

RESOLUTION NO. 1658

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLDEN APPROVING AN AGREEMENT AND LEASE WITH JEFFERSON COUNTY PERTAINING TO USE OF THE ROONEY ROAD LANDFILL FOR OPEN SPACE, DOG PARK, AND SPORTS COMPLEX

WHEREAS, the County is the owner of certain land referenced herein as the "Property"; and

WHEREAS, the Property is divided into three separate areas referenced herein as the "Sports Complex Parcel", the "Open Space Parcel" and the "Dog Park Envelope"; and


WHEREAS, the parties desire that the Property be used for the following purposes: (1) as to the Sports Complex Parcel, for the development, maintenance and operation of a sports complex primarily for use by youth; (2) as to the Open Space Parcel, for public open space, park or recreational purposes; and (3) as to some or all of the Dog Park Envelope, for a dog off-leash park; and

WHEREAS, the parties are desirous of entering into an Agreement and Lease addressing the development, operation, maintenance and administration of the Property for the purposes delineated above in accordance with the Agreement and Lease.

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

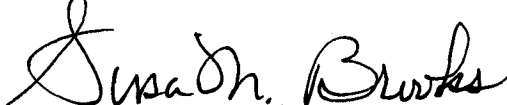
The Agreement and Lease for development, operation, maintenance, and administration of Open Space, Dog Park, and Sports Complex by the City of Golden at the Rooney Road Landfill is approved in essentially the same form as the copy of such agreement accompanying this resolution. The Mayor is authorized to execute the Agreement on behalf of the City.

Adopted this 13th day of April, 2006.



Charles J. Baroch
Mayor

ATTEST:



Susan M. Brooks, MMC
City Clerk

APPROVED AS TO FORM:



James A. Windholz
City Attorney

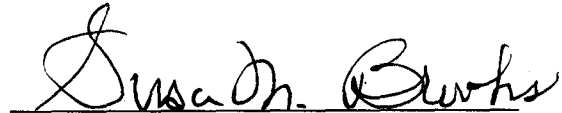
Resolution No. 1658

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I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular meeting thereof held on the 13th day of April, A.D., 2006.

(SEAL)

ATTEST:

A handwritten signature in cursive script that reads "Susan M. Brooks". The signature is written in black ink and is positioned above a horizontal line.

Susan M. Brooks, City Clerk of the City of
Golden, Colorado

AGREEMENT AND LEASE

THIS AGREEMENT AND LEASE is dated for reference purposes only this ____ day of _____, 2006, between the COUNTY OF JEFFERSON, a body politic and corporate (the "County"), and the CITY OF GOLDEN, a Colorado municipal corporation (the "City").

RECITALS

A. The County is the owner of certain land referenced herein as the "**Property**" which is legally described in Exhibit A, attached hereto and incorporated herein by reference; and

B. The **Property** is divided into three separate areas referenced herein as the "**Sports Complex Parcel**", the "**Open Space Parcel**" and the "**Dog Park Envelope**", which areas are each depicted, for illustrative purposes only on that aerial photograph attached hereto and incorporated herein as Exhibit B; and

C. On or about September 12, 2002, the City and the County entered into an Agreement and Lease with respect to the **Dog Park Envelope**, (the "Dog Park Lease"). Effective as of the date of this Agreement, the parties terminate the Dog Park Lease and release all right, title and interest under the Dog Park Lease; and

D. The parties desire that the Property be used for the following purposes: (1) as to the **Sports Complex Parcel**, for the development, maintenance and operation of a sports complex primarily for use by youth; (2) as to the **Open Space Parcel**, for public open space, park or recreational purposes; and (3) as to some or all of the **Dog Park Envelope**, for a dog off-leash park; and

E. The Parties are desirous of entering into an Agreement and Lease addressing the development, operation, maintenance and administration of the **Property** for the purposes delineated above in accordance with this Agreement and Lease.

NOW THEREFORE, in consideration of the mutual agreements, conditions and provisions hereinafter set forth, the parties to this Agreement and Lease agree as follows:

1. PROPERTY LEASED.

(a) The County leases to the City and the City leases from the County the **Property**.

b) The County leases only the **Property**. All sports fields, parking lots, and permitted Improvements, structures, power, water or other facilities placed on this land shall be at the expense of the City and the City shall pay all charges of installation, modification, maintenance, and use of fields and facilities and for all services connected

therewith, and shall pay all taxes, if any, levied on the **Property**. In addition, the City shall pay all assessments, all fees in lieu of taxes, and all other fees, if any, levied on the **Property** by any public entity.

(c) The **Property** is leased "as is" without any warranties.

(d) Public vehicular access to the **Property** over the existing road from Rooney Road is a "public highway" pursuant to 43-2-201(1)(c) C.R.S. The City's access rights and the general public's access rights over this road are non-exclusive. The road is also used, by way of example only, by the Rooney Road Recycling Center Authority and County personnel. Upon completion of installation of the initial phase of the sports field and authorized, associated improvements by the City, the City shall make such repairs to the road to return the road to substantially the condition as existed prior to construction activities. Thereafter, the City, at its expense, shall keep the access road in good repair and in accordance with the City's standard practices for the maintenance and repair of similar roads within its jurisdiction.

(e) The City may use the *Sports Complex Parcel* as a sports field and associated facilities only. The fields will be used in accordance with that Priority Based Usage scheme set forth on Exhibit C, attached hereto and incorporated herein. The City will be solely responsible for scheduling use of the sports fields, and will schedule league, team and other group use of the fields in a manner which is consistent with the routine scheduling practices of other cities and park and recreation districts in the metro area, recognizing that, subject to the foregoing, priority of use will be provided in conformance with paragraph 8.

(f) The City covenants and agrees to use the *Open Space Parcel* solely for public open space, park or recreational purposes. The natural resource management of the *Open Space Parcel* by the City shall be generally consistent with the City's current management of those open space parcels located near North and South Table Mountains, which were deeded to the City by the County, and originally purchased from the Bradburns, the Mayfords, the Evans and the Bachmans.

(g) The City may, at its discretion, use the *Dog Park Envelope* as a dog off-leash park.

2. TERM; RENT; RENEWAL OPTION.

(a) The initial term of this Agreement and Lease shall be twenty (20) years from the date of its execution by the Jefferson Board of County Commissioners (the "Board"). The rental amount for the initial term shall be \$100.00, the receipt of which is hereby acknowledged.

(b) The term will automatically renew for subsequent periods of ten (10) years each unless either party gives written notice of the termination to the other party no later than 180 days prior to the termination date of the initial term or any renewal term.

3. RECOGNITION OF JEFFERSON COUNTY OPEN SPACE RULES AND REGULATIONS. Signage, printed materials, and promotional items with respect to the **Property** shall be posted and prepared in conformance with Section 7.3.2.9.3 of the current County's Policies and Procedures Manual as the same may be amended from time to time.

4. USE OF PROPERTY AND IMPROVEMENTS.

(a) The County retains ownership of the land, water, water rights, wells, landfill (including the landfill cap and improvements associated with closure of the landfill) that under lies the surface of the **Property** that are appurtenant to the **Property**. During the term of this Lease, the City shall fund and own all other Improvements hereafter installed. For the purposes of this Agreement and Lease, "Improvements" include all sports fields, fences, parking lots, portable toilets that do not involve any excavation, and structures and attached fixtures of a permanent or temporary nature and shall be broadly defined. The **Property** together with any Improvements placed thereon, shall be open and available for use to any resident of Jefferson County to the same extent that the **Property** is open and available for use by citizens of Golden. The City shall not use or keep any substance or material in or about the **Property** which may vitiate or endanger the landfill or landfill cap or the validity of the insurance thereof or increase the hazard or risk of fire, or which may prove offensive or annoying to adjacent property owners or tenants, nor will the City permit any nuisance within or upon the **Property**.

(b) Prior to commencing the installation of any Improvements on any portion of the **Property**, the City shall first obtain written approval for such Improvements from the County Administrator or his or her designee ("County Approval"). In addition, the City shall obtain written County Approval prior to commencing any repair, maintenance, or other work that involves excavation, trenching, or earthwork on the **Sports Complex Parcel**, or in the event that the City desires to schedule the use of the Sports Complex Parcel in a manner which is not consistent with the Priority Based Usage scheme set forth in Exhibit C. The County shall respond to the City's request within twenty-one (21) days of receipt of the request except that the County will respond to requests for emergency repair and maintenance work as soon as is reasonable practicable.

(c) The City may operate or authorize the operation of concessions on the **Sports Complex Parcel** provided that such concessions are incidental and complimentary to the primary use of the **Sports Complex Parcel** as sports fields and do not involve the use of water other than the sale of bottled water, or water within a self-contained concession unit that is pre-approved by the County. If any concession involves excavation, trenching, or earthwork on any part of the **Property**, the City shall first obtain County Approval in accordance with paragraph 4(b).

