850 SF) MORE OR LESS

NOTE:  
THIS ILLUSTRATION DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.

SHEET 3 OF 4

JUNE 15, 2011

**MARTIN / MARTIN**  
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FAX 303.431.4028

DRAWING LOCATION: G:\JANSEN\18370.C\36 High Point Corridor\WORKING FILES\GD\_Property\Setler\_GD\_Property\_ Exhibit.dwg

### CURVE TABLE

NUMBER	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD DIRECTION	CHORD LENGTH
C1	40°35'43"	689.00'	488.17'	S19°48'16"E	478.02'
C2	33°50'02"	811.00'	478.90'	S23°11'07"E	471.98'
C3	74°08'08"	182.00'	235.49'	N73°31'27"W	219.40'
C4	72°17'14"	292.00'	368.40'	N36°02'15"W	344.45'
C5	5°02'00"	1077.67'	94.67'	S84°43'29"E	94.64'

### LINE TABLE

NUMBER	LENGTH	DIRECTION
L1	300.04'	S89°32'22"W
L2	1067.49'	S00°29'38"W
L3	1205.25'	S89°36'23"E
L4	613.37'	S00°23'37"W
L5	1261.67'	N89°36'23"W
L6	61.01'	S89°25'52"W
L7	260.20'	N00°29'35"E
L8	677.65'	N90°00'00"W
L9	689.38'	N36°44'25"W
L10	109.88'	N53°14'57"E
L11	230.02'	N36°36'51"W
L12	110.00'	S53°32'37"W
L13	399.49'	N36°27'23"W
L14	388.03'	N72°10'52"W

### LINE TABLE

NUMBER	LENGTH	DIRECTION
L15	110.00'	N17°49'08"E
L16	114.02'	N72°10'52"W
L17	110.00'	S17°49'08"W
L18	164.00'	N72°10'52"W
L19	131.53'	N00°06'22"E
L20	251.48'	N89°53'10"E
L21	377.15'	S82°12'29"E
L22	653.53'	N00°06'49"W
L23	732.00'	S89°38'11"W
L24	123.11'	N06°16'12"W
L25	1051.24'	N00°40'12"E
L26	1308.23'	S89°31'41"E
L27	1169.59'	S00°29'06"W

SHEET 4 OF 4

JUNE 15, 2011



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**EXHIBIT F**

FORM OF GROUND LEASE

[See attached.]

**GROUND LEASE**

**between**

**GAYLORD \_\_\_\_\_, LLC,  
A Delaware limited liability company**

**As Lessor**

**And**

**THE CITY OF AURORA, COLORADO,  
A home rule municipality and political subdivision of the State of Colorado**

**As Lessee**

## GROUND LEASE

THIS GROUND LEASE (“Lease”) is made and entered into by Gaylord \_\_\_\_\_, LLC, a Delaware limited liability company (“Lessor”) and The City of Aurora, Colorado, a home rule municipality and political subdivision of the State of Colorado (“Lessee”) on this \_\_ day of \_\_\_\_\_, 20\_\_ (the “Commencement Date”).

### RECITALS

A. Lessor is the owner of that certain real property (the “Land”) located in the City of Aurora, County of Adams, State of Colorado, described in Exhibit “A” hereof, upon a portion of which Land Lessor intends to construct a resort hotel (the “Gaylord Hotel”).

B. Lessor desires to lease to Lessee a portion of the Land that is adjacent to the Gaylord Hotel, being more particularly described on Exhibit “B” hereof (the “Premises”), together with all easements, appurtenances and other rights belonging thereto, in order for Lessee initially to construct and own thereon all or a portion of a conference center (the “Building”) consisting of approximately \_\_\_\_\_ gross square feet. The preliminary site plan for the Building is attached as Exhibit “C” hereto (the “Site Layout”). The Building to be constructed on the Premises and the appurtenant easements may be collectively referred to herein as the “Project”.

C. Lessee, Aurora Urban Renewal Authority and Gaylord Entertainment Company are parties to that certain Incentive Agreement dated as of June [20], 2011 (the “Incentive Agreement”). [Lessor is an affiliate of Gaylord Entertainment Company.]

D. The parties shall execute, acknowledge and record the Memorandum of Ground Lease attached as Exhibit “D” hereto.

E. The parties desire to establish the terms and conditions of this Lease to fulfill the foregoing objectives.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties, the parties hereto agree as follows:

#### 1. DEMISE OF PREMISES.

1.1 **Premises.** Lessor, for and in consideration of the rents, covenants and conditions herein set forth, does hereby lease to Lessee, and Lessee does hereby lease from Lessor, the Premises, subject to Section 15.19 and the other terms, conditions and provisions hereof.

1.2 **Title.** Lessor is the fee owner of the Premises, subject to the encumbrances set forth in Exhibit “E” hereto (collectively, the “Permitted Encumbrances”). The portion of the Building constructed by or on behalf of Lessee and all other alterations, improvements and additions to the Premises constructed by or on behalf of Lessee (collectively, “Lessee’s Improvements”) shall be owned by Lessee, subject to the reversion in Section 2.4 below.

2. **LEASE TERM.**

2.1 **Commencement Date.** This Lease shall become effective on the Commencement Date.

2.2 **Lease Term.** The term of this Lease (the “Term”) shall be for a period commencing on the Commencement Date and ending at 12:00 midnight on the date that is fifty (50) years after the commencement date of the Master Lease (as defined in Section 15.19) (the “Expiration Date”) unless sooner terminated as provided herein.

2.3 **Rent Commencement.** Lessee’s obligation to pay Base Rent (as defined in Section 3.1) shall commence on the Commencement Date.

2.4 **Reversion.** On the Expiration Date or sooner termination of this Lease, Lessee’s Improvements shall be surrendered to and become Lessor’s property, owned by Lessor in fee simple, free and clear of all claims by Lessee or any third person and all liens, security interests and encumbrances other than the Permitted Encumbrances and any other encumbrances or liens expressly agreed to by Lessor in writing.

3. **RENT, TAXES AND UTILITIES.**

3.1 **Base Rent.** Lessee agrees to pay Lessor for the use and occupancy of the Premises for the Term, an annual base rent (“Base Rent”) of One Dollar (\$1.00), payable in one annual payment. The first installment of annual Base Rent shall be due and payable on the Commencement Date and a subsequent installment of annual Base Rent shall be due and payable on each anniversary of the Commencement Date.

3.2 **Taxes.** Subject to Section 15.19, Lessee shall pay or cause to be paid all generally imposed real and personal property taxes, ordinary or extraordinary, foreseen or unforeseen, and all other generally imposed charges, assessments (including without limitation all assessments for public improvements or benefits, whether or not completed or commenced prior to the date hereof and whether or not to be completed during the Term hereof) and generally imposed taxes of every description, levied on or assessed against the Premises, the Building and other improvements located on the Premises, any personal property owned by Lessee and located on or in the Premises, the Building, the leasehold estate, or any subleasehold estate, to the full extent of installments assessed during the Term. Lessee shall make all such payments directly to the charging or taxing authority before delinquency and before any fine, interest, or penalty shall become due or be imposed by operation of law for their nonpayment. If, however, applicable law expressly permits the payment of all or any of the above items in installments (whether or not interest accrues on the unpaid balance), Lessee may, at its option pay such items in installments with any interest before delinquency and before any fine, interest, or penalty shall become due or be imposed by operation of law for nonpayment. All payments of taxes or assessments or both, including permitted installment payments, shall be prorated for the initial year of the Term and for the year in which this Lease expires or is terminated.

3.3 **Utilities.** Subject to Section 15.19, Lessee shall pay or cause to be paid all charges for water, heat, gas electricity, cable, trash disposal, sewers and any and all other utilities

used on the Premises throughout the Term, including without limitation, any connection and servicing fees, permit fees, inspection fees, and fees to reserve utilities capacity.

4. **USE OF PREMISES.**

The Premises shall be used solely for the construction and ownership of the Building and such related and incidental uses thereto as permitted hereunder.

5. **CONSTRUCTION OF IMPROVEMENTS.**

Subject to Section 15.19, the Building shall be constructed on the Premises pursuant to such plans, specifications, schedule, budget and other requirements set forth in the Incentive Agreement.

6. **ENCUMBRANCES.**

6.1 **No Encumbrances by Lessee.** Lessee shall not, at any time, encumber any portion of its interest in this Lease, and the leasehold estate of Lessee in the Premises, or the ownership interest of Lessee in the Building, except upon the written direction of Lessor.

6.2 **Fee Mortgages.** Lessor may mortgage, pledge, hypothecate or assign as security its estate or interest in the Premises, whether by deed of trust, deed to secure debt, mortgage or other security interest of any kind or nature (a "**Lessor Lien**"). At the option of the holder of any Lessor Lien, this Lease shall be subordinate to such Lessor's Lien, so long as the holder of such Lessor Lien executes a non-disturbance agreement reasonably acceptable to Lessee (a "**Non-disturbance Agreement**"), pursuant to which it agrees not to disturb Lessee's possession of the Premises or any of Lessee's other rights under this Lease, so long as there is no outstanding Event of Default under this Lease.

6.3 **Rights of Lessor to Sell.** Lessor may sell or transfer its fee interest in the Premises without Lessee's consent; provided, however, that the sale or transfer shall be made expressly subject to the terms of this Lease.

7. **MAINTENANCE.**

Subject to Section 15.19, Lessee agrees that it will maintain or cause to be maintained the Premises, the Building and any other improvements thereon and appurtenances thereto and every part thereof, in good order, condition and repair consistent with the maintenance standards of the Gaylord Hotel, ordinary wear and tear excepted, and in accordance with all applicable laws, rules, ordinances, order and regulations of all governmental authorities.

8. **MECHANIC'S LIENS.**

8.1 **Prohibition of Liens on Fee or Leasehold Interest.** Lessee shall not suffer, create or permit any mechanic's liens or other liens to be filed against the fee of the Premises nor against Lessee's leasehold interest in the Premises, nor any buildings or improvements on the Premises, by reason of any work, labor, services or materials supplied or claimed to have been



supplied to Lessee or anyone holding the Premises or any part thereof through or under Lessee. The Memorandum of Ground Lease shall contain a reference to this provision.

8.2 **Removal of Liens by Lessee.** If any mechanic's or laborer's liens or materialman's lien shall be recorded against the Premises, Lessee shall cause such lien to be removed or will transfer the lien to a bond pursuant to applicable law within thirty (30) days of the filing of same; provided, however, Lessee may, in good faith, contest the application, validity and amount of any lien so long as such contest does not expose the Premises in any part thereof to foreclosure or execution. To the extent permitted by applicable law, Lessee agrees to indemnify, defend and hold Lessor harmless for, from and against all liability for damages, including reasonable attorneys' fees and costs, occasioned by Lessee's breach of any of its obligations under this paragraph or by any contest of any lien and shall, in the event a judgment of foreclosure of any mechanic's or materialman's lien is entered, cause the same to be discharged and removed prior to the execution of such judgment. Lessee's indemnity obligations under this Section 8.2 shall survive the expiration or earlier termination of this Lease.

## 9. **CONDEMNATION.**

9.1 **Interests of Parties on Condemnation.** If the Premises or any part thereof shall be taken for public purpose by condemnation as a result of any action or proceeding in eminent domain, or shall be transferred in lieu of condemnation to any authority entitled to exercise the power of eminent domain, the interests of Lessor and Lessee in the award or consideration for such transfer, and the allocation of the award and the other effect of the taking or transfer upon this Lease, shall be as provided in this Article 9.

9.2 **Total Taking - Termination.** If the entire Premises are taken or so transferred, this Lease and all of the right, title and interest of Lessee hereunder shall cease on the date title to such land so taken or transferred vests in the condemning authority. In such event, all rent and other charges payable by Lessee to Lessor hereunder attributable to the Premises shall be paid by Lessee up to and prorated through the date title vests in the condemning authority.

