

**Date: Wednesday, July 13, 2016**  
**Time: 5:00 pm**  
**Place: City Hall**

## **PLAN COMMISSION**

- A. CALL TO ORDER & ROLL CALL
- B. CORRECTION OF MINUTES
- C. BUSINESS

- 1. SOUTHWESTERN WISCONSIN REGIONAL PLANNING COMMISSION  
PROPOSAL REGARDING BOUNDARY AGREEMENT AND COOPERATIVE PLAN  
WITH TOWNS

Individual Requesting Item	Martin Shanks/SWWRPC
Expected Length of Discussion	20 Minutes

Documents:

[\*2016-07-02 SWWRPC Proposal Boundary Cooperative Plan.pdf\*](#)

- 2. ALLIANT ENERGY REQUEST FOR EASEMENT TO INSTALL UNDERGROUND  
ELECTRICAL SERVICE TO NEW EMS BUILDING ALONG 12TH STREET

Individual Requesting Item	Al Gerber
Expected Length of Discussion	5 Minutes

Documents:

[\*2016-07-02 Alliant Easement.pdf\*](#)

- 3. ZONING CODE RE-WRITE CONSULTANT PROPOSALS

Individual Requesting Item	Martin Shanks
Expected Length of Discussion	15 Minutes

Documents:

[\*2016-07-05 Zoning Code.pdf\*](#)

- 4. ACCESSORY DWELLING UNIT ORDINANCE

Individual Requesting Item	Martin Shanks
Expected Length of Discussion	5 Minutes

Documents:

[\*2016-07-05 ADUs.pdf\*](#)

- D. BUSINESS BY MEMBERS

May make brief informative statements or bring up items to be discussed at a future

meeting.

E. ADJOURNMENT

***This Commission may take any action it considers appropriate related to any item on this agenda.***

Requests from person with disabilities who need assistance to participate in this meeting, including need for an interpreter, materials in alternate formats, or other accommodations, should be made to the Office of the City Clerk at (608) 329-2564 with as much advance notice as possible so that proper arrangements can be made.

**Member: Mayor/Chairperson William Ross, Vice-Chairperson Nate Klassy, Ronald Spielman, William Bethke, Keith Ingwell, Chuck Schuringa, and Alderperson Charles Koch**



# Plan Commission Staff Review

## **Agenda Item:**

Southwestern Wisconsin Regional Planning Commission Proposal regarding Boundary Agreement and Cooperative Plan with Towns

## **Review Notes:**

The City of Monroe's Comprehensive Plan identified multiple goals, objectives and strategies related to new housing, exploring opportunities for growth and acquiring land for future development.

The State of Wisconsin authorizes a tool called cooperative boundary plans under 66.0307 of Wisconsin State Statutes. These types of plans are valuable tools for local communities which enable municipalities to agree upon boundary adjustments, shared services and revenue sharing. This type of tool could potentially assist the City in addressing the aforementioned Comprehensive Plan goals, objectives and strategies. For more information on boundary agreements and cooperative plans, see the attached fact sheet from the Wisconsin Department of Administration in the packet.

SWWRPC upon request and consultation from City staff have submitted a proposal to facilitate this process. SWWRPC was requested because of their broad knowledge of local issues and connections through their Comprehensive Plan work; anticipation that this project could be complex and time consuming; and to act as an unbiased third party in meeting facilitation.

SWWRPC proposes a multi-phase approach starting with phase 1 which entails the City to start conversations with neighboring townships to obtain approval of the process prior to investing resources in a complete Boundary Agreement. This initial phase would include mapping and land use analysis, comprehensive plan review, initial stakeholder outreach and buy-in, and the resolution approval process.

The project costs for this phase are \$21,535. Because this project was not budgeted for this year the project costs would have to be considered by the City's Finance & Taxation Committee as well as the City Council for inclusion in the 2017 Budget. The Plan Commission would be the recommending body for this type of work.

Please see the attached example boundary agreements for reference. SWWRPC will be on hand to go over their proposal and answer any questions in the meeting.

**Staff Review:**

- Building Inspector/Zoning Administrator (if necessary)
- Engineering Supervisor (if necessary)
- City Attorney (if necessary)
- City Clerk/Director of General Government (if necessary)
- Director of Community Development (required)

**Staff Recommendation:**

Recommend SWWRPC boundary agreement proposal to the Finance & Taxation Committee for consideration and placement in the 2017 Budget.

June 10, 2016

Martin Shanks, Assistant Administrator  
City of Monroe  
1110 18<sup>th</sup> Avenue  
Monroe, WI 53566

Mr. Shanks:

The Southwestern Wisconsin Regional Planning Commission (SWWRPC) is pleased to submit for your consideration our proposal to facilitate initial meetings between Monroe and adjacent townships to discuss boundary agreements for future growth. For over 40 years, SWWRPC has been assisting communities develop tools to meet the needs of their citizens, and we would be proud to bring this experience to the City.

#### **About SWWRPC**

As an extension of local government, SWWRPC offers the communities it serves a flexibility and accountability not found in other organizations. As an organization, we answer to elected and appointed officials from our five-county region and work hard to form close personal relationships with those we serve. We have the ability to find unique and inventive means of project delivery that can meet the needs of our partner organizations.

#### **Scope of Work**

The recently completed Monroe Comprehensive Plan identified future industrial and residential development as priorities. Specifically, the plan's recommendations for development are as follows:

- Housing Goal 2: Increase a diverse range of modern, aesthetically pleasing housing supply and housing resources.
  - Objective 6: Cultivate new planned housing developments.
- Economic Development and Agriculture Goal 3: Explore growth opportunities through land and infrastructure adaptations.
  - Objective 3: Identify land that is 'shovel-ready' for new development.
    - Strategy 1: Meet with Townships to discuss potential future areas of development outside of current city limits.
- Land Use and the Built Environment Goal 5: Promote a culture of growth in Monroe.
  - Objective 1: Acquire land for future industrial development.
    - Strategy 1: Work collaboratively with Townships to find mutual gains and identify future areas for development.
  - Objective 2: Increase the diversity and availability of housing stock.
    - Strategy 3: Encourage single family housing on the west and east side of the high school, and just outside the city on the west side.

To facilitate this desired development, the City must look to acquire new land, since there is minimal open space left to develop within the city limits. A Boundary Agreement is one way to formalize this process in agreement with adjacent municipalities. Not only does it allow for lands to be acquired, it does so through a mutual planning agreement between a city and adjacent townships. This powerful tool allows for a city to acquire land while still preserving relationships with neighbors, and also allows for revenue sharing on future developments. It is a win-win process of growth and development.

What makes this process so successful is its deliberative nature – a characteristic that also makes it time consuming and dependent on multiple stages of success. For example, prior to beginning the formal process of developing the Agreement, all municipalities must pass resolutions stating they desire an agreement. However, to desire an agreement requires that they know what the process entails, and the benefits of the final agreement – all of which takes time and discussion. This creates a “chicken and the egg” scenario in which planning and meeting is required prior to the commencement of actual planning.

To address this issue, SWWRPC proposes a multi-phase approach which allows the City to start the conversation with neighboring townships and get their approval of the process prior to investing substantial resources in a complete Boundary Agreement. The initial phase will involve the activities and provide the deliverables outlined below.

### **Fee and Project Schedule**

#### Initial mapping & land use analysis

- Scope of Work: SWWRPC will update township zoning maps and overlay existing zoning with City zoning to identify complimentary or conflicting zoning. This initial step will also provide spatial analysis of the future land uses identified in each municipalities' Comprehensive Plans. Lastly, SWWRPC will generate an initial map of property values and tax revenue for all City parcels within ½ mile from the City limits, and all Township lands within 1.5 miles from the City limits.
  - Note: Initial mapping of City zoning was completed in the Comprehensive Planning Process. Should an updated zoning map be created prior to the completion of Phase I of this project, SWWRPC will request either additional funds to map this, or GIS files for the new zoning maps so they may be incorporated into this project.
- Deliverable: SWWRPC will deliver updated zoning maps for each municipality, a map analyzing compatible and incompatible zoning where they occur, and a map that allows for an analysis of assessed value and property taxes for each parcel in the areas stated above.
- Total Cost: \$3,450
- Proposed Schedule: Late summer/ fall 2016

### Comprehensive Plan Review

- Scope of Work: As required by the state statutes that govern Boundary Agreements, SWWRPC will review the comprehensive plans of the City and adjacent Townships to ensure complementarity of development goals. SWWRPC will also meet with the City's public works director to identify future service areas and form a preliminary idea of how future development may be serviced. This analysis of how future development lands will be serviced is also a requirement of state statutes.
  - Note: Depending on the severity of incompatible goals found in the three Comprehensive Plans, SWWRPC may recommend that the Townships update their Plans in order meet state requirements for compatible Comprehensive Plan development goals. Since both Townships have plans that are in need of updating, we recommend that the City recognize this as a possibility. Such work, should it be required, could impact future Phases of the Boundary Agreement process.
- Deliverable: SWWRPC will deliver a written report summarizing the complementarity or conflicts that exist in comprehensive planning goals, as well as a summary of initial thoughts on future service provision to undeveloped lands.
- Total Cost: \$5,635
- Proposed Schedule: Late summer/ fall 2016

### Initial Stakeholder Outreach & Buy-In

- Scope of Work: To lay the groundwork for the Resolutions required to formally start the Boundary Agreement process, SWWRPC will meet one-on-one with City and Township officials to outline the Boundary Agreement process, timeline, and responsibilities of each party involved. We will identify concerns and opportunities for each party, and find answers to questions raised in the one-on-one meetings. Following these meeting, SWWRPC staff will convene representatives from the City and Townships at two different meetings to share the initial findings, concerns, and answers to any questions that may have arisen. The goal of these meetings is to bring the three parties into agreement regarding the benefits of a Boundary Agreement, and to have them agree to begin the formal process.
- Deliverable: The anticipated deliverable for this stage is an agreement, documented in the form of Resolutions, in which each of the three municipalities agree to proceed with a Boundary Agreement. This document is necessary if the process is to proceed to Phase II. We will work with the City and Township's legal counsel to develop these Resolutions. SWWRPC will also provide a summary of meeting attendees and a record of the discussion identifying potential assets and barriers that may arise in the Boundary Agreement process.
- Total Cost: \$9,500
- Proposed Schedule: Winter 2016/2017

### Resolution Approval Process

- Scope of Work: SWWRPC will work with the City and Township's legal counsels, the Monroe City Council, and the two Township Boards to guide Resolutions through the approval process. We will be present at all meetings and hearings necessary for the approval process
  - Note: Should the Outreach and Buy-in period result in all parties stating they are not interested in proceeding with a Boundary Agreement, there will be no work or expense associated with Resolution Approval. Should one the City and only one Township wish to proceed, SWWRPC will work with these parties to develop and pass the necessary Resolutions.
- Deliverable: This Scope will result in completion of Phase I of the Boundary Agreement process, in which all willing municipalities pass a Resolution stating they desire to proceed with a formal Agreement.
- Total Cost: \$2,950
- Proposed Schedule: Winter/ Spring 2017

The total cost for this process is estimated at \$21,535, with an estimated timeline of late summer 2016 to spring 2017. The costs of this process have been broken out to reflect the iterative nature of the work, and to allow the City to budget for this process in stages across two budget years.

Thank for your interest in this project, and for thinking of SWWRPC for your community's needs. I would be happy to meet and talk about any aspect of the project or this proposal.

Please feel free to contact me if you have any questions. I look forward to speaking with you soon.

Sincerely,

Troy Maggied  
Executive Director  
Southwestern Wisconsin Regional Planning Commission

# Cooperative Boundary Plan Factsheet

Cooperative boundary plans are authorized under [s. 66.0307, Wis.Stats.](#), and are the most thorough and complete method for developing boundary plans in Wisconsin. They are a valuable tool for local communities and a welcome alternative to protracted conflicts and litigation over municipal boundary and land use issues.

## Cooperative Boundary Plans feature:

- ▶ Broad notice to area residents and jurisdictions.
- ▶ A public hearing and comment period.
- ▶ Possible referendum. Residents may petition for an advisory referendum on the plan.
- ▶ A jointly developed cooperative plan for the territory that is consistent with each community's comprehensive plan and that may address future streets, sidewalks and trails, layout of neighborhoods, design standards, zoning, and public facilities such as parks, municipal buildings, stormwater management, and utilities.
- ▶ Review by the Department of Administration. The Department may approve, deny, or recommend changes. The Department also defends the plan against appeal.

**TIP:** For more information, see the Department of Administration's Cooperative Boundary Plan website at:

<http://doa.wi.gov/MunicipalBoundaryReview>



## Benefits to Cooperative Boundary Plans:

**Cooperative** – while annexation and incorporation tend to pit neighboring communities against one another, boundary plans provide a chance to focus on shared values, points of agreement, and solutions that can benefit everyone.

**Proactive** – while annexation and incorporation put area communities in a reactive mode, cooperative boundary plans enable communities to proactively guide their future.

**Flexibility** – while statutory boundary change mechanisms such as annexation are rigid in their scope and process, cooperative boundary plans provide communities with tremendous flexibility. Communities may determine the issues to be resolved, the size of plan area, whether municipal boundaries will change or not change over time, the duration of the plan, what services will be provided and by whom, the timing and financing of capital improvements, and how the area will be regulated and by whom. Communities have the discretion to creatively craft their own solutions to their issues.

**Certainty** – while annexations, consolidations, and incorporations are unpredictable, cooperative boundary plans put communities in charge of their future. This certainty also benefits landowners, developers, businesses, and other community stakeholders.

**Broad participation** – the public notice, public hearing, public comment, and advisory referendum features of the cooperative boundary plan process ensure that a wide range of affected residents and stakeholder groups participates in developing the plan. Because they helped create it, these participants are more likely to support the plan's adoption and implementation.

**Save money \$\$\$** – a cooperative boundary plan can save money by avoiding costly litigation. Also, the plan can identify service sharing opportunities and avoid costly duplication of services and capital facilities. Finally, towns with an adopted cooperative boundary plan are authorized to utilize TIF districts.

**Long term** – cooperative boundary plans must be a minimum of 10 years' duration, but are usually considerably longer. They allow for a much longer duration than the 10 year maximum permitted by boundary agreements entered into under [s. 66.0301 Wis. Stats.](#) – Wisconsin's general intergovernmental agreement statute.

**Enforceable** – cooperative boundary plans safeguard community and landowner interests by providing a written contract that is approved by the state. The state is also responsible for defending the plan against appeal.

**State & regional issues are addressed up front** – state agencies, regional planning commissions, and counties are required to review and comment on proposed cooperative boundary plans. This provides a great opportunity to coordinate state and regional plans, projects, and programs with local community activities and desires. For example, it helps to ensure that the state and regional permits and approvals necessary for development will be available when needed.