- (d) Prior to opening the *Dog Park Envelope* to the general public, the City shall construct a fence around the perimeter of the *Dog Park Envelope* for the purpose of containing animals using the *Dog Park Envelope*. The City shall obtain approval from the County of the fencing prior to installation, in accordance with paragraph 4(b). The City shall also not open the *Dog Park Envelope* to the general public until a parking lot to serve the *Dog Park Envelope* has been completed unless the County, in its discretion, consents to an earlier opening. The City shall also provide dog waste pick-up bags and dispensers to hold the bags.
- (e) Advertising shall be allowed on the *Sports Complex Parcel* provided that such advertising is incidental to the primary use of the *Sports Complex Parcel* as sports fields, and the subject matter of the advertising is reasonably correlated to the general use or users of the **Property**. If any advertising involves excavation, trenching, or earthwork on any part of the **Property**, the City shall first obtain approval in accordance with paragraph 4(b). No commercial advertising shall be allowed on the *Dog Park Envelope* or the *Open Space Parcel* without the express written approval of the County.
- (f) The County shall have access to the **Property** at all reasonable times to determine compliance with the terms of this Agreement and Lease without notice to the City.
- (g) This Agreement and Lease does not grant the City the right to construct any roads to the **Property** except those shown on the Master Site Plan, which Master Site Plan is attached hereto as Exhibit D and which is approved by the County. Parking for the *Sports Complex Parcel* and the *Dog Park Envelope* shall be limited to the areas delineated on the Master Site Plan.
- (h) Upon termination or expiration of this Agreement and Lease, at the County's sole option, the City shall, within ninety (90) days thereof, remove any or all of the Improvements which it has placed upon the **Property**. Any Improvements not removed from the **Property** within said ninety (90) day period shall become the sole and exclusive property of the County, and the City shall have no right to recover or attempt to recover the cost or value thereof; provided however, that if the County conveys the **Property** to the City it shall also convey any Improvements on the **Property**.
- (i) There shall be no smoking permitted on the Sports Complex Parcel. The City shall post "No Smoking" signs at locations mutually agreed upon by the parties.
- (j) The City and County shall cooperate to undertake an awareness training program for the Active Methane Recovery system installed at the Sports Complex Parcel, which program shall be directed at City employees maintaining the Sports Complex Parcel. This program will include an educational component to assist in recognition of leakage or broken piping, containment system or burner problems, leakage from the gathering system and general issues, concerns or breakdown of the recovery system. The City will immediately notify the County at any sign of a failure or leakage in the recovery system of which the City becomes aware. This paragraph shall not be construed to relieve the County of its obligation to operate, maintain and repair the landfill, the landfill cap and

improvements associated with the closure of the landfill, including the active methane recovery system, as provided below.

(k) The County shall have the right to place and keep approximately 15,000 cubic yards of dirt in the southwest corner of the **Property** as shown on the Master Site Plan attached hereto as Exhibit D, which dirt shall be available to both the County and the City for repairs to the fields.

5. OPERATION AND MAINTENANCE RESPONSIBILITIES.

(a) The County shall retain responsibility for the operation, maintenance and repair of the landfill, the landfill cap and improvements associated with the closure of the landfill that underlies the surface of the **Sports Complex Parcel**, except to the extent that damage to such improvements are caused by the City or users of the **Sports Complex Parcel**. In the event that the **Sports Complex Parcel** or any portion thereof sinks or settles, the County shall undertake such repairs only if such repairs are necessary to preserve the landfill cap and associated improvements. In such event, and promptly upon notice from the County, the City, at its expense, shall close any sports fields necessary to effectuate such repair and to remove all Improvements, including without limitation any field turf, as directed by the County. The County will make repairs in a prompt manner so as to minimize closure of the sports fields. In the event that any portion of the **Sports Complex Parcel** has sunk or settled and repair is not required to preserve the landfill cap or associated improvements, then the City shall be responsible for repairs to the sports fields

(b) Except as provided in paragraphs 5(a) and 9, the City shall assume responsibility for the total operation, management, and maintenance of the **Property** and of any Improvements, utilities, landscaping, and repairs, whether now existing or subsequently constructed, and all expenses related thereto. The City shall maintain and repair any structures and/or Improvements added to the **Property** to at least the same condition as the date of completion of the construction of such structures and/or Improvements, ordinary wear, tear, and damage by the elements and acts of God excepted. Alternatively, the City may remove such Improvements from the Property.

(c) Except as provided in paragraphs 5(a) and 9, the County shall not be responsible for maintenance, improvements to the **Property**, or operations of either existing or future improvements.

(d) The County may, but is not obligated to, post such signs in such locations as it deems necessary to inform the users of the **Property** of the existence and potential danger of the landfill and associated methane gas.

6. WATER AND LANDSCAPING. The City may not develop water on the **Property**. Nor may the City install natural landscaping of any kind on the **Sports Complex Parcel** without prior approval of the County's Director of Facilities Management. The City may install portable

toilets on the *Sports Complex Parcel* provided that such toilets do not involve any excavation or other dirt work. Installation of toilets that require excavation or dirt work must have prior County approval in accordance of paragraph 4(b).

7. STATUTES AND LAWS. The City shall not use or authorize, or permit others to use, the **Property** for any purpose prohibited by the laws of the United States, the State of Colorado, the County of Jefferson, or any city or municipality within whose corporate boundaries the **Property** is now or may subsequently be located. The City shall keep the **Property** clean and in a sanitary condition and shall not permit any disorderly conduct, undue noise or nuisance on the **Property**. The City agrees to neither hold nor attempt to hold the County liable for any injury or damage, either proximate or remote, occurring through or caused by any use of the **Property**.

8. PRIORITY TO COUNTY RESIDENTS; FEE DIFFERENTIALS. The **Property** was acquired by the County for the benefit of all the residents of the County. Therefore, the City covenants and agrees that regarding the use of the **Property**, including any Improvements thereon, the following shall apply:

- (a) No City resident shall be given preference concerning use of the **Property** or any activities therein.
- (b) Jefferson County residents shall be given use priority preference over non-county residents.
- (c) No fee preference shall be given to the City's residents over other Jefferson County residents concerning use of the **Property** or activities occurring therein.
- (d) If fees are ever charged on the **Property**, fee differentials shall be charged for non-Jefferson County residents.

The foregoing shall not preclude the City from charging fee differentials for use only of the *Sports Complex Parcel* to groups or individuals who have made, or will make capital contributions for development or maintenance of the sports complex so long as the charging of such fee differentials is consistent with the fee differentials charging practices of other cities and park and recreation districts in the metro area.

9. COUNTY TRAIL RESERVATION. The County hereby expressly reserves a non-exclusive permanent easement over the western portion of the *Open Space Parcel*, to allow the County to design, develop, construct and maintain a natural surface trail, at a specific location to be mutually agreed upon, which would serve as a trail connector between Apex and Matthews/Winters Parks, and for pedestrian, equestrian and bicycle access by the general public and pedestrian and vehicular emergency, security, construction and maintenance access by the County (and its agents, employees and contractors) along such trail.

10. INDEMNIFICATION; RELEASE. To the extent permitted by law, and without waiving any of the protections or immunities of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, the City agrees to and does hereby release, waive, discharge, indemnify and hold the County, its officials, agents, employees, successors and insurers harmless from and against any actual or alleged injury or damage, including attorney's fees, related to or arising out of use of the **Property**, including, but not limited to, use by special interest groups or community-sponsored activities.

11. ENVIRONMENTAL INDEMNIFICATIONS.

(a) As used herein, the term "Hazardous Materials" means flammable or explosive materials, petroleum or petroleum products, oil, crude oil, methane gas or synthetic gas usable for fuel, radioactive materials, asbestos, or any hazardous, toxic or dangerous substances, materials or wastes which are regulated under any applicable county, municipal, state or federal law, rule, ordinance, direction or regulations as may be amended from time to time.

(b) To the extent permitted by law, and without waiving any of the protections or immunities of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, the City agrees to indemnify and hold harmless the County for any and all (1) civil, legal and administrative costs; (2) fines and penalties; (3) response, remedial and clean-up costs; and (4) other costs (including attorney's fees) or liability arising from the introduction of any Hazardous Materials to the **Property** during the term of this Lease unless caused by the County or associated with the operation of the Household Hazardous Waste Storage Facility.

(c) To the extent permitted by law, and without waiving any of the protections or immunities of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, the County agrees to indemnify and hold harmless the City for any and all (1) civil, legal and administrative costs; (2) fines and penalties; (3) response, remedial and clean-up costs; and (4) other costs (including attorney's fees) or liability arising from the introduction of any Hazardous Materials to the **Property** prior to the term of this Lease, including without limitation, the methane mitigation system existing on the **Property**, unless caused by the City or users of the **Property**.

12. INSURANCE.

(a) During the term of this Agreement and Lease, the City shall maintain such insurance coverages and limits as set forth in Exhibit E attached hereto and incorporated herein by reference.

(b) Certificates evidencing such insurance shall be delivered to the County upon the execution of this Agreement. Such certificates shall require the insurance carrier to give written notice to the County not less than thirty (30) days prior to cancellation or termination of such insurance.

13. PROPERTY DAMAGE OR CONDEMNATION.

(a) In the case of fire, flood, vandalism or other loss due to occurrences beyond the control of either party, the City shall decide whether the Improvements shall be replaced and shall be fully responsible for the repair or replacement of any Improvements or property so damaged. All insurance proceeds received shall be used to repair or replace any Improvements or returned to the City. If the City decided to not replace the Improvements, the City may decide to terminate the Lease upon thirty (30) days written notice to the County.

(b) In the event of loss of all or any portion of the **Property** as a result of any condemnation or eminent domain proceeding or any sale in lieu thereof, the entire proceeds of such taking or sale shall be payable to the County and this Agreement and Lease shall terminate as to such loss of **Property**. In the event of loss of all or any portion of the Improvements owned by the City during the term of the Lease, as a result of any condemnation or eminent domain proceeding or any sale in lieu thereof, the entire proceeds of such taking or sale shall be payable to the City with respect to such Improvements.

14. TERMINATION.

(a) If at any time: after three years from the commencement of this Lease the **Sports Complex Parcel** is not used as a sports fields and associated facilities then the Lease shall promptly and automatically terminate.

(b) If either party otherwise defaults, or fails to keep any covenants or agreements to be performed by such party, the non-defaulting party may declare this Agreement and Lease terminated; provided the non-defaulting party shall give the defaulting party written notice of such alleged default, and the defaulting party shall have a period of thirty (30) days to cure the alleged default, unless the default creates an emergency situation, in which case the alleged default shall be corrected immediately.

(c) If at any time this Agreement and Lease shall be ended or terminated, the City shall promptly remove all Improvements and promptly surrender and deliver up the **Property** peaceably to the County in accordance with this Agreement and Lease, and in the same condition as the date of execution of this Agreement and Lease, ordinary wear, tear and damage by elements and acts of God excepted. Upon request of the County, the City and the County shall execute and the County may record a notification of a release or termination of this Agreement and Lease in the records of the Clerk and Recorder's Office.

15. NON-ASSIGNABILITY. This Agreement and Lease is not assignable, nor may the City sublease any portion of the **Property**.