9.3 **Partial Taking - Termination.** If a taking or transfer of only a part of the Premises occurs and the remainder of the Premises may not be used practicably (in the good faith opinion of Lessor) for the purposes contemplated herein, Lessor may terminate this Lease within sixty (60) days after the occurrence of such taking or transfer by notice to Lessee. The Lease shall terminate effective on the thirtieth (30<sup>th</sup>) day after the date of Lessee's receipt of notice in which case this Lease shall be null and void and of no force and effect.

9.4 **Partial Taking - Continuation with Rent Abatement.** If a taking or transfer of only a part of the Premises occurs leaving the remainder of the Premises in such condition that the Premises may be used practicably (in the good faith opinion of Lessor) for the purposes contemplated herein, this Lease shall terminate as to the portion of the Premises so taken or transferred as of the date title to such portion of the Premises vests in the condemning authority, but shall continue in full force and effect as to the portion of the Premises not so taken or transferred.

9.5 **Partial Taking - Award.** If title and possession of a portion of the Premises is taken under the power of eminent domain, and the Lease continues as to the portion remaining, all compensation and damages payable to Lessee by reason of any Lessee's Improvements so taken shall be available to be used, to the extent reasonably needed, by Lessee in replacing any Lessee's Improvements so taken with improvements of the same type on the remaining portion of the Premises, subject to Lessor's prior written approval. All repairs to Lessee's Improvements shall be in compliance with all then existing codes, zoning ordinances, rules and regulations governing the Premises. Any remainder of such compensation after restoration, shall be allocated between Lessor and Lessee in the same manner as provided in Section 9.6 hereof.

9.6 **Allocation of Award.** Any compensation awarded or payable because of the taking of all or any portion of the Premises by eminent domain shall be awarded to Lessor and Lessee in accordance with the values of their respective interests in the Premises and all improvements thereon immediately prior to the taking, provided, in no event shall the portion allocated to Lessee exceed the use of such funds for the payment by Lessee or other governmental entity of revenue bonds or related obligations issued or incurred to construct Lessee's Improvements and that are required to be repaid as a result of such taking. All amounts in excess of the amount necessary to pay the revenue bonds or related obligations issued or incurred to construct Lessee's Improvements shall be the sole property of Lessor.

9.7 **Voluntary Conveyance.** A voluntary conveyance by Lessor to a public utility, agency or authority under threat of a taking under the power of eminent domain in lieu of formal proceedings shall be deemed a taking within the meaning of this Article 9.

9.8 **Temporary Taking.** If all or any portion of the Project shall be taken by any competent authority for temporary use or occupancy, this Lease shall continue in full force and effect without reduction or abatement of rent notwithstanding any other provision of this Lease, statute or rule of law to the contrary, and Lessee shall, in such event, be entitled to any award specifically made for the repair and restoration of any damage to Lessee's Improvements, as a result of such temporary use or occupancy, and Lessor shall be entitled to the remainder of the award.

## 10. **ASSIGNMENT AND SUBLEASE.**

10.1 **Sublease.** Lessee shall not sublease all or any portion of the Building and the Premises, except to Lessor or to a person or entity designated by Lessor.

10.2 **Assignment.** Lessee shall not assign, convey or transfer its interest in this Lease or the leasehold estate created hereby for purposes of security or otherwise.

## 11. **INSURANCE.**

11.1 **Insurance Requirements.** During the period that the Project is under construction, the parties shall maintain such insurance coverages as are required by the Construction Management Agreement (as defined in Section 15.19(a) hereof) and/or the Incentive Agreement, as applicable. From and after the effective date of the Master Lease (as defined in Section 15.19(b) hereof), the Tenant under the Master Lease shall maintain such

insurance coverages for the Project as are required thereunder and/or the Incentive Agreement, as applicable.

11.2 **Waiver of Subrogation.** Lessor and Lessee on behalf of themselves and all others claiming under them, including any insurer, waive all claims against each other, including all rights of subrogation, for loss or damage to their respective property (including, but not limited to, the Premises and the Building) which is caused by or results from perils, events or happenings which are the subject of property insurance carried by the respective parties and in force at the time of any such loss, regardless of the negligence of either party.

## 12. **DAMAGE AND DESTRUCTION.**

12.1 **Construction Period.** During the period that the Building is being constructed, between the Commencement Date and the commencement date of the Master Lease, if any portion of the Building or other improvements on the Premises other than Lessor's Improvements, are damaged or destroyed in whole or in part by fire, theft, the elements or any other cause, the repair or restoration thereof, and the application of any insurance proceeds applicable thereto, shall be governed by the terms of the construction management agreement described in Section 15.19 and the requirements of any documents or agreements relating to the revenue bonds and related obligations issued or incurred to construct Lessee's Improvements.

12.2 **Following Construction.** Following the effective date of the Master Lease, if any portion of the Building or improvements on the Premises, other than Lessor's Improvements, are damaged and/or destroyed in whole or in part by fire, theft, the elements, or any other cause, the terms and provisions of the Master Lease will govern the repair, restoration and other rights or obligations of the parties, including the allocation of insurance proceeds.

## 13. **DEFAULTS AND REMEDIES.**

13.1 **Defaults.** Each of the following events shall be a default by Lessee and a breach of this Lease and constitute an "Event of Default":

A. **Default in Payment or Performance Under this Lease.** Failure of Lessee to pay any installment of rent, additional rent, or any other sum required to be paid by Lessee under this Lease when each become due and payable, or failure of Lessee to observe and perform any of its other covenants, conditions or agreements under this Lease, and, in both cases, such failure is not cured during the applicable notice and cure period afforded to Lessee under Subsection (B) below. For the purpose of this Article 13, all monetary payments required to be made under this Lease, including but not limited to taxes, insurance premiums, utility payments and all other sums Lessee is obligated to pay under this Lease, shall be deemed additional rent.

B. **Notice and Right to Cure.** If the alleged default is monetary in nature such as nonpayment of rent, taxes or any other sums required to be paid by Lessee, Lessee shall have fifteen (15) days after receipt of written notice from Lessor specifying the nature of the default to cure the default. As to any non-monetary default, Lessee shall have thirty (30) days after receipt of written notice from Lessor specifying the nature of the default; provided, however, that if, after exercise of due diligence and reasonable efforts to cure such non-monetary default, Lessee is unable to do so within thirty (30) days, the cure period shall be extended for a

reasonable time, so long as Lessee continues to diligently prosecute to completion the cure of the default. As used herein, non-monetary default shall include, without limitation, a breach of any covenant of Lessee hereunder, Lessee's failure to perform as required hereunder (other than a covenant involving the payment of money), and a breach of any warranty, representation or other agreement of Lessee under this Lease.

13.2 **Remedies.** Upon an Event of Default, Lessor may exercise any rights and remedies provided by law or equity, from time to time, to which Lessor may resort cumulatively or in the alternative.

13.3 **Lessee's Liability After Default.** If Lessee shall default in the performance of any of its obligations under this Lease, Lessor, without thereby waiving such default, may (but shall not be obligated to) perform the same for the account and at the expense of Lessee, without notice, in a case of emergency, and in any other case only if such default continues after the expiration of the applicable cure period, if any. Any reasonable expenses incurred by Lessor in connection with any such performance, and all costs, expenses, and disbursements of every kind and nature whatsoever, including reasonable attorneys' fees including appellate, bankruptcy and post-judgment proceedings involved in collecting or endeavoring to collect the rent or any additional rent or any part thereof or enforcing or endeavoring to enforce any rights against Lessee or Lessee's obligations hereunder, shall be due and payable upon Lessor's submission of an invoice therefor. All sums advanced by Lessor on account of Lessee under this Section, or pursuant to any other provision of this Lease, and all rent, if delinquent or not, paid by Lessee and received by Lessor when due hereunder, shall bear interest at the rate of ten percent (10%) per annum, from the date thereof until paid and the same shall be and constitute additional rent and be due and payable upon Lessor's demand therefor.

13.4 **Lessor Default.** If Lessor defaults in its obligations hereunder and fails to cure same within forty-five (45) days after receipt of written notice from Lessee specifying the nature of the default; provided, however, that if, after exercise of due diligence and reasonable efforts to cure such default, Lessor is unable to do so within forty-five (45) days, the cure period shall be extended for a reasonable time, so long as Lessor continues to diligently prosecute to completion the cure of the default, then Lessee may proceed to cure the default and charge the cost of cure to Lessor or avail itself of any other remedy under law in the event of a default by Lessor; provided, however, and notwithstanding any other provision hereof, in no event shall Lessee ever be permitted to terminate the Lease, or to seek or obtain any judicial ruling or determination to terminate this lease, Lessee hereby forever waiving and relinquishing any and all rights to terminate this Lease without the prior written consent of Lessor (which may be given or withheld in Lessor's sole and absolute discretion), whether in the exercise of its remedies hereunder or otherwise.

#### **14. SURRENDER AND REMOVAL.**

14.1 **Surrender of Possession.** On the expiration of the Term or any earlier termination of this Lease, Lessee shall surrender to Lessor possession of the Premises and all improvements constructed and installed thereon.

14.2 **Lessee's Quitclaim.** On the expiration of the Term or any earlier termination of this Lease, the Building and all other improvements located on the Premises shall become the absolute property of Lessor, and Lessee agrees to execute, acknowledge and deliver to Lessor a proper instrument in writing, releasing and quitclaiming to Lessor all right, title and interest of Lessee in and to the Premises and all improvements thereon (including the Building).

**15. GENERAL PROVISIONS.**

15.1 **Covenants Run With the Land.** All of the provisions of this Lease shall be deemed as running with the land.

15.2 **Survival of Provisions.** All representations, warranties, and indemnities of Lessee under this Lease shall survive the expiration or sooner termination of this Lease.

15.3 **No Waiver of Breach.** No failure by either Lessor or Lessee to insist upon the strict performance by the other of any covenant, agreement, term or condition of this Lease, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this Lease, but each and every covenant, condition, agreement and term of this Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

15.4 **Force Majeure.** If either party shall be delayed or prevented from the performance of any act required by this Lease by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, restrictive governmental laws, or regulations or other cause, without the fault and beyond the reasonable control of the party so obligated (financial inability excepted) (any of the foregoing reasons being hereinafter referred to as "**Force Majeure**"), performance of such act shall be excused for the period of the delay; and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay; provided, however, nothing in this Section 15.4 shall excuse Lessee from the prompt payment of any rental or other charge required of Lessee except as may be expressly provided elsewhere in this Lease. Notwithstanding the foregoing, it shall be the responsibility of the party whose performance is delayed to reasonably demonstrate to the other party that the delay in the time of performance was caused specifically by Force Majeure.

15.5 **Notices.** All notices, demands, consents, approvals, requests and other communications under this Lease shall be in writing and shall be either (a) delivered in person, (b) sent by certified mail, return receipt requested, or (c) delivered by a recognized overnight delivery service and addressed as follows:

To Lessee:                      City of Aurora  
   15151 East Alameda Parkway  
   Aurora, Colorado 80012  
   Attention: Finance Director

Copy to: City of Aurora  
15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: City Attorney

To Lessor: Gaylord \_\_\_\_\_, LLC  
c/o Gaylord Entertainment Company  
1 Gaylord Drive  
Nashville, Tennessee 37214  
Attention: Senior Vice President of Development

Copy to: Gaylord Entertainment Company  
1 Gaylord Drive  
Nashville, Tennessee 37214  
Attention: General Counsel and Secretary

Copy to: Waller Lansden Dortch & Davis, LLP  
511 Union Street, Suite 2700  
Nashville, TN 37219  
Attention: Robert R. Campbell, Jr., Esq.

