

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**THE TOWN OF MORRISON, COLORADO**

**AND**

**THE CITY OF LAKEWOOD, COLORADO**

**REGARDING**

**THE ROONEY VALLEY**

**April 25, 2016**



**TABLE OF CONTENTS**

	<b><u>Page</u></b>
<b>ARTICLE I. DEFINITIONS AND SCOPE OF AGREEMENT.....</b>	<b>3</b>
1.01 DEFINITIONS.....	3
1.02 SCOPE OF AGREEMENT.....	6
<b>ARTICLE II. LAND USE AND DEVELOPMENT REVIEW PROCESS.....</b>	<b>6</b>
2.01 GENERAL DESCRIPTION OF PROJECT DEVELOPMENT PROCESS.....	6
2.02 APPLICATION OF ORDINANCES, REGULATIONS, CODES, POLICIES, PROCEDURES.....	7
2.03 PROJECT MANAGEMENT TEAM.....	7
2.04 ROONEY VALLEY ZONING COMMISSION.....	9
2.05 JOINT MUNICIPAL REVIEW PROCEDURES.....	8
2.06 DISCONNECTION AND ANNEXATION.....	9
2.07 BUILDING CODES AND PERMITS.....	9
2.08 REQUIRED FEES; DISTRIBUTION OF FEES.....	9
2.09 INSPECTIONS.....	10
<b>ARTICLE III. PROVISION OF MUNICIPAL SERVICES.....</b>	<b>10</b>
3.01 PROVIDERS OF MUNICIPAL SERVICES GENERALLY.....	10
3.02 POLICE PROTECTION.....	11
3.03 TRAFFIC ENGINEERING, PUBLIC WAY LANDSCAPE MAINTENANCE AND STREET MAINTENANCE SERVICES.....	11
3.04 PROCESSING OF APPLICATIONS, BUILDING INSPECTIONS.....	11
3.05 JOINT SERVICES.....	11
3.06 OTHER SERVICES.....	11
3.07 SUPERVISION AND DELEGATION OF AUTHORITY.....	11
<b>ARTICLE IV. REVENUE SHARING.....</b>	<b>12</b>
4.01 REVENUE SHARING.....	12
4.02 AUDIT RIGHTS.....	13
<b>ARTICLE V. PUBLIC IMPROVEMENTS.....</b>	<b>14</b>

5.01 DETERMINATION OF NECESSARY PUBLIC IMPROVEMENTS.....	14
5.02 CONSTRUCTION OF PUBLIC IMPROVEMENTS.....	14
<b>ARTICLE VI. ENFORCEMENT AND RESOLUTION OF DISPUTES.....</b>	<b>15</b>
6.01 ENFORCEMENT.....	15
6.02 ALTERNATIVE DISPUTE RESOLUTION.....	15
<b>ARTICLE VII. MISCELLANEOUS.....</b>	<b>16</b>
7.01 TERM OF AGREEMENT.....	16
7.02 RECORDATION OF AGREEMENT.....	16
7.03 RED ROCKS DISTRICT AGREEMENT.....	16
7.04 LEGAL CHALLENGE AND DEFENSE OF AGREEMENT.....	16
7.05 NOTICES.....	16
7.06 GOVERNING LAW.....	17
7.07 NO THIRD PARTY BENEFICIARIES.....	17
7.08 SEVERABILITY.....	17
7.09 ENTIRE AGREEMENT—AMENDMENTS.....	17
<b>EXHIBIT A.....</b>	<b>19</b>
<b>EXHIBIT B.....</b>	<b>20</b>

**INTERGOVERNMENTAL AGREEMENT**

**BETWEEN**

**THE TOWN OF MORRISON, COLORADO**

**AND**

**THE CITY OF LAKEWOOD, COLORADO**

**REGARDING**

**THE ROONEY VALLEY**

This Agreement is made and entered into as of the \_\_\_ day of April, 2016, by and between the CITY OF LAKEWOOD, a home rule city of the State of Colorado, whose address is 480 South Allison Parkway, Lakewood, Colorado 80226, sometimes hereinafter referred to as the "City" and the TOWN OF MORRISON, a home rule town of the State of Colorado, whose address is 321 Highway 8, Morrison, Colorado 80465, sometimes hereinafter referred to as the "Town," and together referred to as the parties.

**WITNESSETH:**

WHEREAS, pursuant to C.R.S §§ 29-1-201 *et seq.*, and 29-20-105, local governmental entities are authorized and encouraged to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governmental entities for the purposes of planning or regulating the development of land, including but not limited to the joint exercise of planning, zoning, subdivision, building and related regulations and revenue sharing; and,

WHEREAS, the City, Town and Jefferson County, Colorado have been involved since 1994 in master planning the Rooney Valley; and,

WHEREAS, joint planning to coordinate land use, open space, transportation and utilities has proven beneficial; and

WHEREAS, the Town and the City desire to jointly encourage quality development with construction of adequate Public Improvements and the provision of Municipal Services to serve

development in the Rooney Valley and to share Revenues generated by development in the Rooney Valley; and,

WHEREAS, the City and Town wish to encourage development in the Rooney Valley by providing a unified land entitlement process which results in cost efficient and timely processing of land use applications and minimal duplication of effort and expense by the Town, the City and Owners; and,

WHEREAS, the Town and the City plan to process development proposals for the Rooney Valley in a coordinated manner, reciprocally and promptly sharing all relevant information; and

WHEREAS, the Town and the City have agreed to work cooperatively, through contract or internal staff, in the review and processing of land development proposals by Owners and in project administration for development in the Rooney Valley; and

WHEREAS, local governmental entities may, pursuant to intergovernmental agreement, provide for revenue-sharing and are authorized to receive and expend funds from other governmental and private sources for the purposes of planning for or regulating the use of land within their respective jurisdictions; and