16. EASEMENTS; COVENANTS; RIGHTS-OF-WAY. The County grants and the City accepts this Agreement and Lease subject to all easements, covenants and rights-of-way of use or of record. During the term of this Agreement and Lease, the County reserves the sole and exclusive right to grant or use additional easements, covenants or rights-of-way that do not adversely affect the uses permitted under this Agreement and Lease on, over, and across or under the **Property**. Prior written notice of any easements, covenants or rights-of-way contemplated by the County after the date of execution of this Agreement and Lease shall be given by the County to the City.

17. SURVIVAL OF TERMS. Notwithstanding anything contained to the contrary herein, any and all obligations and duties incurred by the City during the term of this Lease shall survive the termination of this Lease.

18. ATTORNMENT. The City agrees that if the interests of the County are transferred for any reason, the City shall be bound to and shall attorn to the successor to the County's interests under all of the terms, covenants and conditions of this Lease for the balance of the term thereof remaining and shall recognize such successor as its landlord under this Lease.

19. FURTHER ASSURANCES. It is the intent of the parties that notwithstanding anything contained to the contrary herein, all right, title and interest in the **Property** and any and all Improvements located thereon or connected therewith, regardless of when such Improvements were placed upon the **Property**, shall be fully vested in the County as of the termination of this Lease. The City, upon request of the County, will at any time execute, acknowledge, deliver and record any such further instruments as may be necessary or proper to carry out this intent, and hereby irrevocably appoints the County as its agent to execute and deliver such instruments as may be necessary.

20. ANNEXATION. It is the intent of the parties that the City of Golden will move to consider annexation of the **Property** in to the City's jurisdictional boundary promptly upon full execution of this Lease. The County agrees to promptly file and the parties agree diligently pursue the annexation of the **Property**. In the event that the **Property** is not annexed into the City within six (6) months after full execution of this Lease, then either party may terminate this Agreement and Lease Agreement with 30 days written notice to the other party.

21. MISCELLANEOUS PROVISIONS.

(a) This Agreement and Lease may not be modified or amended except by an agreement in writing signed by the parties.

(b) No term or provision hereof shall be deemed waived unless the waiver shall be in writing and signed by the County. Any failure by the County to insist upon the City's strict performance of any of the terms of this Lease shall not constitute a waiver of those or any other terms. Any delay in exercising or enforcing any rights with respect to a

breach of this Lease shall not preclude the County from exercising any rights hereunder or at law or in equity.

(c) Time is of the essence with respect to this Agreement and Lease.

(d) This Agreement and Lease and the rights and duties of the parties hereunder shall be interpreted in accordance with the laws of the State of Colorado and the courts of such state shall have sole and exclusive jurisdiction of any disputes or litigation arising hereunder.

(e) Venue for any and all legal actions arising hereunder shall lie in and for the County of Jefferson, State of Colorado.

(f) Any notice or communication given pursuant to this Agreement and Lease shall be given in writing, either in person or by certified mail, return receipt requested. Such notice shall be deemed given at the time indicated on the duly completed return receipt.

(g) Notice to the City shall be delivered or mailed to:

City Manager
City of Golden, Colorado
911 10th Street
Golden, CO 80304

or such other address as the City may from time to time designate by written notice to the County.

(h) Notice to the County, including any Certificates of Insurance, shall be delivered or mailed to:

Jefferson County Administrator
Jefferson County Courts and Administration Building
100 Jefferson County Parkway, Suite 5538
Golden, Colorado 80401

with a copy to:

Director
Jefferson County Open Space
700 Jefferson County Parkway, Suite 100
Golden, Colorado 80401

and a copy to:

Jefferson County Attorney's Office

100 Jefferson County Parkway, Suite 5500
Golden, Colorado 80419-5500

or such other address as the County may from time to time designate by written notice to the City.

(i) By entering into this instrument, the County is not waiving any permit or land use requirement or regulation that may otherwise apply to the **Property** and is not in any other way waiving its right to exert its police powers with regard to the **Property**.

(j) Neither Party shall be obligated by this Agreement to make any payments in any fiscal year beyond the fiscal year for which funds are appropriated for the payment thereof or to make payments from funds of the respective Party other than funds appropriated for the payment of current expenditures. All fiscal obligations of the respective parties under this Agreement are from year to year only and do not constitute a multi-fiscal year direct or indirect debt or other financial obligation of the respective Parties. Any fiscal obligations of the Parties beyond the current year are conditioned upon appropriation of funds for such payment.

IN WITNESS WHEREOF, the parties have executed and made effective this Agreement and Lease as of the last date written below.

ATTEST:

COUNTY OF JEFFERSON
STATE OF COLORADO

Deputy Clerk

By: _____
Chairman
Board of County Commissioners

Date: _____

STATE OF COLORADO)
).ss
COUNTY OF JEFFERSON)

Subscribed and sworn to before me this ____ day of _____, 2005, by
_____ as Chairman of the Jefferson County Board of
Commissioners.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public

APPROVED AS TO FORM:

Jean L. Ayars
Assistant County Attorney

ATTEST:

CITY OF GOLDEN

City Clerk

By: _____
Charles Baroch Mayor

Date: _____

STATE OF COLORADO)
).ss
COUNTY OF JEFFERSON)

Subscribed and sworn to before me this ____ day of _____, 2005, by Charles Baroch,
as Mayor of the City of Golden.

WITNESS my hand and official seal.
My commission expires: _____

Notary Public

EXHIBIT "A"

ROONEY ROAD AREA LEASE AGREEMENT

A PARCEL OF LAND LYING IN SECTIONS 10, 11, 14, AND 15, T. 4 S., R. 70 W.,
6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE SW ¼ OF SECTION 11
FROM WHICH THE SW CORNER BEARS S 87° 53' 44" W, 1135.98';
THENCE S 00° 55' 25" E, 695.99';
THENCE S 30° 38' 19" W, 1794.01';
THENCE N 11° 26' 22" W, 776.58';
THENCE N 89° 38' 46" W, 360.28;
THENCE N 06° 39' 13" W, 279.98';
THENCE S 82° 42' 49" W, 20.22';
THENCE N 07° 17' 19" W, 832.36';
THENCE 570.74' ALONG A 1664.74' RADIUS CURVE TO THE LEFT, WHOSE
CHORD BEARS N 17° 06' 37" W, 567.95';
THENCE N 61° 06' 58" E, 10.00''
THENCE N 28° 53' 02" W, 513.25';
THENCE S 61° 06' 58" W, 10.00';
THENCE N 28° 53' 02" W, 304.00';
THENCE 841.49 ALONG A 2533.31' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 19° 22' 06" W, 837.63' TO A POINT OF COMPOUND CURVE;
THENCE 610.02 ALONG A 1095.40' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 06° 05' 20" E, 602.17';
THENCE S 67° 43' 17" E, 50.09';
THENCE 273.50' ALONG A 1045.40' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 29° 31' 20" E, 272.72';
THENCE N 52° 43' 48" W, 50.00';
THENCE 516.48' ALONG A 1095.40' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 50° 33' 43" E, 511.71';
THENCE S 00° 25' 35" E, 237.12';
THENCE S 89° 20' 48" E, 656.64' TO THE E ¼ CORNER OF SECTION 10;
THENCE N 88° 37' 54" E, 1130.70';
THENCE S 00° 34' 26" E, 2628.67' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 182.50 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP PLS 13212) TO THE S ¼ CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP ON 1 ½" REBAR IN A RANGE BOX) ASSUMED TO BEAR
N 87° 53' 44" E.

TOGETHER WITH A PARCEL OF LAND LYING IN THE NW ¼ OF SECTION 14,
T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE NW ¼ OF SECTION 14,
FROM WHICH THE NW CORNER BEARS S 87° 53' 44"W, 1326.01';
THENCE S 00° 07' 09"E, 985.69';
THENCE S 30° 33' 11"W, 1409.19';
THENCE S 54° 01' 09"W, 251.33';
THENCE N 57° 30' 26"W, 52.08';
THENCE N 30° 38' 19"E, 1831.90';
THENCE N 00° 55' 25"W, 741.37';
THENCE N 87° 53' 44"E, 40.00' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 6.42 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP PLS 13212) TO THE S ¼ CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP ON 1 ½" REBAR IN A RANGE BOX) ASSUMED TO BEAR
N 87° 53' 44"E.

EXCEPT A PARCEL OF LAND (PARCEL F) LYING IN THE SW QUARTER OF
SECTION 11, T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF
COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHICH THE SW CORNER OF SECTION 11
BEARS S 87° 31' 39"W, 379.74';
THENCE N 66° 05' 59"E, 147.22';
THENCE N 10° 24' 48"W, 64.50';
THENCE N 27° 14' 42"W, 176.89';
THENCE N 10° 11' 50"E, 57.61';
THENCE N 04° 12' 24"W, 24.43';
THENCE N 16° 39' 54"W, 185.89';
THENCE S 78° 03' 51"W, 118.79';
THENCE S 33° 52' 31"W, 99.58';
THENCE S 15° 43' 37"E, 212.17';
THENCE S 27° 11' 35"E, 256.36' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 90,091 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP) TO THE SOUTH QUARTER CORNER OF SECTION 11
(3 ¼" ALUMINUM CAPPED 1 ½" REBAR IN A RANGE BOX) ASSUMED TO
BEAR N 87° 53' 44"E.

EXCEPT A PARCEL OF LAND (TRACT G) LYING IN THE SW QUARTER OF SECTION 11, T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHICH THE SW CORNER OF SECTION 11 BEARS S 54° 03' 15"W, 522.70';
THENCE S 79° 48' 10"E, 25.00';
THENCE N 10° 11' 50"E, 25.00';
THENCE N 79° 48' 10"W, 25.00';
THENCE S 10° 11' 50"W, 25.00' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 625 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11 (3 ¼" ALUMINUM CAP) TO THE SOUTH QUARTER CORNER OF SECTION 11 (3 ¼" ALUMINUM CAPPED 1 ½" REBAR IN A RANGE BOX) ASSUMED TO BEAR N 87° 53' 44"E.

PREPARED FOR AND ON BEHALF OF JEFFERSON COUNTY BY STEVEN W. CLARK, 100 JEFFERSON COUNTY PARKWAY, GOLDEN, CO. 80419.