A notice, demand, consent, approval, request and other communication shall be deemed to be duly received (a) if delivered in person or by a recognized delivery service, when left at the address of the recipient; and (b) if sent by certified mail, return receipt requested, three (3) business days after the date on which such notice was deposited in the U.S. Mail. Either party may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in its paragraph.

15.6 **Gender.** The use herein of any gender includes all others, and the singular number includes the plural and vice-versa, whenever the context so requires.

15.7 **Captions.** Captions in this Lease are inserted for convenience of reference only and do not define, describe or limit the scope or the intent of this Lease or any of the terms hereof.

15.8 **Entire Agreement.** This Lease contains the entire agreement between the parties regarding the subject matter hereof. Any oral or written representations, agreements, understandings and/or statements not expressly included in this Lease shall be of no force and effect.

15.9 **Waiver; Amendment.** No modification, waiver, amendment, discharge or change of this Lease shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, amendment, discharge or change is or may be sought.

15.10 **Attorneys Fees.** If either party brings a legal action to enforce this Lease, the prevailing party shall be entitled to recover, in addition to all other items of recovery permitted by law, reasonable attorneys' fees and costs incurred, through litigation, bankruptcy proceedings and all appeals.

15.11 **Time.** Time is of the essence of each obligation of each party hereunder.

15.12 **Governing Law.** This lease shall be construed and enforced in accordance with the laws of the State of Colorado.

15.13 **Binding Effect.** Subject to any provision of this Lease that may prohibit or curtail assignment of any rights hereunder, this Lease shall bind and inure to the benefit of the respective heirs, assigns, personal representatives, and successors of the parties hereto.

15.14 **Execution of Other Instruments.** Each party agrees that it shall, upon the other's request, take any and all steps, and execute, acknowledge and deliver to the other party and all further instruments necessary or expedient to effectuate the purpose of this Lease.

15.15 **Severability.** If any term, provision, covenant or condition of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

15.16 **Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original and when taken together will constitute one instrument.

15.17 **Estoppel Certificate.** Either party shall execute, acknowledge and deliver to the other party, within fifteen (15) days after requested by the other party, a statement in writing certifying, if such is the case, that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified); the Commencement Date of this Lease; the dates for which the rent and other charges have been paid; any alleged defaults by and claims against the other party; and providing such other information as shall be reasonably requested.

15.18 **Memorandum of Ground Lease.** On the Commencement Date, Lessor and Lessee shall execute and acknowledge a Memorandum of Ground Lease for purpose of recordation. This Memorandum of Ground Lease shall be in the form attached hereto as Exhibit "D" and incorporated herein by reference.

15.19 **Master Lease and Incentive Agreement.**

(a) The Building is to be constructed on the Premises. A portion of the Building will be constructed by or on behalf of Lessee pursuant to a construction management or similar agreement with Lessor or an affiliate thereof (the "**Construction Management Agreement**"). The balance of the Building will be constructed and owned by Lessor. The portion of the Building so constructed and owned by Lessor, together with any other improvements constructed by Lessor on the Premises, constitutes the "**Lessor's Improvements**". Notwithstanding anything herein to the contrary, Lessor hereby reserves the right to occupy and utilize such

portion of the Premises as Lessor may deem necessary or desirable to construct, own, operate, maintain, alter, repair, expand or utilize the Lessor's Improvements in any manner whatsoever. Lessor acknowledges and agrees that with respect to any obligation of Lessee hereunder, to the extent the same relate to Lessor's Improvements or the portion of the Premises upon which Lessor's Improvements are situated, (such as, by way of example, payment of taxes pursuant to Section 3.2, payment of utilities pursuant to Section 3.3, maintenance pursuant to Section 7, and the obligation to provide insurance pursuant to Section 11), Lessee shall have no obligation to pay or perform same, all of which shall be the obligation of Lessor. Upon the request of Lessor, Lessor and Lessee shall execute and deliver such further agreements or writings, including a sublease or similar agreement, as may be necessary or desirable to further effectuate and/or memorialize Lessor's rights and obligations with respect to Lessor's Improvements and the related portion of the Premises.

(b) Lessor, as Tenant, and Lessee, as Landlord, will execute a Conference Center Lease (the "**Master Lease**"), pursuant to which Lessor will lease the Building (other than Lessor's Improvements) from Lessee for a period of fifty (50) years. The Tenant under the Master Lease shall perform the obligations of Lessee under Sections 3.2 3.3 and 7 of this Lease and no failure of performance of such obligations by Lessee, and no breach or default by such Tenant under the Master Lease, shall constitute or create a breach or Event of Default hereunder. Upon the expiration or termination of the Master Lease for any reason, then, at Lessor's election upon written notice to Lessee, this Lease will be terminated.

(c) In the event of a conflict between the terms and provisions of this Lease and those of the Incentive Agreement, the terms and provisions of the Incentive Agreement shall prevail.

15.20 **No Merger.** There shall be no merger of this Lease or the leasehold estate created hereby with the fee simple estate in the Premises or any part thereof, by reason of the fact that the same person or entity may acquire, own or hold, directly or indirectly, this Lease or the leasehold estate created hereby or any interest in this Lease or such leasehold estate, and the fee simple estate in the Premises or any interest in such fee simple estate; and this Lease shall not be terminated except as expressly provided herein.

15.21 **Exhibits.** Exhibits "A" through "E" attached hereto are by this reference incorporated herein and made a part hereof.

**IN WITNESS WHEREOF**, this Lease has been executed as of the Commencement Date.

**LESSEE:**

**The City of Aurora, Colorado**, a home rule municipality and political subdivision of the State



of Colorado

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

**LESSOR:**

**Gaylord [\_\_\_\_\_] , LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

**EXHIBIT "A"**  
**TO GROUND LEASE**

**LEGAL DESCRIPTION OF THE LAND**

**EXHIBIT "B"**  
**TO GROUND LEASE**

**LEGAL DESCRIPTION OF THE PREMISES**  
**(Building Footprint)**

**EXHIBIT "C"**  
**TO GROUND LEASE**

**SITE LAYOUT**

**EXHIBIT "D"**  
**TO GROUND LEASE**

**MEMORANDUM OF GROUND LEASE**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Space Above For Recorder's Use)

**MEMORANDUM OF GROUND LEASE**

This Memorandum of Ground Lease (this "**Memorandum**") is dated this \_\_\_ day of \_\_\_\_\_, 20\_\_, by and between GAYLORD [\_\_\_\_\_] , LLC, Delaware limited liability company ("**Lessor**"), whose address is 1 Gaylord Drive, Nashville, TN 37214, and THE CITY OF AURORA, COLORADO, a home rule municipality and political subdivision of the State of Colorado ("**Lessee**"), whose address is \_\_\_\_\_.

**RECITALS:**

- A. Lessor is the owner of certain real property located in the City of Aurora, County of Adams, State of Colorado, as more particularly described on Exhibit A (the "**Premises**").
- B. Pursuant to that certain Ground Lease dated \_\_\_\_\_ (the "**Ground Lease**"), Lessor leases the Premises to Lessee.
- C. Lessor and Lessee have entered into this Memorandum to give record notice of the Ground Lease.

**NOW THEREFORE**, for and in consideration of the premises and the mutual promises hereinafter set forth and set forth in the Ground Lease, Lessor and Lessee do hereby covenant, promise and agree as follows:

- 1. **Definitions.** All of the foregoing Recitals are, by this reference, incorporated into the body of this Memorandum as if fully set forth herein. Initially capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Ground Lease.
- 2. **Notice of Lease.** Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, subject to and in accordance with the terms, conditions and agreements contained in the Ground Lease, all of which are, by this reference, incorporated into this Memorandum in their entirety as if fully set forth herein.

3. **Term.** The term of the Ground Lease commenced as of \_\_\_\_\_, and shall end as of \_\_\_\_\_, unless earlier terminated in accordance with the provisions thereof. Upon the expiration of the term or any earlier termination of the Ground Lease, Lessor shall have the right to execute and record a confirmation of the termination of the Ground Lease and this Memorandum, with or without the Lessee being a signatory party thereto (provided that Lessee shall join as a signatory party upon request). In any case where Lessor is the sole signatory, such confirmation nonetheless shall conclusively establish such termination and extinguish any effect of this Memorandum as record or constructive notice, except with respect to any third party to the extent such party has actual knowledge that the confirmation is untrue or disputed in good faith by Lessee. Upon any termination of the Ground Lease, all right, title and interest of or arising by or through Lessee in and to any and all improvements on the Premises shall become the property of and owned by Lessor in fee simple, free and clear of all claims by Lessee or any third person and all liens, security interests, and encumbrances other than those set forth on Exhibit B hereto or any agreed to by Lessor in writing.

4. **No Liens.** Pursuant to Section 8.1 of the Ground Lease, Lessee covenants and agrees not to suffer, create or permit any mechanic's liens or other liens to be filed against the fee of the Premises nor against Lessee's leasehold estate in the Premises, nor any buildings or improvements on the Premises, by reason of any work, labor, services or materials supplied or claimed to have been supplied to Lessee or anyone holding the Premises or any part thereof through or under Lessee. Lessee confirms and agrees that Lessee has no authority to so encumber or cause any encumbrancing of any interests of Lessor.

5. **Severability.** If any provision of this Memorandum or the application thereof to any person or circumstance is or shall be deemed illegal, invalid or unenforceable, the remaining provisions of this Memorandum shall remain in full force and effect and this Memorandum shall be interpreted as if such illegal, invalid or unenforceable provision did not exist.

6. **Modification; Conflict.** Nothing contained in this Memorandum is intended to or shall amend or modify any of the terms or provisions of the Ground Lease. In the event of a conflict between the terms and provisions of this Memorandum and the terms and provisions of the Ground Lease, the terms and provisions of the Ground Lease shall, in all incidents, control, govern and prevail. All rights, covenants, conditions, agreements, restrictions and reservations contained in this Memorandum and the Ground Lease shall run with the land and shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective heirs, legal representatives, successors and assigns.

7. **Entire Agreement.** This Memorandum and the Ground Lease contain the entire agreement of Lessor and Lessee with respect to Lessee's lease of the Premises.

8. **Counterparts.** This Memorandum may be executed in separate counterparts, each of which shall constitute an original copy hereof, but all of which shall constitute but one and the same agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Lessor and Lessee have executed this Memorandum as of the day and year first written above.

**LESSOR:**

GAYLORD [\_\_\_\_], LLC,  
a Delaware limited liability company

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

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

Its: \_\_\_\_\_

**STATE OF TENNESSEE )**

**COUNTY OF \_\_\_\_\_ )**

**BEFORE THE UNDERSIGNED**, a Notary Public of the State and County aforementioned, personally appeared \_\_\_\_\_, (*name of person*) with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged \_\_\_self to be the \_\_\_\_\_ (*title of authorized person*) of GAYLORD [\_\_\_\_], LLC, a Delaware limited liability company, and as such \_\_\_\_\_, (*title*) executed the foregoing instrument for the purpose therein contained, [by signing the name of the company \_\_\_\_\_ as \_\_\_\_\_ (*title*)] or and acknowledged the instrument to be the free act and deed of GAYLORD [\_\_\_\_], LLC.