200809260096 9 PGS  
 09/26/2008 9:48am \$0.00  
 PIERCE COUNTY, WASHINGTON

When Recorded, Return To:  
 City of Tacoma  
 City Clerk's Office  
 747 Market Street, Room 220  
 Tacoma WA 98402-3769

**ORIGINAL**

<b>DOCUMENT TITLE</b> Interlocal Agreement
<b>Grantor</b> City of Tacoma
<b>Grantee</b> Town of Ruston
<b>Description</b> Interlocal Agreement with the Town of Ruston for paving, street lighting, and utilities project.
<b>Reference Number</b>
<b>Assessor's Parcel Number</b>

**INTERLOCAL AGREEMENT  
BETWEEN THE TOWN OF RUSTON AND THE CITY OF TACOMA  
FOR PAVING, STREETLIGHTING AND UTILITIES PROJECT**

THIS AGREEMENT is made and entered into this 17<sup>th</sup> day of Sept., 2008, by and between the City of Tacoma, Washington ("Tacoma") and the Town of Ruston, Washington ("Ruston" and, together with Tacoma, the "Municipalities"). The parties agree as follows:

Section 1. Recitals.

1.1. The City of Tacoma is a first class city, and the Town of Ruston is a town. Both Municipalities are duly organized and legally existing under the laws of the State of Washington.

1.2. The parties share a common boundary in Pierce County, Washington. Tacoma, Ruston and the owners of the properties on either side of the shared municipal boundary wish to make certain improvements to Ruston Way, Baltimore Street and certain other streets as described below in Paragraph 1.4.

1.3. The nature of the intended project is such that it can best and most efficiently be accomplished by the joint cooperation and participation of the parties in what shall be known as the Ruston Way Local Improvement District Project (the "Project"). The Project is expected to serve properties within Ruston and properties within Tacoma, with an estimated total acquisition and installation cost between \$12 million and \$16 million.

1.4. The proposed Project will consist of: establishing a grade and the realignment of Ruston Way, an arterial roadway, together with all utilities, concrete curb and gutters, bike lanes, sidewalks, roundabouts, street lighting and landscaping, as well as closing of the existing vehicle tunnel; completion of the Baltimore Street connection between Ruston Way and 46<sup>th</sup> Street;

construction of a new street referred to as “Yacht Club Road,” from Ruston Way to Metro Parks’ property on the peninsula; and placing thereon a permanent pavement, together with the installation of concrete curbs and gutters, surface-water mains and surface water catch basins, where needed, wastewater mains, water mains, ornamental streetlighting, and a new three-phase primary underground electrical system and other improvements.

1.5. Pursuant to RCW 35.51.020, Tacoma and Ruston agree that the planning, financing, property acquisition and construction for the Project should be undertaken and administered on a mutually cooperative basis between the two Municipalities as provided in this Agreement.

1.6. The parties intend this Agreement to be supplemented by other, more specific agreements related to formation of each Municipality’s Local Improvement District and to construction management for the Project.

Section 2. Project Declared Joint Project. The Project is declared to be a joint project and undertaking by Tacoma and Ruston under RCW 35.51.020, and the respective Municipalities hereby pledge their good faith cooperation in connection with the Project and direct their respective officials and departments to collaborate and work together to accomplish the Project.

Section 3. Primary Agency and Project Administrator. Tacoma is designated as the primary agency in connection with the Project and its Public Works Department is designated as the “Project Administrator.” As primary agency, Tacoma shall have discretion, authority and responsibility to negotiate with the developer, Point Ruston, LLC, on behalf of both Municipalities. The negotiations will include, but are not limited to, the scope of the project – specifically whether it will be limited to the right of way projects along Ruston Way and

Baltimore Street, whether it will include roadways and other infrastructure within the proposed development; whether the proposed esplanade will be part of the Project; estimated construction costs.

Section 4. Costs, Billing and Payment Responsibilities.

Until the parties sign a supplemental agreement for LID and construction management, the City shall absorb the staff costs of negotiating with the developer. Supplemental agreements shall contain a provision for allocation of costs. Any contract with the developer shall include a provision that requires the developer to pay the LID pre-formation costs for both municipalities.

Section 5. Delegation and Authority to Act. For purposes of this Agreement, Ruston authorizes Tacoma to provide information that is, and do all other things that are, reasonable and necessary to effectively and efficiently accomplish negotiation of the scope of the Project. Ruston agrees to provide information and documents requested by Tacoma in a timely manner. Tacoma agrees that any policy or legislative decisions that need to be made by both Municipalities will be presented to the legislative authority of both Municipalities in a timely manner.

Section 8. Entire Agreement, Integration and Amendment. Except for the supplemental agreements contemplated in Section 1.6, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, all prior communications of the parties on such subject being integrated and merged into this document, which may be modified only by an agreement in writing signed after due authorization by both parties.

Section 9. Binding Effect. All of the provisions hereof shall bind and inure to the benefit of the parties hereto and their respective successors, and assigns, and are not for the benefit of third parties.

Section 10. Disputes. In the event of any dispute with regard to this Agreement, venue shall be in the Superior Court of the State of Washington for Pierce County. The parties may mutually determine to resolve disputes through mediation or other alternative process. The parties shall have the right of specific performance of the terms hereof.

Section 11. Waiver. No covenant, term, or condition, or the breach thereof, shall be deemed waived except by the express written consent of the party against whom waiver is claimed, and any waiver or breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition. Acceptance by one party of any performance by the other after the time the same shall have become due shall not constitute a waiver of the breach or default of any covenant, term, or condition unless otherwise expressly agreed to in writing.

Section 12. Notices. Any notice to be given, or any documents or information to be delivered by either party to the other party shall be delivered in person or mailed by certified mail and addressed to the respective parties at the following addresses, unless a different addressee or address has been designated by proper notice:

To Tacoma:  
Eric A. Anderson, City Manager  
747 Market Street, Room 1200  
Tacoma, Washington 98402

To Ruston:  
ATTN: Mayor  
5117 N. Winnifred Street  
Ruston, Washington 98407-6597

Section 13. Saving Clause. If any section or provision of this Agreement is held by the final decision of a court of competent jurisdiction to be invalid, the remainder of the Agreement shall not be affected and shall remain in full force and effect.

Section 14. Ratification. All actions heretofore taken by or on behalf of either party consistent with the provisions or in furtherance of the purposes of this Agreement are ratified and confirmed in all respects.

Section 15. Captions. Section captions used in this Agreement are for convenience of reference only, and shall not be used to resolve any question of interpretation of this document.

Section 16. Effective Date. This Agreement shall take effect upon authorized execution and delivery to be effective as of the day and year first above written.

Section 17. Execution. This Agreement may be signed in counterparts and, if so signed, shall be deemed a single document. Each party represents that the person signing this Agreement on its behalf is duly authorized to do so.

IN WITNESS WHEREOF, the parties have duly executed this Agreement in duplicate.

CITY OF TACOMA  
By: [Signature]  
Eric A. Anderson, City Manager

TOWN OF RUSTON  
By: [Signature] 09 Sept 2008  
Mayor

ATTEST:  
[Signature] 9-17-08  
Doris Sorum, City Clerk

APPROVED AS TO FORM:  
TOWN ATTORNEY

APPROVED AS TO FORM:  
[Signature]  
Assistant City Attorney

By: [Signature] 11 sept 2008



**RESOLUTION NO. 37578**

1 A RESOLUTION relating to infrastructure improvements; authorizing the execution  
2 of an interlocal agreement with the Town of Ruston for paving,  
3 streetlighting, and utilities improvements related to the Point Ruston  
4 neighborhood development.

5 WHEREAS the former Asarco smelter site, located near  
6 Commencement Bay and Ruston Way and located in both the City of  
7 Tacoma ("City") and the Town of Ruston ("Ruston"), is being redeveloped as an  
8 urban neighborhood that crosses the municipal boundary between the City and  
9 Ruston and known as Point Ruston, and

10 WHEREAS the City and Ruston agree that the planning, financing, and  
11 construction for the Point Ruston project should be undertaken on a  
12 cooperative basis, and

13 WHEREAS RCW 35.51.020 authorizes municipalities to contract with  
14 each other to conduct joint public improvement projects and to pay for those  
15 improvements from assessments from local improvement districts ("L.I.D."), and

16 WHEREAS, on March 17, 2008, Ruston adopted Resolution No. 412,  
17 stating its intent to enter into an interlocal agreement with the City to undertake  
18 this joint project, and

19 WHEREAS, on April 1, 2008, the City Council adopted  
20 Resolution No. 37441, declaring the City's intent to enter into an interlocal  
21 agreement with Ruston for the administration of an L.I.D. for street, lighting, and  
22 utility improvements, in connection with the Point Ruston neighborhood  
23 development, and  
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WHEREAS this agreement is intended to be the first of several agreements between the City and Ruston needed to conduct the joint public improvements related to the Point Ruston neighborhood development; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute an interlocal agreement with the Town of Ruston for paving, streetlighting, and utilities improvements related to the Point Ruston neighborhood development, said document to be substantially in the form of the proposed interlocal agreement on file in the office of the City Clerk.

Adopted \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:  
  
\_\_\_\_\_  
City Clerk

Approved as to form:  
  
\_\_\_\_\_  
Assistant City Attorney



REQUEST FOR
[ ] ORDINANCE [X] RESOLUTION

RECEIVED
2008 AUG -4 AM 8:37

Request #: 11944
Ord./Res. #: 37578

1. DATE: August 1, 2008

2. SPONSORED BY: COUNCIL MEMBER(S) N/A

CITY CLERK'S OFFICE

Table with 3 columns: Requesting info, Contact info, and Signatures. Includes fields for department, contact name, phone numbers, and signatures of Department Director, Budget Officer, and City Manager.

5. REQUESTED EFFECTIVE DATE: August 26, 2008

(If a specific council meeting date is required, explain why; i.e., grant application deadline, contract expiration date, required contract execution date, public notice or hearing required, etc.)

6. SUMMARY AGENDA TITLE: (A concise sentence, as it will appear on the Council agenda.)

Authorizing execution of an interlocal agreement between the City of Tacoma and the Town of Ruston for a paving, streetlighting and utilities project.

7. BACKGROUND INFORMATION/GENERAL DISCUSSION: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

On April 1, 2008 City Council approved a resolution declaring its intent to enter into an interlocal agreement with the Town of Ruston for the administration of a Local Improvement District to construct infrastructure improvements that would serve the Pt. Ruston multi-family, mixed use development project, located in both jurisdictions.

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:
Source Documents/Backup Material Location of Document

9. FINANCIAL IMPACT: A. [X] NO IMPACT (NO FISCAL NOTE)
B. [ ] YES, OVER \$100,000, Fiscal Note Attached
C. [ ] YES, UNDER \$100,000, (NO FISCAL NOTE) Provide funding source information below:

FUNDING SOURCE: (Enter amount of funding from each source)

Fund Number & Name: State \$ City \$ Other \$ Total Amount

If an expenditure, is it budgeted? [ ] Yes [ ] No Where? Cost Center:

Acct #:

**INTERLOCAL AND CONDITIONAL TRANSFER AGREEMENT**

This agreement entered into by and between the City of Alma, a Michigan municipal corporation, of 525 E. Superior Street, Alma, Michigan 48801, (hereinafter referred to as “Alma”); the City of St. Louis, a Michigan municipal corporation, whose address is 108 West Saginaw Street, St. Louis, Michigan, 48880 (hereinafter referred to as “St. Louis”) (Alma and St. Louis shall also be referred to as the “Transferee Municipality”, “City” and “Cities”); and the Township of Pine River, a Michigan general law township with offices at 1495 W. Monroe Road, St. Louis, 48880 Michigan hereinafter referred to as “Pine River”.

**WITNESSETH:**

**WHEREAS**, the parties to this agreement are local units as that term is defined by Public Act 425 of 1984, as amended, that being MCL 124.21 et seq (“Act 425”), and

**WHEREAS**, Alma and St. Louis are each organized under the Home Rule Cities Act being Public Act 279 of 1909, as amended, MCL 117.1 et seq, and

**WHEREAS**, Pine River is a general law township organized and existing under Chapter 16 Revised Statutes of 1846 being MCL 41.1 et seq (the Township Act), and

**WHEREAS**, the parties are local governmental units as that term is defined by the Urban Cooperation Act of 1967, Public Act 7 of 1967, as amended by Public Act 108 of 1995, being MCL 124.501 et seq (“Act 108”), and

**WHEREAS**, areas within Alma, Pine River and St. Louis are proposed for future commercial or industrial development, and

**WHEREAS**, such development will result in increased need for public services including public water and sewer services and the upkeep and maintenance thereof, and

**WHEREAS**, Alma and St. Louis are seeking underground well sources of potable water for

their use, and

**WHEREAS**, it is anticipated that the industrial and commercial development will have substantial needs for both potable and non-potable water, and

**WHEREAS**, the parties anticipate substantially increased demand for housing and retail/commercial development as a direct consequence of such industrial and commercial development, and

**WHEREAS**, the parties recognize the additional potential benefits to be realized by each of them from increased ad valorem tax revenues or specific taxes levied in lieu of general ad valorem taxes, upon both real and personal property, and

**WHEREAS**, the parties recognize that the additional public services, facilities and infrastructure required for such development can and should be planned, constructed, operated, maintained and repaired most effectively and most cost efficiently through the combined efforts and cooperation of the parties, and

**WHEREAS**, Alma and St. Louis currently own and operate public water supply systems, and;

**WHEREAS**, Pine River desires that Alma and St. Louis provide water and waste water service to customers in Pine River pursuant to the terms and conditions of this Agreement, and;

**WHEREAS**, Alma and St. Louis are willing and capable to provide such water and waste water service to customers within Pine River pursuant to the terms and conditions of this Agreement, and;

**WHEREAS**, Alma, Pine River and St. Louis have a mutual desire to build a water and waste water system consistent with their present land use plans, in regard to development density, to better manage and control long term infrastructure costs to all parties, and;

**WHEREAS**, Alma and Pine River have previously entered into waste water service agreements on February 2, 1976, August 12, 1997 and April 30, 2003; and St. Louis and Pine River have previously entered into waste water and water service agreements on May 10, 1977, and amended on June 14, 1977, January 8, 1980, and January 8, 1997 (limited to wastewater) and October 19, 2005; , and all parties now recognize the need to alter those agreements by expanding the Pine River waste water and water service areas, and enacting new Pine River water and waste water service areas, and, to the extent appropriate, incorporating the original agreements, and any amendments, into one agreement, and;

**WHEREAS**, pursuant to 1984 PA 425, and 1967 PA 7, as amended and 1995 PA 108, the City Council of Alma held a public hearing on December 22, 2006 at 7:35 a.m. and the City Council of St. Louis held a public hearing on December 19, 2006 at 7:30 a.m. and Pine River Township held a public hearing on December 20, 2006 at 7:30 p.m. regarding this Agreement, notice of which was given in the manner required by law, and;

**WHEREAS**, the Alma City Council and St. Louis City Council and Pine River Township have each decided, by majority vote of the members duly elected and serving on each respective body, to enter into this Agreement and have authorized their respective representatives to execute this Agreement on their behalf.