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTIONS.

11/18/2004

SECTION'S 10, 11, 14 & 15 TOWNSHIP 4 SOUTH, RANGE 70 WEST 6th P-M

JEFFERSON COUNTY

EXHIBIT "A"

ROONEY ROAD AREA LEASE AGREEMENT

A PARCEL OF LAND LYING IN SECTIONS 10, 11, 14, AND 15, T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEARING AT A POINT ON THE SOUTH LINE OF THE SW 1/4 OF SECTION 11 FROM WHICH THE SW CORNER BEARS S 87° 51' 44" W, 1135.98;
 THENCE S 00° 55' 25" E, 69.539;
 THENCE S 30° 38' 19" W, 174.451;
 THENCE N 11° 28' 22" W, 340.58;
 THENCE N 82° 39' 13" W, 279.98;
 THENCE S 87° 48' 18" W, 20.22;
 THENCE N 07° 17' 19" W, 832.36;
 THENCE S 70° 74' ALONG A 1664.74 RADIUS CURVE TO THE LEFT, WHOSE CHORD BEARS N 17° 06' 37" W, 467.95;
 THENCE N 61° 06' 58" E, 10.00;
 THENCE N 28° 53' 02" W, 513.25;
 THENCE S 61° 06' 58" W, 10.00;
 THENCE N 28° 53' 02" W, 304.00;
 THENCE S 81° 49' ALONG A 2333.31 RADIUS CURVE TO THE RIGHT, WHOSE CHORD BEARS N 19° 22' 06" W, 837.67 TO A POINT OF COMPOUND CURVE;
 THENCE S 67° 43' 17" E, 50.09;
 THENCE S 27° 50' ALONG A 1095.40 RADIUS CURVE TO THE RIGHT, WHOSE CHORD BEARS N 06° 05' 20" E, 602.17;
 THENCE S 52° 43' 48" W, 50.00;
 THENCE S 16° 48' ALONG A 1095.40 RADIUS CURVE TO THE RIGHT, WHOSE CHORD BEARS N 50° 33' 43" E, 511.71;
 THENCE S 89° 20' 48" E, 656.64 TO THE E 1/2 CORNER OF SECTION 10;
 THENCE N 88° 37' 54" E, 1130.70;
 THENCE S 00° 34' 26" E, 2628.67 TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 182.50 ACRES, MORE OR LESS.
 BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11 (3 1/4" ALUMINUM CAP PLS 13212) TO THE S 1/2 CORNER OF SECTION 11 (3 1/4" ALUMINUM CAP ON 1 1/2" REBAR IN A RANGE BOX) ASSUMED TO BEAR N 87° 53' 44" E.

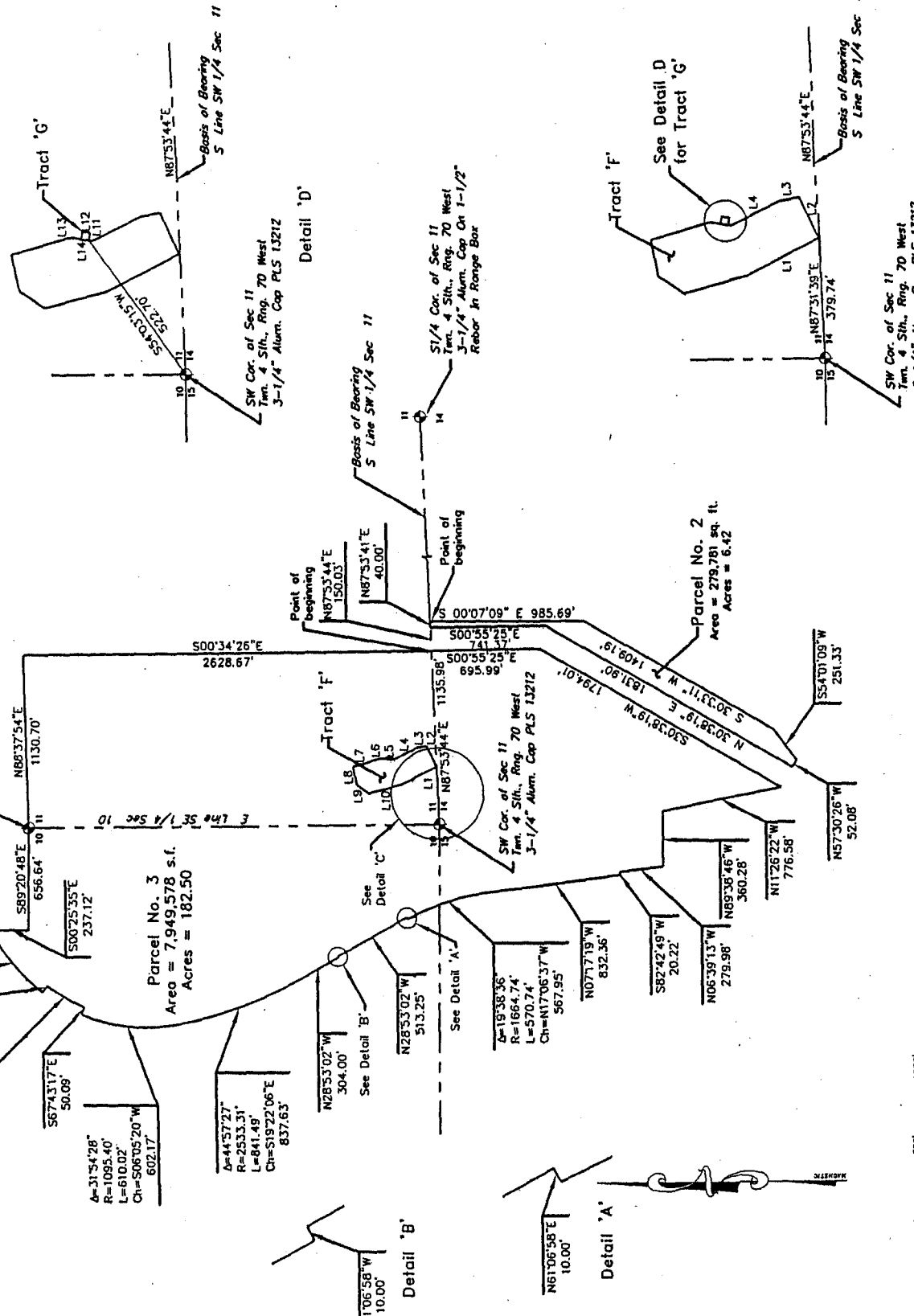
TOGETHER WITH A PARCEL LYING IN THE NW 1/4 OF SECTION 14, T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 BEARING AT A POINT ON THE NORTH LINE OF THE NW 1/4 OF SECTION 14, FROM WHICH THE SW CORNER BEARS S 87° 53' 44" W, 1326.01;
 THENCE S 00° 07' 09" E, 985.69;
 THENCE S 30° 33' 11" W, 1409.19;
 THENCE S 54° 01' 09" W, 251.33;
 THENCE N 57° 30' 26" W, 52.08;
 THENCE N 30° 38' 19" E, 1831.96;
 THENCE N 00° 55' 25" W, 741.37;
 THENCE N 87° 53' 44" E, 40.00 TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 6.42 ACRES, MORE OR LESS.
 BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11 (3 1/4" ALUMINUM CAP PLS 13212) TO THE S 1/2 CORNER OF SECTION 11 (3 1/4" ALUMINUM CAP ON 1 1/2" REBAR IN A RANGE BOX) ASSUMED TO BEAR N 87° 53' 44" E.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11 (3 1/4" ALUMINUM CAP PLS 13212) TO THE S 1/2 CORNER OF SECTION 11 (3 1/4" ALUMINUM CAP ON 1 1/2" REBAR IN A RANGE BOX) ASSUMED TO BEAR N 87° 53' 44" E.

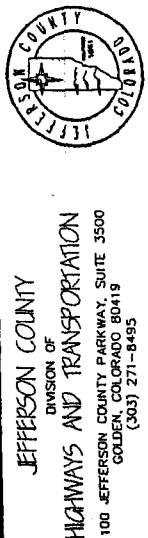
Tract 'G'
Area = 625 sq. ft. 0.014 acres

LINE	LENGTH	BEARING
L11	25.0'	S79°48'10"E
L12	25.0'	N10°11'50"W
L13	25.0'	N79°48'10"W
L14	25.0'	S10°11'50"W



Tract 'F'
Area = 90.091 sq. ft. 2.07 acres

LINE	LENGTH	BEARING
L1	256.36	S27°11'35"E
L2	147.22	N65°05'59"E
L3	64.50	N10°24'48"W
L4	176.89	N27°14'42"W
L5	57.61	N10°11'50"E
L6	24.43	N04°12'24"W
L7	165.89	N16°39'54"W
L8	118.79	S78°03'51"W
L9	95.58	S33°52'31"W
L10	212.17	S15°43'37"E



Date Created: 8-31-2004
 File/Location: RooneyRecy-Exhibit
 G:\Design\Cad\Projects\RooneyRecycling\DWG
 Plot Date: 11-24-2004

Scale: (As Shown)
 Design By: S.C.
 Drawn By: D.A.M.
 Checked By: Staff
 Field Book:

Revisions:

ROONEY ROAD AREA
 LEASE AGREEMENT

Project No.: 7006

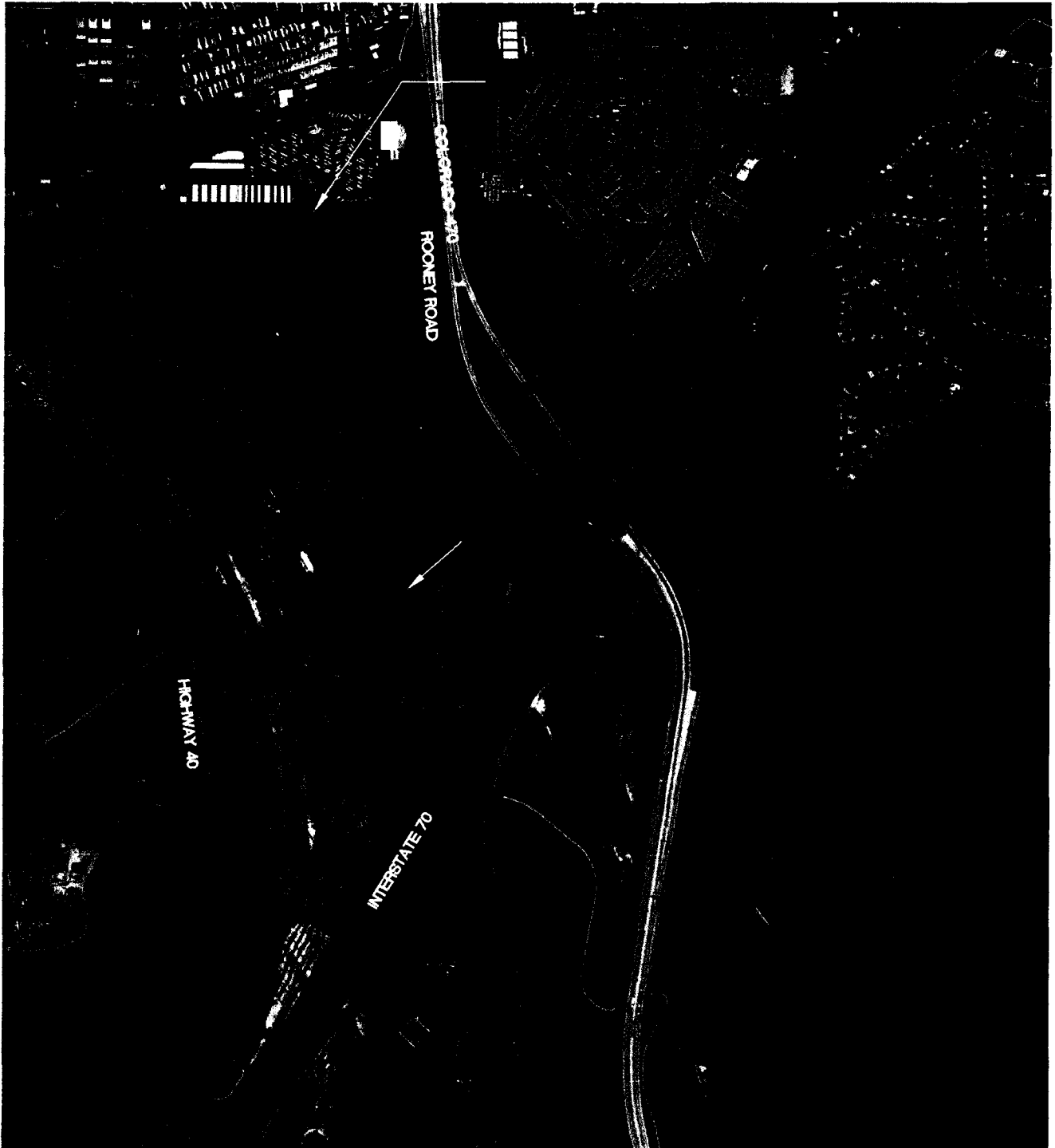
Sheet 7

Of 1

NOTE:
 THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY.
 IT IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTIONS.



APEX PARK [MC [GOLDEN [ROONEY ROAD AREA LEASE AGREEMENT OS04-007



APRIL 13, 2006

EXHIBIT C

PRIORITY BASED USAGE

PRIORITY #1

Organizations meeting the following criteria:

1. Organizations must be located in the Golden Region which includes: Golden area, Genessee, Evergreen, Applewood, and Conifer.
2. The Organizations primary focus is that of youth sports programs.
3. The Organization is made up of 75% of youth from the target areas.
4. The Organization must have been Registered with the State of Colorado and is required to be maintained as a Colorado Nonprofit Corporation as identified by the State of Colorado.
5. The Organization must not be affiliated with or branch or division of a larger organization which is primarily operating in another community.

PRIORITY #2

Jefferson County Schools located in the targeted area as identified in Priority 1.1.

PRIORITY #3

All other Organizations located within Jefferson County whose sole purpose is to provide youth sports experiences to youth in Jefferson County.

PRIORITY #4

Youth Sports Organizations located outside of Jefferson County.

PRIORITY #5

Organizations and businesses desiring to secure a venue for special tournaments, sport camps or events (These permits will be issued on a time/space available basis and will not be long term).

General Public Usage: At any time the facility is not in use the general public will have access to the site. The complex will be treated as an open park.

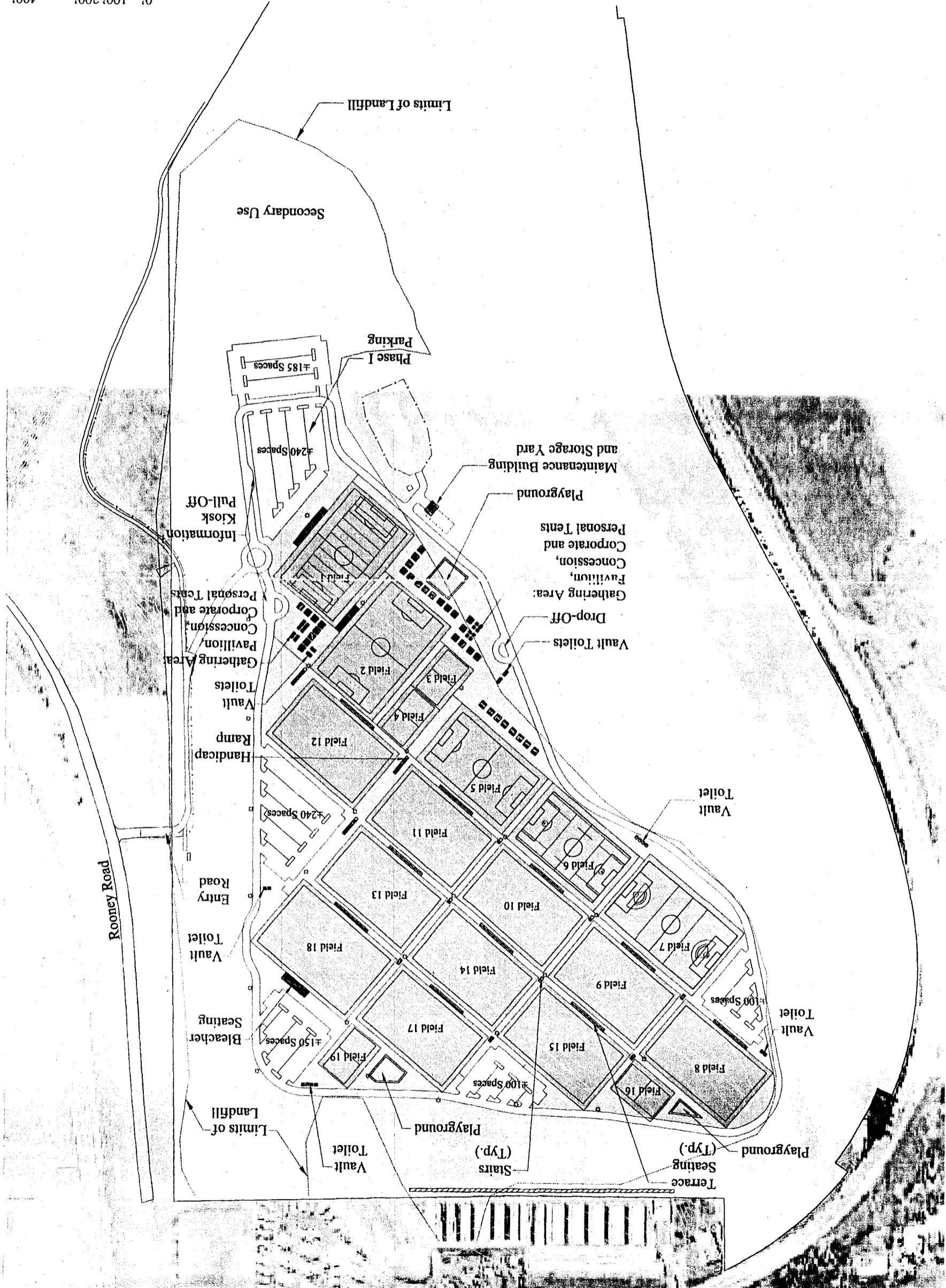
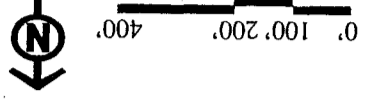
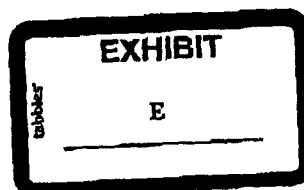


Exhibit D



INSURANCE REQUIREMENTS -		GENERAL
I	Prior to the commencement of any work the tenant shall forward certificates of insurance to the department specified in the award document.	
II	Certificate Holder must be Jefferson County, Colorado as the certificate holder.	Required
III	Insurance - Minimum requirement	
	Commercial General Liability - on a Comprehensive Form Combined single limit for Bodily Injury and Property Damage. Personal injury, Bodily Injury, Property Damage, including Products and Completed Operations and Contractual Liability. Liquor Liability (if liquor is sold at the event)	Required \$1M each occurrence \$2M general aggregate
	Jefferson County must be added as an additional insured in all applicable liability policies.	Required
	All deductibles or self-insured retentions (SIRs) in excess of \$5,000 must be listed on the certificate of insurance	Required
	Certificates of insurance on all policies to the county shall provide written notice of not less than 30 days prior to cancellation or change in coverage	Required
	The insurance requirements specified by the county shall remain in effect for the full term of the contract and/or agreement and any extension thereof. Updated Certificates of Insurance shall be sent to the county during the full term of the contract and/or agreement and any extension thereof.	Required
	The county reserves the right to reject any insurer it deems not financially acceptable on insurance industry resources. Property and liability insurance companies shall be licensed to do business in Colorado and shall have an A.M. Best rating of not less than B+ and/or VII. Additionally the county reserves the right to reject any insurance with relatively large deductibles or self-insured retentions (SIRs), deemed by the county to pose too high a risk based on the size of the tenant, financial status or rating of the tenant, or based on the size or type of the project and the exposure.	Required
IV	Any deviations below the standards given above must be approved by Jefferson County Risk Management	Required
		Required

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AGREEMENT AND LEASE

THIS AGREEMENT AND LEASE is dated for reference purposes only this 18th day of April, 2006, between the COUNTY OF JEFFERSON, a body politic and corporate (the "County"), and the CITY OF GOLDEN, a Colorado municipal corporation (the "City").