WHEREAS, the Town and the City desire to utilize Revenues generated by development in the Rooney Valley to assist with the payment of Municipal Services for development in the Rooney Valley, to assist in certain cases with the construction of onsite and offsite Public Improvements to serve development in the Rooney Valley, and to share such Revenues between the Town and the City; and

WHEREAS, the Town and the City desire to establish the standards, staffing and budget for the Municipal Services to be provided by the City or the Town and the scope of Public Improvements to be provided by any Owner, District or other entities; and

WHEREAS, the Town and City had entered into a previous Intergovernmental Agreement, dated May 5, 2000, and in effect until adoption of this agreement; and

WHEREAS, the parties desire to assure that the Town and the City each have adequate ability to enforce this Agreement pursuant to C.R.S. §29-20-105, which provides that each

governing body that is a party to an intergovernmental agreement such as this has standing to enforce the terms thereof, including, but not limited to, specific performance and injunctive relief, even though the land is annexed or transferred to another jurisdiction.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

**ARTICLE I.**

**DEFINITIONS AND SCOPE OF AGREEMENT**

**1.01 Definitions.**

The following capitalized terms shall be defined as follows:

1. "Agreement" shall mean this Intergovernmental Agreement between the Town of Morrison, Colorado and the City of Lakewood, Colorado Regarding the Rooney Valley.
2. "Approving Municipality" shall mean the municipality possessing authority to approve a petition or application for disconnection, annexation, zoning or subdivision of property within the Rooney Valley.
3. "Bandimere Property" shall mean that property depicted and identified as such on **Exhibit A.**
4. "City" shall mean the City of Lakewood, Colorado.
5. "City Revenues" shall mean the Revenues collected by the City under its 3% sales and use tax as described at Paragraph 21 of this Section 1.01.
6. "District" shall mean any governmental entity other than the Town or the City which may provide or require an Owner to provide Public Improvements or Municipal Services.
7. "Event of Nonappropriation" shall mean the failure or determination not to distribute funds as required in Section 4.01.5.
8. "Final Court Action" shall mean a final order or opinion issued by a court of competent jurisdiction by which the City or Town is bound, and wherein no appeal can be taken or the time for filing an appeal has expired.

9. "Municipal Services" shall mean the types of services normally provided by municipalities, including but not limited to: police protection, traffic engineering, public way landscape maintenance, street maintenance (including street repair, drainage maintenance and repair, street cleaning and snow and ice removal), administrative functions relating to processing and review of applications, building inspections and related services, economic development and land use planning.

10. "Owner" or "Owners" shall mean any person or entity which owns or is the contract purchaser of real property in the Rooney Valley.

11. "Owner Agreement" shall mean any agreement entered into by the Town and/or the City with an Owner to provide economic incentives for such Owner to develop its property in the Rooney Valley.

12. "Peterson Property" shall mean that property depicted and identified as such on Exhibit A.

13. "Project" shall mean a specific undertaking for the construction of any Public Improvements, Public-Related Improvements and any public or private buildings and related amenities located within the Rooney Valley.

14. "Project Coordinator" or "Project Coordinators" shall mean the individual appointed by the Town and/or the individual appointed by the City pursuant to Section 2.03 to represent the Town and the City, respectively, on the Project Management Team.

15. "Project Management Team" shall mean the Town Project Coordinator and the City Project Coordinator.

16. "Public Improvement" or "Public Improvements" shall mean those rights-of-way, easements, access rights, and physical improvements which, upon formal acceptance by the Town or the City shall become the responsibility of the Town or the City for ownership and/or maintenance and repair, and shall include, but not be limited to, the following: curb and gutter, asphalt pavement, concrete pavement, streets of all types, survey monuments, pavement striping, sidewalks, pedestrian/bike paths, traffic signals, street lights, highways, freeways, rights-of-way, easements, landscaping in rights-of-way and easements, park and open space improvements, access rights, construction plans, medians, bridges, acceleration and deceleration lanes, culverts, storm drainage facilities, including necessary retention and detention structures and channels, water lines, sanitary sewer lines, and all other improvements which upon acceptance by the Town, City or a District, are intended to be for the use and enjoyment of the public, and any other improvements dedicated or used for public purposes which are to serve the Rooney Valley

and to ensure that the Project may be developed in accordance with an approved site plan.

17. "Public Improvement Agreement" or "PIA" shall mean one or more agreements between an Owner and/or District and the Town and/or the City describing the Public Improvements to be constructed by such Owner and/or District and any phasing or other details relative to the scope, timing and collateral to assure the completion of such Public Improvements.

18. "Public Improvement Costs" shall mean the costs incurred to design, finance, construct, acquire or otherwise provide Public Improvements.

19. "Public-Related Improvements" shall mean those improvements to the Rooney Valley which are open and accessible to the public, but located on private property and maintained by an Owner, including, but not limited to parking lots and landscaping on the parking lots, private roadways, culverts, storm drainage facilities, including necessary retention and detention structures and channels, architectural upgrades, and common areas within and outside buildings in the  
Rooney Valley.

20. "Public-Related Improvement Costs" shall mean the costs incurred to design, finance, construct, acquire or otherwise provide, and to maintain, Public-Related Improvements.

21. "Revenues" shall mean Sales Tax Revenue and Use Tax Revenue collected by the City and the Town for activities in the Rooney Valley only. The parties agree that the current Town of Morrison sales and use tax rate is 3.75%, of which .75% is reserved, by the terms of its authorizing documents, for capital improvements in the Town and is not considered part of "Town Revenues" hereunder, and thus also not a part of "Revenues" as hereby defined. The parties agree that the current Lakewood sales and use tax rate is 3%. To the extent either party shall increase its sales and use tax rate, such increase, and the revenues attributable to such increase, shall not be considered a part of "Revenues" under this Agreement, and shall be retained exclusively by the jurisdiction collecting the same, or in the case of Morrison, upon whose behalf the same are collected.