**NOW, THEREFORE**, it is hereby agreed as follows:

**ARTICLE I. INTERLOCAL AGREEMENT:  
POTABLE AND WASTE WATER SYSTEMS**

**1. Service Area**

The prior waste water agreements dated February 2, 1976, August 12, 1997 and April 30, 2003 between Alma and Pine River and wastewater agreements dated May 10, 1977, as subsequently amended, and October 19, 2005 between St. Louis and Pine River are incorporated by reference into this Agreement. If any provision in these prior agreements is inconsistent with the provisions of this Agreement, this Agreement shall control.

The parties have established service areas within Pine River's boundaries to which Alma or St. Louis will provide potable water and from which they will accept and treat waste water, pursuant to the terms of this Agreement. The Alma/Pine River service area is described in the map attached hereto as Exhibit A ("Alma Service Area") and the St. Louis/Pine River service area is described in the map attached as Exhibit B ("St. Louis Service Area.").

**2. Request for Service**

A property owner within a service area described in Article 1 of this Agreement (hereafter "Applicant") may request to be provided potable water, wastewater treatment, or both. Such request shall be made in writing addressed to either Alma in the case of the Alma Service Area or St. Louis in the case of the St. Louis Service Area at the address provided in this Agreement, with a copy to Pine River at the address provided in this Agreement. Either Alma or St. Louis shall provide the requested service, to Pine River's water and or waste water treatment system subject to the terms of this Agreement, at such time as Pine River certifies that it has extended or constructed the necessary

water and or sewer mains to the Applicant's property line. The Applicant shall pay Alma or St. Louis the prevailing tap in fee or other customary fees required for new water or sewer connections required by City residents, including for example, the curb box, yoke and meter, prior to making a new connection. The payment of this fee shall not satisfy, waive or diminish any fees, costs, assessments or other charges required to be paid by the applicant, affected property owner or other person or entity responsible to satisfy same as charged or assessed by Pine River in connection with its extension, construction or operation of the necessary water and or sewer mains. All such connections shall be inspected and approved by Alma or St. Louis prior to completion of the connection(s).

**3. Construction, Maintenance, and Ownership of Infrastructure within Service Area**

Pine River shall, at its sole cost and expense, construct all sewer and water mains, meters, lift stations, water towers and other facilities ("infrastructure") necessary to fulfill the terms of this Agreement within the Alma Service Area or St. Louis Service area, as the case may be. Such infrastructure shall be constructed to Alma or St. Louis's specifications. Pine River's water and waste water systems shall connect to Alma or St. Louis at points mutually agreeable to both Pine River and Alma or St. Louis with meters being installed at each point of connection to either Alma or St. Louis' existing system. Except as otherwise provided below in this section, upon completion, such Service Area infrastructure shall remain the property of the Township. Alma or St. Louis shall be responsible for the operation and maintenance of the facilities necessary for the proper, efficient and lawful operation of such facilities on the same basis, with the same regularity, and with the same quality as it maintains the infrastructure it currently owns. Alma or St. Louis shall be solely responsible for the repair, maintenance and replacement of water mains and related

infrastructure; provided, however, that the cost of replacing 24 or more continuous linear feet of water mains within Pine River shall be reimbursed to Alma or St. Louis by Pine River. Alma and St. Louis shall invoice Pine River for these replacement costs, which shall include a detail of time and material charges. Repair, replacement, and maintenance of wastewater infrastructure shall be governed by the parties' earlier agreements.

Alma or St. Louis may require Pine River to oversize or cause the over-sizing of the Pine River water and waste water lines within the applicable Service Area to permit the future use of such distribution lines for the extension of water or waste water services to persons outside Pine River, provided the City making the request pays the incremental cost of such over-sizing. The oversized infrastructure, and the capital recovery fee proceeds, shall be owned by Pine River and the applicable City, in proportion to their respective investment in the infrastructure.

Should Alma or St. Louis elect to construct water or sewer infrastructure along its boundary with the applicable Service Area it shall provide written notice of its intention to Pine River. Said notice will include the cost of the proposed infrastructure. Pine River may elect to bear one half of the cost of such infrastructure by advising the notifying City of Pine River's intent to do so, in writing, within 180 days after its receipt of the City's notification. Should Pine River fail to timely respond, and/or elect not to participate in the cost, the notifying City requesting the infrastructure may proceed with construction of the infrastructure at its own expense. The cost of construction shall be charged to connecting property owners as a capital recovery fee and shall be prorated upon a front foot basis or other method of capital cost allocation. The capital recovery fee shall be shared equally by the City requesting the infrastructure and Pine River if it has elected to bear one half of the infrastructure cost. In the absence of participation by Pine River, the requesting City shall be entitled to retain the entire capital recovery fee. At such time as the entire cost related to

construction of the new infrastructure, including financing costs, has been reimbursed by such fees, no further capital recovery fees shall be charged to applicants with respect to such infrastructure. However, the City may charge all other fees which it customarily charges to new water or waste water customers of the City.

#### **4. Rates and Charges**

Property owners within the service area connecting to Alma or St. Louis's potable and/or waste water systems shall pay commodity, ready to serve, and similar sewer rates in accordance with the parties' earlier agreements, and water rates equal to 1.25 times the rates established for the City's residents, using the same rate schedule as provided to other similar properties within the City. Alma and St. Louis shall read all water meters and bill all customers within their respective service areas with Pine River in accordance with that City's Code of Ordinances and water and waste water systems rules and regulations and procedures. Alma or St. Louis shall make available to Pine River, upon request, all records and other documents used to establish rates. With respect to bills, customers within the service area shall be subject to the same requirements and have the same accommodations as the servicing City's customers regarding time limits for payment, discounts, penalties, the resolution of disputes, disagreements or other complaints, the testing of meters for accuracy, and all other related matters. However, Alma and St. Louis may bill Pine River for any service area customer who is more than 180 days delinquent and Pine River shall promptly pay the entire delinquent amount with such penalties and interest as are charged to other customers of the City; provided, however, that the City shall have provided Pine River written notice of such nonpayment when such delinquency reaches 90 days. Upon any such payment to Alma or St. Louis by Pine River, the City shall assign all its rights to collect for the services rendered to Pine River and cooperate as necessary with Pine River's efforts to recover same from the responsible party or

parties.

If requested by Pine River, Alma and St. Louis shall add additional charges to Pine River bills which relate to bills for water and sewer service. Said request must be in the form of a resolution adopted by the Pine River Township Board. The amount collected, together with an appropriate accounting, shall be remitted by the City to Pine River within thirty (30) days of the end of each calendar quarter. With respect to the St. Louis Service Area, Pine River shall continue the current practice of billing those customers who are within the Service Area, until Pine River and St. Louis enter into an agreement which provides for billing by St. Louis.

#### **5. Maximum Water Usage**

Alma will each furnish no more than 225,000 gallons of potable water per day to the Pine River water service area. St. Louis will furnish no more than 110,000 gallons of potable water per day to the Pine River water service area. This maximum allocation shall not include water that is required for fire suppression or other emergency uses. Notwithstanding the maximum gallons specified by this provision, Pine River shall be entitled to 5% of any future increase in Alma's water treatment capacity. The cost of future expansion of or improvement to Alma's and St. Louis' treatment facilities shall be paid from revenues received for water rates, including commodity and ready to serve charges, unless the cost of improvements cannot be amortized upon terms satisfactory to Alma or St. Louis by such method; in which event Alma or St. Louis may finance such improvements using other recognized and lawful methods.

If the average daily water usage, calculated monthly, exceeds the maximum allocation, there shall be no new connections to the City where the maximum allocation has been reached until that City and Pine River have mutually determined whether the additional maximum daily water allocation can be increased, and have agreed upon the terms and conditions for said increase.

## **6. Delivery of Water**

The water delivered to Pine River customers shall meet all applicable standards of the Michigan Department of Public Health, the Department of Environmental Quality, or any successor regulatory agency and shall be delivered with adequate pressure and sufficient quantities to meet substantial demand, provided, however, Alma and St. Louis do not guarantee uninterrupted service and are not responsible for a temporary water loss during an emergency.

In cases involving maintenance, testing, repair, replacement or installation, Alma or St. Louis will provide twenty-four (24) hours notice to Pine River of the disruption in service.

In the event Alma or St. Louis is unable, as a result of an emergency, to provide water or waste water service to Pine River customers in the quantity and/or capacity required, the quantity and/or capacity which the City can provide shall be allocated insofar as practical during such periods to Pine River customers and all customers of the City's system in equitable proportions so that all customers are subject to similar restrictions on water and waste water services.

Pine River shall not permit water supplied by either Alma or St. Louis to be mixed or mingled with water from any other source unless approved by Alma or St. Louis. Alma, St. Louis and Pine River shall guard against all forms of contamination of water supplied by both Alma and St. Louis. Each party shall immediately notify other parties to this Agreement of any water contamination of which it becomes aware, and each party, to the extent the abatement of such contamination is within their control, agrees to take or assist in all reasonable steps to correct the contamination.

## **7. Future Wells**

Alma and/or St. Louis may drill one or more wells within Pine River's boundaries and jurisdiction for the purpose of producing potable water. Alma or St. Louis shall be solely

responsible for all expenses associated with exploration, location, analysis, drilling, and construction of such wells. Alma or St. Louis shall also be solely responsible for the entire cost of construction of such water mains and pipes necessary to connect such wells to its water treatment system. Alma or St. Louis shall be solely responsible for the cost of acquiring any property interests necessary; provided, however, that to the extent that any right of way is required from Pine River itself, it shall grant such right of way without consideration. In the event of such use of right-of-way by Alma or St. Louis, the City using the right-of-way shall restore the right-of-way including all facilities, pavement and soil located thereon in as good condition as before such use.

## **8. Ordinances**

Alma and St. Louis have adopted ordinances governing the use of, and connection to, their wastewater and potable water systems. Such ordinances also prohibit cross connections. Pine River shall adopt ordinances incorporating the provisions of the Alma and St. Louis ordinances, such that enforcement of all ordinances shall be uniform. Pine River shall also adopt water and sewer policies and ordinances incorporating the provisions of Alma's and St. Louis' water and waste water policies. All parties shall review and amend such ordinances and policies as may be required from time to time in order to assure uniformity. Pine River agrees to enforce such ordinances within the jurisdictional limits of the Township.

## **9. Water Treatment**

The parties recognize that decisions regarding water treatment (such as fluoridation) may be decided by the electorate of Alma and St. Louis. In such event, Pine River agrees to accept and be bound by such decisions.

## **10. Sewage Treatment Volume**

Nothing contained herein shall be deemed to modify in any way the parties' existing

agreements regarding the volume of sewage to be treated by Alma's and St. Louis' waste water treatment facilities. Pursuant to such agreements, Alma will accept and treat 175,000 gallons per day from Pine River and St. Louis will accept and treat 84,000 gallons per day from Pine River.

**11. Hydrants**

The Cities shall consult with Pine River with respect to the number and location of fire hydrants in the Township service areas. The Cities shall determine the location of hydrants based upon a generally recognized standard. Pine River shall pay or cause to be paid the cost of acquisition and installation of such hydrants. Hydrants in service areas shall be installed in accordance with Alma or St. Louis's specification. For all hydrants now and hereafter located in one of the Pine River service areas, the Township shall pay either Alma or St. Louis an annual charge per hydrant equal to that City's hydrant rental fee. Such hydrants may only be used for fire protection unless prior written permission for a different use is obtained from Alma or St. Louis.

Pine River agrees to reimburse Alma or St. Louis for all reasonable costs associated with the installation of fire hydrants in service areas, when work is performed by Alma or St. Louis, on a time and materials basis. Replacement of hydrants located in the service areas that are damaged shall also be on a time and materials basis. Alma and St. Louis shall invoice the Township for these costs which shall include a detail of the time and materials charges.

## **ARTICLE II. CONDITIONAL TRANSFER**

### **1. Factors Considered**

Prior to the execution of this Agreement the parties have considered numerous factors including but not limited to the following:

- a. Density and composition of population;
- b. Land area and uses;
- c. Topography and natural boundaries;
- d. Assessed valuation;
- e. Drainage and soil erosion;
- f. Both proposed and possible future commercial and industrial development and growth;
- g. Residential development and growth;
- h. The ability to provide essential governmental services; and the practical effect of transferring property from one party to another including the impact on taxes and tax rates.

### **2. Annexation and Detachment**

The parties recognize that discussions of annexation or detachment of property from one party to another can result in division, discord, and expense to all parties. The parties further recognize that proposed and future industrial and commercial development will spur growth and enhance the tax base of all the parties. The parties further recognize and acknowledge that it is in their respective interests to establish certain boundaries within which the future transfer of real property can occur without dispute.

### **3. Establishment and Delineation of Urban Growth Area**

The parties hereby establish separate urban growth areas for Alma and St. Louis within which the transfer of real property from Pine River may occur, which are depicted in the maps attached hereto as Exhibit C and Exhibit D. (Hereafter “Growth Area”).

#### **4. Transfer of Property**

Until transferred, jurisdiction over the property within the Growth Area shall remain with Pine River.

Property within the growth area shall be transferred to the Transferee Municipality:

a. Upon the request of a property owner, of property sharing a boundary with the Transferee Municipality, provided however, such transfer shall only occur upon the approval of Alma City Commission or St. Louis’s City Council;

b. or, Upon the request of a property owner of property, sharing a boundary with the Transferee Municipality, to be provided with sewer or water service, subject to the provisions of Article I Section 2., above, provided however, that such transfer and the provision of such services shall only occur upon the approval of Alma City Commission or St. Louis’s City Council and after appropriate infrastructure is in place to facilitate such service.

The Transferee Municipality shall have the right to deny transfer and provide services if subsequent to the execution of this Agreement, Pine River has taken action which affects or limits the Transferee Municipality’s right to tax or assess the property, or to develop the subject property in a manner which is inconsistent with the cooperative planning as provided under Article III of this Agreement.

Upon such transfer, full jurisdiction of the property shall transfer to the Transferee Municipality, together with all rights-of-way adjoining the property and each shall become subject to the jurisdiction of such City for all purposes. In such event transfer will be evidenced by the filing

of a resolution of the legislative body of the Transferee Municipality certifying that it has accepted the property under the terms of this Agreement, which resolution shall legally describe the property transferred.

A property's connection to waste water and potable water systems shall be required, at the property owner's expense, when sewer and water lines are extended to the property line. However, properties already receiving sewer as of the date of this Agreement are not required to transfer into Alma or St. Louis until they also request to receive water service and share a boundary with the City.

**5. Governmental Services**

Upon the transfer of jurisdiction to the Transferee Municipality as provided above, the Transferee Municipality shall provide all municipal facilities and services existing at the time of transfer afforded to property owners within the city to which the transfer is made.