**WITNESS** my hand and seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Commission Expires: \_\_\_\_\_

[Lessee’s signature block follows on next page]

**LESSEE:**

THE CITY OF AURORA, COLORADO,  
a home rule municipality and political subdivision of the  
State of Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF COLORADO    )  
                                      ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2011, by \_\_\_\_\_ as \_\_\_\_\_ of  
THE CITY OF AURORA, COLORADO, a home rule municipality and political subdivision of  
the State of Colorado.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

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

**[Add exhibits to executable version.]**



**EXHIBIT "E"**  
**TO GROUND LEASE**

**PERMITTED ENCUMBRANCES**

**EXHIBIT G**

**FORM OF IMPROVEMENTS LEASE**

*[See attached.]*

**CONFERENCE CENTER LEASE**

**between**

**THE CITY OF AURORA, COLORADO**

**A home rule municipality and political subdivision of the State of Colorado,**

**as Landlord**

**and**

**GAYLORD \_\_\_\_\_, LLC,  
a Delaware limited liability company,**

**as Tenant**

## CONFERENCE CENTER LEASE

THIS CONFERENCE CENTER LEASE (“Lease”) is entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ (“Effective Date”), by and between the THE CITY OF AURORA, COLORADO, a home rule municipality and political subdivision of the State of Colorado, having its office at \_\_\_\_\_ (“Landlord” or “City”), and GAYLORD [\_\_\_\_], LLC, Delaware limited liability company, having its office at 1 Gaylord Drive, Nashville, TN 37214 (“Tenant”). Landlord and Tenant are sometimes collectively referred to in this Lease as the “Parties” or individually as a “Party”.

### RECITALS

A. Landlord and Tenant are parties to that certain Ground Lease of even date herewith (the “Ground Lease”), pursuant to which Landlord leases from Tenant certain real property located in the City of Aurora, County of Adams, State of Colorado, as legally described on Exhibit “A” and as depicted on Exhibit “B” (the “Gaylord Conference Center Property”).

B. Landlord has constructed, or caused to be constructed, all or a portion of a conference center building and related improvements (the portion so constructed by Landlord being, collectively, the “Conference Center”) on the Gaylord Conference Center Property.

C. Tenant desires to lease the Conference Center, together with all easements, appurtenances and other benefits associated therewith, from Landlord for the purpose of operating, managing and maintaining the Conference Center.

D. The parties desire to establish the terms and conditions of this Lease to fulfill the foregoing objectives.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties, the parties hereto agree as follows:

1. **PREMISES/GROUND LEASE.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, upon and in consideration of the terms and conditions contained herein, the Conference Center, together with any and all easements, rights and appurtenances associated therewith (collectively, the “Premises”). This Lease is subject to the terms and provisions of the Ground Lease and Tenant shall take no action to cause Landlord to be or become in default thereunder. Tenant shall fulfill the obligations of Landlord under the Ground Lease, as set forth in Section 15.19 thereof.

2. **TERM.** The term of this Lease (“Term”) shall commence on \_\_\_\_\_ (the “Commencement Date”), and, subject to Tenant’s Purchase Option (as hereinafter defined), shall expire at 12:00 midnight on the date that is fifty (50) years after the Commencement Date, unless this Lease is sooner terminated as hereinafter provided.

3. **ABSOLUTE NET RENT.**

3.1 **Amount.** Tenant shall pay to Landlord, in such United States of America coin or currency as at the time of payment shall be legal tender for the payment of public and private debts, at Landlord's address specified herein, during the Term a net annual rental ("**Net Rent**") in the amount of One Dollar (\$1.00) per year.

3.2 **Payments.** Payments of Net Rent shall be made in annual installments in advance, without notice, on the first day of the month following the Effective Date, and on each anniversary thereafter until the expiration or termination of this Lease; provided, that Tenant may prepay any or all installments of Net Rent. Net Rent for any partial year at the end of the Term shall be prorated on a per diem basis.

3.3 **Rent Absolutely Net.** It is the purpose and intent of the Landlord and Tenant that the Net Rent payable hereunder shall be absolutely net to Landlord and in addition to all other payments to be made by Tenant as hereinafter provided, so that this Lease shall yield to Landlord the Net Rent herein specified, free of any charges, assessments, impositions, or deductions of any kind charged, assessed, or imposed on or against the Premises and without abatement, deduction or setoff by the Tenant, and Landlord shall not be expected or required to pay any such charge, assessment or Imposition or be under any obligation or subject to any liability hereunder.

4. **OPERATIONS, MAINTENANCE AND IMPOSITIONS.**

4.1 **Payment of Impositions.** Tenant shall have all benefits and burdens of ownership, operation and maintenance of the Premises during the Term. Additionally, Tenant shall pay during the Term, without notice (except as otherwise specifically provided herein) and without abatement, deduction or setoff (except as expressly provided herein), before any fine, penalty, interest, or cost may be added thereto, or become due or be imposed by operation of law for the nonpayment thereof, all generally imposed and applicable sums, impositions, costs, expenses and other generally imposed and applicable payments and taxes, including personal property taxes, generally imposed and applicable assessments, water and sewer rents, rates and charges, charges for public utilities, excises, levies, licenses, and permit fees, and other generally imposed and applicable governmental or quasi-governmental charges, general, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which, at any time during the Term may be generally imposed and applicable and assessed, levied, confirmed, imposed upon, or grow or become due and payable out of or with respect to, or become a lien on, the Premises or any part thereof, or any appurtenances thereto, any use or occupation of all or part of the Premises, or such franchises as may be appurtenant to the use of the Premises (all of which are sometimes referred to collectively herein as "**Impositions**") provided, however, that:

- (a) if, by law, any Imposition may at the option of the Tenant be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and in such event, shall pay such installments as they become due during the Term before any fine, penalty, further interest or cost may be added thereto; and

- (b) any Imposition (including installment payments of Impositions) relating to a fiscal period of the taxing authority, a part of which period is included within the Term and a part of which is included in the period of time after the expiration of the Term (whether or not such Imposition shall be assessed, levied, confirmed, imposed upon or become a lien upon the Premises, or shall become payable, during the Term) shall be adjusted as of the expiration of the Term, so that Tenant shall pay that portion of such Imposition (or installment payment thereof) attributable to the Term and the then-owner of the Premises shall pay such Imposition for the period after expiration of the Term. In no event shall the City be responsible for any Imposition unless and until, after expiration or termination of the Lease, City is the fee title owner of the Premises free and clear of this Lease, Tenant's Purchase Option, and any other claim or interest of Tenant.

**4.2 Contest.** Tenant may contest the validity or amount of any Imposition, in which event Tenant may pay such amount under protest or defer the payment thereof during the pendency of such contest; provided, however, that Tenant shall have obtained and furnished to the applicable taxing authority a bond or other security to the extent required by applicable law.

**4.3 Assessment Reduction.** Tenant may endeavor at any time to reduce the amount or assessment of any Imposition. Tenant shall be authorized to collect any refund payable as a result of any proceeding Tenant may institute for that purpose and any such refund shall be the property of Tenant to the extent it is based on a payment made by or on behalf of Tenant. Landlord shall cooperate with Tenant, but at no expense to Landlord, in any action or proceeding referred to in the above paragraph and, if required by law or any rule or regulation in order to make such action or proceeding effective, any such action or proceeding may be taken by Tenant in the name of the Landlord.

## **5. INSURANCE.**

**5.1 Tenant Obligation to Insure.** Tenant shall procure and maintain during the Term of this Lease, at Tenant's sole cost and expense, such insurance coverages as Tenant customarily carries with respect to its other properties which are similar to the Conference Center.

**5.2 Waiver of Subrogation.** To the extent that waivers of subrogation are obtained from insurers, and in any event excluding the amounts of any deductible or self-insured threshold, Landlord and Tenant each hereby waives any and all rights of recovery against the other Party, and against the officers, directors, members, managers, employees, agents and representatives of the other Party, for loss of or damage to such waiving Party's property or the property of others under its control, where such loss or damage is insured against under any insurance policy in force at the time of such loss or damage, to the extent of the insurance proceeds actually paid. Landlord and Tenant shall obtain a waiver of subrogation endorsement from their respective insurers concerning the foregoing waiver of subrogation.

6. **SURRENDER.** Upon the expiration of the Term or on the sooner termination thereof, Tenant shall peaceably and quietly leave, surrender, and yield up to the Landlord all of the Premises free of occupants. Notwithstanding the foregoing, this Section 6 shall not apply in the event that Tenant has exercised the Purchase Option described in Section 25 of this Lease.

7. **LANDLORD'S PERFORMANCE FOR TENANT.** If Tenant shall fail to make any payment or perform any act required hereunder to be made or performed by Tenant, and provided Landlord has given Tenant sixty (60) days written notice of its intent to do so and Tenant has failed during said period, subject to Enforced Delay (as defined in Section 24 below), to make such payment or perform the act required to be performed by Tenant, then Landlord may, but shall be under no obligation to, make such payment or perform such act with the same effect as if made or performed by Tenant. Notwithstanding the immediately preceding sentence, Landlord may proceed immediately in the event of an emergency without any notice to Tenant other than bona fide attempts to contact by telephone as soon as reasonably possible under the circumstances either of Tenant's two (2) representatives (whom Tenant may designate from time to time) whose names and telephone numbers Tenant has furnished in writing to Landlord prior to such emergency. Entry by Landlord upon the Premises for such purpose shall not waive or release Tenant from any obligation or an Event of Default hereunder. Tenant shall reimburse Landlord for all reasonable sums so paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with Landlord's payment or performance under this Section, and no such payment or performance by Landlord pursuant hereto, shall be deemed to suspend or delay the payment of any amount of money or charge at the time the same becomes due or payable, nor limit any right of Landlord or relieve Tenant from any Event of Default hereunder.

8. **USES AND MAINTENANCE.**

8.1 **Absence of Warranties.** Tenant holds fee simple title to the Gaylord Conference Center Property and ground leased the Gaylord Conference Center Property to Landlord upon the condition that Landlord construct, or cause to be constructed, the Conference Center and lease the Premises back to Tenant pursuant to the terms and conditions of this Lease. Accordingly, (i) Tenant accepts the Gaylord Conference Center Property in the condition or state in which it is now without any representation or warranty, express or implied in fact or by law, by Landlord and without recourse to Landlord, as to the title thereto, the nature, condition, or usability thereof or the use or uses to which the Premises or any part thereof may be put; (ii) Landlord, solely in its capacity as owner of the Premises and as landlord under this Lease, shall not be required to furnish any services or facilities or to make any repairs or alterations in or to the Premises or to provide any off-site improvements, or other forms of access to the Premises, other than what may already exist on the Effective Date, or which Landlord would provide in its capacity as a municipality, utility services provider or otherwise, and (iii) Tenant hereby assumes the full and sole responsibility for the operation, repair, maintenance, and management of the Premises other than that which Landlord would have had in its capacity as a municipality, a utility services provider or otherwise.

8.2 **Permitted Uses.** The Premises shall initially be used for the operation of a "conference center" and, thereafter, the Premises may be used for any purpose permitted by applicable law.

**8.3 Maintenance and Repairs.** Tenant shall take good care of the Premises, make all repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, shall maintain and keep the Premises in good condition and repair throughout the Term of this Lease and shall in all respects, operate, when operated, the Premises in a manner that is consistent with the terms of Section 5.2(a) of that certain Incentive Agreement between Landlord, Aurora Urban Renewal Authority and Gaylord Entertainment Company, dated as of June [20], 2011. Tenant shall not commit or suffer to be committed any material waste of the Premises.

**9. COMPLIANCE.** Tenant shall assume and perform any and all obligations under any covenants, easements and agreements affecting the title to or use of the Premises and shall diligently comply, at its own expense during the Term, with all applicable laws concerning the Premises or any part thereof, and the requirements of any liability, fire, or other insurance company having policies outstanding with respect to the Premises, whether or not the applicable laws or requirements require the making of structural alterations or the use or application of portions of the Premises for compliance therewith or interfere with the use and enjoyment of the Premises; provided, however, that Tenant may, in good faith (and wherever necessary, in the name of, but without expense to, Landlord), contest the validity of any such applicable laws or requirements and, pending the determination of such contest, may postpone compliance therewith, except that Tenant shall not so postpone compliance therewith, if such postponement would subject Landlord to the risk of any fine, penalty, prosecution for a crime or other exposure to risk of material loss, damage, or liability.