22. "Rooney Valley" shall mean the property depicted and identified as such on  
**Exhibit A.**

23. "Rooney Valley Development Standards" shall mean the Rooney Valley Development Standards as adopted by the Town on July 20, 1999 and by the City on February 22, 1999. Any differences in versions adopted by the Town and the City shall be reconciled by the Rooney Valley Planning Commission, taking into consideration the recommendations of the Project Management Team. Future amendments may be approved by the Rooney Valley Planning Commission following notice to the Town Board and City Council and a public hearing by the

24. "Rooney Valley Master Plan" shall mean the Rooney Valley Master Plan as adopted by the Town on August 24, 1999 and by the City on May 26, 1998. Any differences in versions adopted by the Town and the City shall be reconciled by the Rooney Valley Planning Commission, taking into consideration the recommendations of the Project Management Team. Future amendments may be approved by the Rooney Valley Planning Commission following notice to the Town Board and City Council and a public hearing by the Rooney Valley Planning Commission.

25. "Rooney Valley Planning Commission" shall mean a committee composed of six members initially, three of whom shall be appointed by the Board of Trustees of the Town and three of whom shall be appointed by the City Council of the City. If an Event of Nonappropriation occurs and for so long as such Event of Nonappropriation continues, the other (non-defaulting) party shall be entitled to appoint a fourth member to the Commission.

26. "Sales Tax Revenue" shall mean the Revenue (as defined at Paragraph 21 of this Section 1.01) received by the City or the Town from the imposition of a municipal sales tax or any subsequently enacted tax imposed by or for the benefit of the City or Town on the price or value of goods or services and derived from transactions or business conducted, located or served within the Rooney Valley.

27. "Shared Revenues" shall mean thirty percent (30%) of Revenues collected by either municipality; which amount shall be shared by the Town and the City as described in Section 4.01.3 of this Agreement.

28. "Town" shall mean the Town of Morrison, Colorado.

29. "Town Revenues" shall mean the Revenues collected by the Town under its 3% unrestricted sales and use tax, as described at Paragraph 21 of this Section 1.01, and understanding that the Town's sales tax is locally imposed but collected on behalf of the Town by the State of Colorado.

30. "Use Tax Revenue" shall mean the Revenue (as defined at Paragraph 21 of this Section 1.01) received by the City or Town for the purchase, rental, or lease of tangible personal property that is stored, used, or consumed in the City or Town, respectively. Use Tax Revenue shall not include construction use tax.

**1.02 Scope of Agreement.**

1. In consideration of the terms and conditions of this Agreement, the Town and the City agree to jointly plan for the development of, and to share the Revenues from, the property located within the Rooney Valley in accordance with the provisions of this Agreement. It is the intent of the City and the Town to share the burdens and benefits of development within the Rooney Valley, to the full extent permitted by law, on a cooperative basis in accordance with the provisions of the Agreement.
2. Any development that crosses 50 feet or more into the Rooney Valley within the intergovernmental Agreement (IGA) boundary area as depicted and identified on **Exhibit A** will be subject in its entirety to all provisions of this Agreement.

## **ARTICE II.**

### **LAND USE AND DEVELOPMENT REVIEW PROCESS**

#### **2.01 General Description of Project Development Process.**

The parties agree that the provisions of this Agreement shall constitute a customized process for development of the Rooney Valley to be used by the Town and the City to administer and manage development of the Rooney Valley.

This Article II describes the procedures which shall apply to the development of any Project within the Rooney Valley. Pursuant to the provisions of C.R.S. §29-20-105, both the Town and the City shall participate fully in the land use and zoning review and approval of land development projects, in determining the scope and delivery of Municipal Services and in sharing Revenues derived from the Rooney Valley, all as described in greater detail in this Agreement, and, therefore, both the Town and the City shall have standing to enforce the provisions of this Agreement, all pursuant to the terms hereof.

#### **2.02 Application of Ordinances, Regulations, Codes, Policies, Procedures.**

1. **Joint Planning and Zoning.** The Town and the City recognize and agree that some of the regulations and procedures for land development stated in this Agreement differ from the customary and normal processes used by the Town and the City. Pursuant to C.R.S. §29-20-105, each party agrees that the specific regulations and procedures for development of the Rooney Valley expressly stated in this Agreement shall be applicable to the Rooney Valley in order to provide for uniformity and continuity in jointly processing land use matters that are subject to this Agreement.

2. **Zoning and Development.** While both the Town and the City have promulgated ordinances, regulation, codes, policies and procedures regarding the review and approval of land development within their communities, the Town and the City agree that procedures in the land use regulations of the Approving Municipality wherein the subject property lies shall be used to govern the land use actions identified in Section 2.05.1.

3. Planning. The principal policy and planning documents for the Rooney Valley shall be the Rooney Valley Master Plan and Rooney Valley Development Standards. Any modification to the policy and planning of the City or the Town which have been made applicable to development within the Rooney Valley shall only be effective after approval of such modification by the Rooney Valley Zoning Commission. Until such time, the policy and planning documents in the form existing as of the date of this Agreement shall continue to apply to the Rooney Valley

### **2.03 Project Management Team.**

There shall be a Project Management Team. The Project Management Team shall consist of two Project Coordinators appointed as follows: (1) the City Manager of the City shall designate a person to act as the City Project Coordinator; and (2) the Board of Trustees of the Town shall designate a person to act as the Town Project Coordinator. The City and Town may also appoint others to assist the Project Coordinators. Each Project Coordinator shall be the primary contact person concerning the development of any Project within the Rooney Valley. The City and Town may change or replace their appointee at any time at their sole discretion.