**6. Ordinance Enforcement**

Upon transfer each such property shall be subject to the enforcement of all ordinances, codes, rules and regulations in effect or subsequently enacted by the city to which it is transferred. Pine River shall grant such rights-of-way, franchises, and other permission which the Cities determined to be necessary to provide the services and facilities within the Growth Areas.

**7. Zoning**

Upon transfer subject to the provisions set forth above each parcel shall be subject to the Transferee Municipality's zoning ordinances as then in effect or as subsequently amended or enacted.

**8. Taxation**

Upon transfer as provided above, the transferred property shall be deemed to be within the Transferee Municipality's corporate limits and jurisdictions, subject to Article II, section 15, for all

purposes of taxation, including but not limited to ad valorem real and personal property taxes, specific taxes, payments in lieu of taxes, tax abatements, and tax increment financing, as provided by law.

**9. Special Assessment**

Property transferred pursuant to this Agreement shall be subject to the Transferee Municipality's jurisdiction for all purposes of special assessments. However, special assessments which affect the Property transferred at the time of transfer shall continue to be paid to Pine River, unless the parties otherwise agree.

**10. Charges for Governmental Services**

Property transferred pursuant to this Agreement shall be subject to the same charges at the same rates for governmental services as provided to other properties within the jurisdiction of the Transferee Municipality.

**11. Income Taxes**

For the purpose of levying and collecting any city, personal and corporate income taxes, if any, the property transferred pursuant to this Agreement shall be considered as being within the corporate limits and jurisdiction of the Transferee Municipality and the definitions of "resident" and "non-resident" set forth in the city income tax act, Act 284 of the Public Acts of 1964 as amended. MCL 141.501 et seq, shall apply to such parcels.

**12. Lien**

All liens provided by City Ordinance's or State Law pertaining to the provision of services and the enforcement of special assessments and ad valorem real and personal property taxes shall have the same force and affect with respect to property transferred pursuant to this Agreement as to other property within the corporate limits of the Transferee Municipality.

**13. Voting**

Any persons residing upon property transferred pursuant to this Agreement shall be deemed to be an elector of the Transferee Municipality and shall be entitled to vote in all of that municipality's elections.

**14. Limitation on Annexation**

Pursuant to Section 9 of Act 425, during the term of this Agreement no other annexation or transfer shall take place within the growth areas except as provided under this Agreement.

**15. Taxes and other revenues**

During the term of this Agreement, after a parcel of property which is located within the growth area is transferred to the Transferee Municipality, ad valorem taxes on real and personal property and payments in lieu of property taxes and any other taxes or revenues from the parcels transferred pursuant to this Agreement shall be shared as follows:

- a. The Transferee Municipality shall levy ad valorem real and personal property taxes on all real and personal property and payments in lieu of property taxes, and any other taxes or revenues from the transferred areas, in accordance with statutes and ordinances so providing, including the power to levy special assessments. During the term of this Agreement, by March 31st of each year the Transferee Municipality

shall remit to Pine River a total sum equivalent to the number of mills which were assessed by Pine River at the time of transfer, (one (1) mill equals \$1 per \$1000 of taxable value) (hereafter the “Pine River Millage Rate”) multiplied by the total taxable value of real and personal property within the transferred areas. The applicable millage amount attributable to personal property taxes shall be paid to Pine River within 30 days from the time said taxes are collected. Pine River’s right to receive the above tax payment is subject, however, to the following:

(1.) A proportional reduction as may be required in the event of a tax roll back pursuant to the Headlee Amendment.

(2.) In the event that a taxpayer should successfully challenge the payment of any such ad valorem tax, then Pine River, upon notice from the Transferee Municipality, shall repay it’s pro rata share of any refund amount to the City forthwith. Pine River’s obligation under this subsection shall survive the termination of this Agreement and continue until the conclusion of all pending tax appeals.

(3.) In the event that no revenue is received by the Transferee Municipality from the transferred property (including replacement revenue as provided in subparagraph (b) of this section), Pine River shall receive no payment with respect to such property.

b. If the Transferee Municipality, does not levy the same millage on the transferred property, but it receives equivalent revenue from other sources, such as income taxes, sales, value added, revenue sharing or other sources of municipal revenue, which have the effect of replacing the ad valorem tax revenue from the subject property, then, the Transferee Municipality shall annually or more frequently, within 30 days

of the receipt of such revenues, pay a portion of the replacement revenues to Pine River. The revenue received by Pine River shall be equal in proportion to the Pine River millage rate and the Transferee Municipality's millage rate which existed before the reduction of ad valorem property taxed on the subject property. The Transferee Municipality shall annually or more frequently pay to Pine River, within 30 days of the receipt of the replacement revenues.

- c. Any revenue derived from special assessments shall not be shared; provided, however, that the Transferee Municipality will collect and transmit to Pine River any installments of special assessments which were established by the Township prior to the date of the conditional transfer to the City, as those special assessments become due and payable, However, Pine River's existing or future fire or police protection or similar special assessment, shall not apply to property conditionally transferred pursuant to this Agreement. Pine River shall furnish to the Transferee Municipality all records, levies, and documents of every sort and description necessary to facilitate the collection of the foregoing special assessments by the Transferee Municipality.
- d. Subject to Article II, Section 15a all other revenue derived from the property conditionally transferred or payable on account of residents within the transferred areas, including but not limited to state or federal revenue sharing, lease payments, permits, franchise fees, license fees, inspection fees, income taxes, special assessments, charges for water, sewer or other utility services, capital charges, connection fees and tap in fees, shall be collected by and belong to the Transferee Municipality.

**16. Term**

The term of this Agreement shall commence upon the date of the last signatory to this Agreement and shall be for fifty (50) years. This Agreement may be extended for an additional period of fifty (50) years by mutual agreement of the Cities and Pine River. In the event both Cities do not agree to renewal, the renewal shall only be effective as between the agreeing City and Pine River should the Township also agree to renewal. The renewal shall automatically occur unless a party provides the others with written notice of intent not to renew at least sixty (60) days prior to the expiration of the initial fifty-year term. The second term shall be on the same terms and conditions as stated in this Agreement unless the parties agree otherwise in writing.

**17. Termination – Rescission**

This Agreement may be terminated:

- a. By the expiration of the term of this Agreement;
- b. By mutual written agreement of the parties;
- c. By a referendum of the residents of a local governmental unit that is party to this Agreement pursuant to State law, after approval of the Agreement by the governing body of the local unit of government. If this Agreement is terminated as to only one City it shall remain effective as to the remaining City and Pine River; or
- d. By operation of law should a court of competent jurisdiction order the termination of this Agreement.

**18. Jurisdiction After Termination or Expiration**

Upon expiration or termination of this Agreement property within the growth area which has transferred to Alma or St. Louis, pursuant to this Agreement, shall be deemed to have transferred permanently to the jurisdiction of the Transferee Municipality for all purposes. Any property within the Growth Area, which has not transferred to Alma or St. Louis, shall remain in the jurisdiction of

Pine River.

**19. Modification**

No party to this Agreement may unilaterally terminate this Agreement prior to the expiration of its term. This Agreement may be amended with the prior written approval of all parties. There are no third party beneficiaries to this Agreement and none are intended.

**20. Continuing Responsibilities for Individual Liabilities**

The Transferee Municipalities and Pine River shall each be responsible for such liabilities as may be incurred through their respective provisions of governmental services and other performances of this Agreement and each shall respond to and provide for such liabilities on the same basis as the Transferee Municipalities and Pine River do generally.

### **ARTICLE III. LAND USE PLANNING**

The parties to this Agreement recognize that while each has its own individual characteristics and concerns regarding property use, topography, population, and other matters related to land use planning; nevertheless it is in the interest of both parties to foster a degree of uniformity in the areas of zoning and land use planning. Therefore the parties agree as follows:

1. Each of the parties will designate a member of its staff familiar with each party's planning and zoning ordinances, rules and regulations to serve on a committee regarding land use planning.
2. Such committee shall review all of the parties' ordinances, rules, regulations and requirements regarding zoning and planning.
3. Such committee shall identify areas of commonality and determine the extent to which uniformity can be acknowledged and/or established.
4. Such committee shall identify those areas and/or characteristics peculiar to each party which require separate and specific planning.
5. Such committee shall meet as frequently as it shall deem necessary in order to formulate a recommendation to the legislative bodies of each of the parties.
6. Each of the parties agrees that it will carefully consider any such recommendation. In the event that a party elects to amend its ordinance to reflect all or part of the recommendation made, it shall do so pursuant to statute or ordinance so providing and in addition to the provisions regarding notice contained therein, shall provide actual notice to the other party of the actual text of the proposed amended ordinance, rule or regulation.

### **ARTICLE IV. ENTIRE AGREEMENT**

This agreement constitutes the entire agreement of the parties and may not be modified or amended except by the written agreement of the parties.

#### **ARTICLE V. GOVERNING LAW**

This Agreement shall be construed in accordance with the laws of the State of Michigan. The parties hereby consent to the jurisdiction and venue in the Circuit Court for the County of Gratiot with respect to all complaints, claims, demands, or other issues related to or arising from this Agreement.

#### **ARTICLE VI. NON-ASSIGNMENT**

No party of this agreement shall assign any of its rights, duties or obligations here under without the written consent of all parties.

#### **ARTICLE VII. SEPARABILITY**

In the event that any provision of this Agreement is held to be unenforceable for any reason, such holding shall not affect the viability and enforceability of the remainder of this Agreement.

#### **ARTICLE VIII. FILING**

In accordance with the law so providing this Agreement shall be filed with the Gratiot County Clerk and the Secretary of State Office of the Great Seal upon execution.

#### **ARTICLE IX. BINDING EFFECT**

This Agreement is binding upon the parties hereto their successors and assigns.

#### **ARTICLE X. NOTICES**

Any notice, demand, or communication required, permitted or desired to be given under this Agreement shall be deemed effectively given when personally delivered or mailed by first class or certified mail addressed to the then acting officials follows:

Manager or if no Manager, Clerk

City of Alma  
525 E. Superior Street  
Alma, Michigan 48801

Supervisor  
Pine River Township  
1495 W. Monroe Road  
St. Louis, Michigan 48880

Manager or if no manager, Clerk  
City of St. Louis  
108 West Saginaw Street  
St. Louis, Michigan 48880

The parties may, by written notice, designate any further or different addresses to which subsequent notices, demands, or communications may be given.

IN WITNESS WHEREOF the parties hereto have caused this instrument to be executed on the day and year first above written.

IN THE PRESENCE OF

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

CITY OF ALMA

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

Its: Mayor

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

Its: Clerk

IN THE PRESENCE OF

TOWNSHIP OF PINE RIVER

\_\_\_\_\_

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

Its: Supervisor

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Its: Clerk

\_\_\_\_\_

IN THE PRESENCE OF

CITY OF ST. LOUIS

\_\_\_\_\_

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

Its: Mayor

\_\_\_\_\_

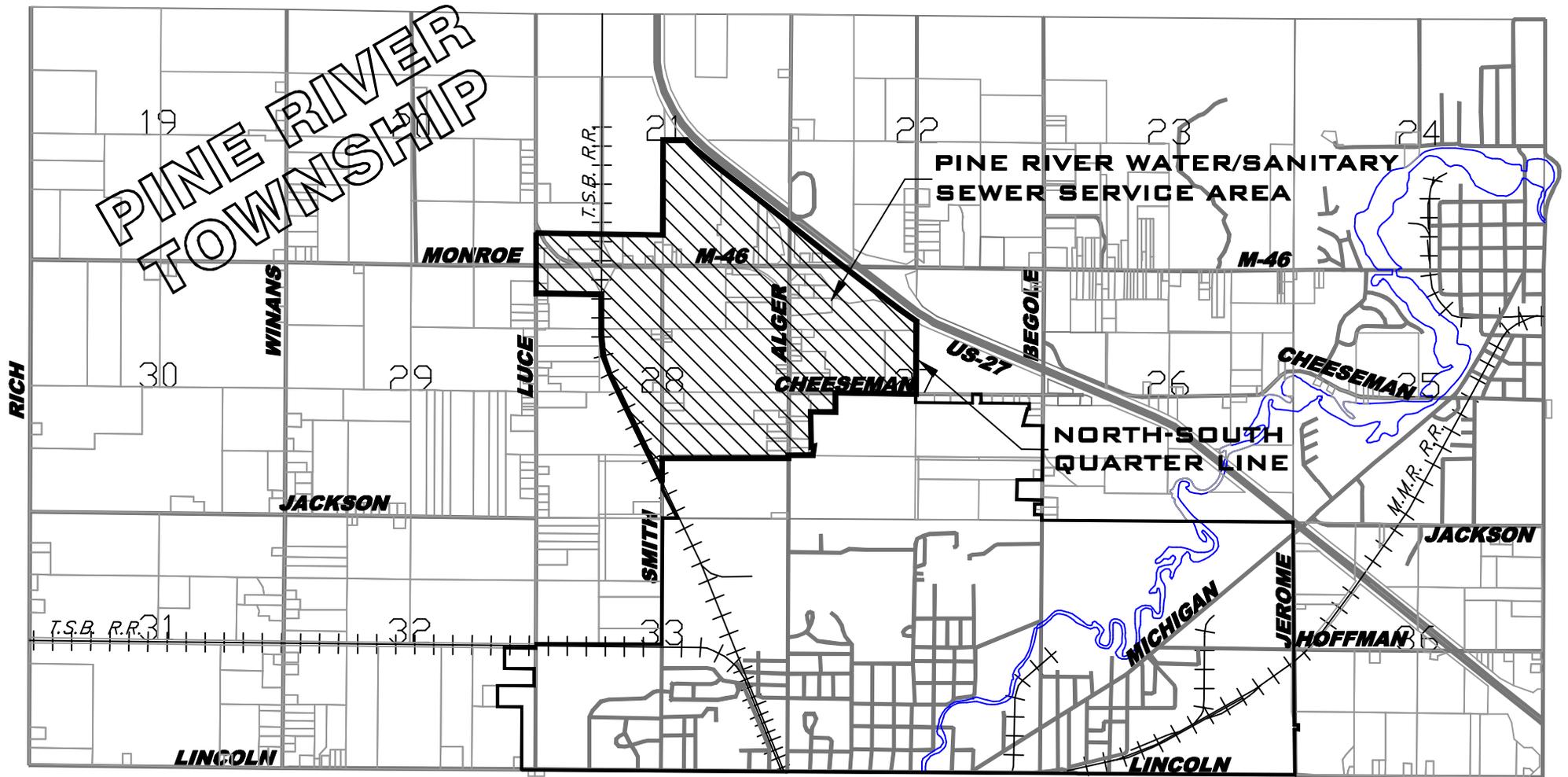
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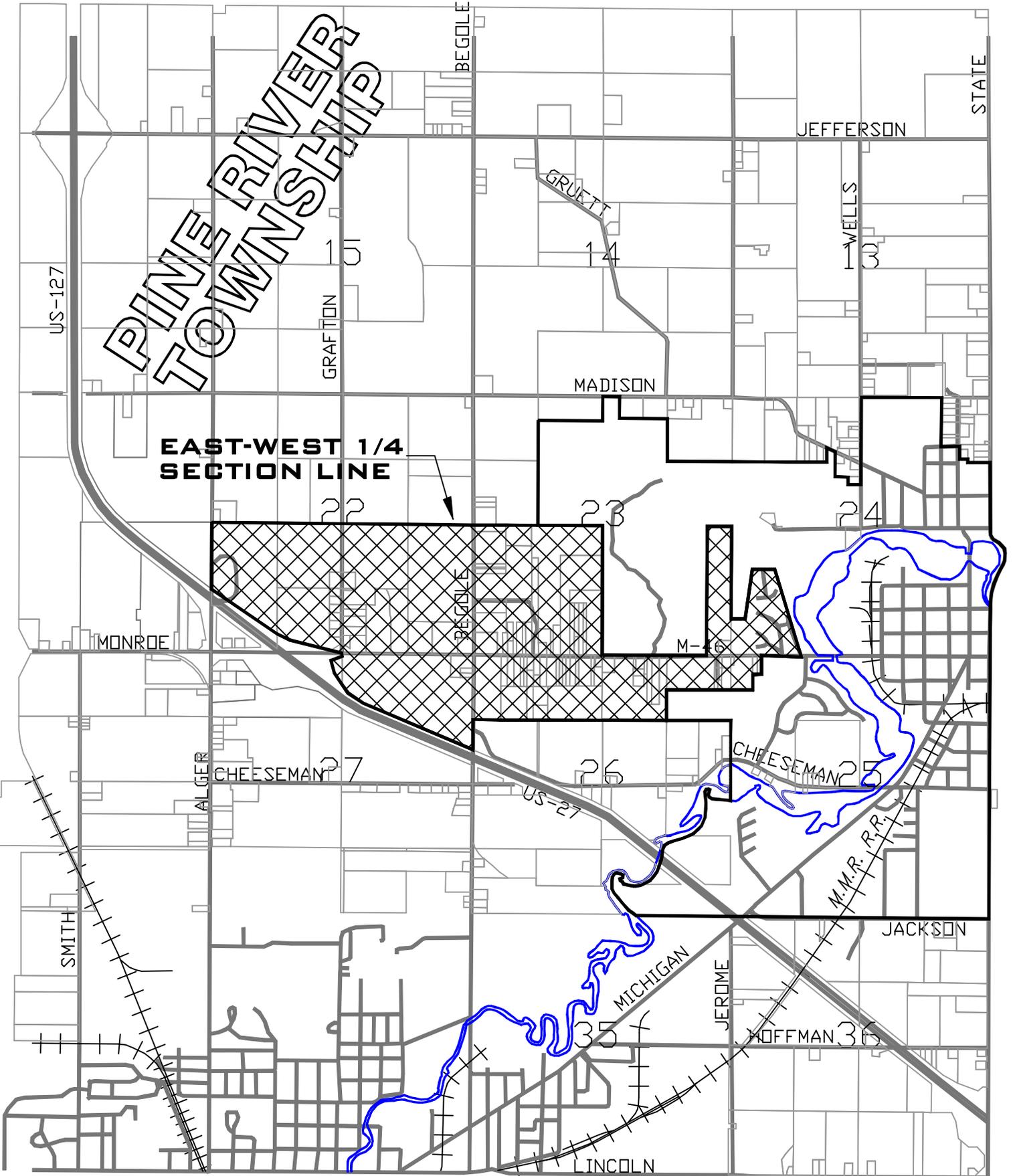
Its: Clerk