## **10. OPERATION, OWNERSHIP AND MANAGEMENT OF CONFERENCE CENTER**

**10.1 Conference Center.** Tenant shall have the requisite right, power and authority to further develop, renovate, operate and manage the Conference Center, together with all appropriate furniture, fixtures, furnishings and improvements, including all landscape and hardscape improvements and other facilities, including, at Tenant's election, the development and construction of additional improvements to, or surrounding, the Conference Center, subject to this Lease and all other applicable laws.

**10.2 Ownership.** Title to the Premises, including the Conference Center, shall be and remain vested in Landlord, subject, however, to Tenant's Purchase Option, leasehold interest and other rights under this Lease. Notwithstanding anything herein to the contrary, from and after the Effective Date, Landlord shall not permit the Premises (including, without limitation, Landlord's fee simple interest in the Premises or Landlord's leasehold interest in the Gaylord Conference Center Property) to be further encumbered in any manner whatsoever, nor permit any impairment of title to the Premises, except in accordance with Section 11.3, without the prior written consent of Tenant, which consent may be withheld in Tenant's sole and absolute discretion.

## **11. IMPAIRMENT OF TITLE.**

**11.1 Discharge.** Subject to Tenant's rights of contest under Section 4.2, if any mechanic's, laborer's, or materialman's lien shall at any time be filed against the Premises or any part thereof as a result of work performed by, on behalf of, or for the benefit of, Tenant,



Tenant shall cause such lien to be discharged of record by payment, deposit, bond, order of court of competent jurisdiction or otherwise (or shall commence and diligently pursue such actions as will achieve such result).

**11.2 No Implied Consent.** Nothing contained in this Lease shall be deemed or construed in any way as constituting Landlord's express or implied authorization, consent or request to any contractor, subcontractor, laborer or materialman, architect, or consultant, for the construction or demolition of any improvement, the performance of any labor or services or the furnishing of any materials for any improvements, alterations to or repair of the Premises or any part thereof.

**11.3 Ability to Encumber/Landlord Cooperation.** Notwithstanding anything herein to the contrary, other than matters which Tenant is required to discharge pursuant to Section 11.1, Tenant shall be permitted, without Landlord's consent, to enter into any easements, covenants, license agreements or other agreements encumbering the Premises, or otherwise subject title to the Premises to any lien or encumbrance that Tenant reasonably deems necessary or desirable for the acquisition, use, occupancy, ownership, development or operation of the Conference Center. Further, upon request of Tenant, and at no cost, expense or liability to Landlord, Landlord agrees to join in and execute any consents or grants requested by Tenant in connection with such matters solely in its capacity as owner of the Premises (but not in its capacity as a municipality).

## **12. INDEMNIFICATION.**

**12.1 Indemnification of Landlord.** Subject to, and to the extent allowed under applicable law, Tenant shall pay, defend, indemnify and save Landlord (including Landlord's agents, employees, representatives, boards, commissions, attorneys, and council members, elected and appointed officials, as well as the successors and assigns of any of the foregoing) harmless for, from and against any and all liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses, including property damage, personal injury and wrongful death and further including, without limitation, consultants' and attorneys' fees and disbursements, which may be imposed upon or incurred by or asserted against Landlord by reason of Landlord's ownership of the Premises or Landlord's entry into this Lease, unless caused by the negligence or willful conduct of Landlord; and provided, further, that this indemnification shall not apply to any claims asserted against Landlord solely in its capacity either as a municipality or as a utility services provider, and not as the owner of the Premises or Landlord under the Lease.

The provisions hereof shall survive the expiration or earlier termination of this Lease.

**12.2 Tenant's Property.** Tenant will hold all goods, materials, furniture, fixtures, equipment, machinery and other property whatsoever on the Premises and improvements at the sole risk of Tenant.

**12.3 Absence of Insurance Coverage.** The obligations of Tenant under this Section shall not in any way be affected by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part to be performed under insurance policies affecting the Premises.

**13. DAMAGE OR DESTRUCTION.**

**13.1 Tenant Repair and Restoration.** If, at any time during the Term of this Lease, the Premises or any part thereof, shall be damaged or destroyed by fire or other occurrence of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Tenant, at its election and sole cost and expense, and subject to all applicable laws, shall either (i) promptly repair, alter, restore, replace or rebuild the Premises; (ii) commence design and construction of other improvements on all or a portion of the Gaylord Conference Center Property; (iii) elect to refrain from repairing, altering, restoring, replacing or rebuilding the Conference Center, or constructing other improvements on the Gaylord Conference Center Property; or (iv) terminate this Lease by giving Landlord written notice of Tenant's election to so terminate (and in which event Tenant may elect to terminate the Ground Lease). In any event, Tenant shall proceed with reasonable diligence to raze and remove all damaged improvements which are part of the Premises.

**13.2 Payment of Insurance Proceeds.** All insurance proceeds on account of such damage or destruction under the policies of insurance carried by Tenant with respect to the Premises, shall be paid first as provided under the terms of any documents or agreements governing any revenue bonds or related obligations issued or incurred to construct the Conference Center, with any excess paid to Tenant.

**13.3 Lease Obligations Continue.** If Tenant elects to repair, alter, restore, replace or rebuild the Premises pursuant to Section 13.1 above, in no event shall Tenant be entitled to any abatement, allowance, reduction, or suspension of its obligations hereunder because part or all of the Premises shall be untenable owing to the partial or total destruction thereof, and no such damage or destruction shall affect in any way the obligation of Tenant to pay the Net Rent, and other charges herein reserved or required to be paid, nor release Tenant of or from obligations imposed upon Tenant hereunder, except for Tenant's obligation under Section 8.3, to the extent such obligation is not reasonably capable of being performed during the process of repairing and rebuilding the Premises.

**14. CONDEMNATION.**

**14.1 Entire or Substantial Taking.** If the entire Premises are taken by any entity with the power of eminent domain (a "Condemning Authority"), or if the entire Premises are conveyed to a Condemning Authority by a negotiated sale in lieu of or in anticipation of condemnation, or if part of the Premises is so taken or conveyed such that in Tenant's sole opinion the use of the remaining Premises is materially interfered with, or such that the Conference Center cannot be timely and reasonably rebuilt so that upon completion Tenant may again use the Premises without substantial interference, Tenant may terminate this Lease by giving Landlord written notice at any time after the occurrence of any of the foregoing and such termination shall be effective as of the date of the transfer to the Condemning Authority. If this Lease is terminated pursuant to this Section 14.1, the Net Rent and Additional Payments shall be prorated to the effective date of termination, and Landlord shall refund to Tenant any Net Rent and Additional Payments prepaid beyond the effective date of termination.

**14.2 Partial Taking.** If part of the Premises are taken or conveyed without substantially interfering with the use of the Premises, as determined in Tenant's sole opinion, this Lease shall not terminate and the Net Rent and Additional Payments shall not abate.

**14.3 Awards.** All awards and payments made for any taking or conveyance of all or any part of the Premises as described in this Section 14, including but not limited to severance damages, shall be paid first as provided under the terms of any documents or agreements governing any revenue bonds or related obligations issued or incurred to construct the Conference Center, with any excess paid to Tenant.

## **15. ASSIGNMENT, SUBLETTING, MORTGAGE.**

**15.1 Assignment and Subletting.** Subject to the provisions of Section 15.2, Tenant shall have the right to assign Tenant's rights under this Lease in its entirety or to sublet all or a portion of the Premises without Landlord's consent.

**15.2 Assignment - Assumption Instrument.** No assignment, sublease or other transaction involving all or any of Tenant's rights hereunder shall release Tenant of its obligations hereunder unless the assignee expressly assumes the obligations of Tenant with respect to the Premises and this Lease, such assumption to be included in a recordable instrument (which may be the assignment instrument itself) which contains a covenant of assumption by the assignee to such effect above set forth and Landlord, in its sole discretion, agrees to such a release. Upon delivery of the assumption instrument to Landlord and agreement of Landlord to a release of Tenant, Tenant shall be released only from those liabilities and obligations under this Lease accruing thereafter with respect to the Premises to which the assignment applies, and the assignee shall be and become and remain liable for the payment of the Net Rent and all Additional Payments payable hereunder and for the due performance of all of the covenants, agreements, terms and provisions hereof on Tenant's part to be performed throughout the remainder of the Term with respect to the Premises to which the assignment applies. The provisions hereof shall be operative for and apply to each subsequent assignment.

**15.3 Non-Disturbance of Subtenants.** Upon termination or expiration of this Lease, Landlord covenants and agrees that Landlord shall recognize any subtenant as the direct tenant of Landlord if (i) no Event of Default exists under the subtenant's sublease; and (ii) the subtenant delivers to Landlord an instrument acceptable to Landlord in its reasonable discretion confirming the agreement of such subtenant to attorn to Landlord and to recognize Landlord as the subtenant's landlord under its sublease.

**15.4 Rights of Lenders.** Tenant, or an affiliate of Tenant ("**Affiliate**"), may obtain mortgage or deed of trust financing or refinancing, as Tenant or its Affiliate, deems appropriate, secured by Tenant's leasehold interest and any other rights of Tenant under this Lease from time to time, by one or more persons (individually a "**Lender**", and collectively the "**Lenders**"). In the event of an Event of Default by Tenant, Landlord shall provide notice of such Event of Default, at the same time notice is provided to Tenant pursuant to Section 16 to all Lenders previously designated by Tenant to receive such notice (the "**Designated Lenders**") whose names and addresses were previously provided by written notice to Landlord in accordance with Section 19. Landlord shall give Tenant copies of any such notice provided to such Designated Lenders and, unless Tenant notifies Landlord that the Designated Lenders

names or addresses are incorrect (and provides Landlord with the correct information) within three (3) business days after Tenant receives its copies of such notice from Landlord, Landlord will be deemed to have given such notice to the Designated Lenders even if their names or addresses are incorrect. Tenant may provide notices to other Lenders. If a Lender is permitted under the terms of its non-disturbance agreement with Landlord to cure the Event of Default and/or to assume Tenant's position with respect to this Lease, Landlord agrees to recognize such rights of the Lender and to otherwise permit the Lender to assume all of the rights and obligations of Tenant under this Lease. Landlord shall, at any time upon reasonable request by Tenant, provide to any Lender an estoppel certificate or other document evidencing that this Lease is in full force and effect and that no Event of Default by Tenant exists hereunder (or, if appropriate, specifying the nature and duration of any existing Event of Default). Upon request by a Lender, Landlord will enter into a separate non-disturbance agreement with such Lender consistent with the provisions of this Section 15.4. The non-disturbance agreement between Landlord and any Lender shall be in such form as reasonably required by such Lender. For purposes of this Section 15, the term "**Mortgage**" refers to any mortgage or other form of financing that is not prohibited by this Lease.

**15.5 Landlord's Lien Waiver.** At Tenant's request, Landlord agrees to execute a form of landlord's lien waiver, reasonably acceptable to Landlord, with respect to Tenant's financing or refinancing of any personal property located on the Premises.

**15.6 Mortgages--Provisions.** The making of any Mortgage shall not be deemed to constitute an assignment or transfer of this Lease, nor shall any holder of a Mortgage, as such, be deemed an assignee or transferee of this Lease or of the leasehold estate hereby created so as to require such holder of a Mortgage, as such, to assume the performance of any of the terms, covenants, or conditions on the part of Tenant to be performed hereunder; but the purchaser at any sale of this Lease in any proceedings for the foreclosure of any Mortgage, or the assignee or transferee of this Lease under any instrument of assignment or transfer in lieu of the foreclosure of any Mortgage, shall be deemed to be an assignee or transferee within the meaning of this Section and shall be deemed to have assumed the performance of all the terms, covenants, and conditions on the part of Tenant to be performed hereunder from and after the date of such purchase and assignment.