The Purpose of the Project Management Team is to provide day-to-day administrative oversight of the development process in the Rooney Valley and to ensure coordination between the City and the Town. The Project Management Team shall also coordinate the interaction and input from the City and Town administrative staff, consultants, and interested parties and organizations. The members of the Project Management Team will jointly and cooperatively coordinate the land use and development approval processes, the planning and development of Public Improvements, and the planning and provision of Municipal Services for the Rooney Valley and will keep each other informed throughout the process. Neither the City Project Coordinator nor the Town Project Coordinator shall possess the authority to enter into contractual agreements on behalf of their respective municipalities and all contractual agreements proposed by the Project Management Team shall be subject to approval of the normal contracting authority of the City and the Town. The Project Management Team will meet as needed, but not less often than monthly during the development of any Project. On an as needed basis, the participation or representatives from other organizations and agencies may be included in meetings of the Project Management Team. As an administrative body, the Project Management Team is not intended to be and shall not constitute a "local public body" within the meaning of C.R.S §24-6-402.

### **2.04 Rooney Valley Planning Commission.**

There shall be a Rooney Valley Planning Commission. The Rooney Valley Planning Commission shall be composed of three members appointed by the City Council of the City and three members appointed by the Board of Trustees of the Town. If an Event of Nonappropriation occurs and is continuing the other (non-defaulting) party shall be entitled to appoint a fourth member. The members appointed by the Town shall be Town officials or employees or registered electors of the Town or both. The members appointed by the City shall be current members of the

City's planning commission. An appointed member of the Commission may be removed or replaced by the appointing municipality at any time without reason or cause. The Commission shall elect from their members a chairman and vice-chairman. Four members in attendance and eligible to vote shall comprise a quorum of the Commission.

The Commission shall hear all matters within the IGA area to the extent such matters are also within the scope of Section 2.05.1, and any amendment to the Rooney Valley Development Standards or the Rooney Valley Master Plan, or the adoption of any rules of procedure for the Commission. All decisions of the Commission shall require the affirmative vote of a majority of all votes attributed to all members of the committee regardless of the number of members in attendance (i.e., four affirmative votes are required to approve such actions). The Commission shall be subject to the Colorado Open Meetings and Colorado Open Records laws. The Commission may promulgate or adopt rules of procedure not inconsistent with this Agreement to guide and assist the committee in the conduct of its business. The City and the Town shall assist by making meeting facilities, materials and administrative support available to the Commission.

#### **2.05 Joint Municipal Review Procedures.**

1. Development Approvals. Any application for any development approvals shall follow the procedures in the land use regulations of the Approving Municipality wherein the subject property lies. The Project Management Team shall be responsible for staff functions, the Rooney Valley Planning Commission shall serve as the Planning Commission or Board of Adjustment, and the City Council or Town Board shall have final approval authority for all actions under this Section.

2. Site Plan and Subdivision. Any application for site plan or subdivision shall be processed by the Approving Municipality in accordance with applicable local and state law. Each application received by either municipality, and all documentation related to an application received by either municipality, shall be mailed promptly or otherwise distributed to each member of the Project Management Team within three (5) business days following receipt. Prior to rendering any final decision concerning site development plan or subdivision, the Approving Municipality shall notify the other municipality in writing of the date and time of the meeting or hearing at which a final decision is expected to be rendered. Such notice shall also provide the other municipality a reasonable opportunity to prepare and submit comments and recommendations to the Approving Municipality concerning the application or petition, or a reasonable opportunity to prepare for attendance at the meeting or hearing, prior to the final decision. Failure to timely respond or otherwise submit comments or recommendations to the Approving Municipality following delivery of notice shall be deemed a waiver by the other municipality of its right to comment on the application.

3. Tie Votes on the Commission. If any motion before the Rooney Valley Zoning Commission to take action on a matter within the scope of Section 2.05.1, any amendment of the

Rooney Valley Development Standards or the Rooney Valley Master Plan, results in a tie vote with the representatives of the Town voting on one side and representatives of the City voting on the other side, the decision will not be deemed a final decision, but will be continued for a period not to exceed thirty (30) days. The purpose of such continuance shall be to allow sufficient time to assure that decisions are made based upon their merits and not due to jurisdictional disputes. The Rooney Valley Zoning Commission shall then reconvene for the purpose of rendering a final decision. At that time, any motion resulting in a tie vote shall be deemed to have failed for lack of a majority. A tie vote on a motion relating to other matters or a tie vote with representatives of the Town and the City voting on both sides of the motion shall be deemed to have failed for lack of a majority.

#### **2.06 Disconnection and Annexation.**

1. Any application for disconnection or annexation shall follow the procedures of Title 31, Article 12 of Colorado Revised Statutes, and if disconnection from or annexation to the Town, the requirements of Title 10, Chapter 9 of the Morrison Municipal Code.

2. The Town and the City will encourage Owners of property within the Rooney Valley that is in unincorporated Jefferson County to annex such property to the Town or the City. Specifically, the City agrees not to annex the Bandimere Property or the Peterson Property without the approval of the Town as expressed by resolution of the Town Board. The Town agrees that no unincorporated property in the Rooney Valley will be granted access to the Town's municipal water or sewer services unless the property annexes to either the Town or the City.

#### **2.07 Building Codes and Permits.**

Construction of any Project shall be in conformance with the version of building codes in effect in the Approving Municipality at the time of application for the relevant permit. Each municipality will review building plan submittals and issue building permits within their own jurisdiction.