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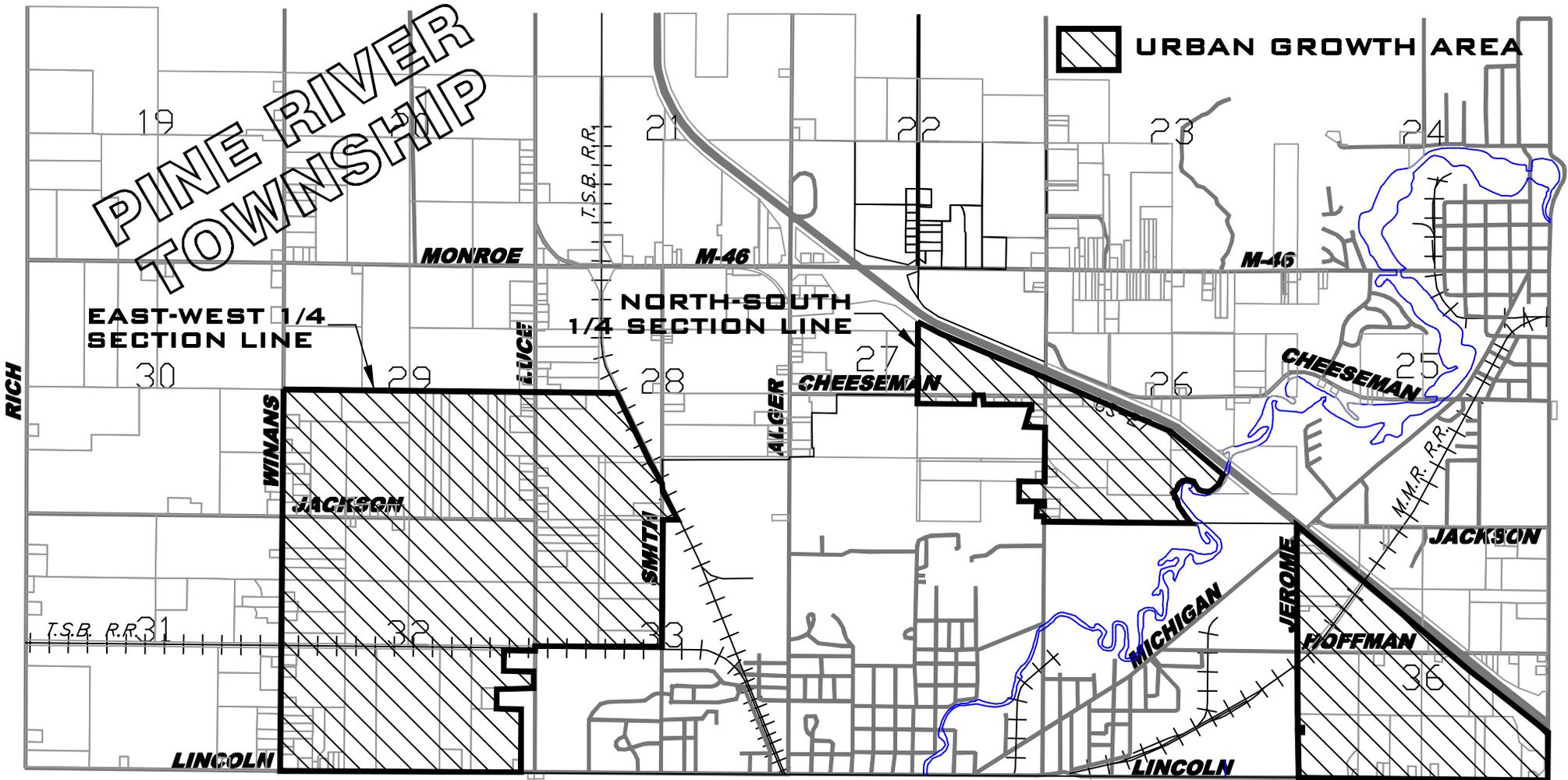
# EXHIBIT "A"



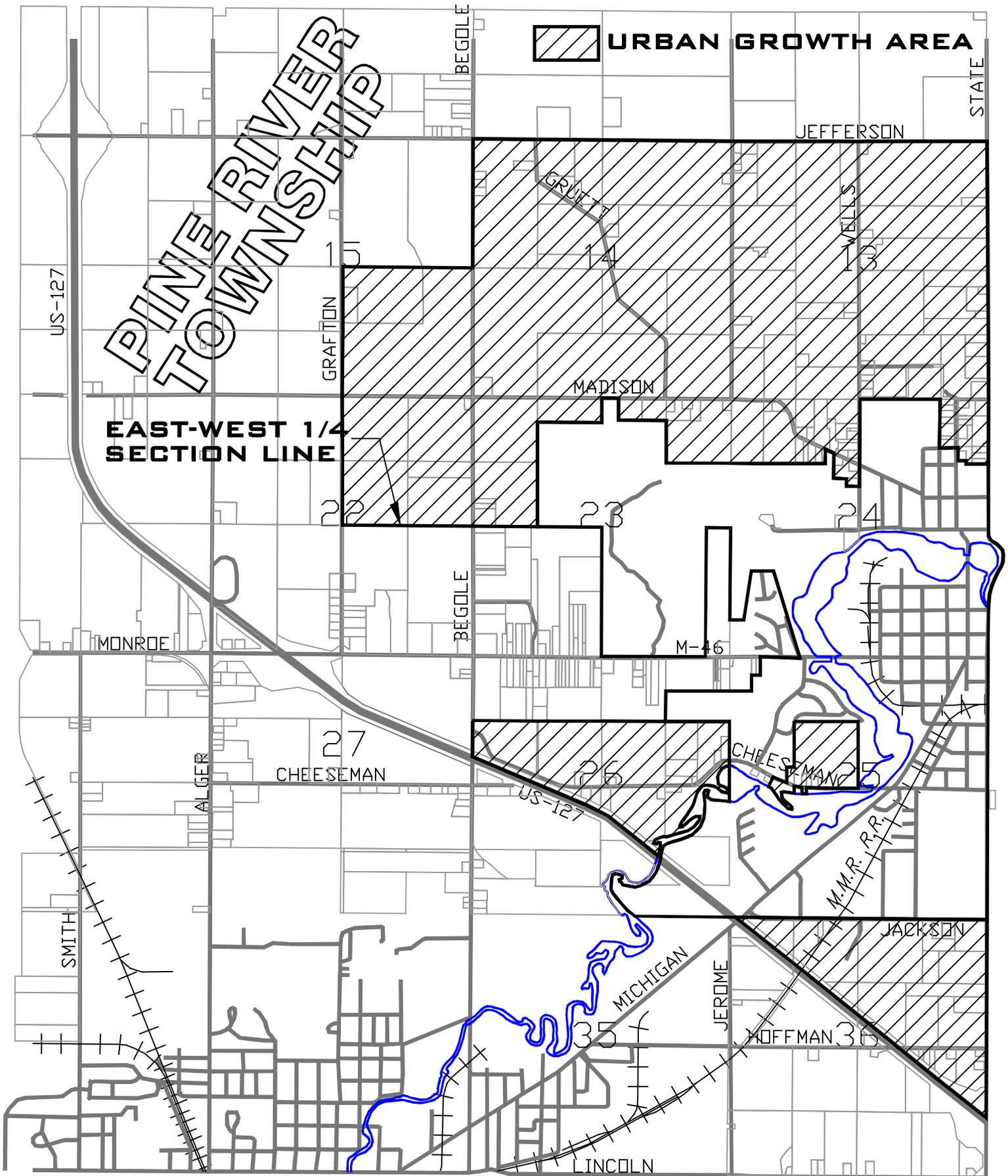
# EXHIBIT "B"



# EXHIBIT "C"



# EXHIBIT "D"



INTERGOVERNMENTAL COOPERATION AGREEMENT "A"

This Intergovernmental Cooperation Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2008 by and between the County of \_\_\_\_\_, with its principal place of business at (address), Pennsylvania hereinafter "County"

A

N

D

(Name of Municipality) of the County of \_\_\_\_\_, with its principal place of business at (address) hereinafter "Municipality." This agreement is entered into by the authority of the Intergovernmental Cooperation Act.

PURPOSE AND OBJECTIVES:

SEDA-COG has partnered with PennDOT Districts 2 and 3 and County Boards of Commissioners within its 11-county region to provide technical and financial assistance to approximately 55 municipalities within this region to convert their existing traffic lights to highly energy efficient LED (light emitting diode) technology. The purpose of this LED Traffic Signal Conversion Project is to reduce the municipalities' annual electricity-related costs associated with its traffic signals. This Intergovernmental Cooperation Agreement describes the roles and responsibilities of the parties for the purposes of purchasing and installing the LED traffic light equipment.

RECITALS:

1. SEDA-Council of Governments, in partnership with PennDOT Districts 2 and 3, has initiated a LED Traffic Signal Conversion Project. Through this project, SEDA-COG and PennDOT are providing technical assistance to counties and their municipalities to bulk purchase and install LED traffic lights at approximately 200 intersections within SEDA-COG's 11-county service area to convert to this energy efficient technology.
2. SEDA-COG has obtained, on behalf of municipalities participating in the LED Traffic Signal Conversion Project, \$200,000 in grant funds through the Appalachian Regional Commission (ARC) and the PA Department of Community and Economic Development (DCED) to allay the

total estimated \$600,000 project capital costs to those municipalities that formally enter into a consortium for purposes of purchasing and installing LED lights at intersections that have not yet converted to this technology.

3. In accordance with the conditions of these grants, and upon written notice from "Municipality" that the LED lighting equipment has been properly installed, SEDA-COG will distribute these grant funds to reimburse those municipalities formally participating in the LED Traffic Signal Conversion Project for a portion of the equipment purchase cost. The amount of reimbursement will be based on the total number of intersections converted during the duration of the LED Traffic Signal Conversion Project.
4. PennDOT will provide technical assistance to the municipalities to assist them to identify their LED lighting purchase requirements and will offer educational seminars to municipalities and lighting installation contractors on the proper installation and maintenance of LED traffic lights.

NOW THEREFORE intending to be legally bound the parties agree as follows:

1. **INCORPORATION OF RECITALS:** The Recitals set forth above are hereby incorporated by reference and made a substantive part of this Agreement.
2. **PROCUREMENT:** On behalf of "Municipality," "County" shall act as the procurement agent to purchase from the selected lighting vendor the LED lighting equipment identified by PennDOT and approved by "Municipality" as necessary to upgrade existing traffic signals to LED technology. "Municipality" shall be responsible for the purchase of any ancillary hardware necessary to properly install the LED traffic signal technology.
3. **INSTALLATION:** "Municipality" shall be responsible for all costs associated with the installation of the LED traffic signal technology. "Municipality" shall install the LED traffic signal technology within 90 days upon receipt of the LED equipment.
4. **PARTICIPATION:** "Municipality" has determined that it is in the best interest of "Municipality" to participate in the Project through the purchase of the equipment described in Exhibit "A."
5. **AUTHORIZING RESOLUTION:** "Municipality" shall, prior to execution of this Agreement, adopt a Resolution indicating its intent to participate in the LED Traffic Signal Conversion Project and comply with the procedures thereof.
6. **FINANCES:** "Municipality" shall be responsible for its own costs and expenses incurred in participating in the LED Traffic Signal Conversion Project. "Municipality" agrees to provide to "County," prior to June \_\_, 2008, payment in full for the purchase of the LED equipment as

described and approved in Exhibit "A," (attached). Non-reimbursed expenses will include a portion of the LED equipment, all necessary ancillary equipment and all installation costs.