**15.7 Notice to Designated Lenders.** So long as any Mortgage shall remain a lien on Tenant's leasehold estate hereunder, Landlord agrees, simultaneously with the giving of any notice required by Section 16.1 or Section 16.2 of this Lease to Tenant (i) of an Event of Default, or (ii) of a termination hereof, to give duplicate copies thereof or of any process in any action or proceeding brought to terminate or to otherwise in any way affect this Lease, to any Designated Lender, and no such notice to Tenant or process shall be effective unless a copy of such notice is given to such Designated Lender in the manner herein provided. Concurrently with Tenant, the Designated Lender will have the same period after receipt of the aforesaid notice by Tenant to remedy the Event of Default or cause the same to be remedied plus thirty (30) days thereafter, and Landlord agrees to accept such performance on the part of the Designated Lender or the holder of any Mortgage as though the same had been done or performed by Tenant.

**15.8 Cure Right of Designated Lenders.** Landlord will take no action to effect a termination of this Lease by reasons of any Event of Default without first giving to the

Designated Lenders a reasonable time within which either (i) to obtain possession of the Premises (including possession by a receiver) and thereafter to cure such Event of Default if the Event of Default be one which can be cured with the exercise of reasonable diligence by the Designated Lenders, or (ii) to institute foreclosure proceedings and to complete such foreclosure, or otherwise to acquire Tenant's interest under this Lease with diligence and without unreasonable delay in the case of an Event of Default which cannot be cured with the exercise of reasonable diligence by the Designated Lenders. In either such case, the Event of Default of which notice shall have been given shall be deemed cured. The Designated Lenders shall not be required to continue such foreclosure proceedings if the Event of Default shall be cured by Tenant; provided, further, that nothing herein shall preclude Landlord from exercising any rights or remedies under this Lease with respect to any other Event of Default by Tenant during any period of such forbearance.

**15.9 New Lease.** In the event of the termination of this Lease prior to its stated expiration date, Landlord agrees that it will give the Designated Lenders notice of such termination and Landlord will enter into a new lease of the Premises with the Designated Lender that is designated by Tenant as the "**First Permitted Mortgagee**" or, at the request of such First Permitted Mortgagee, with its previously approved (by Landlord) assignee, designee, or nominee for the remainder of the Term effective as of the date of such termination, upon the same covenants, agreements, terms, provisions, and limitations herein contained, provided (i) such First Permitted Mortgagee makes written request upon Landlord for such new lease within thirty (30) days after the Landlord's giving notice of termination and such written request is accompanied by payment to Landlord of all amounts then due to Landlord of which Landlord shall have given the First Permitted Mortgagee notice, (ii) such First Permitted Mortgagee pays or causes to be paid to Landlord at the time of the execution and delivery of such new lease any and all additional sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination and pays or causes to be paid any and all expenses, including reasonable attorney's fees, court costs, and costs and disbursements incurred by Landlord in connection with any such termination and in connection with the execution and delivery of such new lease, less the net income (if any) from the Premises collected by Landlord subsequent to the date of the termination of this Lease and prior to the execution and delivery of such new lease. If Landlord receives more than one written request in accordance with the provisions of this Section 15.9, Landlord shall only be required to deliver the new lease to the First Permitted Mortgagee whose Mortgage is prior in lien to any and all other Mortgages whose holders have made such request, and the written request, and its rights hereunder, of any holder of a Mortgage which is subordinate in lien shall be null and void and of no force or effect. Landlord may rely upon the certificate of any title insurance company authorized to do business in Colorado in determining which Mortgage is prior in lien to all others. The provisions of this Section 15.9 shall survive the termination of this Lease and shall continue in full force and effect thereafter to the same extent as if this provision were a separate and independent contract among Landlord, Tenant, and First Permitted Mortgagee. Landlord shall deliver possession of the Premises, subject to any outstanding third party claims, and shall assign to the new Tenant all subleases remaining in the Premises which have not been terminated by Landlord or otherwise.

**15.10 Priority of New Lease.** To the extent permitted by applicable laws, any new lease made pursuant to the preceding Section shall be prior to any mortgage or other lien,

charge, or encumbrance on the fee of the Premises or on this Lease, and the priority of such new lease shall date back to the date of execution of this Lease.

**15.11 Lender's Lease Modifications.** At the request of any Lender, Landlord and Tenant shall execute and deliver such amendments to this Lease as may be reasonably requested by such Lender if such amendments do not materially and adversely affect any rights or obligations of Landlord and Tenant under this Lease.

**15.12 Failure to Comply.** Any transfer, conveyance or assignment, directly or indirectly, of any interest of Tenant or in the Purchase Option that is not in compliance with the provisions of this Section 15 shall be void and shall vest no rights in the purported recipient, transferee or assignee.

## **16. EVENT OF DEFAULT BY TENANT.**

**16.1 Events of Default.** The happening of any one of the following events (herein called "Events of Default") shall be considered a material breach and default by Tenant under this Lease:

- (a) **Monetary Default.** If default shall be made in the due and punctual payment of any Net Rent or of Additional Payments that are required to be paid directly to Landlord (subject to Tenant's right to protest Additional Payments in Section 4.3) within thirty (30) days after written notice thereof to Tenant; or
- (b) **Other Defaults.** If default shall be made by Tenant in the performance of or compliance with any of the covenants, agreements, terms, limitations, or conditions in this Lease other than those referred to in the foregoing Section 16.1(a), and such default shall continue for a period of sixty (60) days after written notice of such default from Landlord to Tenant (provided, that if Tenant proceeds with due diligence during such sixty (60) day period to substantially cure such default and is unable by reason of the nature of the work involved, or Enforced Delay, to cure the same within the required sixty (60) days, its time to do so shall be extended by the time reasonably necessary to cure the same as reasonably determined by Landlord); or
- (c) **Insurance, Lapse or Termination.** Subject to the provisions of Section 16.1(b) above, the lapse or cancellation of any policy of insurance required herein, in whole or in part for the benefit of Landlord, shall be an Event of Default. No cure of such Event of Default can be accomplished unless a new or renewed policy is issued which specifically provides the required coverage to the Landlord for any liability arising during the lapsed or previously uncovered period.

**16.2 Notice and Termination; Remedies.** Upon the occurrence of one or more of the events listed in Section 16.1, Landlord at any time thereafter, but not after such Event of Default is cured, may give written notice ("Second Notice") to Tenant specifying such

Event(s) of Default and stating that Tenant shall be in Default, and that Landlord shall thereupon be entitled to invoke any and all remedies available to Landlord under this Lease, on the date specified in such notice, which shall be at least five (5) days after the giving of such Second Notice, and upon the date specified in such Second Notice, subject to the provisions of Article 17 and the other provisions of this Article 16 and in the case of an Event of Default by Tenant that is not timely cured by the date specified in the Second Notice, Landlord shall have all rights available at law, in equity or as permitted by this Lease; provided, however, that Landlord shall not have the right to terminate this Lease under any circumstances.

**16.3 No Implied Waivers.** No failure by Landlord to insist upon the strict performance of any covenant, agreement, term or condition hereof or to exercise any right or remedy consequent upon an Event of Default, and no acceptance of full or partial rent during the continuance of any such breach, shall constitute a waiver of any such breach or of such covenant, agreement, term or condition. No covenant, agreement, term or condition hereof to be performed or complied with by Landlord or Tenant, and no breach thereof, shall be waived, altered or modified, except by a written instrument executed by the Party to be charged therewith. No waiver of any breach shall affect or alter this Lease, but each and every covenant, agreement, term, limitation and condition hereof shall continue in full force and effect with respect to any other then existing or subsequent breach hereof.

**16.4 Remedies Cumulative.** Subject to the limitations set forth herein, in the event of a breach by Tenant of any of the covenants, agreements, terms or conditions hereof, Landlord, in addition to any and all other rights, shall be entitled to enjoin such breach and shall have the right to invoke any right and remedy allowed at law or in equity or by statute or otherwise for such breach. In the event of Tenant's failure to pay Net Rent and Additional Payments that are required to be paid directly to Landlord on the date when due, Tenant shall pay Landlord interest on any such overdue payments at the rate of one percent (1%) per month, but in no event an amount greater than permitted by applicable laws, but this shall in no way limit any claim for damages by Landlord for any breach or Event of Default by Tenant.

**16.5 Specific Performance.** If an Event of Default is not commenced to be cured within thirty (30) calendar days after service of the notice of Event of Default and is not cured promptly in a continuous and diligent manner within a reasonable period of time after commencement, Landlord may, at its option, thereafter (but not before) commence an action for specific performance of the terms of this Lease pertaining to such Event of Default.

## **17. DEFAULT BY LANDLORD.**

**17.1 Limitations of Landlord's Liability.** The term "Landlord," as used in this Lease, so far as Landlord's covenants and agreements hereunder are concerned, shall be limited to mean and include only the owner or owners of the fee title to the Premises or those having the right of immediate possession in a pending condemnation action at the time in question. Landlord's rights and obligations hereunder shall be non-transferable and non-assignable during the Term, and any purported transfer or assignment in violation of this provision shall be void and vest no rights in the purported transferee or assignee. Landlord shall not convey or transfer all or any portion of the fee simple interest in the Premises, except pursuant to the Purchase Option.

**17.2 Remedies.** In the event of any default by Landlord of any of the covenants, agreements, terms, or conditions hereof, Tenant, in addition to any and all other rights, shall be entitled to enjoin such default and shall have the right to invoke any “special action” or specific performance remedy allowed at law or in equity or by statute or otherwise for such default; provided, however, that Tenant shall have no right to sue Landlord for damages of any kind for such default.

**18. SEVERABILITY.** In the event that any provision of this Lease is declared void or unenforceable (or is construed as requiring the Landlord to do any act in violation of any applicable laws, including any constitutional provision, law or regulation), such provision shall be deemed severed from this Lease and this Lease shall otherwise remain in full force and effect; provided that this Lease shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed Lease (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Lease, as reformed.

**19. NOTICES.** Any notice, request, demand, statement, or consent herein required or permitted to be given by either Party to the other hereunder, except to Tenant in an emergency pursuant to Section 8, shall be in writing signed by or on behalf of the Party giving the notice and addressed to the other Party at its address as set forth below:

To Landlord: City of Aurora  
15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: Finance Director

Copy to: City of Aurora  
15151 East Alameda Parkway  
Aurora, Colorado 80012  
Attention: City Attorney

To Tenant: Gaylord \_\_\_\_\_, LLC  
c/o Gaylord Entertainment Company  
1 Gaylord Drive  
Nashville, Tennessee 37214  
Attention: Senior Vice President of Development

Copy to: Gaylord Entertainment Company  
1 Gaylord Drive  
Nashville, Tennessee 37214  
Attention: General Counsel and Secretary

Copy to: Waller Lansden Dortch & Davis, LLP



511 Union Street, Suite 2700  
Nashville, TN 37219  
Attention: Robert R. Campbell, Jr., Esq.

Each Party may by notice in writing change its address for the purpose of this Lease, which address shall thereafter be used in place of the former address. Each notice, demand, request, or communication which shall be mailed to any of the aforesaid shall be deemed sufficiently given, served, or sent for all purposes hereunder two (2) business days after it shall be mailed by United States registered or certified mail, postage prepaid, in any post office or branch post office regularly maintained by the United States Government, upon personal delivery, or one (1) business day after deposit with any commercial air courier or express service. Payments required under the Lease may be made in the same manner provided for the giving of notice under this Section.

**20. QUIET ENJOYMENT.** Subject to all of the conditions, terms, and provisions contained in this Lease, Landlord covenants that Tenant, upon paying the Net Rent and Additional Payments and observing and keeping all terms, covenants, agreements, limitations, and conditions hereof on its part to be kept, shall quietly have and enjoy the Premises during the Term, without hindrance or molestation by Landlord (or anyone acting on behalf of or by, through or under Landlord).