#### **2.08 Required Fees; Distribution of Fees.**

Both the City and the Town impose fees and charges for the costs associated with certain administrative functions of each municipality. The standard fees of the Town or the City shall apply to administrative functions performed under this Agreement, unless otherwise provided herein or unless the Project Management Team determines that additional fees are necessary to pay the actual costs of the services provided. The Town and the City hereby authorize the other to perform the administrative functions described herein and to collect and utilize the fees collected as described herein. Fees shall be paid by the Owner at the time an application is submitted for which such fees is required.

#### **2.09 Inspections.**

The City and Town will each be responsible for making building inspections; private site improvement inspections including parking lots, landscaping, fencing and other site improvements; and Public Improvements inspections within their own jurisdiction.

The Town will be responsible for inspection of water and sewer systems within the Town's service area, which area may include property within the Rooney Valley that may in the future be annexed by Lakewood. West Metro Fire Protection District shall be responsible for fire code inspections and various county and state agencies shall conduct other inspections. The results of inspections shall be transmitted to the Project Coordinator.

### **ARTICLE III.**

#### **PROVISION OF MUNICIPAL SERVICES**

##### **3.01 Providers of Municipal Services Generally.**

The parties have determined that Municipal Services for the Rooney Valley shall be provided and funded as described in this Article III. This Agreement does not alter or affect any other agreement or legal requirement pursuant to which a District or other entity provides or has agreed to provide Municipal Services, Public Improvements, Public-Related Improvements or other services or improvements to the Rooney Valley. In addition, until property in the unincorporated portions of the Rooney Valley is annexed by the Town or the City, it is the intent of the parties that Municipal Services be provided by Jefferson County or a District. If the provision of any Municipal Services by the City could cause the City to exceed its revenue or spending limits under Article X, Section 20 of the Colorado Constitution, the parties agree that the City may request that Municipal Services be provided by the Town or others.

It is the intent and expectation of the parties that Public Improvements and Public-Related Improvements will be installed or constructed by Owners or Districts within the Rooney Valley and that major utility services will be provided by entities other than the Town and the City. However, the parties agree that water and sanitary sewer services may be provided by the Town, subject to annexation of unincorporated property, and, as to property in the City, with the consent of the City, to the full extent of the Town's physical and legal capacity to do so.

##### **3.02 Police Protection.**

Police Protection in the City will be provided by the City and in the Town will be provided by the Town. Costs of these services will be paid by each municipality individually.

##### **3.03 Traffic Engineering, Public Way Landscape Maintenance and Street Maintenance Services.**

Traffic engineering, public way landscape maintenance and street maintenance services (including street repair, drainage maintenance and repair, street cleaning, and snow and ice removal for public streets), if not provided by a District, shall be provided by the City for all properties in the City and by the Town for all properties in the Town. The City and Town shall mutually determine an annual fee by separate agreement for the cost of the provision of these

services, if needed. Any unresolved issues regarding performance of or payment for services will be referred to the City Manager of the City and the Mayor of the Town or his/her designee who will meet in an attempt to resolve the issues for which there may be disagreement. If no resolution by the Town Administrator and City Manager is reached within one month, the dispute resolution procedures of Article VI will apply.

### **3.04 Processing of Applications, Building Inspections.**

The processing and review of applications, building inspections and related services for which a fee is charged shall be performed, and fees charged for such services, in the manner described in Article II.

### **3.05 Joint Services.**

Economic development and general land use planning not specifically related to site development, shall be provided jointly by the Town and the City. Both parties will use their own resources to encourage economically viable development in the Rooney Valley. All information regarding proposed developments in the Rooney Valley will be promptly shared with each party and, under the policy guidance of the Project Management Team, the Town and the City will determine whether development incentive arrangements are appropriate. The Project Management Team will assist an Owner as necessary and appropriate and will initiate the land use planning and development procedures described in Article II of this Agreement. As between the Town and the City, there will be no reimbursement or Revenue sharing for the cost of these services. Nothing herein shall preclude the Town and the City from seeking reimbursement from an Owner for the cost of providing certain services.

### **3.06 Other Services.**

All other services which may be provided by either municipality, such as general administrative services, legal services, park and recreation services, liquor and other licenses, code enforcement, animal control, prosecution and judicial services, shall be provided by each municipality at its sole cost within its own jurisdiction. The Town or the City may contract with others for such services, but the cost of, responsibility, and fees or other charges for such services shall remain with each municipality and the parties recognize that the type and level of such services may differ in each municipality.

### **3.07 Supervision and Delegation of Authority.**

The Town and City shall each be responsible for the employment, compensation, training and supervision of their own employees. To implement some services, however, the Town and the City may take such further action as may be necessary to delegate authority to the other to carry out the specified responsibilities.

## **ARTICLE IV.**

### **REVENUE SHARING**

#### **4.01 Revenue Sharing.**

1. Multiple-Fiscal Year Agreement of Town. This Agreement shall constitute a multiple-fiscal year agreement of the Town to share Net Sales and Use Tax Revenue with the City as approved by the electors of the Town on November 2, 1999 pursuant to the provisions of Article X, Section 20 of the Colorado Constitution. The Town shall share Net Sales and Use Tax Revenues with the City in accordance with the procedures described in this Article IV.

The Board of Trustees of the Town agrees not to take any action, without the express written consent of the City, to reduce the rate or base of any tax which is subject to sharing with the City, unless and only to the extent the Town is required by state law or home rule charter to do so. Future tax increases are not subject to this agreement.

2. Year-to-Year Agreement of City. The City has not held an election to authorize a multiple-fiscal year agreement with the Town pursuant to Article X, Section 20 of the Colorado Constitution and, therefore, the financial obligations of the City herein are subject to annual approval and appropriation by the City Council of the City. Subject to such annual approval and appropriation by the City Council of the City, the City shall share Net Sales and Use Tax Revenues with the Town in accordance with the procedures described in this Article IV.