7. **COMPLIANCE WITH ALL APPLICABLE LAWS:** Subject to the terms of this Agreement, "Municipality" and "County" warrant to each other that they shall comply with all applicable rules, regulations and laws.
8. **INDEMNIFICATION:** All parties agree, to the extent permitted by law, to indemnify and hold harmless the other party from any liability arising from this Agreement.
9. **GOOD FAITH:** "County" and "Municipality" shall in good faith take all actions as may be necessary, appropriate or desirable to fulfill the purposes of this Agreement.
10. **WRITTEN MODIFICATION ONLY:** This Agreement shall not be modified or amended, except by written instrument duly executed by the parties.
11. **GOVERNING LAW:** This Agreement shall be construed under the laws of the Commonwealth of Pennsylvania.
12. **SEVERABILITY:** If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect the remainder of this Agreement, and this Agreement shall be construed and enforced consistently with the expressed purposes set forth herein as if the invalid or unenforceable provision had not been intended to be included within this Agreement.
13. **BINDING AGREEMENT:** This Agreement shall bind the parties and their respective successors. A Participant may withdraw from the Agreement no less than 30 days prior to the date of the equipment purchase.
14. **PROPERTY:** Any property, equipment, supplies and assets acquired under this Agreement shall, upon receipt, become the property of "Municipality" for their use, maintenance and disposal.
15. **REPORTING:** "Municipality" agrees to provide SEDA-COG with substantiation of operational cost savings as evidenced by a copy of three consecutive months of electric bills prior to the installation of LED technology and three consecutive months of electric bills immediately following LED conversion.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year  
first written.

**Municipality:** \_\_\_\_\_

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Chair

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---

Attest: \_\_\_\_\_

**County:** \_\_\_\_\_

---

Chair

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Attest: \_\_\_\_\_

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF LAKEWOOD AND FOSSIL RIDGE METROPOLITAN DISTRICT No. 1

RELATING TO MAINTENANCE

THIS INTERGOVERNMENTAL AGREEMENT ("**Agreement**") is made and entered into this \_\_\_ day of \_\_\_\_\_, 200\_, by and between Fossil Ridge Metropolitan District No. 1 ("**District**"), a Metropolitan District organized under Title 32 of the Colorado Revised Statutes, whose address is 1805 Shea Center Drive, Suite 100, Highlands Ranch, Colorado 80129, and the City of Lakewood, a municipal corporation of the State of Colorado, whose address is 480 South Allison Parkway, Civic Center South, Lakewood, Colorado 80226, ("**City**") sometimes referred to herein as "**Parties**".

RECITALS:

WHEREAS, the formation of the District was approved by the City Council of the City and on August 28, 2006, an Amended and Restated Service Plan for the District (along with Fossil Ridge Metropolitan District Nos. 2 and 3) was approved by the City Council of the City; and,

WHEREAS, the City also approved a Second Amended and Restated Service Plan for the District (along with Fossil Ridge Metropolitan District Nos. 2 and 3) on August 27, 2007; and,

WHEREAS, the District has been organized to serve the needs of a development located within the City, known as the Solterra Project, which will generally be residential; and,

WHEREAS, the primary purpose of the District is to provide improvements to be operated by the District or to be conveyed to the City or other public entities, and said improvements will generally consist of streets, traffic and safety controls, drainage improvements, open space, park, recreation facilities, water and sewer as needed for the Solterra Project; and,

WHEREAS, the scope and quality of certain improvements for the Solterra Project will be different than those improvements required by the City including, for example, specialized concrete colors and finishes, and enhanced landscaping; and,

WHEREAS, because of the uniqueness of some of the improvements the Parties desire that the District perform some of the maintenance functions normally performed by the City; and,

WHEREAS, both the City and the District are governmental entities and are authorized to enter into Agreements as set forth in C.R.S. 29-1-201, *et. seq.*; and,

WHEREAS, the Parties desire to enter into this Agreement for performing and funding certain maintenance and service functions at the Solterra Project.

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

#### AGREEMENT:

**1. Geographic Area.** This Agreement pertains to the areas and improvements described in section 6 as amended from time to time by mutual consent of the parties (the "**Solterra Project**").

**2. Purpose.** The purpose of this Agreement is to set forth the obligations of and benefits to the Parties in relation to maintenance activities at the Solterra Project. The parties recognize that the public rights-of-way and private property within the District's service area are also within the City. It is not the intent of this Agreement to eliminate City services within the District's service area. This Agreement provides that the District will provide maintenance in addition to routine City maintenance or, in some instances, all maintenance of certain improvements.

**3. Term.** The term of this Agreement shall be one calendar year from January 1, 2008 to December 31, 2008, except that the initial term shall commence upon full execution of the Agreement and shall terminate on December 31 of the year in which the agreement is executed (the "**Initial Term**"). This Agreement shall renew automatically after the Initial Term for successive one year periods unless a Party notifies in writing the other Party prior to November 1 of any year that it does not wish to renew the Agreement for the following year or if funds are not appropriated as set forth in Section 7.p. or if the Agreement is terminated as set forth in Section 7.g.

**4. Funding.** Each party shall be responsible for the costs of the maintenance performed by that Party except as otherwise provided in this Agreement.

**5. City Services.** The City agrees to perform services set forth herein in a manner and frequency consistent with similar services throughout the City. The City's practices throughout the City may be changed at the discretion of the City. Such changes may affect

City services in the District's service area provided such changes affect other areas in the City. In the event that the District fails, in the sole opinion of the City, to adequately perform the services described herein, the City may perform maintenance, and take any other actions, the City deems appropriate to protect the health, safety and welfare of the public. The City may perform such actions at its discretion without triggering the default provision in Section 7.g. This Agreement shall not obligate the City for initial installation of any facilities or materials addressed herein.

**6. Maintenance Responsibilities** This agreement will record the Parties' decisions regarding maintenance responsibilities for certain improvements built in conjunction with the Solterra project. The Parties are the City of Lakewood and the Fossil Ridge Metropolitan District No. 1. The City's maintenance efforts will be comparable to the City's maintenance of other similar improvements throughout Lakewood.

The following features will be maintained, repaired and replaced by the entity identified in each section.

A. Landscaping including mowing, weed control, irrigation including scheduling, water and electric costs, and plant material replacement (see Exhibit A):

1. In rights-of-way and easements along public streets including all median islands:
  - a. Indiana Street north of Evans Avenue as the landscaping is illustrated on the City approved plan titled "Solterra-Indiana Street Corridor Site Plan" - District
  - b. Indiana Street south of Evans Avenue, Iliff Avenue, Vassar Drive, Evans Avenue west of Indiana Street to the point at which single family lots front on Evans, McIntyre Street other than property west of the curb of the southbound lanes, and Yale Avenue north of the northern curb – District
  - c. Yale Avenue median – 50% District and 50% by the property owners south of Yale
  - d. Alameda Parkway – City
  - e. All other streets – Responsibility is determined by City ordinance as amended from time to time. At the time of the execution of this agreement, City ordinance obligates the adjacent private property owner.
2. Along private streets (i.e., streets not in City rights-of-way) – Pursuant to note 12 on the plat of Solterra Subdivision Filing No. 1 private street maintenance is the responsibility of the applicable homeowners' association.
3. West Corridor, Central Corridor, and East Buffer – District until the later of (a) fee ownership of the land is accepted by the City or (b) for three years following issuance by the City of a Certificate of Acceptance as described in the

Development Agreement for Springfield Green Official Development Plan Modification No. 1 (Alternative) dated September 11, 2006. At the time both (a) and (b), above, have occurred, the responsibility will be the City's.

4. Forsberg Iron Spring Park (excluding the dog park areas) – District for two years following issuance by the City of a Certificate of Acceptance as described in the Development Agreement for Springfield Green Official Development Plan Modification No. 1 (Alternative) dated September 11, 2006. At the conclusion of the two-year initial maintenance by the District, the responsibility will transfer to the City. Maintenance by either entity of the Forsberg Iron Spring Park includes graffiti removal and trash removal.
5. Dog park – The City will be responsible immediately following issuance by the City of a Certificate of Acceptance as described in the Development Agreement for Springfield Green Official Development Plan Modification No. 1 (Alternative) dated September 11, 2006.
6. Open space connections from the West Corridor, Central Corridor, East Buffer and Forsberg Iron Spring Park to a nearby street or other open space - District
7. Open space corridors not listed above – District
8. Stormwater detention and water quality areas – District

**B. Street paving, curbs, gutters and concrete island edging:**

1. Private streets – Pursuant to note 12 on the plat of Solterra Subdivision Filing No. 1 private street maintenance is the responsibility of the applicable homeowners' association.
2. Public streets except for concrete cross walks – City
3. Concrete cross walks on public streets - District

**C. Sidewalk and trail pavement:**

1. Sidewalks along public streets – City with one exception. The exception is the sidewalk in and within ten feet of all portal structures such as the one planned for the east side of Indiana Street near Evans Avenue. The District will maintain the walk in and within ten feet of the portal(s).
2. Sidewalks along private streets – Pursuant to note 12 on the plat of Solterra

Subdivision Filing No. 1 private street maintenance is the responsibility of the applicable homeowners' association.

3. Central Corridor trail – City
4. West Corridor trail – City
5. East buffer trail and Forsberg Iron Spring Park trails – City
6. Open space connections from the West Corridor, Central Corridor, East Buffer and Forsberg Iron Spring Park to a nearby street or other open space - District
7. Trail or sidewalk connections not listed above – District

D. Stormwater Detention Structures

1. Facility located east of Indiana between Iliff and Yale - City
2. Facility located north of Vassar in the Central Corridor – City
3. Facility(ies) located south of Vassar and west of Indiana in the Central Corridor – District
4. Facility(ies) located west of the Central Corridor – homeowners' association if receiving flows from only multi-family residential land uses, otherwise the District

E. Snow Removal:

1. Public street pavement – City
2. Private street pavement and adjacent sidewalks – Pursuant to note 12 on the plat of Solterra Subdivision Filing No. 1 private street maintenance is the responsibility of the applicable homeowners' association.
3. Snow removal from sidewalks located along public streets will be performed pursuant to City ordinance and policy as amended from time to time. At the time of the execution of this Agreement, the adjacent property owner is responsible by ordinance to remove snow and ice from sidewalks. By policy and dependent on funding, the City currently removes snow from public sidewalks along arterial streets (Alameda, McIntyre, Yale.) The District will perform snow removal from sidewalks along collector streets (Indiana, Vassar, Iliff.)

4. West Corridor, Central Corridor and East Buffer – District until the later of (a) fee ownership of the land is accepted by the City or (b) for three years following issuance by the City of a Certificate of Acceptance as described in the Development Agreement for Springfield Green Official Development Plan Modification No. 1 (Alternative) dated September 11, 2006. At the time both (a) and (b), above, have occurred, the responsibility will be the City's.
5. Forsberg Iron Spring Park trails – District until the later of (a) fee ownership of the land is accepted by the City or (b) for two years following issuance by the City of a Certificate of Acceptance as described in the Development Agreement for Springfield Green Official Development Plan Modification No. 1 (Alternative) dated September 11, 2006. At the time both (a) and (b), above, have occurred, the responsibility will be the City's.
6. Open space connections from the West Corridor, Central Corridor, East Buffer and Forsberg Iron Spring Park to a nearby street or other open space - District
7. All other open space trails - District

F. Sign Posts and Frames

1. Posts and signs for regulatory and informational signage associated with public streets that are standard posts and signs used throughout the City - City
2. All other posts and signs and all sign frames – District
  - a. The City shall immediately replace signs that include red information and are reported to the City as damaged. Said replacement sign shall be a City standard post and/or sign. Said City standard replacement sign and post shall be replaced with non-City standard sign and post by the District within 72 hours of receiving notification from the City. The District shall return to the City the City standard sign and post.
  - b. The District shall replace all non-City standard signs and posts that do not include red information. Such replacement shall occur within 72 hours of the District receiving a report of the damaged sign or post.
  - c. All signs shall conform to the Manual on Uniform Traffic Control Devices.

G. Street Lights

1. Arterial, collector and non-residential local streets – City with confirmation from Public Service Company of Colorado that it will maintain the lights pursuant to the City's franchise. District for all lights not maintained pursuant to the franchise. If the District maintains street lighting, the City shall annually pay to the District the amount the City would have spent to maintain the street lights.
2. Residential local streets – lighting will be provided and maintained by adjacent property owners using curb, yard or driveway lights pursuant to the Development Agreement for Springfield Green Official Development Plan Modification No. 1 (Alternative) dated September 11, 2006.

H. Rock Culvert Facing – A concrete box culvert provides a grade separated crossing under Indiana Street for the trail from Forsberg Iron Spring Park to the Central Corridor. The culvert has rock facing on the headwalls and wing walls. The District shall maintain the rock facing. The City shall maintain the concrete box culvert.

**7. Miscellaneous.**

a. Notices. Any notice, request, assignment, payment, consent, approval, demand or other communication required or permitted hereby shall be in writing and shall be deemed to have been given when personally delivered or when deposited in the United States Postal Service, certified or registered, return receipt requested, postage prepaid, properly addressed to the persons to whom such notice is intended to be given at their respective addresses as follows:

If to the City:

Attention: City Manager  
City of Lakewood  
480 South Allison Parkway  
Lakewood, CO 80226-3126

If to the District:

Attn: President  
Fossil Ridge Metropolitan District No. 1  
c/o White, Bear & Ankele Professional Corporation  
1805 Shea Center Drive, Suite 100  
Highlands Ranch, CO 80129

With a Copy to:

Attn: Kristen D. Bear, Esq.

White, Bear & Ankele Professional Corporation  
1805 Shea Center Drive, Suite 100  
Highlands Ranch, CO 80129

The address of any person entitled to notice hereunder, including any assignee of this Agreement, may be changed by notice to the parties entitled to notice hereunder of the name and address of the person thereafter entitled to give or receive such notice or direction.

b. Assignment. The City and the District are relying on each other to perform the obligations of this Agreement. Therefore, this Agreement may only be assigned by one Party with the consent of the other Party.

c. Independent Contractor. Nothing in this Agreement shall be construed to constitute or designate the District or the City or any of either Party's officers, directors, employees, agents or subcontractors as agents or employees of the other Party.

d. Governing Law. This Agreement shall be governed by the laws of the State of Colorado.

e. Severability. Should any provision of this Agreement be held invalid, illegal or unenforceable, it shall not affect or impair the validity, legality or enforceability of any other provision of this Agreement. Furthermore, if a material provision of this Agreement is held invalid, illegal or unenforceable, the Parties hereto agree to renegotiate that provision to be a valid, legal and enforceable provision which reflects as closely as possible the original intent of the Parties hereto as expressed herein with respect to the subject matter of that provision.

f. Entire Agreement and Amendments. This Agreement embodies the whole agreement of the Parties relating to the subject matter of this Agreement. No modification of this Agreement shall be effective unless agreed to in writing by both parties in an amendment to this Agreement that is properly executed by both parties and approved in accordance with applicable law. The Parties recognize that portions of the Solterra Project have not been finally designed or subdivided. The City's City Manager is hereby authorized to amend this Agreement on behalf of the City and without further action of the City's City Council to:

1. Reflect final design decisions as the Solterra Project progresses, and
2. To reflect changes in the geographic boundaries of the Solterra Project.

g. Termination.