**21. ESTOPPEL CERTIFICATES.** Landlord or Tenant may request the other Party to deliver a certificate evidencing whether or not:

- (a) The Lease is in full force and effect along with the amount and current status of any payments due hereunder;
- (b) The Lease has been modified or amended in any respect or describing such modifications or amendments, if any;
- (c) There are any existing Events of Default thereunder, to the knowledge of the party executing the certificate, and specifying the nature of such Events of Default.

Additionally, nothing in this Section 21 shall limit any Party from making any other reasonable request for information relating to the Lease or compliance of a Party with any other term or provision of the Lease. The Party receiving any request made pursuant to this Section 21 shall cooperate with the requesting Party and shall deliver the certificate to the requesting party within twenty (20) days of such request. Any estoppel certificate delivered by a Party may be relied upon by the other Party and in the case of Tenant, by Tenant's existing and prospective assignees and Lenders.

**22. CONSENTS.**

**22.1 Parties and Notice.** Whenever the consent or approval of a Party to this Lease is required or reasonably requested under this Lease, if such Party fails to notify the other Party in writing within thirty (30) days (except where a longer period is otherwise specified herein for the giving of such consent or approval) after the giving of a written request therefor in

the manner specified herein for the giving of notice, it shall be concluded that such consent or approval has been given.

**22.2 No Unreasonable Withholding.** Wherever in this Lease the consent or approval of either Party is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed, except where otherwise specifically provided (e.g., where a Party is entitled to act on its sole discretion). The remedy of the Party requesting such consent or approval, in the event such Party should claim or establish that the other Party has unreasonably withheld, conditioned or delayed such consent or approval, shall be limited to injunction or declaratory judgment and in no event shall such other Party be liable for a money judgment.

**23. LIMITATION OF LANDLORD'S LIABILITY.** Except with respect to (i) the gross negligence or intentional misconduct of Landlord, or (ii) claims against Landlord in its capacity solely as either a municipality or a utility services provider, Landlord shall not be responsible or liable for any damage or injury to any property, fixtures, merchandise, or decorations or to any person or persons at any time on the Premises from steam, gas, electricity, water, rain, or any other source whether the same may leak into, issue or flow from any part of the Premises or from pipes or plumbing work of the same, or from any other place or quarter; nor shall Landlord be in any way responsible or liable in case of any accident or injury including death to any of Tenant's employees, agents, subtenants, or to any person or persons in or about the Premises or the streets or sidewalks adjacent thereto; and, Tenant agrees that it will not hold Landlord in any way responsible or liable therefor and that Tenant will pay, defend, indemnify and hold harmless Landlord for, from and against any liability or expense arising from or relating to any such occurrence or event.

**24. ENFORCED DELAY.** Neither the Landlord nor Tenant, as the case may be, shall be considered to have caused a Event of Default with respect to its obligations under this Lease in the event of a delay (an "**Enforced Delay**") due to causes beyond its control and without its fault, negligence or failure to comply with the applicable laws, including, but not restricted to, (i) acts of God, acts of the Federal or state government, acts of a Third Party, litigation or other action authorized by law concerning the validity and enforceability of this Lease or relating to transactions contemplated hereby, fires, floods, epidemics, quarantine, restrictions, strikes, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, adverse change in the financial or credit markets, act of a public enemy, war, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, declaration of national emergency or national alert, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain by any governmental body on behalf of any public, quasi-public, or private entity, or declaration of moratorium or similar hiatus directly affecting the Premises by any governmental entity or (ii) the order, judgment, action, or determination of any court, administrative agency, governmental authority or other governmental body (collectively, an "**Order**") which delays the completion of the work or other obligation of the Party claiming the delay, unless it is shown that such Order is the result of the failure to comply with applicable laws by the Party claiming the delay; provided, however, that the contesting in good faith of any such Order shall not constitute or be construed or deemed as a waiver by a Party of Enforced Delay. In no event will Enforced Delay include any delay resulting from general economic or market conditions, unavailability for any reason of particular

tenants or purchasers of all or any portion of the Premises, from the unavailability of financing or financing on terms acceptable to Tenant, from labor shortages, from any time required by the Landlord to review, comment upon, or process any plan, submittal or approval, nor from the unavailability for any reason of particular materials or other supplies, contractors, subcontractors, vendors, investors or lenders desired by Tenant. It is understood and agreed that Tenant will bear all risks of delay which are not Enforced Delay. In the event of the occurrence of any such Enforced Delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period of the Enforced Delay. The Party seeking the benefit of the provisions of this Section 24 shall, within thirty (30) days after such Party knows or reasonably should know of any such Enforced Delay, first notify the other Party or Parties of the specific delay in writing and claim the right to an extension for the period of the Enforced Delay; provided, however, that if such Party provides such notice more than thirty (30) days after such Party knows of an Enforced Delay, the length of the Enforced Delay shall be measured from the date which is thirty (30) days prior to such notice.

## **25. OPTION TO PURCHASE THE PREMISES.**

**25.1 Option to Purchase.** Landlord hereby grants to Tenant the exclusive and irrevocable option to purchase all of Landlord's right, title and interest ("Title") in and to the Premises, including the Conference Center, according to the terms and conditions hereinafter set forth (the "Purchase Option"). The Purchase Option is not severable and must be transferred by Tenant in connection with any assignment of the entire Premises pursuant to Section 15.1.

**25.2 Exercise of Option.** The Purchase Option shall become effective and Tenant shall have the right to exercise the Purchase Option at any time during the Term, or at any time following expiration (voluntary or involuntary) of the Term, by giving written notice of exercise to Landlord; provided that Tenant's right to exercise the Purchase Option shall be conditioned upon Tenant curing any monetary Event of Default under Section 16.1(a) of this Lease.

**25.3 Purchase Price.** The purchase price for Title to the Premises shall be One Dollar (\$1.00). The purchase price referred to in the preceding sentence shall be payable to Landlord concurrently with the conveyance of Title to the Premises by Landlord to Tenant.

**25.4 Conveyance of Title and Delivery of Possession.** Landlord and Tenant agree to perform all acts necessary for conveyance in sufficient time for Title to the Premises to be conveyed to Tenant no later than the thirtieth (30<sup>th</sup>) day after the date upon which Tenant exercises the Purchase Option. Title shall be conveyed by Landlord to Tenant by special warranty deed in the form attached as Exhibit "C." It is a condition of closing that all existing and outstanding revenue bonds or related obligations issued or incurred to construct the Conference Center shall have been paid in full, defeased, or otherwise retired. All expenses in connection with conveyance of Title to Tenant including title insurance requested by Tenant, recordation and notary fees and all other closing costs (including escrow fees if use of an escrow is requested by Tenant), shall be paid by Tenant. This Lease shall terminate concurrently with the conveyance of Title to Tenant.

**26. MISCELLANEOUS.**

**26.1 Legal Actions.** Any legal action instituted pursuant to this Lease shall be brought in the District Court of the State of Colorado in and for the County of Adams, or in the United States District Court in the District of Colorado. The prevailing Party in such action shall be reimbursed by the non-prevailing Party for all costs and expenses of such action, including reasonable attorneys' fees as may be fixed by the Court and not a jury. This Lease shall be construed and enforced in accordance with the laws of the State of Colorado.

**26.2 Memorandum.** Landlord and Tenant agree that, at the request of either, they will execute a memorandum of this Lease in a form attached hereto as Exhibit "D" satisfactory for recording in the Office of the County Recorder, Adams County, Colorado.

**26.3 Entire Agreement.** This Lease, together with its Exhibits and all documents incorporated herein by reference, contains the entire agreement between Landlord and Tenant, and any executory agreement hereafter made between Landlord and Tenant shall be ineffective to change, modify, waive, release, discharge, terminate, or effect an abandonment of this Lease, in whole or in part, unless such executory agreement is in writing and signed by the Party against whom enforcement of the change, modification, waiver, release, discharge, termination, or the effect of the abandonment is sought.

**26.4 Captions.** The captions of Sections in this Lease are inserted only as a convenience and for reference and they in no way define, limit, or describe the scope of this Lease or the intent of any provision thereof. References to Section numbers are to those in this Lease unless otherwise noted.

**26.5 Execution and Delivery.** This Lease shall bind Landlord and Tenant only after both Parties have executed this Lease and delivered it to each other.

**26.6 Singular and Plural, Gender, Include and Including.** If two (2) or more persons, firms, corporations, or other entities constitute either the Landlord or the Tenant, the word "Landlord" or the word "Tenant" shall be construed as if it reads "Landlords" or "Tenants" and the pronouns "it," "he," and "him" appearing herein shall be construed to be the singular or plural, masculine, feminine, or neuter gender as the context in which it is used shall require. The words "include" or "including" as used in this Lease shall mean "include without limitation" or "including without limitation", respectively.

**26.7 Depreciation.** For income tax purposes, and notwithstanding that title to the Premises is vested in Landlord, the Parties intend and hereby covenant that Tenant and not Landlord shall be entitled to the depreciation of the Premises under all applicable federal, state and local income tax statutes, acts, codes and regulations, including the Internal Revenue Code of 1986, as amended.

**26.8 No Merger.** There shall be no merger of this Lease or the leasehold estate created hereby with the fee simple estate in the Premises or any part thereof, by reason of the fact that the same person or entity may acquire, own or hold, directly or indirectly, this Lease or the leasehold estate created hereby or any interest in this Lease or such leasehold estate, and the fee

simple estate in the Premises or any interest in such fee simple estate; and this Lease shall not be terminated except as expressly provided herein.

**[Signatures of the Parties are on next page]**

**“Landlord”**

THE CITY OF AURORA, COLORADO,  
a home rule municipality and political subdivision  
of the State of Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**“Tenant”**

GAYLORD [\_\_\_\_], LLC, a Delaware limited  
liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**Exhibit A**

**Legal Description of Gaylord Conference Center Property**

**Exhibit B**

**Depiction of Gaylord Conference Center Property**



**Exhibit C**

**Special Warranty Deed**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Space Above For Recorder's Use)

**SPECIAL WARRANTY DEED**

This Special Warranty Deed (this "**Deed**") is dated this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, between THE CITY OF AURORA, COLORADO, a home rule municipality and political subdivision of the State of Colorado ("**Grantor**") and GAYLORD [\_\_\_\_\_] , LLC, Delaware limited liability company ("**Grantee**") whose address is 1 Gaylord Drive, Nashville, TN 37214.

WITNESSETH, that Grantor, for and in consideration of the sum of \$1.00 (the "**Consideration**"), the receipt whereof is hereby confessed and acknowledged by Grantor, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto Grantee, all right, title and interest (excepting any already held by Grantee) in all buildings, structures and other improvements and all fixtures, systems and facilities located on the real property, situated, lying and being in the City of Aurora, County of Adams, State of Colorado, and more particularly described on Exhibit A attached hereto (the "**Improvements**");

TOGETHER WITH all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever, of Grantor, either in law or equity, of, in and to the Improvements and the real property on which the Improvements are situated;

SUBJECT TO the "**Permitted Exceptions**" attached hereto as Exhibit B and incorporated herein by this reference;

TO HAVE AND TO HOLD the Improvements above bargained and described unto Grantee, and Grantee's successors and assigns, in fee simple forever;

AND Grantor, covenants and agrees to and with Grantee, and Grantee's successors and assigns, to warrant and forever defend the title to the Improvements against every person who lawfully claims the Improvements or any part thereof by, through or under Grantor, subject to the Permitted Exceptions.

[Signature and acknowledgment page follows.]

IN WITNESS WHEREOF, Grantor has executed this Special Warranty Deed as of the day and year first written above.