The City Council of the City agrees not take any action, without the express written consent of the Town, to reduce the rate or base of any tax which is subject to sharing with the Town, unless and only to the extent the City is required by state law or home rule charter to do so. Future tax increases are not subject to this agreement.

3. Determination and Sharing of Revenues. The Town and City agree that sixty percent (60%) of Revenues collected will be used by the collecting municipality for the provision of general services provided by the collecting municipality including police service. The Town and City agree that ten percent (10%) of Revenues collected will be used by the Town or the City as appropriate for the purposes of servicing the residential uses within the Valley. It is the intent of the parties that this 10% shall be remitted to each jurisdiction in proportion to the fraction of the total number of residential units within the Valley located within each jurisdiction. For example, if 50% of the total units are in the Town and 50% in the City, the 10% of Revenues would be divided evenly. The Town and City further agree that the remaining thirty percent (30% of Revenues) will be considered Shared Revenues and will be shared equally. Although the City's authority to share with the Town the City's Revenues derived from that property in the Rooney Valley which is within the City is subject to an annual appropriation by the City Council, it is the present intent of the City to maintain and continue the cooperation and sharing of Revenue described in this Agreement.

a. Dispersal of Revenues. Subject only to an annual appropriation by the City, the City shall annually distribute to the Town fifty percent (50%) of all Shared Revenues collected within the Rooney Valley plus the required portion of the ten percent of revenues dedicated to residential services. Subject only to an annual appropriation by the Town, the

Town shall annually distribute to the City fifty percent (50%) of all Shared Revenues collected within the Rooney Valley plus the required portion of the ten percent of revenues dedicated to residential services. Disbursals by the Town and the City to the other party shall take place no later than June 30 of the calendar year subsequent to the year in which the Net Sales and Use Tax Revenues were collected.

b. Example. By way of illustration and not limitation, **Exhibit B** demonstrates an example of the revenue sharing contemplated by this Agreement.

c. Record Keeping. The City and Town shall each maintain complete and accurate records sufficient to determine the amount of Revenues received from the Rooney Valley during each calendar year. On or before June 30th of each year throughout the term of this agreement, the City and the Town will each deliver to the other an audited statement of the amount of City Revenues or Town Revenues, as the case may be, received from that portion of the Rooney Valley located within the City and the Town, respectively, for the prior year.

4. Owner Agreements. The Town or City may unilaterally enter into Owner Agreements and agree to remit any or all of its portion of revenues from a specific Project to the Owner of such Project to assist in paying Public Improvement Costs or Public-Related Improvement Costs incurred by such Owner. The Town and City may mutually agree to jointly enter into an Owner Agreement to remit some or all Shared Revenues. Nothing in this Agreement shall prevent the Town or the City from sharing additional amounts of its portion of the Shared Revenues with one or more Owners, provided such sharing shall not reduce the amount of Shared Revenues to be remitted to the other party as provided herein.

5. Nonappropriation by City. For any year in which the City fails or determines not to make an appropriation prior to December 31<sup>st</sup> of such year to remit Shared Revenues to the Town, the Town shall be relieved of its obligation to remit any Town Revenues to the City during the following year. Following the occurrence of a City Event of Nonappropriation, the City may cure such Event of Nonappropriation by appropriating and remitting to the Town an amount equal to the City Revenues which would have been so remitted but for the Event of Nonappropriation and the Town shall then remit to the City any Town Revenues which were not remitted pursuant to the provisions of this Section 4.01.5 and the provisions of this Article IV relating to the sharing of Revenues shall be fully reinstated. Following the second and any subsequent City Event of Nonappropriation, however, the City's right to cure and reinstate the sharing of Revenues or the provision of Municipal Services by the City in the Town, as the case may be, shall only be with the consent of the Town. In addition, for any year in which a City Event of Nonappropriation has occurred and is continuing, the Town shall be entitled to appoint a fourth member to the Rooney Valley Zoning Commission.

6. Subsequent Elections. In the event the electors of the City authorize the City to share Revenues with the Town and/or one or more Owners, then the parties will modify this Agreement

to reflect such absolute commitment and remove the Event of Nonappropriation consequences which would no longer be applicable.

7. City May Defer Receipt of Revenue. In order to comply with the revenue and spending limitations of Article X, Section 20 of the Colorado Constitution, the City may defer receipt of all or part of the Shared Revenues to be remitted to the City and request that such Shared Revenues be held by the Town until the City requests that all or part of such amounts be remitted to the City. Any Revenue by the Town at the request of the City shall be invested and shall be credited to the City if and when remitted to the City.

#### **4.02 Audit Rights**

The City and the Town shall cause to be prepared, kept, and maintained, suitable financial records and other books and accounts as may be necessary to determine the amount of Revenues received and collected, and the amount to be remitted and shared pursuant to this Agreement. All such records, books, and accounts shall be maintained for a period of not less than six years after the date such Revenues should have been collected and shall be made available for inspection and audit at any time by either party to this Agreement.