1. The District or the City may terminate this Agreement if one Party is in default of the terms of the Agreement beyond applicable notice and cure periods. The non-defaulting Party shall provide notice to the defaulting Party of the default and the defaulting Party shall have thirty (30) days to correct the default except as set forth in Subsection 7.g.2. If the default is not corrected within said time, the Agreement may be terminated only after the Parties submit to Alternative Dispute Resolution as set forth herein and then only to the extent that such default is not resolved through such mechanism. The Parties may agree to extend the time period within which the default may be corrected.

2. If in the reasonable discretion of the City, a District default results in a hazard to the public health, safety or welfare, the City shall provide notice to the District of the default and the District shall have seven (7) days to correct the default. Such notice must specify that the cure period for such default is only seven (7) days and must describe the specific circumstance or condition that is causing the hazard to the public health, welfare or safety.

h. 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 except for those matters set forth in subsection h.4. below, such disputes and/or continuing events of default shall be resolved in the following manner:

1. The City and the District 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 District shall employ a mutually acceptable professional mediator to assist them in resolving the dispute, and shall bear the fees and costs of such mediator equally between them. Such mediation efforts shall be pursued for not less than fifteen (15) days.

3. In the event the dispute or the continuing event of default is not resolved by mediation within the fifteen (15) 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 and damages. The arbitrator may, in his or her discretion, allocate the fees and costs of the arbitration, including attorneys' fees,

equitably between the Parties. The award or decision made or rendered by the arbitrator shall be final and binding upon the Parties. Either Party shall have the right to have such arbitration award or determination enforced by any Court of competent jurisdiction.

4. Alternative Dispute Resolution shall not be employed in such a manner as to constitute a delegation of the City Council's legislative authority nor shall it be employed if either Party, in its discretion, determines it must seek the equitable relief of an injunction (seeking either affirmative relief, *i.e.*, specific performance, or relief restraining the other Party's actions) or temporary restraining order.

i. Waiver. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party. Any waiver shall be in writing.

j. No Third Party Beneficiaries. Nothing in this Agreement is intended to create, or confer upon any third party any rights or benefits. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and the District.

k. Compliance with Ordinances and Regulations. This Agreement shall be administered consistent with both the City's current and future laws, rules, charters, ordinances, and regulations.

l. Colorado Governmental Immunity Act. Both parties to this Agreement are governmental entities subject to and protected by the limitations on liability set forth in the Colorado Governmental Immunity Act, C.R.S. Title 24, Article 10. Nothing contained herein shall be deemed to waive any rights or immunities established pursuant to the Colorado Governmental Immunity Act.

m. Nonperformance. In the event the District is unable or unwilling to continue to perform its obligations under this agreement, the City shall provide services to the Project similar to those provided by the City throughout the City. At its sole discretion, the City may choose to provide services herein assigned to be performed by the District that exceed those provided throughout the City.

n. No Joint Venture. The Parties agree and acknowledge that there shall not be, and this Agreement does not create, any joint venture, partnership, agency or employee relationship between the City and the District.

o. Insurance. The District shall procure and continuously maintain, during the term of the Agreement, the minimum insurance coverage's listed below. The District's

insurer must be rated "A" or better, according to Best's Key Rating Guide and must be admitted to do business in the State of Colorado.

**Commercial General Liability (CGL)** coverage with a limit of not less than \$1,000,000 each occurrence, plus an additional amount sufficient to pay related defense costs and attorneys' fees. This coverage shall include contractual liability, products/completed operations liability and shall include the City, its officers, officials, and employees as additional named insured's with respect to this Agreement.

**Workers' Compensation** coverage in accordance with the Workers' Compensation Act of the State of Colorado.

**Business Automobile Liability** coverage with a limit of not less than \$1,000,000 each accident, plus an additional amount sufficient to pay related defense costs and attorney's fees with respect to each of the District's owned, hired or non-owned vehicles assigned to or used in performance of this Agreement. This coverage shall include the City, its officers, officials and employees as additional named insured's with respect to this Agreement.

Every policy required above shall be primary insurance and any insurance carried by or provided by the City of Lakewood, its officers or its employees, or carried by or provided through any self-insurance pool of the City of Lakewood, shall be excess and not contributory insurance to that provided by the District.

The District shall be responsible for any deductible losses under its policies.

For Commercial General Liability and Business Automobile Liability coverage, the District shall provide a waiver of subrogation in favor of the City of Lakewood, its officers, officials, and employees with respect to this Agreement.

The insurance policies required above shall include a thirty-day (30) notice of cancellation provision. All cancellation notices shall be sent to the City of Lakewood pursuant to the notice provision of this Agreement.

A certificate of insurance must be provided at the time the agreement is executed by the District unless the Parties arrange otherwise.

p. TABOR and Appropriations. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all obligations of the City and the District are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's and District's current

fiscal period ending upon the next succeeding December 31. Financial obligations of the City and the District payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. Failure of the City or the District to appropriate, budget or otherwise make funds available for payment from one entity to the other shall not constitute nonperformance or breach of any part or all of this Agreement. Any payment provision of this Agreement shall be suspended and not terminated in the event the City or the District fails to appropriate, budget or otherwise make funds available. Said suspension shall expire upon the City or the District appropriating, budgeting, and otherwise making funds available for payment.

q. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

r. Compliance with Regulations. The District shall comply with all City, State and Federal laws and regulations that relate to the activities described in this Agreement.

s. Indemnification. Both Parties shall be responsible for their own negligence. To the fullest extent permitted by law, the District shall indemnify and hold harmless the City of Lakewood, its officers, employees, and insurers, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from District's performance of this Agreement, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the District, a District contractor, a District subcontractor, anyone directly or indirectly employed by the District or anyone for whose acts the District may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph. The District agrees to investigate, handle, respond to, and to provide defense for any such liability, claims, or demands at the sole expense of the District, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

To the fullest extent permitted by law, the City shall indemnify and hold harmless the District, its officers, employees, and insurers, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from the City's performance of this Agreement, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or

omissions of the City, a City contractor, a City subcontractor, anyone directly or indirectly employed by the City or anyone for whose acts the City may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this paragraph. The City agrees to investigate, handle, respond to, and to provide defense for any such liability, claims, or demands at the sole expense of the City, and agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent.

t. Effective Date. The terms of this Agreement shall become binding on all parties hereto on the recordation of this Agreement in the records of the Clerk and Recorder of Jefferson County, Colorado.

u. Titles. Titles of paragraphs or sections of this Agreement have been included solely for convenience of the parties and are not to be considered or deemed a part of this Agreement, nor are they intended to be a full or accurate description of the contents thereof.

v. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

w. Authority. The Parties represent that they possess the requisite authority to perform the respective functions and obligations set forth in this Agreement. The Parties represent that they possess the requisite authority to sign this Agreement.

----- Remainder of this page intentionally left blank -----

**CITY OF LAKEWOOD**

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Michael J. Rock, City Manager

ATTEST:

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Margy Greer, City Clerk

RECOMMENDED AND APPROVED:

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Richard J. Plastino, Director  
Department of Public Works

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Kathy Hodgson, Director  
Department of Community Resources

APPROVED AS TO FORM:

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Office of the City Attorney

**DISTRICT**

Fossil Ridge Metropolitan District No. 1,

A metropolitan district organized under  
Title 32 of the Colorado Revised Statutes

\_\_\_\_\_  
Thomas Morton, President

STATE OF COLORADO        )  
  ) ss:  
COUNTY OF DENVER        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_, by Thomas Morton, as President of the Fossil Ridge Metropolitan District No. 1, a metropolitan district organized under Title 32 of the Colorado Revised Statutes.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

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

[SEAL]



# Plan Commission Staff Review

## **Agenda Item:**

Alliant Energy request for easement to install underground electrical service to new EMS building along 12<sup>th</sup> Street

## **Review Notes:**

Engineering notes:

Request from Alliant Energy for an easement to install underground electric service to the new EMS building along 12<sup>th</sup> Street. Easement is along the West property line of the police department parking lot adjacent to the new EMS site.

## **Staff Review:**

- Building Inspector/Zoning Administrator (if necessary)
- Engineering Supervisor (if necessary)
- City Attorney (if necessary)
- City Clerk/Director of General Government (if necessary)
- Director of Community Development (required)

## **Staff Recommendation:**

Recommend approving Easement and moving on to 7-19-2016 Council.

For a valuable consideration, receipt of which is acknowledged, the City of Monroe [the "Grantor"], hereby conveys to Alliant Energy Corporation, a Wisconsin corporation [the "Grantee"], an underground electrical easement upon the following terms:

1. Description of Affected Real Estate. The following described real estate located in the City of Monroe, County of Green, Wisconsin, is subject to this easement [the "Realty"]:

Part of the Southwest 1/4 of Section 35, Township 2 North, Range 7 East, City of Monroe, Green County, Wisconsin.

The West line of a 6 foot wide underground electrical easement described as follows:

Commencing at a point 5 feet West of the Northwest corner of Lot 169 of Lybrand's Donation to the City of Monroe; thence East along the North line of Lots 169, 170, and 171 of Lybrand's Donation a distance of 189 feet to the point of beginning of said easement; thence South parallel with the East line of Lot 171 of Lybrand's Donation a distance of 168.76 feet to the South Line of Lot 1 of Block 5 of Fosters Addition.

2. Rights of the Grantee. The Grantee is hereby authorized to construct, test, maintain, inspect, operate, replace, change, abandon in place, or remove an underground electrical line serving improvements on Grantee's property abutting the Realty, including associated appliances, equipment, manholes or markers.

3. Restoration. If Grantor's landscaping or paving improvements, whether within or outside the Realty, are damaged by any work related to the rights granted herein the Grantee, or the Grantee's Assignee, shall return them to their pre-work condition, subject however to the covenants of paragraph 4 hereof.

4. Rights and Responsibilities of Grantor. The Grantor, and the successors and assigns of the Grantor, shall have the right to utilize and enjoy the Realty providing the same shall not interfere with the rights of the Grantee created by this instrument. No structures shall be erected or placed on the Realty and the Grantee shall not be liable for their removal if they are so placed. Use of the Realty as a paved parking lot shall not be deemed to interfere with the rights of the Grantee created by this instrument.

5. Easement to Run with the Land. This easement shall run with the land and shall be binding on and shall inure to the benefit of the parties hereto, their heirs, successors, or assigns.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

CITY OF MONROE

By: \_\_\_\_\_ [Seal] Louis Armstrong, Mayor Philip Rath, City Administrator \_\_\_\_\_ [Seal]

ACKNOWLEDGEMENT

STATE OF WISCONSIN )
) ss.
COUNTY OF GREEN )

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, the above-named Louis Armstrong and Philip Rath, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

This instrument was drafted by

Daniel R. Bartholf
Voegeli, Ewald & Bartholf Law Offices, S.C.
P.O. Box 56
Monroe, Wisconsin 53566
(608) 328-2000

Notary Public, Green County, Wisconsin
My Commission expires \_\_\_\_\_

Name and Return Address

Carol J. Stamm
City Clerk
City of Monroe
1110 18th Avenue
Monroe, Wisconsin 53566

This is not homestead property



# Plan Commission Staff Review

## **Agenda Item:**

Zoning Code Re-Write Consultant Proposals

## **Review Notes:**

On April 14<sup>th</sup> a request for proposals for a Zoning Code re-write was issued after consultation with the Plan Commission. The RFP was posted for approximately 1 ½ months. Four proposals were received by the deadline of June 3, 2016 from CodaMetrics, LSL Planning, Vandewalle, and MSA.

An internal project group was formed comprised of: City Administrator Phil Rath; Assistant Administrator Martin Shanks; Zoning Administrator Ryan Lindsey; Director of Public Works Al Gerber; Inspection/Zoning Secretary Arianna Meier; GCDC Executive Director Mike Johnson; Chamber of Commerce Executive Director Cara Carper and Historic Preservation Committee member Aaron Holverson. The group met initially and decided to review the four proposals and recommend one to Plan Commission. We met again on June 30<sup>th</sup>, and discussed our review of the proposals. The group has agreed to recommend Vandewalle as the firm to complete the Zoning Code Rewrite. Vandewalle can be made available for a pre-selection interview if the Plan Commission desires.

In general, the team collectively highlighted the following items related to Vandewalle's proposal:

- Best addressed all items contained in the RFP.
- Offered an approach that identified several suggestions on how to develop a new zoning code specific to Monroe responsive to both the RFP and comprehensive plan.
- Offers a robust public participation component throughout the process, including regular interaction with Plan Commission, public workshops, focus groups, stakeholder interviews, open houses, web-based interaction, and establish contact with local media.
- Quoted their total costs within our anticipated costs for the project
- Matched our expected timeline
- Provides a staff of experts familiar with working on projects for similar sized Wisconsin communities.
- Experience working with more modern zoning and land use best practices that were identified in our comprehensive plan.
- Identified attorney firm that they partner with to assist communities throughout zoning code projects.
- Ongoing support after project is finished.

Note: SWWRPC and planning consultant Vierbicher notified staff that at this time their organizations will not submit a proposal. However, both organizations stated they would consider submitting with an extended timeframe.

The Zoning Code Re-Write project was funded with \$20,000 in 2016. The expectation is the remaining funds will be placed in the 2017 budget, however that will be subject to the 2017 budget process.

**Staff Review:**

- Building Inspector/Zoning Administrator (if necessary)
- Engineering Supervisor (if necessary)
- City Attorney (if necessary)
- City Clerk/Director of General Government (if necessary)
- Director of Community Development (required)

**Staff Recommendation:**

Motion to recommend and finalize an agreement with Vandewalle for Zoning Code Re-Write Project to City Council.

## Zoning Code Proposal Quick Facts

<u>Firm</u>	<u>Cost</u>	<u>Completion Timeline</u>	<u>Notes</u>
MSA	\$29,000	7 Months	*Proposed project is considered "Stage 1"; addresses public participation, project orientation, issue identification analysis, zoning code analysis/evaluation. Proposal doesn't include developing final zoning code and staff training.
Vandewalle	\$59,975	12 Months	City staff selected proposal
LSL Planning	\$128,378	14 Months	-
CodaMetrics	\$142,582	19 Months	-



# Plan Commission Staff Review

## **Agenda Item:**

Accessory Dwelling Unit Ordinance

## **Review Notes:**

At the June 8<sup>th</sup> Plan Commission meeting discussion took place on a preliminary zoning ordinance draft to allow accessory dwelling units in Monroe. Commission members discussed many items related to the topic. The City Attorney and staff were asked to continue researching and refining the ordinance.