RECITALS

A. The County is the owner of certain land referenced herein as the "**Property**" which is legally described in Exhibit A, attached hereto and incorporated herein by reference; and

B. The **Property** is divided into three separate areas referenced herein as the "**Sports Complex Parcel**", the "**Open Space Parcel**" and the "**Dog Park Envelope**", which areas are each depicted, for illustrative purposes only on that aerial photograph attached hereto and incorporated herein as Exhibit B; and

C. On or about September 12, 2002, the City and the County entered into an Agreement and Lease with respect to the **Dog Park Envelope**, (the "Dog Park Lease"). Effective as of the date of this Agreement, the parties terminate the Dog Park Lease and release all right, title and interest under the Dog Park Lease; and

D. The parties desire that the Property be used for the following purposes: (1) as to the **Sports Complex Parcel**, for the development, maintenance and operation of a sports complex primarily for use by youth; (2) as to the **Open Space Parcel**, for public open space, park or recreational purposes; and (3) as to some or all of the **Dog Park Envelope**, for a dog off-leash park; and

E. The Parties are desirous of entering into an Agreement and Lease addressing the development, operation, maintenance and administration of the **Property** for the purposes delineated above in accordance with this Agreement and Lease.

NOW THEREFORE, in consideration of the mutual agreements, conditions and provisions hereinafter set forth, the parties to this Agreement and Lease agree as follows:

1. PROPERTY LEASED.

(a) The County leases to the City and the City leases from the County the **Property**.

b) The County leases only the **Property**. All sports fields, parking lots, and permitted Improvements, structures, power, water or other facilities placed on this land shall be at the expense of the City and the City shall pay all charges of installation, modification, maintenance, and use of fields and facilities and for all services connected

therewith, and shall pay all taxes, if any, levied on the **Property**. In addition, the City shall pay all assessments, all fees in lieu of taxes, and all other fees, if any, levied on the **Property** by any public entity.

(c) The **Property** is leased "as is" without any warranties.

(d) Public vehicular access to the **Property** over the existing road from Rooney Road is a "public highway" pursuant to 43-2-201(1)(c) C.R.S. The City's access rights and the general public's access rights over this road are non-exclusive. The road is also used, by way of example only, by the Rooney Road Recycling Center Authority and County personnel. Upon completion of installation of the initial phase of the sports field and authorized, associated improvements by the City, the City shall make such repairs to the road to return the road to substantially the condition as existed prior to construction activities. Thereafter, the City, at its expense, shall keep the access road in good repair and in accordance with the City's standard practices for the maintenance and repair of similar roads within its jurisdiction.

(e) The City may use the *Sports Complex Parcel* as a sports field and associated facilities only. The fields will be used in accordance with that Priority Based Usage scheme set forth on Exhibit C, attached hereto and incorporated herein. The City will be solely responsible for scheduling use of the sports fields, and will schedule league, team and other group use of the fields in a manner which is consistent with the routine scheduling practices of other cities and park and recreation districts in the metro area, recognizing that, subject to the foregoing, priority of use will be provided in conformance with paragraph 8.

(f) The City covenants and agrees to use the *Open Space Parcel* solely for public open space, park or recreational purposes. The natural resource management of the *Open Space Parcel* by the City shall be generally consistent with the City's current management of those open space parcels located near North and South Table Mountains, which were deeded to the City by the County, and originally purchased from the Bradburns, the Mayfords, the Evans and the Bachmans.

(g) The City may, at its discretion, use the *Dog Park Envelope* as a dog off-leash park.

2. TERM; RENT; RENEWAL OPTION.

(a) The initial term of this Agreement and Lease shall be twenty (20) years from the date of its execution by the Jefferson Board of County Commissioners (the "Board"). The rental amount for the initial term shall be \$100.00, the receipt of which is hereby acknowledged.

(b) The term will automatically renew for subsequent periods of ten (10) years each unless either party gives written notice of the termination to the other party no later than 180 days prior to the termination date of the initial term or any renewal term.

3. RECOGNITION OF JEFFERSON COUNTY OPEN SPACE RULES AND REGULATIONS. Signage, printed materials, and promotional items with respect to the **Property** shall be posted and prepared in conformance with Section 7.3.2.9.3 of the current County's Policies and Procedures Manual as the same may be amended from time to time.

4. USE OF PROPERTY AND IMPROVEMENTS.

(a) The County retains ownership of the land, water, water rights, wells, landfill (including the landfill cap and improvements associated with closure of the landfill) that under lies the surface of the **Property** that are appurtenant to the **Property**. During the term of this Lease, the City shall fund and own all other Improvements hereafter installed. For the purposes of this Agreement and Lease, "Improvements" include all sports fields, fences, parking lots, portable toilets that do not involve any excavation, and structures and attached fixtures of a permanent or temporary nature and shall be broadly defined. The **Property** together with any Improvements placed thereon, shall be open and available for use to any resident of Jefferson County to the same extent that the **Property** is open and available for use by citizens of Golden. The City shall not use or keep any substance or material in or about the **Property** which may vitiate or endanger the landfill or landfill cap or the validity of the insurance thereof or increase the hazard or risk of fire, or which may prove offensive or annoying to adjacent property owners or tenants, nor will the City permit any nuisance within or upon the **Property**.

(b) Prior to commencing the installation of any Improvements on any portion of the **Property**, the City shall first obtain written approval for such Improvements from the County Administrator or his or her designee ("County Approval"). In addition, the City shall obtain written County Approval prior to commencing any repair, maintenance, or other work that involves excavation, trenching, or earthwork on the *Sports Complex Parcel*, or in the event that the City desires to schedule the use of the Sports Complex Parcel in a manner which is not consistent with the Priority Based Usage scheme set forth in Exhibit C. The County shall respond to the City's request within twenty-one (21) days of receipt of the request except that the County will respond to requests for emergency repair and maintenance work as soon as is reasonable practicable.

(c) The City may operate or authorize the operation of concessions on the *Sports Complex Parcel* provided that such concessions are incidental and complimentary to the primary use of the *Sports Complex Parcel* as sports fields and do not involve the use of water other than the sale of bottled water, or water within a self-contained concession unit that is pre-approved by the County. If any concession involves excavation, trenching, or earthwork on any part of the **Property**, the City shall first obtain County Approval in accordance with paragraph 4(b).

- (d) Prior to opening the *Dog Park Envelope* to the general public, the City shall construct a fence around the perimeter of the *Dog Park Envelope* for the purpose of containing animals using the *Dog Park Envelope*. The City shall obtain approval from the County of the fencing prior to installation, in accordance with paragraph 4(b). The City shall also not open the *Dog Park Envelope* to the general public until a parking lot to serve the *Dog Park Envelope* has been completed unless the County, in its discretion, consents to an earlier opening. The City shall also provide dog waste pick-up bags and dispensers to hold the bags.
- (e) Advertising shall be allowed on the *Sports Complex Parcel* provided that such advertising is incidental to the primary use of the *Sports Complex Parcel* as sports fields, and the subject matter of the advertising is reasonably correlated to the general use or users of the **Property**. If any advertising involves excavation, trenching, or earthwork on any part of the **Property**, the City shall first obtain approval in accordance with paragraph 4(b). No commercial advertising shall be allowed on the *Dog Park Envelope* or the *Open Space Parcel* without the express written approval of the County.
- (f) The County shall have access to the **Property** at all reasonable times to determine compliance with the terms of this Agreement and Lease without notice to the City.
- (g) This Agreement and Lease does not grant the City the right to construct any roads to the **Property** except those shown on the Master Site Plan, which Master Site Plan is attached hereto as Exhibit D and which is approved by the County. Parking for the *Sports Complex Parcel* and the *Dog Park Envelope* shall be limited to the areas delineated on the Master Site Plan.
- (h) Upon termination or expiration of this Agreement and Lease, at the County's sole option, the City shall, within ninety (90) days thereof, remove any or all of the Improvements which it has placed upon the **Property**. Any Improvements not removed from the **Property** within said ninety (90) day period shall become the sole and exclusive property of the County, and the City shall have no right to recover or attempt to recover the cost or value thereof; provided however, that if the County conveys the **Property** to the City it shall also convey any Improvements on the **Property**.
- (i) There shall be no smoking permitted on the Sports Complex Parcel. The City shall post "No Smoking" signs at locations mutually agreed upon by the parties.
- (j) The City and County shall cooperate to undertake an awareness training program for the Active Methane Recovery system installed at the Sports Complex Parcel, which program shall be directed at City employees maintaining the Sports Complex Parcel. This program will include an educational component to assist in recognition of leakage or broken piping, containment system or burner problems, leakage from the gathering system and general issues, concerns or breakdown of the recovery system. The City will immediately notify the County at any sign of a failure or leakage in the recovery system of which the City becomes aware. This paragraph shall not be construed to relieve the County of its obligation to operate, maintain and repair the landfill, the landfill cap and

improvements associated with the closure of the landfill, including the active methane recovery system, as provided below.

(k) The County shall have the right to place and keep approximately 15,000 cubic yards of dirt in the southwest corner of the **Property** as shown on the Master Site Plan attached hereto as Exhibit D, which dirt shall be available to both the County and the City for repairs to the fields.