### **ARTICLE V.**

#### **PUBLIC IMPROVEMENTS**

##### **5.01 Determination of Necessary Public Improvements.**

The parties recognize and agree that the scope of Public Improvements and Public-Related Improvements (collectively herein, the "Improvements") necessary to serve any Project has not been and cannot be fully determined until additional planning, engineering and design work relating to a specific Project has been completed. If the Improvements will be located entirely within the City and serve a Project which is located entirely within the City, then the Public Improvements Agreement may be with only the City and the required collateral to assure satisfactory completion of such Public Improvements may be for the benefit of only the City. If the Improvements will be located entirely within the Town and serve a Project which is located entirely within the Town, then the Public Improvements Agreement may be with only the Town and the required collateral to assure satisfactory completion of such Public Improvements may be for the benefit of only the Town. Otherwise, if the Improvements serve a Project located within both the Town and the City, the Public Improvements Agreement shall be entered into by both the Town and the City and the collateral provided to assure satisfactory completion of such Improvements shall be for the benefit of and enforceable by both the Town and the City. The Public Improvement Costs for Improvements to serve the Project shall be the sole responsibility of the Owner or a District. Notwithstanding any ordinances or other regulations of the City or the Town to the contrary, the City and the Town shall not be obligated to share in any Public Improvements Costs. An Owner may use any portion of the Shared Revenues that may be allocated to the Owner pursuant to an Owner Agreement to pay Public Improvement Costs and any Public-Related Improvement Costs authorized by such Owner Agreement. To the extent such Public Improvement Costs and Public-Related Improvement Costs exceed the amount of any Shared

Revenues paid to the Owner, the Owner shall nonetheless be responsible to pay such Public Improvement Costs and Public-Related Improvement Costs. With respect to Improvements that will be located both within the City and the Town, if the City and the Town determine that Public Improvements beyond those provided by an Owner or a District are necessary or desirable, the Town and the City may agree to provide or obtain such Public Improvements and pay or assess the cost thereof according to any lawful means. Otherwise, the determination of the degree, if any, to which an Owner may be permitted to use any portion of the Shared Revenues shall be solely the determination of the jurisdiction in which the Improvements are located.

**5.02 Construction of Public Improvements and Public –Related Improvements.**

The Owner or a District shall be required to construct, acquire or otherwise provide, all Public Improvements and Public-Related Improvements to serve the Owner’s development. Although the City and the Town have the obligation to operate, maintain, repair, replace and reconstruct Public Improvements that have been dedicated to and accepted by the City or the Town, Districts and utility providers may require other Public Improvements, Public-Related Improvements and/or utilities for the development of a Project, including, but not limited to, other transportation, drainage, water, sanitary sewer, gas, electricity, telephone, cable television, and ditch improvements, and the relocation of certain of such existing improvements or facilities. Owners shall be required to construct, acquire or otherwise provide such Public Improvements, Public-Related Improvements and/or public utilities as may be required by such Districts or utility providers and to coordinate its efforts in doing so with the City and the Town. Except for those Public Improvements and Public-Related Improvements dedicated to a District or utility provider and for which such District or utility provider assumes maintenance responsibility, after Public Improvements have been accepted by the City or the Town, such Public Improvements will be maintained either by the City or the Town as part of the Municipal Services provided pursuant to Article III. Such Public Improvements shall be constructed in accordance with applicable City or Town standards pursuant to this Agreement. Any land owned by an Owner which is necessary to provide easements or rights-of-way for Public Improvements or Public-Related Improvements shall be required to be donated or dedicated by the Owner at no cost to either the City, the Town or any District or utility.

**ARTICLE VI.**

**ENFORCEMENT AND RESOLUTION OF DISPUTES**

**6.01 Enforcement.**

Pursuant to the provisions of C.R.S. Section § 24-20-105(2)(g), the City and the Town shall each have standing to enforce terms of this Agreement. Such enforcement may be through an action for specific performance or injunctive relief or for any other remedy available at law or in equity and shall be brought pursuant to the provisions of Section 6.02 below.

**6.02 Alternative Dispute Resolution.**

To the extent permitted by law, should any dispute arise regarding the interpretation or implementation of this Agreement, or in connection with any covenant, obligation or act to be performed under this Agreement, or should any continuing event of default exist, the parties agree that such disputes and/or continuing events of default shall be resolved in the following manner:

1. The City and the Town shall continue in good faith to attempt to resolve such dispute or cure such continuing event of default for a period of not less than fifteen (15) days following the identification by either party and written notice to the other party of the existence of a dispute or a continuing event of default.

2. In the event such dispute is not resolved or such continuing event of default is not cured within the fifteen (15) day period set forth above, the City and the Town shall employ a mutually acceptable professional mediator to assist them in resolving the dispute or curing the event of default, and shall bear the fees and costs of such mediator equally among them. Such mediation efforts shall be pursued for not less than thirty (30) days.

3. In the event the dispute or the continuing event of default is not resolved by mediation within the thirty (30) day period set forth above, the parties shall submit the dispute to a mutually acceptable professional arbitrator, in accordance with the rules of the American Arbitration Association then in effect, to finally resolve the dispute. The arbitrator shall have authority to impose all available remedies at law or in equity, including but not limited to, specific performance, injunctive relief and damages. The arbitrator may, in his or her discretion, allocate the fees and costs of the arbitration, including attorneys' fees, equitably among the parties. The award or decision made or rendered by the arbitrator shall be final and binding upon the parties.

Alternative Dispute Resolution shall not be employed in such a manner as to constitute a delegation of the City Council's or Town Board's legislative authority or the Rooney Valley Zoning Commission's quasi-judicial responsibility.

## **ARTICLE VII**

### **MISCELLANEOUS**

#### **7.01 Term of Agreement.**

The term of this Agreement shall be perpetual.

#### **7.02 Recordation of Agreement.**

This agreement and any amendments thereto shall be recorded by the Clerk of the City with the Clerk and Recorder of Jefferson County, Colorado. Although this agreement has been authorized and executed following published notice and public hearing by each municipality, the Town and the City may prepare a memorandum of this Agreement for recording or take other steps to provide notice to Owners of the existence of this Agreement.

#### **7.03 Legal Challenge and Defense of Agreement.**

This Agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, among the parties hereto on this subject, specifically including the previous Intergovernmental Agreement between the parties dated May 5, 2000. This Agreement may be amended only by written agreement among the parties with the Town acting pursuant to Town Board authorization and the City acting pursuant to City Council authorization. Exhibits A and B to this Agreement are incorporated herein by this reference, as fully as if included in the body hereof.