**GRANTOR:**

THE CITY OF AURORA, COLORADO,  
a home rule municipality and political subdivision of the  
State of Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Mayor

Attest:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
City Clerk

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by \_\_\_\_\_ as Mayor of THE CITY OF AURORA, COLORADO, a home rule municipality and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

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

**[attach exhibits to executable version]**

**Exhibit D**

**Memorandum of Lease**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL  
TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Space Above For Recorder's Use)

**MEMORANDUM OF CONFERENCE CENTER LEASE**

This Memorandum of Conference Center Lease (this "**Memorandum**") is dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between THE CITY OF AURORA, COLORADO, a home rule municipality and political subdivision of the State of Colorado ("**Landlord**"), whose address is \_\_\_\_\_ and GAYLORD [\_\_\_\_\_] , LLC, Delaware limited liability company ("**Tenant**"), whose address is 1 Gaylord Drive, Nashville, TN 37214.

**RECITALS:**

A. Landlord leases certain real property, as more particularly described on Exhibit A (the "**Ground Lease Tract**"), from Tenant pursuant to that certain Ground Lease dated \_\_\_\_\_ (the "**Ground Lease**"), upon which certain improvements have been constructed (the "**Improvements**").

B. Landlord and Tenant have executed and entered into that certain Conference Center Lease, dated as of \_\_\_\_\_ (the "**Conference Center Lease**"), pursuant to which Tenant leases from Landlord all or a portion of the Improvements, as more particularly described in the Conference Center Lease (the "**Premises**").

C. Landlord and Tenant have entered into this Memorandum to give record notice of the Conference Center Lease.

**NOW THEREFORE**, for and in consideration of the premises and the mutual promises hereinafter set forth and set forth in the Conference Center Lease, Landlord and Tenant do hereby covenant, promise and agree as follows:

1. **Definitions.** All of the foregoing Recitals are, by this reference, incorporated into the body of this Memorandum as if fully set forth herein. Initially capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to them in the Conference Center Lease.

2. **Notice of Lease.** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, subject to and in accordance with the terms, conditions and agreements contained in the Conference Center Lease, all of which are, by this reference, incorporated into this Memorandum in their entirety as if fully set forth herein.

3. **Term; Purchase Option.** The term of the Conference Center Lease commenced as of \_\_\_\_\_, and shall end as of \_\_\_\_\_, unless earlier terminated in accordance with the provisions thereof. Tenant has and is hereby granted an option to purchase the Premises, as more particularly set forth in the Conference Center Lease. Upon the recordation of any Special Warranty Deed conveying the Premises to Tenant, the Conference Center Lease and this Memorandum shall terminate and be of no further force or effect. In addition, upon any expiration of the term of the Conference Center Lease or earlier termination thereof, Tenant shall have the right to execute and record a confirmation of the termination of this Memorandum and the Conference Center Lease, with or without Landlord being a signatory party thereto (provided that Landlord shall join as a signatory party upon request). In any case where Tenant is the sole signatory, such confirmation nonetheless shall conclusively establish such termination and extinguish any effect of this Memorandum as record or constructive notice, except with respect to any third party to the extent such party has actual knowledge that the confirmation is untrue or disputed in good faith by Tenant.

4. **Severability.** If any provision of this Memorandum or the application thereof to any person or circumstance is or shall be deemed illegal, invalid or unenforceable, the remaining provisions of this Memorandum shall remain in full force and effect and this Memorandum shall be interpreted as if such illegal, invalid or unenforceable provision did not exist.

5. **Modification; Conflict.** Nothing contained in this Memorandum is intended to or shall amend or modify any of the terms or provisions of the Conference Center Lease. In the event of a conflict between the terms and provisions of this Memorandum and the terms and provisions of the Conference Center Lease, the terms and provisions of the Conference Center Lease shall, in all incidents, control, govern and prevail. All rights, covenants, conditions, agreements, restrictions and reservations contained in this Memorandum and the Conference Center Lease shall run with the land and shall inure to the benefit of and shall be binding upon Landlord and Tenant and their respective heirs, legal representatives, successors and assigns.

6. **Entire Agreement.** This Memorandum and the Conference Center Lease contain the entire agreement of Landlord and Tenant with respect to Tenant's lease of the Premises.

7. **Counterparts.** This Memorandum may be executed in separate counterparts, each of which shall constitute an original copy hereof, but all of which shall constitute but one and the same agreement.

[SIGNATURES ON FOLLOWING PAGE]

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

**LANDLORD:**

THE CITY OF AURORA, COLORADO,  
a home rule municipality and political subdivision of the  
State of Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF COLORADO     )  
   ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by \_\_\_\_\_ as \_\_\_\_\_ of THE CITY OF AURORA, COLORADO, a home rule municipality and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

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

[Tenant's signature block follows on next page]

**TENANT:**

GAYLORD [\_\_\_\_], LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**STATE OF TENNESSEE )**

**COUNTY OF \_\_\_\_\_ )**

**BEFORE THE UNDERSIGNED**, a Notary Public of the State and County aforementioned, personally appeared \_\_\_\_\_, (*name of person*) with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged \_\_\_self to be the \_\_\_\_\_ (*title of authorized person*) of GAYLORD [\_\_\_\_], LLC, a Delaware limited liability company, and as such \_\_\_\_\_, (*title*) executed the foregoing instrument for the purpose therein contained, [by signing the name of the company \_\_\_\_\_ as \_\_\_\_\_ (*title*)] or and acknowledged the instrument to be the free act and deed of GAYLORD [\_\_\_\_], LLC.

**WITNESS** my hand and seal, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

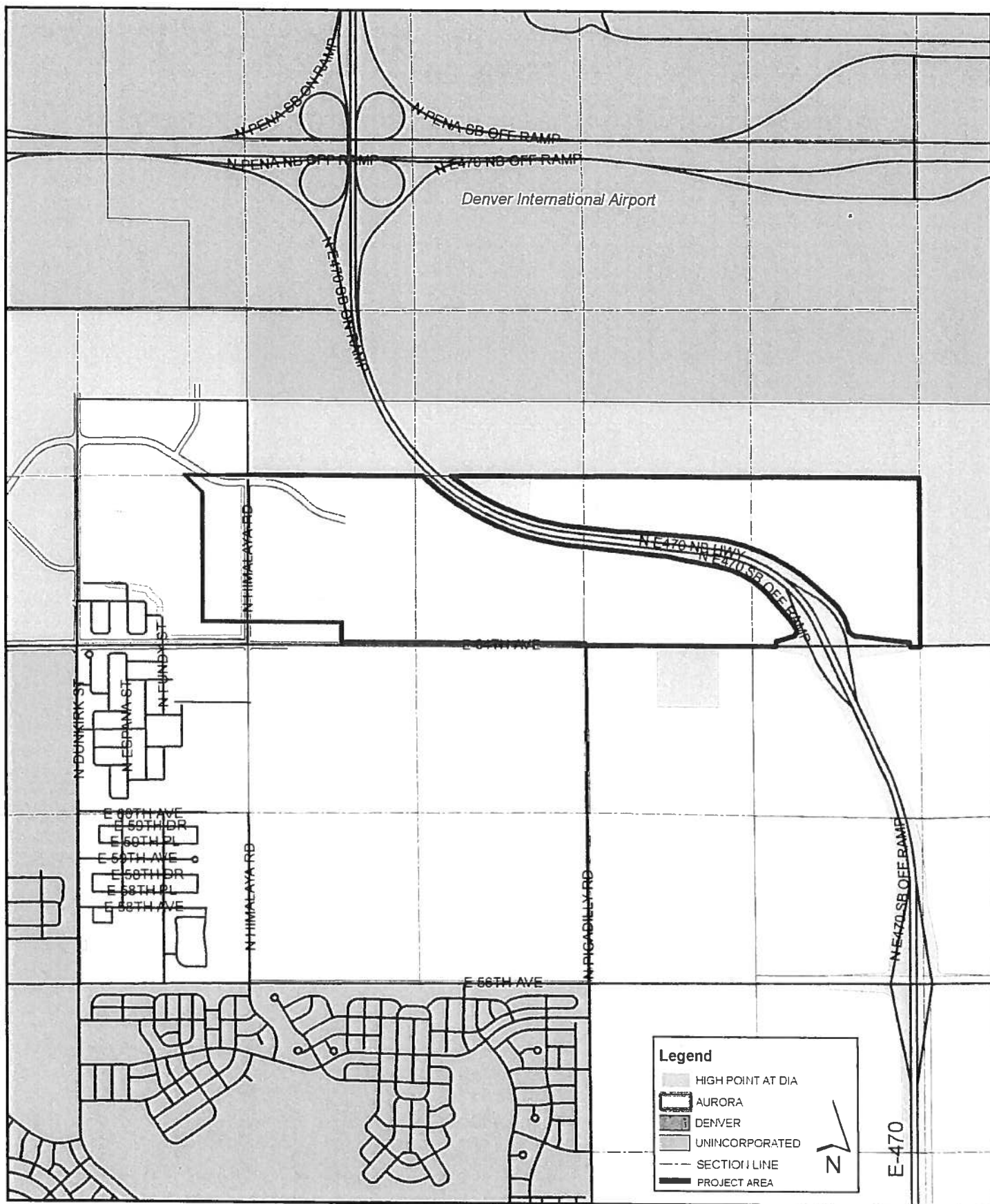
My Commission Expires: \_\_\_\_\_

**[Add exhibits to executable version.]**

**EXHIBIT H**

PROPOSED REGIONAL PROJECT AREA UNDER THE REGIONAL TOURISM ACT

*[See attached.]*



06/20/2011

Proposed Project Area Under the  
Regional Tourism Act



**EXHIBIT I**

**LAND USE AND DEVELOPMENT APPROVALS TIMELINES**

All days indicated below are business days.

Process Step	Development Application	
	CSP and Plat	FDP Amendment
Gaylord Formal Submittal	Day 1	Day 1
City First Review*	Day 15 (15 days)	Day 20 (20 days)
Gaylord Second Submittal**	Day 30 (15 days)	Day 35 (15 days)
City Second Review	Day 45 (15 days)	Day 55 (20 days)
Gaylord Third Submittal	N/A	Day 70 (15 days)
Gaylord Amended Submittal***	Day 50 (5 days)	Day 80 (10 days)
City Third Review	N/A	Day 100 (20 days)
City Decision & Additional City Processing Tasks****	Day 62 (12 days)	Day 115 (15 days)
Total Working Days	62 days (57 days if Gaylord amended submittal step is not required)	115 days (105 days if Gaylord amended submittal step is not required)
Total Weeks	12.5 weeks	23 weeks

\* City reviews include City and referral agency review and City delivery of a review comment letter to Gaylord.

\*\* Gaylord submittals include delivery of response letter and amended Application materials to City.

\*\*\* Gaylord amended submittal process step is required only where minor/technical corrections to finalize Application materials are necessary.

\*\*\*\* Additional City processing tasks for the applicable Application include (i) giving of public notice of pending administrative decision; (ii) administrative decision; and (iii) preparation of final decision report.

**EXHIBIT J**

**INSURANCE COVERAGES**

<b>Type of Coverage</b>	<b>Coverage Amount</b>
Builders Risk/Property	Construction value limits
General Liability	\$100,000,000
Automobile	\$5,000,000
Workers' Compensation	Statutory <sup>1</sup>
Employers Liability	\$1,000,000
Professional Liability	\$5,000,000 A&E
Pollution	To be mutually agreed upon by the Parties prior to execution of the Construction Management Contract

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<sup>1</sup> State law requires the provision of workers compensation insurance through one of the following: (a) insuring through Pinnacol Assurance Fund (State specific); (b) insuring through any stock or mutual corporation authorized to transact the business of workers' compensation insurance in the State and filing a notice specifying the name of the insured and the insurer, the business and place of business of the insured, the effective and termination dates of the policy, and, when requested, a copy of the contract or policy of insurance; (c) insuring through a self-insurance policy after receiving a permit from the executive director as provided in Section 8-44-201 of the C.R.S.; or (d) insuring through self-insurance after receiving a self-insurance certificate of authority from the commissioner of insurance of the State.