5. OPERATION AND MAINTENANCE RESPONSIBILITIES.

(a) The County shall retain responsibility for the operation, maintenance and repair of the landfill, the landfill cap and improvements associated with the closure of the landfill that underlies the surface of the **Sports Complex Parcel**, except to the extent that damage to such improvements are caused by the City or users of the **Sports Complex Parcel**. In the event that the **Sports Complex Parcel** or any portion thereof sinks or settles, the County shall undertake such repairs only if such repairs are necessary to preserve the landfill cap and associated improvements. In such event, and promptly upon notice from the County, the City, at its expense, shall close any sports fields necessary to effectuate such repair and to remove all Improvements, including without limitation any field turf, as directed by the County. The County will make repairs in a prompt manner so as to minimize closure of the sports fields. In the event that any portion of the **Sports Complex Parcel** has sunk or settled and repair is not required to preserve the landfill cap or associated improvements, then the City shall be responsible for repairs to the sports fields

(b) Except as provided in paragraphs 5(a) and 9, the City shall assume responsibility for the total operation, management, and maintenance of the **Property** and of any Improvements, utilities, landscaping, and repairs, whether now existing or subsequently constructed, and all expenses related thereto. The City shall maintain and repair any structures and/or Improvements added to the **Property** to at least the same condition as the date of completion of the construction of such structures and/or Improvements, ordinary wear, tear, and damage by the elements and acts of God excepted. Alternatively, the City may remove such Improvements from the Property.

(c) Except as provided in paragraphs 5(a) and 9, the County shall not be responsible for maintenance, improvements to the **Property**, or operations of either existing or future improvements.

(d) The County may, but is not obligated to, post such signs in such locations as it deems necessary to inform the users of the **Property** of the existence and potential danger of the landfill and associated methane gas.

6. WATER AND LANDSCAPING. The City may not develop water on the **Property**. Nor may the City install natural landscaping of any kind on the **Sports Complex Parcel** without prior approval of the County's Director of Facilities Management. The City may install portable

toilets on the *Sports Complex Parcel* provided that such toilets do not involve any excavation or other dirt work. Installation of toilets that require excavation or dirt work must have prior County approval in accordance of paragraph 4(b).

7. STATUTES AND LAWS. The City shall not use or authorize, or permit others to use, the **Property** for any purpose prohibited by the laws of the United States, the State of Colorado, the County of Jefferson, or any city or municipality within whose corporate boundaries the **Property** is now or may subsequently be located. The City shall keep the **Property** clean and in a sanitary condition and shall not permit any disorderly conduct, undue noise or nuisance on the **Property**. The City agrees to neither hold nor attempt to hold the County liable for any injury or damage, either proximate or remote, occurring through or caused by any use of the **Property**.

8. PRIORITY TO COUNTY RESIDENTS; FEE DIFFERENTIALS. The **Property** was acquired by the County for the benefit of all the residents of the County. Therefore, the City covenants and agrees that regarding the use of the **Property**, including any Improvements thereon, the following shall apply:

- (a) No City resident shall be given preference concerning use of the **Property** or any activities therein.
- (b) Jefferson County residents shall be given use priority preference over non-county residents.
- (c) No fee preference shall be given to the City's residents over other Jefferson County residents concerning use of the **Property** or activities occurring therein.
- (d) If fees are ever charged on the **Property**, fee differentials shall be charged for non-Jefferson County residents.

The foregoing shall not preclude the City from charging fee differentials for use only of the *Sports Complex Parcel* to groups or individuals who have made, or will make capital contributions for development or maintenance of the sports complex so long as the charging of such fee differentials is consistent with the fee differentials charging practices of other cities and park and recreation districts in the metro area.

9. COUNTY TRAIL RESERVATION. The County hereby expressly reserves a non-exclusive permanent easement over the western portion of the *Open Space Parcel*, to allow the County to design, develop, construct and maintain a natural surface trail, at a specific location to be mutually agreed upon, which would serve as a trail connector between Apex and Matthews/Winters Parks, and for pedestrian, equestrian and bicycle access by the general public and pedestrian and vehicular emergency, security, construction and maintenance access by the County (and its agents, employees and contractors) along such trail.

10. INDEMNIFICATION; RELEASE. To the extent permitted by law, and without waiving any of the protections or immunities of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, the City agrees to and does hereby release, waive, discharge, indemnify and hold the County, its officials, agents, employees, successors and insurers harmless from and against any actual or alleged injury or damage, including attorney's fees, related to or arising out of use of the **Property**, including, but not limited to, use by special interest groups or community-sponsored activities.

11. ENVIRONMENTAL INDEMNIFICATIONS.

(a) As used herein, the term "Hazardous Materials" means flammable or explosive materials, petroleum or petroleum products, oil, crude oil, methane gas or synthetic gas usable for fuel, radioactive materials, asbestos, or any hazardous, toxic or dangerous substances, materials or wastes which are regulated under any applicable county, municipal, state or federal law, rule, ordinance, direction or regulations as may be amended from time to time.

(b) To the extent permitted by law, and without waiving any of the protections or immunities of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, the City agrees to indemnify and hold harmless the County for any and all (1) civil, legal and administrative costs; (2) fines and penalties; (3) response, remedial and clean-up costs; and (4) other costs (including attorney's fees) or liability arising from the introduction of any Hazardous Materials to the **Property** during the term of this Lease unless caused by the County or associated with the operation of the Household Hazardous Waste Storage Facility.

(c) To the extent permitted by law, and without waiving any of the protections or immunities of the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, the County agrees to indemnify and hold harmless the City for any and all (1) civil, legal and administrative costs; (2) fines and penalties; (3) response, remedial and clean-up costs; and (4) other costs (including attorney's fees) or liability arising from the introduction of any Hazardous Materials to the **Property** prior to the term of this Lease, including without limitation, the methane mitigation system existing on the **Property**, unless caused by the City or users of the **Property**.

12. INSURANCE.

(a) During the term of this Agreement and Lease, the City shall maintain such insurance coverages and limits as set forth in Exhibit E attached hereto and incorporated herein by reference.

(b) Certificates evidencing such insurance shall be delivered to the County upon the execution of this Agreement. Such certificates shall require the insurance carrier to give written notice to the County not less than thirty (30) days prior to cancellation or termination of such insurance.

13. PROPERTY DAMAGE OR CONDEMNATION.

(a) In the case of fire, flood, vandalism or other loss due to occurrences beyond the control of either party, the City shall decide whether the Improvements shall be replaced and shall be fully responsible for the repair or replacement of any Improvements or property so damaged. All insurance proceeds received shall be used to repair or replace any Improvements or returned to the City. If the City decided to not replace the Improvements, the City may decide to terminate the Lease upon thirty (30) days written notice to the County.

(b) In the event of loss of all or any portion of the **Property** as a result of any condemnation or eminent domain proceeding or any sale in lieu thereof, the entire proceeds of such taking or sale shall be payable to the County and this Agreement and Lease shall terminate as to such loss of **Property**. In the event of loss of all or any portion of the Improvements owned by the City during the term of the Lease, as a result of any condemnation or eminent domain proceeding or any sale in lieu thereof, the entire proceeds of such taking or sale shall be payable to the City with respect to such Improvements.

14. TERMINATION.

(a) If at any time: after three years from the commencement of this Lease the **Sports Complex Parcel** is not used as a sports fields and associated facilities then the Lease shall promptly and automatically terminate.

(b) If either party otherwise defaults, or fails to keep any covenants or agreements to be performed by such party, the non-defaulting party may declare this Agreement and Lease terminated; provided the non-defaulting party shall give the defaulting party written notice of such alleged default, and the defaulting party shall have a period of thirty (30) days to cure the alleged default, unless the default creates an emergency situation, in which case the alleged default shall be corrected immediately.

(c) If at any time this Agreement and Lease shall be ended or terminated, the City shall promptly remove all Improvements and promptly surrender and deliver up the **Property** peaceably to the County in accordance with this Agreement and Lease, and in the same condition as the date of execution of this Agreement and Lease, ordinary wear, tear and damage by elements and acts of God excepted. Upon request of the County, the City and the County shall execute and the County may record a notification of a release or termination of this Agreement and Lease in the records of the Clerk and Recorder's Office.

15. NON-ASSIGNABILITY. This Agreement and Lease is not assignable, nor may the City sublease any portion of the **Property**.

16. EASEMENTS; COVENANTS; RIGHTS-OF-WAY. The County grants and the City accepts this Agreement and Lease subject to all easements, covenants and rights-of-way of use or of record. During the term of this Agreement and Lease, the County reserves the sole and exclusive right to grant or use additional easements, covenants or rights-of-way that do not adversely affect the uses permitted under this Agreement and Lease on, over, and across or under the **Property**. Prior written notice of any easements, covenants or rights-of-way contemplated by the County after the date of execution of this Agreement and Lease shall be given by the County to the City.

17. SURVIVAL OF TERMS. Notwithstanding anything contained to the contrary herein, any and all obligations and duties incurred by the City during the term of this Lease shall survive the termination of this Lease.

18. ATTORNMENT. The City agrees that if the interests of the County are transferred for any reason, the City shall be bound to and shall attorn to the successor to the County's interests under all of the terms, covenants and conditions of this Lease for the balance of the term thereof remaining and shall recognize such successor as its landlord under this Lease.

19. FURTHER ASSURANCES. It is the intent of the parties that notwithstanding anything contained to the contrary herein, all right, title and interest in the **Property** and any and all Improvements located thereon or connected therewith, regardless of when such Improvements were placed upon the **Property**, shall be fully vested in the County as of the termination of this Lease. The City, upon request of the County, will at any time execute, acknowledge, deliver and record any such further instruments as may be necessary or proper to carry out this intent, and hereby irrevocably appoints the County as its agent to execute and deliver such instruments as may be necessary.

20. ANNEXATION. It is the intent of the parties that the City of Golden will move to consider annexation of the **Property** in to the City's jurisdictional boundary promptly upon full execution of this Lease. The County agrees to promptly file and the parties agree diligently pursue the annexation of the **Property**. In the event that the **Property** is not annexed into the City within six (6) months after full execution of this Lease, then either party may terminate this Agreement and Lease Agreement with 30 days written notice to the other party.

21. MISCELLANEOUS PROVISIONS.

(a) This Agreement and Lease may not be modified or amended except by an agreement in writing signed by the parties.