Assistant Administrator Shanks, Zoning Administrator Lindsey and Attorney Bartholf met the following week to discuss the ordinance, Commission members input and its relation to the rest of the zoning code.

After further discussion and investigation of the new ordinance's impact on the zoning code it was determined that several different sections would have to be reviewed and modified beyond the draft ordinance in order to facilitate the incorporation of ADUs in the existing code. This would include the creation and modification of various definitions; conditional use and permitted use changes; and various other limiting factors within the existing code.

Rather than spending the staff and attorney time in researching and drafting those changes for the current zoning code, which could potentially be scrapped over the next 12 months, we collectively determined it may be best to leave this topic for the zoning code re-write project.

However, if Commission members desire to continue work on this now we can continue the process.

## **Staff Review:**

- Building Inspector/Zoning Administrator (if necessary)
- Engineering Supervisor (if necessary)
- City Attorney (if necessary)
- City Clerk/Director of General Government (if necessary)
- Director of Community Development (required)

## **Staff Recommendation:**

Discontinue work on the draft ordinance and incorporate accessory dwelling unit language into the zoning code update project for consideration.

Public Hearing Date: \_\_\_/\_\_\_/\_\_\_

**ORDINANCE REPEALING AND RECREATING SECTION 5-2-5 OF THE MONROE CITY CODE: ACCESSORY DWELLING UNITS**

**THE COMMON COUNCIL** of the City of Monroe do ordain as follows:

**SECTION 1.** The following definition in Section 5-2-1 of the Monroe City Code is repealed:

**ACCESSORY DWELLING:** On-site dwelling unit that is attached to and architecturally integrated into a principal building and used solely by the owner of a business located in such building and the owner's immediate family or by an employee of the owner of a business located in such building and the employee's immediate family, provided the following conditions are met: 1. The floor area of the living quarters does not exceed 2,000 square feet in area. 2. The special and unusual nature of the use or special and unusual security requirements of the business make it reasonably necessary for persons to be on the premises on a twenty-four-hour basis.

**SECTION 2.** The following definitions shall be added to Section 5-2-1(B) of the Monroe City Code:

**ACCESSORY DWELLING UNIT:** On-site dwelling unit that is attached to a principal building, added onto a detached garage, or other accessory building structure, or built as its own separate detached structure.

**ACCESSORY BUSINESS DWELLING UNIT:** An on-site dwelling unit that is attached to and architecturally integrated into a principal building and used solely by the owner of a business located in such building and the owner's immediate family or by an employee of the owner of a business located in such building and the employee's immediate family, provided the following conditions are met:

1. The floor area of the living quarters does not exceed 2,000 square feet in area.
2. The special and unusual nature of the use or special and unusual security requirements of the business make it reasonably necessary for persons to be on the premises on a twenty-four-hour basis.

**OWNER OCCUPIED:** A property owner that lives on the property either within the principal dwelling or within the accessory dwelling unit. Owner occupancy shall not be required when:

1. The owner has a bona fide, temporary absence of 3 years or less for activities such as military service, temporary job assignments, sabbaticals, or voluntary service (indefinite periods of absence from the dwelling shall not qualify for this exception); or
2. The owner is placed in a hospital, nursing home, assisted living facility or other similar facility that provides regular medical care, excluding retirement living facilities or communities.

**DRB NOTES:**

**This old definition is changed below to Accessory Business Dwelling Unit.**

**The new definition for Accessory Dwelling Units for R1,R2,R3 and GBD Districts.**

**Most other Municipality ordinances had an owner occupancy requirement. If the owner will not be in the principal structure or the accessory dwelling unit, then it will be a conditional use.**

Draft June 3, 2016

**SECTION 3.** The following sections of (H-K) of Section 5-2-3 of the Monroe City Code are hereby repealed in their entirety:

(H) No accessory building shall be used as a dwelling.

(I) A private garage shall not exceed eight hundred sixty four (864) square feet of gross area, shall not exceed eighteen feet (18') in height and shall be located at least six feet (6') from the rear lot line, four feet (4') from interior lot lines and twenty five feet (25') from the front lot line.

(J) A private garage shall be placed at least twenty five feet (25') from the side lot line if the lot is a corner lot and is adjacent to a road right of way, unless the property owner can demonstrate that physical conditions of the lot require the private garage to be placed in a different location. Such alternate placement may be allowed as a conditional use if a private garage is a permitted accessory use in the applicable district and written approval of adjacent property owners is submitted with a request for issuance of a conditional use permit. (K) No accessory building or combination of accessory buildings shall occupy more than thirty percent (30%) of the gross area of any lot.

(K) No accessory building or combination of accessory buildings shall occupy more than 30 percent of the gross area of any lot.

**SECTION 4.** Section 5-2-3 of the Monroe City Code is hereby amended by adding the following sections:

(H) A private garage shall not exceed 864 square feet of gross area, shall not exceed 18 feet in height and shall be located at least 6 feet from the rear lot line, 4 feet from interior lot lines and 25 feet from the front lot line.

(I) A private garage shall be placed at least 25 feet from the side lot line if the lot is a corner lot and is adjacent to a road right of way, unless the property owner can demonstrate that physical conditions of the lot require the private garage to be placed in a different location. Such alternate placement may be allowed as a conditional use if a private garage is a permitted accessory use in the applicable district and written approval of adjacent property owners is submitted with a request for issuance of a conditional use permit.

(J) No accessory building or combination of accessory buildings shall occupy more than 30 percent of the gross area of any lot.

**DRB Notes:**

**Subsection (H) needs to be deleted because this ordinance would no longer prohibit accessory dwellings. Paragraphs I-K below are simply renumbered and the number formatting was cleaned up [for example twenty-five was changed to 25], but no new substantive changes were made.**

Draft June 3, 2016

**SECTION 5.** Section 5-2-5 of the Monroe City Code is hereby repealed in its entirety and recreated to read as follows:

5-2-5: Accessory Dwelling Unit:

(A) Purpose: The purposes of the accessory dwelling unit provisions are to:

- (1) Create new housing units while respecting the look and scale of single-dwelling development;
- (2) Increase the housing stock of existing neighborhoods in a manner that is less intense than alternatives;
- (3) Allow more efficient use of existing housing stock, public infrastructure, and the embodied energy contained within existing structures;
- (4) Provide a mix of housing options that responds to changing family needs and smaller households;
- (5) Offer a means for residents, particularly seniors, single parents, and families with grown children, to remain in their homes and neighborhoods, and obtain extra income, security, companionship, and services;
- (6) Promote a broader range of affordable housing; and
- (7) Provide opportunity for work force housing in developed and new neighborhoods, close to places of work, thus reducing greenhouse gas emissions and reducing fossil fuel consumption through less car commuting.

(B) General Regulations:

- (1) Ownership of Accessory Dwelling Unit: An accessory dwelling unit shall not be sold separately or subdivided from the principal dwelling unit or lot.
- (2) Deed Restriction: A lot approved for development with an accessory dwelling unit shall have a deed restriction, the form of which shall be approved by the city attorney, filed with the county recorder's office indicating such owner occupied requirement of the property prior to issuance of a final certificate of occupancy for the accessory dwelling unit by the city. Such deed restriction shall run with the land until the accessory dwelling unit is abandoned or revoked.
- (3) One Per Lot: One accessory dwelling unit is permitted per lot.
- (4) Underlying Zoning Applies: Unless specifically provided otherwise in this section, accessory dwelling units are subject to the regulations for a principal building of the underlying zoning district with regard to lot standards, building height, setbacks, yard requirements, and building coverage.
- (5) Building Code Compliance: Accessory dwelling units are subject to compliance with the building code current at time of permit approval.
- (6) Public Utilities: No structure that is not connected to the public water and sanitary sewer systems shall have an accessory dwelling unit.

**DRB Notes:**

**Many other codes that I looked at had similar purposes. I included them to assist the plan commission to understand why we may want to allow accessory dwelling units. This purpose section is not needed and can be removed if desired.**

**Any of the general regulations which continue on the next page can be changed, modified or deleted. These types of regulations are on most ordinances that I reviewed and included for discussion purposes. Area size, setbacks, heights, design, etc. will need to be analyzed and modified to meet Monroe's standards or needs.**

(7) Home Occupations: Home occupations may be conducted in an accessory dwelling unit.

(8) Size of Accessory Dwelling Unit: The maximum size of an accessory dwelling unit may be no more than 50 percent of the gross square footage of the principal dwelling unit or 650 square feet whichever is less.

(9) Minimum Lot Area: The minimum lot area required for an accessory dwelling unit shall be:

A) Internal: For accessory dwelling units located within the principal single-family structure, no minimum lot area is required.

B) Attached: For accessory dwelling units located within an addition to the single-family structure, no minimum lot area is required.

C) Detached: For accessory dwelling units located within a detached structure, a minimum lot area of 5,000 thousand square feet is required.

(10) Location of Entrance to Accessory Dwelling Unit:

A) Internal or Attached Units: Accessory dwelling units that are internal to or attached to a principal dwelling may take access from an existing entrance on a street-facing front facade of the principal dwelling. No new entrances may be added to the front facade of a principal dwelling for an accessory dwelling unit unless such access is located at least 20 behind the front facade of the principal dwelling unit.

B) Detached Units: Accessory dwelling units that are detached from the principal dwelling:

1) May utilize an existing street-facing front facade entrance as long as the entrance is located a minimum of 20 feet behind the front facade of the principal dwelling, or install a new entrance to the existing or new detached structure for the purpose of serving the accessory dwelling unit as long as the entrance is facing the rear or side of lot.

2) Shall be located no closer than 30 feet from the front property line and shall take access from an alley when one is present and accessible.

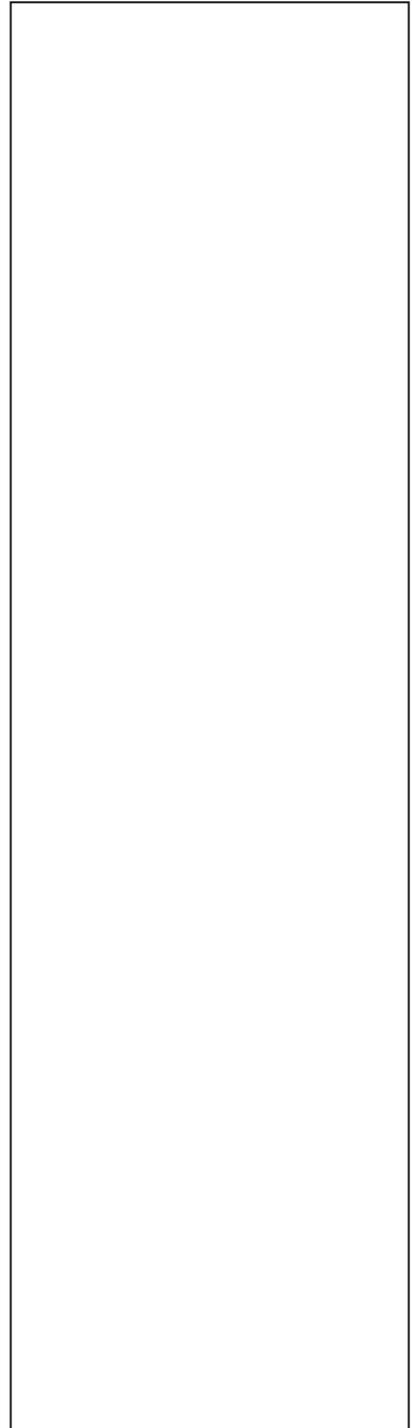
C) Corner Lots: On corner lots, existing entrances on the street-facing sides may be used for an accessory dwelling unit, but any new entrance shall be located facing toward the rear property line or interior side yard, or toward the back of the principal dwelling.

(11) Exterior Design:

A) The maximum height of a detached accessory dwelling unit shall not exceed the height of the principal structure.

B) An accessory dwelling unit shall be designed and constructed to be compatible with the principal structure.

(12) Occupancy: No accessory dwelling unit shall be occupied until the property owner obtains an occupancy permit for the accessory dwelling unit from the Zoning Administrator.



**SECTION 6.** Section 5-3-1(A) of the Monroe City Code is hereby amended by adding the following use as a permitted use:

- (12) Accessory Dwelling Unit that is owner occupied.

**SECTION 7.** Section 5-3-1(B) of the Monroe City Code is hereby amended by adding the following use as a conditional use:

- (18) Accessory Dwelling Unit that is not owner occupied.

**SECTION 8.** Section 5-5-1 of the Monroe City Code is hereby amended by adding the following use as a permitted use:

- Accessory Dwelling Unit that is owner occupied.

**SECTION 9.** Section 5-5-2 of the Monroe City Code is hereby amended by adding the following use as a conditional use:

- (18) Accessory Dwelling Unit that is not owner occupied.

**SECTION 10.** Section 5-7-1 of the Monroe City Code is hereby amended by adding the following use as a permitted use:

- Accessory Dwelling Unit that is owner occupied.

**SECTION 11.** Section 5-7-2 of the Monroe City Code is hereby amended by adding the following use as a conditional use:

- (18) Accessory Dwelling Unit that is not owner occupied, subject to the provisions relating to dwelling units in this subsection.

**SECTION 12.** Section 5-8-3 of the Monroe City Code is hereby amended by adding the following use as a conditional use:

- Accessory Business Dwelling Unit.

**SECTION 13.** Section 5-9-2 of the Monroe City Code is hereby amended by adding the following use as a conditional use:

- Accessory Business Dwelling Unit.

**DRB Notes:**

**Section 6 and Section 7 deals with R1 Districts.**

**Section 8 and 9 deal with R3 Districts. Note that there is no express stating for the R2 District because R2 district adopts the permitted and conditional uses from R1.**

**Section 10 and 11 deal with Central Business Districts.**

**Section 12 - General Business District conditional use only and more restrictive definition of accessory business dwelling unit.**

**Section 13 - M1 Light industrial: conditional use only and more restrictive definition of accessory business dwelling unit.**

**SECTION 14.** Section 5-10-2 of the Monroe City Code is hereby amended by adding the following use as a conditional use:

Accessory Business Dwelling Unit.

**SECTION 15.** Section 5-10.5-5(B) of the Monroe City Code is hereby amended by adding the following use as a conditional use:

Accessory Business Dwelling Unit.

**SECTION 16.** This ordinance shall be in full force the day following its passage and official publication.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.  
Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2016.  
Published this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**DRB Notes:**

**Section 14 - M2 Heavy Industrial: conditional use only and more restrictive definition of accessory business dwelling unit.**

**Section 15 - M3 Industrial Park: conditional use only and more restrictive definition of accessory business dwelling unit.**