TOWN OF MORRISON, COLORADO

By *Sean Forey*  
Sean Forey, Mayor

ATTEST:

[SEAL]

*Charla Bryant*

Charla Bryant, Town Clerk



CITY OF LAKEWOOD, COLORADO

By *Adam Paul*  
Adam Paul, Mayor



ATTEST:

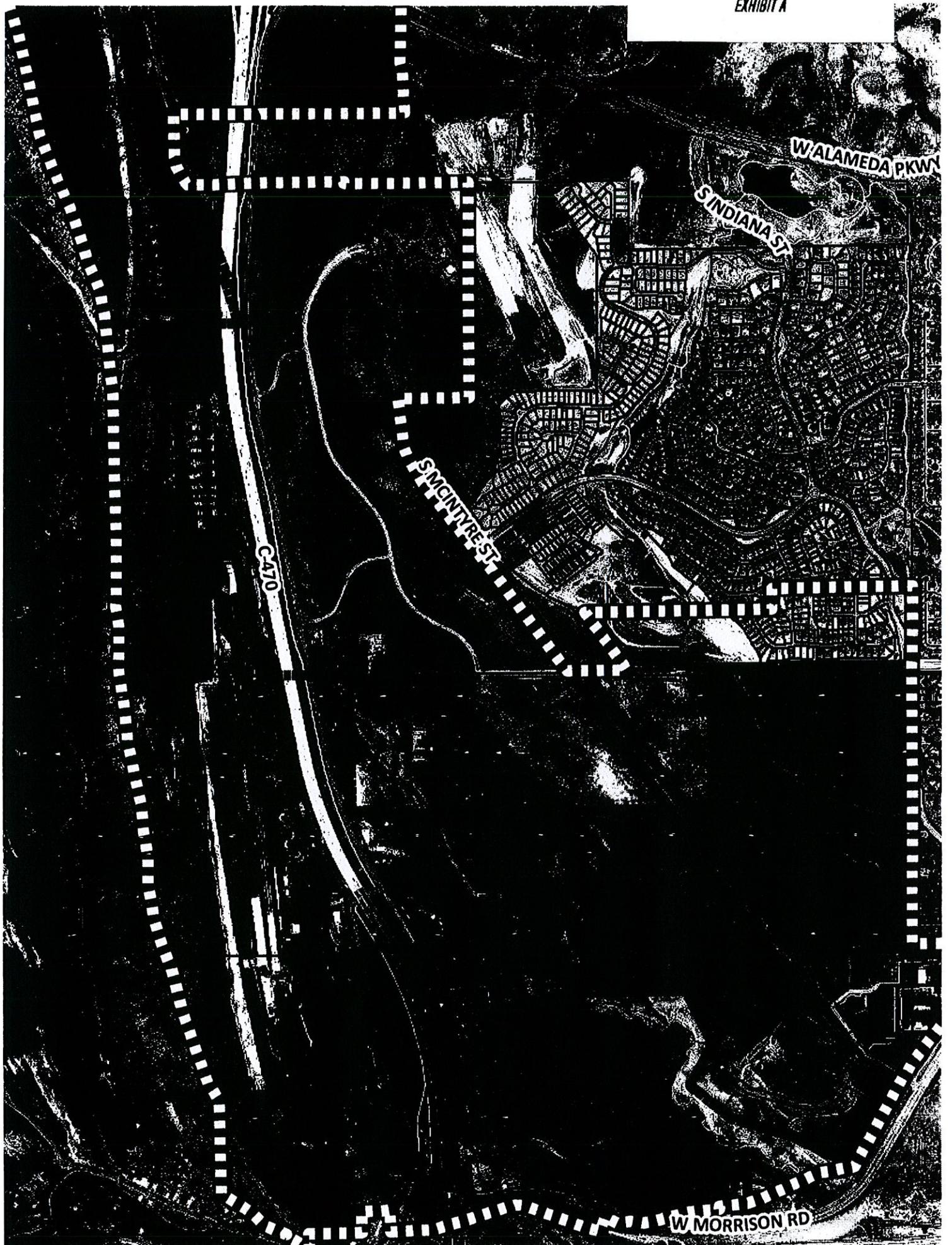
*Margy Greer*

Margy Greer, City Clerk



**EXHIBIT A**

**Map of Rooney Valley with identified jurisdictional lines**  
**[Attached]**



**EXHIBIT B**

**Revenue Sharing Example**

	<u>City</u>	<u>Town</u>	<u>Total</u>
<b>Revenues - Sales &amp; General Use Taxes Collected by Entity</b>	<u>\$ 300,000</u>	<u>\$ 450,000</u>	<u>\$ 750,000</u>
Less: 60% retained by collection entity	<u>(180,000)</u>	<u>(270,000)</u>	<u>(450,000)</u>
<b>Net Revenue available (40%)</b>	<u>120,000</u>	<u>180,000</u>	<u>300,000</u> -
<b>Servicing Residential Uses - 10% of Revenues</b>	<u>\$ 75,000</u>		
Total number of residential units in each jurisdiction	<u>1,750</u>	1,500	250
% in jurisdiction	<u>85.71%</u>	<u>14.29%</u>	
<b>Amount Allocated for Servicing Residential Uses</b>	<u>64,286</u>	<u>10,714</u>	<u>75,000</u> -
<b>Shared Revenue - 30% of Revenues</b>	<u>\$ 225,000</u>		
50% shared by City & Town	<u>112,500</u>	<u>112,500</u>	<u>225,000</u>
<b>Net Revenue (40%)</b>	<u>176,786</u>	<u>123,214</u>	<u>\$ 300,000</u> -
<b>Amount Due To (From) Entity</b>	<u>\$ 56,786</u>	<u>\$ (56,786)</u>	