(b) No term or provision hereof shall be deemed waived unless the waiver shall be in writing and signed by the County. Any failure by the County to insist upon the City's strict performance of any of the terms of this Lease shall not constitute a waiver of those or any other terms. Any delay in exercising or enforcing any rights with respect to a

breach of this Lease shall not preclude the County from exercising any rights hereunder or at law or in equity.

(c) Time is of the essence with respect to this Agreement and Lease.

(d) This Agreement and Lease and the rights and duties of the parties hereunder shall be interpreted in accordance with the laws of the State of Colorado and the courts of such state shall have sole and exclusive jurisdiction of any disputes or litigation arising hereunder.

(e) Venue for any and all legal actions arising hereunder shall lie in and for the County of Jefferson, State of Colorado.

(f) Any notice or communication given pursuant to this Agreement and Lease shall be given in writing, either in person or by certified mail, return receipt requested. Such notice shall be deemed given at the time indicated on the duly completed return receipt.

(g) Notice to the City shall be delivered or mailed to:

City Manager
City of Golden, Colorado
911 10th Street
Golden, CO 80304

or such other address as the City may from time to time designate by written notice to the County.

(h) Notice to the County, including any Certificates of Insurance, shall be delivered or mailed to:

Jefferson County Administrator
Jefferson County Courts and Administration Building
100 Jefferson County Parkway, Suite 5538
Golden, Colorado 80401

with a copy to:

Director
Jefferson County Open Space
700 Jefferson County Parkway, Suite 100
Golden, Colorado 80401

and a copy to:

Jefferson County Attorney's Office

100 Jefferson County Parkway, Suite 5500
Golden, Colorado 80419-5500


or such other address as the County may from time to time designate by written notice to the City.

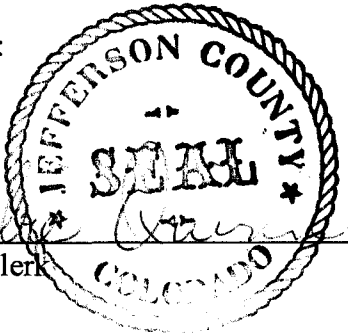
(i) By entering into this instrument, the County is not waiving any permit or land use requirement or regulation that may otherwise apply to the **Property** and is not in any other way waiving its right to exert its police powers with regard to the **Property**.

(j) Neither Party shall be obligated by this Agreement to make any payments in any fiscal year beyond the fiscal year for which funds are appropriated for the payment thereof or to make payments from funds of the respective Party other than funds appropriated for the payment of current expenditures. All fiscal obligations of the respective parties under this Agreement are from year to year only and do not constitute a multi-fiscal year direct or indirect debt or other financial obligation of the respective Parties. Any fiscal obligations of the Parties beyond the current year are conditioned upon appropriation of funds for such payment.

IN WITNESS WHEREOF, the parties have executed and made effective this Agreement and Lease as of the last date written below.

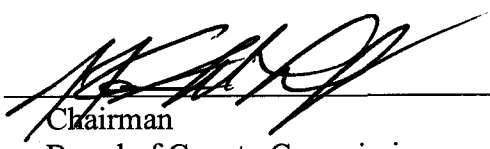
ATTEST:


Deputy Clerk



COUNTY OF JEFFERSON
STATE OF COLORADO

By: _____


Chairman
Board of County Commissioners

Date: _____

4/19/06

STATE OF COLORADO)
).ss
COUNTY OF JEFFERSON)

Subscribed and sworn to before me this 19 day of April, 2005, by
J. Kevin McCasky as Chairman of the Jefferson County Board of
Commissioners.

WITNESS my hand and official seal.
My commission expires: _____

Shellie Laughead
Notary Public

APPROVED AS TO FORM:

Jean L. Ayars

Jean L. Ayars
Assistant County Attorney



SHELLIE LAUGHEAD
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires
September 20, 2008

ATTEST:

CITY OF GOLDEN

Susan Brooks

City Clerk

By: *C. Baroch*
Charles Baroch Mayor

Date: *4/14/06*

STATE OF COLORADO)
).ss
COUNTY OF JEFFERSON)

Subscribed and sworn to before me this 14 day of April, 2006, by Charles Baroch,
as Mayor of the City of Golden.

WITNESS my hand and official seal.
My commission expires: 3/2008

Dominique Fauble

Notary Public

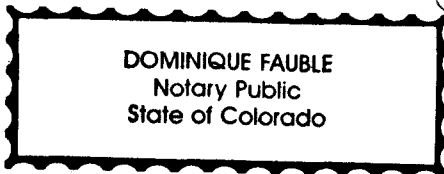


EXHIBIT "A"

ROONEY ROAD AREA LEASE AGREEMENT

A PARCEL OF LAND LYING IN SECTIONS 10, 11, 14, AND 15, T. 4 S., R. 70 W.,
6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE SW $\frac{1}{4}$ OF SECTION 11
FROM WHICH THE SW CORNER BEARS S 87° 53' 44" W, 1135.98';
THENCE S 00° 55' 25" E, 695.99';
THENCE S 30° 38' 19" W, 1794.01';
THENCE N 11° 26' 22" W, 776.58';
THENCE N 89° 38' 46" W, 360.28';
THENCE N 06° 39' 13" W, 279.98';
THENCE S 82° 42' 49" W, 20.22';
THENCE N 07° 17' 19" W, 832.36';
THENCE 570.74' ALONG A 1664.74' RADIUS CURVE TO THE LEFT, WHOSE
CHORD BEARS N 17° 06' 37" W, 567.95';
THENCE N 61° 06' 58" E, 10.00''
THENCE N 28° 53' 02" W, 513.25';
THENCE S 61° 06' 58" W, 10.00';
THENCE N 28° 53' 02" W, 304.00';
THENCE 841.49 ALONG A 2533.31' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 19° 22' 06" W, 837.63' TO A POINT OF COMPOUND CURVE;
THENCE 610.02 ALONG A 1095.40' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 06° 05' 20" E, 602.17';
THENCE S 67° 43' 17" E, 50.09';
THENCE 273.50' ALONG A 1045.40' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 29° 31' 20" E, 272.72';
THENCE N 52° 43' 48" W, 50.00';
THENCE 516.48' ALONG A 1095.40' RADIUS CURVE TO THE RIGHT, WHOSE
CHORD BEARS N 50° 33' 43" E, 511.71';
THENCE S 00° 25' 35" E, 237.12';
THENCE S 89° 20' 48" E, 656.64' TO THE E $\frac{1}{4}$ CORNER OF SECTION 10;
THENCE N 88° 37' 54" E, 1130.70';
THENCE S 00° 34' 26" E, 2628.67' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 182.50 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11
(3 $\frac{1}{4}$ " ALUMINUM CAP PLS 13212) TO THE S $\frac{1}{4}$ CORNER OF SECTION 11
(3 $\frac{1}{4}$ " ALUMINUM CAP ON 1 $\frac{1}{2}$ " REBAR IN A RANGE BOX) ASSUMED TO BEAR
N 87° 53' 44" E.

TOGETHER WITH A PARCEL OF LAND LYING IN THE NW ¼ OF SECTION 14,
T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO,
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE NW ¼ OF SECTION 14,
FROM WHICH THE NW CORNER BEARS S 87° 53' 44"W, 1326.01';
THENCE S 00° 07' 09"E, 985.69';
THENCE S 30° 33' 11"W, 1409.19';
THENCE S 54° 01' 09"W, 251.33';
THENCE N 57° 30' 26"W, 52.08';
THENCE N 30° 38' 19"E, 1831.90';
THENCE N 00° 55' 25"W, 741.37';
THENCE N 87° 53' 44"E, 40.00' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 6.42 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP PLS 13212) TO THE S ¼ CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP ON 1 ½" REBAR IN A RANGE BOX) ASSUMED TO BEAR
N 87° 53' 44"E.

EXCEPT A PARCEL OF LAND (PARCEL F) LYING IN THE SW QUARTER OF
SECTION 11, T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF
COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHICH THE SW CORNER OF SECTION 11
BEARS S 87° 31' 39"W, 379.74';
THENCE N 66° 05' 59"E, 147.22';
THENCE N 10° 24' 48"W, 64.50';
THENCE N 27° 14' 42"W, 176.89';
THENCE N 10° 11' 50"E, 57.61';
THENCE N 04° 12' 24"W, 24.43';
THENCE N 16° 39' 54"W, 185.89';
THENCE S 78° 03' 51"W, 118.79';
THENCE S 33° 52' 31"W, 99.58';
THENCE S 15° 43' 37"E, 212.17';
THENCE S 27° 11' 35"E, 256.36' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 90,091 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11
(3 ¼" ALUMINUM CAP) TO THE SOUTH QUARTER CORNER OF SECTION 11
(3 ¼" ALUMINUM CAPPED 1 ½" REBAR IN A RANGE BOX) ASSUMED TO
BEAR N 87° 53' 44"E.

EXCEPT A PARCEL OF LAND (TRACT G) LYING IN THE SW QUARTER OF SECTION 11, T. 4 S., R. 70 W., 6TH P.M., COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT FROM WHICH THE SW CORNER OF SECTION 11 BEARS S 54° 03' 15"W, 522.70';
THENCE S 79° 48' 10"E, 25.00';
THENCE N 10° 11' 50"E, 25.00';
THENCE N 79° 48' 10"W, 25.00';
THENCE S 10° 11' 50"W, 25.00' TO THE POINT OF BEGINNING.

THIS PARCEL CONTAINS 625 SQUARE FEET, MORE OR LESS.

BEARINGS ARE BASED ON A LINE FROM THE SW CORNER OF SECTION 11 (3 ¼" ALUMINUM CAP) TO THE SOUTH QUARTER CORNER OF SECTION 11 (3 ¼" ALUMINUM CAPPED 1 ½" REBAR IN A RANGE BOX) ASSUMED TO BEAR N 87° 53' 44"E.

PREPARED FOR AND ON BEHALF OF JEFFERSON COUNTY BY STEVEN W. CLARK, 100 JEFFERSON COUNTY PARKWAY, GOLDEN, CO. 80419.

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS ONLY INTENDED TO DEPICT THE ATTACHED LEGAL DESCRIPTIONS.

11/18/2004